

# **FINDING OF NO SIGNIFICANT IMPACT FOR THE PROPOSED SANTA YNEZ BAND OF CHUMASH INDIANS CAMP 4 FEE-TO-TRUST PROJECT**

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**AGENCY:** Bureau of Indian Affairs

**ACTIONS:** Finding of No Significant Impact

**SUMMARY:** The Santa Ynez Band of Chumash Indians (Tribe) submitted a request to the Bureau of Indian Affairs (BIA) to approve the trust acquisition of approximately 1,411 acres plus rights of way for tribal housing (Proposed Action). The land proposed for trust acquisition and development known locally as “Camp 4” is located within an unincorporated area of Santa Barbara County approximately 1.5 miles northwest of the Tribe’s existing Reservation, east of the Town of Santa Ynez, 3.95 miles east of the City of Solvang, and 22.2 miles northwest of the City of Santa Barbara, California (project site). The project site is within the “Santa Ynez Valley Planning Area” of Santa Barbara County and occurs in Section 8, Township 6 North, Range 30 West on the “Santa Ynez,” California U.S. Geological Survey (USGS) 7.5-Minute Topographic Quadrangle.

Based upon the entire administrative record including the analysis in the Final Environmental Assessment (EA) and consideration of comments received during the public review period, the BIA makes a finding of no significant impact (FONSI) for the federal action to acquire approximately 1,411 acres plus rights of way into trust and subsequent implementation of Alternative A (Five-Acre Housing Plots) or Alternative B (One-Acre Housing Plots). This finding constitutes a determination that the Proposed Action is not a federal action significantly affecting the quality of the human environment. Therefore, an Environmental Impact Statement (EIS) is not required. Comment letters received on the Final EA are provided as **Exhibit A**. Responses to each comment letter received are provided as **Exhibit B**. A Mitigation Monitoring and Enforcement Program is provided as **Exhibit C**. A letter from the U.S. Fish and Wildlife Service (USFWS) concurring that the trust acquisition is not likely to adversely affect federally-listed species under Section 7 of the Endangered Species Act is provided as **Exhibit D**. Letters from the California Office of Historic Preservation (OHP) concurring that the undertaking will not affect cultural and historic resources are provided as **Exhibit E**. Tribal Resolutions related to the Proposed Action that were passed by the Tribe since the release of the Final EA are provided as **Exhibit F**. A copy of the signed Notification of Assumption of Williamson Act Contract for the project site is included as **Exhibit G**.

**BACKGROUND:** The members of the modern Tribe are the direct descendants of the original Chumash peoples, whose numbers totaled 18,000-22,000 prior to the Spanish contact. Prior to the Mission Period, there were approximately 150 independent Chumash villages along

the coast of California. Subsequent to Spanish contact, the Chumash population dwindled to approximately 2,700 in 1831. The Tribe is a politically independent unit of the Chumash cultural group and is the only federally-recognized band of Chumash Indians. Historically the Chumash had an extensive territory ranging along the California Coast. The Tribe's Reservation was established in 1906 through grants to the federal government from the Catholic Church. The 100 acres of land that initially formed the Tribe's Reservation, was largely unusable creek beds and flood plains. The Tribe reorganized its government under the Indian Reorganization Act (IRA) of 1934 after having voted to accept the provisions of the IRA. Although complete reorganization efforts in California were slow to come from the federal government, the Tribe nonetheless began developing both its governmental functions and structures to assure continued survival of the Tribe and its members. The turbulent beginnings of a casino in the 1980s ultimately provided a base upon which the Tribe began to develop its governmental capabilities and entrepreneurial infrastructure. The Tribe has slowly been able to purchase additional properties making the current Reservation approximately 146 acres.

The Tribe's purpose for taking the 1,411 acres plus rights of way of land into trust is to provide housing to accommodate the Tribe's current members and anticipated growth. The project site lies within the area historically held for the Tribe by the Roman Catholic Church. This geographical area was subject of the 1897 Quiet Title Action brought by the Roman Catholic Church (Bishop of Monterey), and these lands are part of the Tribe's ancestral territory and comprise most of its historic territory. These lands were once part of the lands of Mission Santa Ines and part of the subsequent Rancho Canada de los Pinos recognized by the U.S. government as well as being near an individual land grant made to a Santa Ynez Chumash Indian by Mexican Governor Micheltorena. All these lands were considered to have been the property of the Santa Ynez Mission Indians by the Spanish and Mexican governments and the Catholic Church. After California statehood, the Catholic Church carried forward this theory of land tenure by the Santa Ynez Chumash.

The proposed trust land would enable the Tribe to provide housing for its existing tribal members and continue to provide housing for descendants as they come of age. The current Reservation lands are highly constrained due to a variety of physical, social, and economic factors. A majority of the lands held in trust for the Tribe are located in a flood plain. This land is not suitable for much, if any, development because of flooding and drainage problems. The irregular topography and flood hazards are associated with the multiple creek corridors which run throughout the Reservation, resulting in severe limitations of efficient land utilization. The current Reservation has a residential capability of approximately 26 acres or 18 percent of the Reservation and an economic development capability of approximately 16 acres or 11 percent of the Reservation. The remaining 99 acres or 71 percent of the Reservation is creek corridor and sloped areas which are difficult to impossible to develop. Therefore, the size of the usable portion of the Tribe's Reservation amounts to approximately 50 acres, much of which has already been developed.

The Tribe has a population of 136 tribal members and approximately 1,300 lineal descendants which it must provide for. Currently, approximately 17 percent of the tribal members and lineal descendants have housing on tribal lands. All current land assignments on the existing Reservation will continue to be maintained unchanged. Article VIII of the Articles of Organization of the Tribe expressly states that only the General Council composed of all adults members of the Tribe over the age of 21 can veto or cancel an existing land assignment on the Reservation. This trust land acquisition is an integral part of the Tribe's efforts to bring tribal members and lineal descendants back to the Tribe, accommodate future generations, and create a meaningful opportunity for those tribal members and lineal descendants to be a part of a tribal community revitalization effort that rebuilds tribal culture, customs, and traditions. To meet these goals, the Tribe needs additional trust land to provide housing for tribal members and lineal descendants who currently are not accommodated with tribal housing.

Based on these constraints, the Tribe is unable to provide adequate housing for its current members and will be unable to provide housing for future tribal members on the existing Reservation, risking the Tribe's ability to provide for future generations and maintain its cultural foundations within its ancestral lands.

The trust transfer of the project site would provide necessary housing within the Tribe's ancestral and historic territory for its current members and future generations. This would thereby protect the Tribe's heritage and culture by ensuring existing and future generations are afforded the ability to live under tribal governance as a community within the Tribe's ancestral and historic land holdings. Secondly, the trust acquisition of the proposed trust land would also allow full tribal governance over its existing agricultural operations on the property; thereby allowing the Tribe to continue to maintain economic self sufficiency through diversified tribally-governed commercial enterprises. Under the Proposed Action, the tribal government would be able to exercise its sovereignty over its land holdings.

An EA for the Proposed Action (SCH #20130810610) was submitted to the State Clearinghouse and released for public and agency review for a 30-day comment period, established consistent with Section 6.2 of the Bureau of Indian Affairs National Environmental Policy Act (NEPA) Guidebook (59 IAM 3-H) (BIA NEPA Guidebook), beginning on August 20, 2013 and was noticed to end on September 19, 2013 (referred herein as the "2013 EA"). In response to requests received, the public comment period was extended to October 7, 2013, providing an extension of 19 days. During the public comment period, the federal government was partially shut down on October 1, 2013 and returned to full operation on October 16, 2013. The Council on Environmental Quality (CEQ) issued guidance regarding NEPA documents under public review during the government shutdown that recommended extending any comment period deadlines held during the government shutdown by a minimum of the period of time equal to the shutdown (16 days). The comment period was therefore extended a second time to November 18, 2013.

Overall, the 2013 EA was released for public and agency review and comment for 90 days. The BIA received a total of 1,129 comment letters; a majority of which were form letters.

As stated in Section 1.3 of the 2013 EA, one of the purposes of the Proposed Action was to fulfill the purpose of the Tribe's Consolidation and Acquisition Plan (Plan) by providing housing within the Tribal Consolidation Area (TCA) to accommodate the Tribe's current members and anticipated growth. The Tribe submitted the Plan to the BIA in March 2013, which identified a TCA encompassing approximately 11,500 acres within the Santa Ynez Valley, including the project site. The BIA approved the Plan on June 17, 2013. Several appeals were filed to the Interior Board of Indian Appeals (IBIA) requesting review of the BIA Regional Director's approval of the Plan and TCA. On October 11, 2013, the Tribe withdrew without prejudice the approved Plan and corresponding TCA via Resolution #926 Santa Ynez Band of Chumash Indians-Tribal Land Consolidation Area. The Tribe also requested that the BIA dismiss any appeals on the TCA without prejudice. In response to this request, the IBIA dismissed the appeals.

The Tribe prepared and submitted a revised trust acquisition application to the BIA excluding the withdrawn Plan and TCA from the purpose and need. A Final EA was prepared that addresses the revised trust acquisition request, responds to comments received on the 2013 EA, and was completed in accordance with the requirements set forth in the NEPA, the CEQ Guidelines for Implementing NEPA, and the BIA NEPA Guidebook. The Final EA was submitted to the State Clearinghouse (SCH# 2013081060) and released for public and agency review for a 30-day review period, established consistent with Section 6.2 of the BIA NEPA Guidebook, beginning on May 29, 2014 and was noticed to end on June 30, 2014 (Final EA). In response to requests received, the review period was extended to July 14, 2014, providing an extension of 15 days.

On March 11, 2014, the BIA initiated informal consultation with the USFWS pursuant to Section 7 of the Endangered Species Act of 1979. On June 9, 2014, the USFWS requested clarification into the mitigation measures and potential impact to special status species and noted discrepancies between the Biological Assessment sent to the USFWS for informal consultation and the 2013 EA. A response to the USFWS requests for clarification was sent with a copy of the Final EA on June 12, 2014. The USFWS responded on July 24, 2014 with additional request for clarification on the findings of the Final EA as well as recommendations for mitigation for the California red-legged frog. A technical memorandum responding to the requests for clarification as well as commitments to the suggested mitigation was sent to the USFWS on August 13, 2014. On October 8, 2014, the USFWS issued a letter of concurrence (**Exhibit D**) to the BIA supporting a finding of Not Likely to Adversely Affect for the Proposed Action.

On February 24, 2014 the BIA initiated consultation with the California Office of Historic Preservation (OHP) pursuant to Section 106 of the National Historic Preservation Act of 1966. On March 6, 2014 the BIA received concurrence from the State Historic Preservation Officer

(SHPO) that implementation of the proposed fee-to-trust transfer would result in “No Adverse Effect” to historic properties pursuant to 36 CFR Part 800.5(b) “Protection of Historic Properties”(Exhibit E).

To determine if the Proposed Action is a federal action significantly affecting the quality of the human environment, the BIA assessed the results of the 2013 EA and Final EA as well as the comments received during the public review period for both documents consistent with the policies and goals of NEPA and the BIA NEPA Guidebook. In addition, since the completion of the Final EA and in response to comments received on the Final EA, the Tribe passed Tribal Resolution 930B which selects the one-acre concept plans as the Preferred Project Alternative (refer to **Exhibit F**).

**DESCRIPTION OF THE PROPOSED ACTION:** The BIA’s Proposed Action consists of the transfer of the project site into federal trust status for the benefit of the Tribe. The proposed fee-to-trust conveyance is for 5 parcels totaling approximately 1,411 acres plus rights of way. A reasonably foreseeable consequence of this action is the subsequent development of the project site for tribal housing on five or one-acre lots and associated facilities. The housing project would include up to 143 residential units, as well as supporting infrastructure including on-site wastewater treatment and reuse of recycled water and development of groundwater to meet potable water demands.

**ALTERNATIVES CONSIDERED:** The BIA considered three alternatives in the Final EA, as summarized below.

- 1) **Alternative A – Five-Acre Lots.** 1,433± acre (1,411 acres plus rights of way) trust land acquisition and assignment of 143 five-acre residential lots for tribal members. The residential lot assignments and access roadways would cover approximately 793 acres of the project site. The project site would include 206 acres of vineyards (50-acre reduction of the existing vineyard), 300 acres of open space/recreational area, 98 acres of riparian corridor and 33 acres of oak woodland conservation, and 3 acres of Special Purpose Zone-Utilities. Water, wastewater, and reclamation facilities would be constructed on-site.
- 2) **Alternative B – One-Acre Lots.** Identical trust land acquisition and development of 143 one-acre residential lots for tribal members. The residential lot assignments and access roadways would cover approximately 194 acres of the project site. The project site would include 869 acres of open space/recreational area, 30 acres of tribal facilities (including 12,042 square feet of tribal facilities), and the same acreages of vineyard, riparian corridor and oak woodland conservation, and utilities land uses as proposed under Alternative A. Water, wastewater, and reclamation facilities would also be constructed on-site.

- 3) **No Action Alternative.** Under the No Action Alternative, the 1,411 acres plus rights of way would not be placed into federal trust and would not be developed. Land use jurisdiction for the 1,411 acres plus rights of way would remain with Santa Barbara County. To maintain economic viability, the Tribe would maximize vineyard use on the project site through adding approximately 44 acres of vines on the site.

**ENVIRONMENTAL IMPACTS:** Potential impacts to land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions and environmental justice, transportation and circulation, land use, public services, noise, hazardous materials, and visual resources were evaluated in the 2013 and Final EAs for Alternatives A and B, with the following conclusions:

- A. Project design, implementation of Best Management Practices (BMPs), and mitigation measures would ensure impacts to **land resources** would be less than significant. Refer to Final EA Sections 2.2.10, 4.1.1, 4.2.1, and 5.1.
- B. Project design, implementation of BMPs, and mitigation measures would ensure impacts to **water resources** would be less than significant. Refer to Final EA Sections 2.2.5, 2.2.6, 2.2.8, 2.2.10, 2.3, 2.3.1, 4.1.2, 4.2.2, and 5.2. Under existing conditions, approximately 256 acre-feet per year (AFY) of groundwater is utilized on the project site for irrigation of the existing 256-acre vineyard. The net water demand for potable water for Alternative A is 348 AFY, including 172 AFY for residential (and a reduction of 30 AFY of recycled water) and 206 AFY for vineyard irrigation. The net water demand for potable water for Alternative B is 256 AFY, including 84 AFY for residential/Tribal facilities (and a reduction of 34 AFY of recycled water) and 206 AFY for vineyard irrigation. Accordingly, implementation of Alternative A would result in an increase of 92 AFY over existing conditions and implementation of Alternative B would result in no net increase in water demands over existing conditions. According to local planning documents, the Uplands Basin has a surplus of several hundred AFY (estimate in the 2009 Santa Ynez Valley Community Plan to be approximately 513 AFY) of safe yield. Potable water supply demands for the residential aspects of Alternatives A and B would be met via connection to two new wells to be developed below the Baseline Fault at a distance that would prevent adverse impacts to neighboring wells, per the mitigation measure identified in Section 5.2.
- C. Project design, implementation of BMPs, and mitigation measures would ensure impacts to **air quality** would be less than significant. Refer to Final EA Sections 2.2.10, 4.1.3, 4.2.3, and 5.3.
- D. Project design, implementation of BMPs, and mitigation measures would ensure impacts to **biological resources** would be less than significant. Refer to Final EA Sections 2.2.10, 4.1.4, 4.2.4, and 5.4.
- E. Implementation of mitigation measures would ensure impacts to **cultural resources** would be less than significant. Refer to Final EA Sections 4.1.5, 4.2.5 and 5.5.

- F. Impacts to **socioeconomic conditions and environmental justice** issues would be less than significant. Refer to Final EA Sections 4.1.6 and 4.2.6.
- G. Project design and implementation of the mitigation measures would ensure impacts to **transportation and circulation** would be less than significant. Refer to Final EA Sections 2.2.7, 4.1.7, 4.2.7, and 5.7.
- H. Impacts to **land use resources** would be less than significant. Refer to Final EA Sections 4.1.8 and 4.2.8.
- I. Project design, implementation of BMPs, and mitigation measures would ensure impacts to **public services** would be less than significant. Refer to Final EA Sections 2.2.4, 2.2.5, 2.2.6, 2.2.10, 2.3.1, 4.1.9, 4.2.9, and 5.9. In addition, since the release of the Final EA, the Tribe has passed Resolution 948 which establishes the Santa Ynez Tribal Police Department, thereby reducing the reliance on the Santa Barbara County Sheriff's Office for law enforcement on the Tribe's trust lands. In addition, the Tribe passed Resolution 949 which establishes a dedicated fund for local school districts that include the project site. The resolution establishes an annual grant set aside program for the local school districts equivalent to the 2013-2014 property taxes paid on the project site. The passing of these resolutions further reduces impacts to public services. A copy of Resolutions 948 and 949 are provided in **Exhibit F**.
- J. Impacts associated with **noise** would be less than significant. Refer to Final EA Sections 4.1.10 and 4.2.10.
- K. Project design and implementation of the mitigation measures would ensure that hazardous materials impacts would be less than significant. Refer to Final EA Sections 2.2.6, 2.2.10, 4.1.11, 4.2.11, and 5.11.
- L. Project design and implementation of BMPs would ensure impacts to **visual resources** would be less than significant. Refer to Final EA Sections 2.2.10, 4.1.12, and 4.2.12.
- M. Project design, implementation of BMPs and mitigation measures would ensure that **cumulative impacts** would be less than significant. Refer to Final EA Sections 2.2.10, 2.2.6, 2.3.6, 4.5, 5.1, 5.2, 5.3, 5.4, 5.5, 5.7, 5.9, 5.10, and 5.11.

**BEST MANAGEMENT PRACTICES:** Protective measures and BMPs have been incorporated in the project design of Alternatives A and B to eliminate or substantially reduce environmental impacts from the project. These measures and BMPs are listed below:

### **Protective Measures and BMPs for Alternatives A and B**

#### ***Wastewater Treatment Plant (WWTP)***

- Sodium hypochlorite, caustic soda and/or citric acid would be stored in the chemical room of the WWTP. The storage and metering facilities would be located inside a chemical spill containment area, sized to contain 150 percent of the storage volume in case of an unintentional release.
- The sodium hypochlorite would be stored in a 55-gallon drum and the citric acid would be stored as dry material and then in a 50-gallon mixing tank when needed.

- The WTPP would incorporate an active odor control system such as a packaged biofilter with an active carbon absorption unit.
- All treated effluent storage dimensions will be designed to hold 100-year rainfall event precipitation amounts, which is approximately 1.5 times greater than that estimated to be required for normal rainfall years.
- Disposal of treated wastewater to irrigation areas shall be adjusted based on weather conditions in order to prevent surface runoff.
- The Tribe would adopt standards equivalent to the landscape irrigation standards in the State Water Resources Control Board Recycled Water Policy (as referenced in Resolution No. 2009-0011).
- Potential groundwater impacts from irrigation and effluent storage will be minimized through treatment of effluent through nitrogen and salinity reduction processes.
- Operation and maintenance of the wastewater utility from house service laterals, through the wastewater and effluent system, to treatment and disposal will be by the Tribe utilizing contract services. Individual residents will have no responsibility regarding operation and maintenance of any aspect of the wastewater treatment and conveyance systems. The residents' sole responsibility would be to follow tribal guidance on what should and should not be flushed down sinks and toilets. Community education shall be promoted to reduce needless contaminants to wastewater.
- The effluent storage basins and irrigation areas would be located and designed so that they are well-drained and readily accessible.
- Implementation of the following measures would be incorporated during design and operation of the wastewater and effluent system to minimize chances of system failures:
  - Solvent welded plastic house services;
  - Above grade cleanouts;
  - Dual (redundant) discharge pumps;
  - High water alarms;
  - Maintaining records of pumping, inspections, and other maintenance activities; and
  - Flushing of solvent, paint, paper towels, diapers, feminine hygiene products, cigarette butts, pesticides, and fertilizer would be discouraged by recurring outreach notices to the residents. The frequency of the noticing would be based on the results of ongoing system inspections.

### ***Land Resources***

- All structures would meet the Tribe's building ordinance, which meets or exceeds International Building Code (IBC) requirements.
- Non-corrosive materials and/or protective coatings shall be used for buried facilities constructed in corrosive soils.

### ***Water Resources***

- Areas outside of buildings and roads would be kept as permeable surfaces to the extent practicable; either as vegetation or high infiltration cover, such as mulch, gravel, or turf

block. Pedestrian pathways would use a permeable surface where possible, such as crushed aggregate or stone with sufficient permeable joints (areas between stone or brick if used).

- Existing native vegetation would be retained where possible.
- Roof downspouts would be directed to splash blocks and not to underground storm drain systems.
- Runoff from rooftops and other impervious areas would be directed to vegetated areas to help treat and infiltrate stormwater prior to leaving the site.
- Runoff from roadways would filter through rock-lined swales and bio-swales.
- Permanent energy dissipaters would be included for drainage outlets.
- Rock rip-rap energy dissipaters would be installed at the point of release of concentrated flow.
- High water-demand plants would be minimized in landscaping plans. Native and drought-tolerant plant species (trees, shrubs, and ground cover) landscaping would be emphasized.

### ***Air Quality***

The following measures would reduce project-related greenhouse gas emissions associated with climate change:

- Buildings would be sited to take advantage of shade, prevailing winds, and sun screens to the extent feasible to reduce energy use.
- Buildings would be designed to include efficient lighting and lighting control systems.
- Energy efficient heating and cooling systems as well as appliances would be installed in residences and tribal facilities.
- Solar or other alternative power systems would be utilized where feasible.

### ***Biological Resources***

- Native trees would be preserved to the maximum extent feasible in accordance with the Tribe's *Tribal Ordinance Regarding Oak Tree Preservation for the Santa Ynez Band of Chumash Indians*.
- All identified wetland areas and California Live Oak would be avoided to the maximum extent feasible.
- Preservation of existing Resource Management Zones (RMZs) would result in maintaining other significant native vegetation as well; i.e. coastal sage scrub.

### ***Public Services***

- Structural fire protection would be provided through compliance with tribal ordinances no less stringent than applicable International Fire Code requirements. The Tribe would ensure that appropriate water supply and pressure is available for emergency fire flows.

### ***Visual Resources***

- Signage for all streets, tribal facilities, and the residential community would be subtly

incorporated into the landscape.

- Lighting would include emergency and nighttime security lighting at public facilities including parking lots, street intersections, and residential areas and would be downcast and shielded, in accordance with “dark sky” principles. Street lighting would consist of pole-mounted lights, limited to 18 feet tall, with cut-off lenses and down cast illumination to the extent feasible.

### ***Green Building***

The Tribe proposes to incorporate the “Build it Green” 2005 Green Building Guidelines for New Home Construction along with the Leadership in Energy and Environmental Design (LEED) for Homes criteria for all the residential units on the project site (U.S. Green Building Council, 2010). The above-noted BMPs and protective measures would aid the Tribe in achieving these standards. In addition, the following measures would be implemented:

- Individual homes would have limited personal planting areas with a portion of the watering needs satisfied from captured rainwater or reclaimed water.
- Indoor plumbing would use the highest efficiency fixtures and fittings available.
- All homes would be designed for efficient use of energy and natural resources and would be sized below the median standard based on the LEED for Homes rating system. Each plan would be oriented to maximize access to solar energy and natural daylight. Operable windows would be placed to provide efficient natural ventilation, taking advantage of prevailing breezes.
- All appliances and heating, ventilation, and air conditioning (HVAC) equipment would be Energy Star Certified for optimal performance.
- During construction, all waste material would be separated and sorted into individual bins for recycling.
- At least 75 percent of the residences built would be single story to minimize visual effects.
- Building envelopes would be designed to maximize performance of HVAC, lighting, and other energy systems. Equipment and appliances would meet or exceed California State, Title 24 energy requirements.
- HVAC equipment would have no chlorofluorocarbon (CFC) refrigerants.
- To the extent possible, building materials with recycled content would be specified for use during construction.
- Building and landscape elements would be designed to give preference to materials that are produced regionally or within 500 miles of the project.
- Wood materials and products used in construction would be specified to be Forest Stewardship Council (FSC) certified from suppliers who practice responsible and sustainable forest management.
- During construction, on-site absorptive materials would be protected from moisture damage.

- All paints, coatings, adhesives and sealants used on the interiors of buildings would have a low Volatile Organic Compound (VOC) limits to reduce odor and harmful indoor air contaminants.
- Carpets, cabinets, and other interior finishes would be selected, in part, on minimizing their potential to off-gas or adversely affect indoor air quality.

### **Additional Protective Measures and BMPs for Alternative B** ***Public Services***

- The tribal facilities would be equipped with an early detection system that ensures an initial response to any fire alarm (automatic, local, or report). This would rely on automatic sprinkler systems in the occupied areas and smoke detection, along with automatic sprinkler systems, in the areas of the facility that are normally unoccupied, such as storerooms and mechanical areas.

### ***Green Building***

- Upon completion, the tribal facilities would have trash enclosures for separation of recyclable materials and newspapers.
- The tribal facilities would meet all Americans with Disabilities Act (ADA) accessibility requirements. Pathways would meet required slopes and roadway crossings would include textured paving and indicators for the visually impaired.

**SUMMARY OF EA MITIGATION MEASURES:** The mitigation measures described below are included to: 1) reduce significant impacts to a less-than-significant level, 2) further reduce already less-than-significant impacts, or 3) accomplish both. All mitigation measures necessary to reduce significant impacts to less-than-significant levels will be enforceable and binding on the Tribe because they are intrinsic to the project, required by federal law, required by agreements between the Tribe and local agencies, and/or are required by tribal resolutions. The construction contract will include applicable mitigation measures, and inspectors shall be retained during construction.

### **LAND RESOURCES**

Implementation of the protective measures and Best Management Practices (BMPs) described above along with the mitigation measures below would minimize potential impacts related to soils. These measures are recommended for Alternatives A and B.

- The Tribe shall comply with the National Pollutant Discharge Elimination System Permit (NPDES Construction General Permit) from the United States Environmental Protection Agency (EPA) for construction site runoff during the construction phase in compliance with the Clean Water Act (CWA). A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared, implemented, and maintained throughout the construction phase of the development, consistent with Construction General Permit requirements. The SWPPP shall detail the BMPs to be implemented during

construction and post-construction operation of the selected project alternative to reduce impacts related to soil erosion and water quality. The BMPs shall include, but are not limited to, the following:

- Existing vegetation shall be retained where possible. To the extent feasible, grading activities shall be limited to the immediate area required for construction and remediation.
  - Temporary erosion control measures (such as silt fences, fiber rolls, vegetated swales, a velocity dissipation structure, staked straw bales, temporary re-vegetation, rock bag dams, erosion control blankets, and sediment traps) shall be employed for disturbed areas during the wet season.
  - No disturbed surfaces shall be left without erosion control measures in place during the winter and spring months.
  - Construction activities shall be scheduled to minimize land disturbance during peak runoff periods. Soil conservation practices shall be completed during the fall or late winter to reduce erosion during spring runoff.
  - Creating construction zones and grading only one area or part of a construction zone at a time shall minimize exposed areas. If possible during the wet season, grading on a particular zone shall be delayed until protective cover is restored on the previously graded zone.
  - Disturbed areas shall be re-vegetated following construction activities.
  - Construction area entrances and exits shall be stabilized with crushed aggregate.
  - Sediment shall be retained on-site by a system of sediment basins, traps, or other appropriate measures.
  - A spill prevention and countermeasure plan shall be developed which identifies proper storage, collection, and disposal measures for potential pollutants (such as fuel, fertilizers, pesticides, etc.) used on-site.
  - Petroleum products shall be stored, handled, used, and disposed of properly in accordance with provisions of the Clean Water Act [33 United States Code (U.S.C.) 1251 to 1387].
  - During the wet season, construction materials, including topsoil and chemicals, shall be stored, covered, and isolated to prevent runoff losses and contamination of surface and groundwater.
  - Fuel and vehicle maintenance areas shall be established away from all drainage courses and designed to control runoff.
  - Sanitary facilities shall be provided for construction workers.
  - Disposal facilities shall be provided for soil wastes, including excess asphalt during construction and demolition.
- All workers shall be trained in the proper handling, use, cleanup, and disposal of all chemical materials used during construction activities and shall provide appropriate facilities to store and isolate contaminants.

- All contractors involved in the project shall be trained on the potential environmental damages resulting from soil erosion prior to development by conducting a pre-construction conference. Copies of the project's erosion control plan shall be distributed at that time. All construction bid packages, contracts, plans, and specifications shall contain language that requires adherence to the plan.

## **WATER RESOURCES**

Implementation of the protective measures and BMPs described above along with the recommended mitigation measures below would minimize potential impacts related to water resources. These measures are recommended for Alternatives A and B.

- Development and implementation of a SWPPP under **Land Resources** will reduce impacts to stormwater quality.
- Through contractual obligations, the Tribe shall ensure that construction of the wastewater treatment plant and roadways located adjacent to flood areas occur in the dry season.
- Recycled water application areas shall be monitored to ensure off-site runoff does not occur. Provisions included within monitoring requirements to reduce the potential for off-site flow shall include:
  - Recycled water shall be applied to confined areas (such as landscaped areas) only during periods of dry weather. In accordance with the water balance and seasonal storage requirements presented in the Water and Wastewater Feasibility Analysis (Appendix C of the Final EA), a minimum of five acre-feet of storage shall be provided to account for storage during wet weather and winter months when irrigation rates are lowest. The Tribe shall not apply recycled water 24 hours prior to a forecasted rain event and shall wait 24 hours after the rain event to apply recycled water.
  - Recycled water shall not be applied during periods of winds exceeding 30 miles per hour (mph).
  - Recycled water shall not be applied within 100 feet of a water of the U.S.
- New groundwater wells shall be located within the central portion of the project site, south of the Baseline fault within the permeable sands of the water-bearing Careaga Formation.
- During years when the County of Santa Barbara declares local drought conditions, there will be no turf grass irrigation allowed, thereby reducing residential lawn water demand to zero.

## **AIR QUALITY**

Implementation of the protective measures and BMPs described above would reduce potential adverse impacts to air quality. Implementation of the mitigation measures below would minimize

potential air quality impacts related to hazardous air pollutant emissions during the construction of Alternative A or B.

- Through contractual obligations, the Tribe shall ensure construction vehicles, delivery, and commercial vehicles do not idle for more than five minutes.
- Through contractual obligations, the Tribe shall ensure heavy duty construction equipment is equipped with diesel particulate matter filters, which would reduce particulate matter from exhaust by 50 percent.
- Through contractual obligations, the Tribe shall ensure that exposed surfaces and unpaved roads are water twice a day, which would reduce fugitive dust emissions by 55 percent.
- Through contractual obligations, the Tribe shall ensure that construction equipment on unpaved roads would not exceed 15 miles per hour, which would reduce fugitive dust emissions by 44 percent.
- Residential architectural coating will be low ROG coatings, which would reduce ROG emissions by 10 percent.
- Through contractual obligations, the Tribe shall, to the extent possible and feasible, require the use of heavy duty construction equipment that meets CARB's most recent certification standards.

## **CLIMATE CHANGE**

Implementation of the protective measures and BMPs described above along with the mitigation measures described below would minimize potential impacts related to climate change. These measures are recommended for Alternatives A and B.

- The Tribe shall adopt and comply with the California Green Building Code and exceed Title 24 standards by 25 percent.
- The Tribe shall ensure 75 percent of the solid waste generated on-site is recycled.
- The 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.

## **BIOLOGICAL RESOURCES**

Implementation of the protective measures and BMPs described above along with the mitigation measures below would minimize potential impacts to biological resources. These measures are recommended for Alternatives A and B.

### **Oak Trees**

The following mitigation measures are required for Alternatives A and B to identify and avoid and/or reduce impacts to oak trees, including oak trees protected under the Tribal Ordinance Regarding Oak Tree Preservation for the Santa Ynez Band of Chumash Indians (Tribal Oak Tree Ordinance) (Santa Ynez Band of Chumash Indians, 2000) and blue oak trees within the project site:

- Once the construction footprint is finalized, the contractor shall flag any oak trees slated for removal prior to groundbreaking. An arborist accredited by the International Society of Arboriculture shall survey trees anticipated for removal, identify any oak trees within the selected footprint, and prepare an Arborist Report. The Arborist Report shall identify all oak trees anticipated for removal and require a no net loss of oak trees. The Arborist Report shall provide a revegetation plan that includes proposed planting locations within the project site with a minimum spacing of 20 feet, protection within the dripline of newly planted trees, and a five-year monitoring plan to ensure that the revegetation effort is successful.

### **Waters of the U.S.**

The following mitigation measures are required for Alternatives A and B to identify and avoid and/or reduce impacts to waters of the U.S. (including wetlands) within the project site:

- Any proposed construction activities that would occur within the vicinity of potentially jurisdictional waters of the U.S. shall be conducted during the dry season (i.e., April 15 through October 15) to further reduce the quantity of potential sedimentation within the watershed.
- A Section 404 Clean Water Act permit shall be obtained from the U.S. Army Corps of Engineers (USACE) prior to any discharge of dredged or fill material into waters of the U.S. An Individual Permit may be required if the development of the selected alternative exceeds 0.5 acres of impacts to waters of the U.S. The Tribe shall comply with all the terms and conditions of the permit and compensatory mitigation shall be in place prior to any direct effects to waters of the U.S. At minimum, mitigation measures require the creation of waters of the U.S. at a 1:1 ratio for any affected waters of the U.S. The U.S. Environmental Protection Agency (USEPA) shall require a 401 Water Quality Certification permit prior to the USACE issuance of a 404 permit. Mitigation shall be implemented in compliance with any permits.

### **Federally Listed Wildlife**

The following mitigation measures are required for Alternatives A and B to compensate for adverse affects to vernal pool fairy shrimp (*Branchinecta lynchi*; VPFS). Refer to **Exhibit D** for concurrence from USFWS that the following mitigation measures would reduce impacts to VPFS to a less-than-significant level:

- Prior to the final site determination of the residential units, utility corridors, roadways, and any other project component that would result in ground disturbance, a 250 foot wetland habitat buffer zone will be established around seasonal wetland habitat within the project site to assure avoidance of direct or indirect impacts to VPFS.
- Prior to construction within 500 feet of a wetland habitat buffer zone, a qualified biologist shall demarcate each buffer zone using appropriate materials such as high visibility construction fencing, which will not be removed until the completion of construction activities within 500 feet of the wetland habitat buffer zone.
- Staging areas shall be located away from the wetland habitat buffer zones. Temporary stockpiling of excavated or imported material shall occur only in approved construction staging areas.
- Prior to construction within 500 feet of a wetland buffer zone, a USFWS-approved biologist shall conduct a habitat sensitivity training related to VPFS for project contractors and personnel. Supporting materials containing training information shall be prepared and distributed. Upon completion of training, all construction personnel shall sign a form stating that they have attended the training and understand all the conservation measures. Training shall be conducted in languages other than English, as appropriate. Proof of this instruction will be kept on file with the Tribe. The Tribe will provide the USFWS with a copy of the training materials and copies of the signed forms by project staff indicating that training has been completed within 30 days of the completion of the first training session. Copies of signed forms will be submitted monthly as additional training occurs for new employees. The crew foreman will be responsible for ensuring that construction personnel adhere to the guidelines and restrictions. If new construction personnel are hired following the habitat sensitivity training, the crew foreman will ensure that the personnel receive the mandatory training before starting work.
- With concurrence from USFWS that the mitigation strategy above would affect but not adversely affect CRLF and VPFS and designated habitat (**Attachment D**), the following mitigation measure from the Final EA would not be implemented:
  - Should the USFWS determine that even with the mitigation presented in the BA, impacts to VPFS may be significant; the Tribe shall, through passage of a Business Committee Resolution, only approve for consideration those site plans that exclude development of residential units within the VPFS designated critical habitat.

The following mitigation measures are required for Alternatives A and B to compensate for adverse affects to California red-legged frog (*Rana aurora draytonii*; CRLF). Refer to **Exhibit D** for concurrence from USFWS that of the following mitigation measures would reduce impacts to CRLF to a less-than-significant level:

- A qualified biologist shall conduct a habitat sensitivity training related to CRLF for project contractors and personnel, as identified under the mitigation measures for VPFS.

- A qualified biologist shall conduct a preconstruction survey within 14 days prior to the onset of construction activities occurring within 1.6 kilometers of potential breeding habitat.
- A qualified biologist shall monitor construction activities during initial grading activities within the project site. Should a CRLF be detected within the construction footprint, grading activities shall halt and the USFWS shall be consulted. No grading activities shall commence until the biologist determines that the CRLF has vacated the construction footprint on its own accord and the USFWS authorizes the re-initiation of grading activities.
- If the National Weather Service forecast predicts a rain event of ½ inch or more over a 48-hour period for the worksite area, construction activities will be halted 24 hours before the rain event is anticipated to begin. Construction activities, for the purposes of this protective measure, consist of all activities which pose a risk of crushing dispersing amphibians including driving construction vehicles and equipment, and activities that alter the natural contours of the existing property including digging trenches, modifying drainages, vegetation clearing and grubbing, land grading, and pouring of building pads for new structures. After a rain event, a qualified biologist will conduct a pre-construction survey for amphibians dispersing through the project site. Construction will resume only after the site has sufficiently dried and the qualified biologist determines that amphibians are unlikely to be dispersing through the project site.

### **Nesting Migratory Birds and Other Birds of Prey**

The following mitigation measures are required for Alternatives A and B to avoid and/or reduce impacts to migratory birds and other birds of prey nesting within the project site:

- If any construction activities (e.g., building, grading, ground disturbance, removal of vegetation) are scheduled to occur during the nesting season, pre-construction bird surveys shall be conducted. The nesting season generally extends from February 1 to September 15. Preconstruction surveys for any nesting bird species shall be conducted by a qualified wildlife biologist throughout all areas of suitable habitat that are within 500 feet of any proposed construction activity. The surveys shall occur no more than 14 days prior to the scheduled onset of construction activities. If construction is delayed or halted for more than 14 days, another preconstruction survey for nesting bird species shall be conducted. If no nesting birds are detected during the preconstruction surveys, no additional surveys or mitigation measures are required.
- Any trees proposed for removal shall be removed outside of the nesting season. The nesting season generally extends from February 1 to September 15.
- If nesting bird species are observed within 500 feet of construction areas during the surveys, appropriate avoidance setbacks shall be established. The size and scale of nesting bird avoidance setbacks shall be determined by a qualified wildlife biologist and shall be dependent upon the species observed and the location of the nest.

Avoidance setbacks shall be established around all active nest locations via stakes and high visibility fencing. The nesting bird setbacks shall be completely avoided during construction activities and the fencing must remain intact. The qualified wildlife biologist shall also determine an appropriate monitoring plan and decide if construction monitoring is necessary during construction activities. The setback fencing may be removed when the qualified wildlife biologist confirms that the nest is no longer occupied and all birds have fledged.

- If impacts (i.e., take) to migratory nesting bird species are unavoidable, consultation with the USFWS shall be initiated. Through consultation, an appropriate and acceptable course of action shall be established.

## **CULTURAL RESOURCES**

The following mitigation measure is required for Alternatives A and B to avoid adverse effects to cultural resources and/or historical properties:

- Prior to the final siting of the residential units, utility corridors, roadways, and any other project component that would result in ground disturbance, a qualified archaeologist shall identify appropriate buffer zones around each cultural resource to assure avoidance during construction.
- Prior to construction within 500 feet of a cultural resource buffer zone, a qualified Tribal Cultural Resource Monitor shall demarcate each buffer zone using appropriate materials such as high visibility construction fencing, which will not be removed until the completion of construction activities within 500 feet of the cultural resource buffer zone.
- A qualified Tribal Cultural Resource Monitor shall monitor construction activities occurring within 500 feet of the buffer zone.

The following mitigation measures are recommended for Alternatives A and B to reduce the potential for significant construction-related impacts to cultural resources, including archaeological sites, human remains, and/or paleontological resources:

- In the event that any prehistoric or historic cultural resources, or paleontological resources, are discovered during ground-disturbing activities, all work within 50 feet of the resources shall be halted and the Tribe and the Bureau of Indian Affairs (BIA) archaeologist shall be consulted to assess the significance of the find. If any find is determined to be significant by the qualified professionals, then appropriate agency and tribal representatives shall meet to determine the appropriate course of action.
- If human remains are encountered, work shall halt in the vicinity of the find and the Santa Barbara County Coroner shall be notified immediately. Pursuant to 36 Code of Federal Regulations (C.F.R.) Part 800.13 of the National Historic Preservation Act (NHPA): *Post-Review Discoveries*, and 43 C.F.R. § 10.4 (2006) of the Native American Graves Protection and Repatriation Act (NAGPRA): *Inadvertent*

*Discoveries*, the State Historic Preservation Office (SHPO) and the BIA archaeologist will also be contacted immediately. No further ground disturbance shall occur in the vicinity of the find until the County Coroner, SHPO, and BIA archaeologist have examined the find and agreed on an appropriate course of action. If the remains are determined to be of Native American origin, the BIA representative shall notify a Most Likely Descendant (MLD). The MLD is responsible for recommending the appropriate disposition of the remains and any grave goods.

- Should paleontological resources be unearthed, a paleontological resource impact mitigation plan (PRIMP) shall be prepared prior to further earthmoving in the vicinity of the find. The PRIMP shall detail the procedures for collecting and preserving the discovered fossils. Any fossils discovered during construction shall be accessioned in an accredited scientific institution for future study.

## **SOCIOECONOMIC CONDITIONS/ENVIRONMENTAL JUSTICE**

No mitigation is necessary for Alternative A or B.

## **TRANSPORTATION AND CIRCULATION**

The Tribe shall contribute its fair share of the funding for the traffic improvements recommended below proportionate to the level of impact associated with the trips added by Alternatives A or B. Mitigation measures for Alternatives A and B are summarized below.

### **Alternatives A and B – Near-term**

- **SR-246 at SR-154** – The Tribe shall pay a fair share contribution of 22.5 percent for Alternative A or 23.2 percent for Alternative B for the development of a roundabout being installed by the California Department of Transportation (Caltrans) at SR-246 at AR-154.

### **Alternatives A and B – Cumulative**

- **SR-154 Corridor** – The Tribe shall pay a fair share contribution, as indicated below, for the development of either roundabouts or signalization of the following intersections as determined by Caltrans:

SR-154 CORRIDOR FAIR SHARE CONTRIBUTIONS

Intersection	Fair Share Contribution (%)	
	Alt A	Alt B
SR-154 at Grand Avenue	2.9	3.2
SR-154 at Roblar Avenue	2.4	2.6
SR-154 at Edison Street	3.0	3.2
SR-154 at SR-246 and Armour Ranch Road	22.5	23.2
Source: Appendix I of the Final EA.		

Completion of roundabouts at these intersections would result in a LOS A. Signalization of these intersections would result in a LOS B. Completion of roundabouts or

signalization of the above intersections would result in an acceptable level of service on the highway segments SR-154 North of Edison Street and SR-154 South of SR-246-Armour Ranch Road.

- **SR-246 Corridor** – The Tribe shall pay a fair share contribution, as indicated below, for the development of either roundabouts or signalization of the following intersections as determined by Caltrans:

SR-246 CORRIDOR FAIR SHARE CONTRIBUTION

Intersection	Fair Share Contribution (%)	
	Alt A	Alt B
SR-246 at Alamo Pintado Road	5.3	5.9
SR-246 at Edison Street	29.4	31.5
SR-246 at Refugio Road	6.6	7.2
SR-246 at Armour Ranch Road and SR-154	22.5	23.2
Source: Appendix I of the Final EA.		

- Completion of roundabouts at these intersections would result in a LOS A. Signalization of these intersections would result in a LOS B. Completion of roundabouts or signalization of the above intersections would result in an acceptable level of service on the highway segment SR-246 from SR-154 to Solvang.

## LAND USE

No mitigation is necessary for Alternative A or B.

## PUBLIC SERVICES

Implementation of the protective measures and BMPs described above along with the mitigation measures below would ensure that the construction and operation of Alternatives A or B would not have significant adverse impacts on fire and emergency services.

- To minimize the risk of fire and the need for fire protection services during construction, any construction equipment that normally includes a spark arrester shall be equipped with a spark arrester in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws.
- During construction, staging areas, welding areas, and areas slated for development using spark-producing equipment shall be cleared of dried vegetation or other materials that could serve as fire fuel. To the extent feasible, the contractor shall keep these areas clear of combustible materials in order to maintain a firebreak.
- Fire extinguishers shall be maintained onsite and inspected on a regular basis.
- An evacuation plan shall be developed for the project alternatives in the event of a fire emergency.
- Prior to development of the project site, the Tribe will either:
  - Grant permission to the Santa Barbara County Fire Protection Department

(SBCFD) to enter the project site after it has been taken into trust while maintaining the Tribe's existing funding of the SBCFD via the Special Distribution Funding and/or other grant programs; or

- Enter into a new agreement with the SBCFD to provide fire protection and emergency response services on the project site after it has been taken into trust. As part of this agreement, the SBCFD will ensure it has either revised its existing or entered into a new Cooperative Wildland Fire Management and Stafford Act Response Agreement (Cooperative Agreement), as necessary, with the California Department of Forestry and Fire Protection (CAL FIRE) such that the SBCFD is authorized to provide fire protection and emergency response services on the project site after it has been taken into trust.

## **NOISE**

Impacts relating to noise generation during construction and operation would be less-than-significant for Alternative A or B, and no mitigation is necessary.

## **HAZARDOUS MATERIALS**

Implementation of the protective measures and BMPs described above along with the mitigation measures listed below would reduce potential impacts associated with construction and operation of Alternatives A and B.

- Potentially hazardous materials, including fuels, shall be stored away from drainages and secondary containment shall be provided for all hazardous materials during construction.
- A spill prevention and countermeasure plan shall be developed which identifies proper storage, collection, and disposal measures for potential pollutants (such as fuel storage tanks) used onsite, as well as the proper procedures for cleaning up and reporting spills.
- Vehicles and equipment used during construction shall be provided proper and timely maintenance to reduce the potential for mechanical breakdowns leading to a spill. Maintenance and fueling shall be conducted in an area that meets the criteria set forth in the spill prevention plan.
- A hazardous materials storage and disposal plan shall be prepared. The plan shall provide a detailed inventory of hazardous materials to be stored and used onsite, provide appropriate procedures for disposal of unused hazardous materials, and detail training requirements for employees that handle hazardous materials as a normal part of their employment. The plan shall also include emergency response procedures in the event of an accidental release of hazardous materials.

## **VISUAL RESOURCES**

No mitigation is necessary for Alternatives A and B.

**RESPONSE TO FINAL EA COMMENTS:** A total of 186 comment letters were received regarding the Final EA. These comment letters are provided as **Exhibit A**. Responses to each comment letter are provided as **Exhibit B**. A Mitigation Monitoring and Enforcement Program is provided as **Exhibit C**.

**PUBLIC AVAILABILITY:** A Notice of FONSI detailing the availability of the FONSI will be published in local newspapers and distributed to all persons and agencies known to be interested in the Proposed Action. The FONSI will be made available via the internet at [www.chumashEA.com](http://www.chumashEA.com) and as a hard copy at the Santa Ynez Band of Chumash Indians Tribal Office, 100 Via Juana Lane, Santa Ynez, CA 93460; the Solvang Public Library, 1745 Mission Drive, Solvang, CA 93463; and the Santa Ynez Branch of the Santa Barbara Public Library, 3598 Sagunto, Santa Ynez, CA 93460

**DETERMINATION:** While the Proposed Action assessed under the Final EA is the trust acquisition of the 1,411 acres plus rights of way, the BIA also must consider the reasonable foreseeable consequences of such action. For the Proposed Action, the foreseeable consequences assessed in the Final EA were based on the nine concept plans being considered by the Tribe (refer to Appendix N of the 2013 EA). It has been determined that the proposed federal action to approve the Tribe's request to acquire the proposed 1,411 acres plus rights of way into trust for the purpose of developing up to 143 units of tribal housing and associated facilities, with water and wastewater service provided by on-site systems, does not constitute a major federal action that would significantly affect the quality of the human environment. Therefore an Environmental Impact Statement is not required. This determination is supported by the aforementioned findings described in this FONSI, the analysis contained in the entire administrative record, including the Final EA, public comments made on the 2013 EA and the Final EA, the responses to those comments, and the mitigation imposed.

Issued in Sacramento, California this 17 day of October, 2014.



Regional Director  
Bureau of Indian Affairs  
U.S. Department of the Interior

## ***EXHIBIT A***

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*COMMENT LETTERS RECEIVED ON THE FINAL EA*

# EXHIBIT A

## COMMENTS ON MAY 2014 FINAL EA

Comments received on the May 2014 Final Environmental Assessment (EA) are listed in **Table A-1**.

Copies of representative comment letters are provided in their entirety on the following pages, and issues are individually bracketed and numbered in the margins of the representative comment letters. Copies of duplicate letters and multiple copies of form letters as well as letters failing to present a substantive comment on the Final EA have been excluded from **Exhibit A**. Responses to the numbered comments are provided in **Exhibit B**.

**TABLE A-1**  
LIST OF COMMENTERS

Letter Number	Agency/Organization	Name	Date Received
<b><i>Federal Agencies (F)</i></b>			
<b>F1</b>	United States House of Representatives	Congresswoman Lois Capps	24-Jun-14
<b><i>State Agencies (S)</i></b>			
<b>S1</b>	Central Coast Regional Water Quality Control Board	David Innis, Environmental Scientist	27-Jun-14
<b>S2</b>	Central Coast Regional Water Quality Control Board	David Innis, Environmental Scientist	27-Jun-14
<b>S3</b>	State Clearinghouse	Scott Morgan, Director	15-Jul-14
<b><i>Local Agencies (L)</i></b>			
<b>L1</b>	County of Santa Barbara	Mona Miyasato, County Executive Officer	11-Jul-14
<b>L2</b>	County of Santa Barbara	Mona Miyasato, County Executive Officer	17-Jun-14
<b><i>Private Entities/ Organizations (P)</i></b>			
<b>P1</b>	Private Citizen	The Board of Preservation of Los Olivos (P.O.L.O.)	24-Jun-14
<b>P2</b>	P.O.L.O.	Kathy Cleary	10-Jul-14
<b>P3</b>	Private Citizen	Kristina Petersen	31-Jun-14
<b>P4</b>	Private Citizen	Klaus M. Brown	19-Jun-14
<b>P5</b>	Hunt Associates Biological Consulting Services	Lawrence E. Hunt	10-Jul-14
<b>P6</b>	Environmental Defense Center	Linda Krop, Chief Counsel	10-Jul-14
<b>P7</b>	Santa Barbara Audubon Society	Stephen J. Ferry, Co-President	14-Jul-14
<b>P8</b>	Christman Kelley & Clarke, PC	Matthew M. Clarke	11-Jul-14
<b>P9</b>	Cappello & Noel LLP	Barry Cappello	11-Jul-14
<b>P10</b>	Private Citizen	Brian Kramer	27-Jun-14
<b>P11</b>	Private Citizen	Kelly B. Gray	25-Jun-14

Letter Number	Agency/Organization	Name	Date Received
P12	Santa Ynez Valley Concerned Citizens	Gregory M. Simon, Chairman	14-Jul-14
P13	California Coastal Protection Network	Susan Jordan, Director	14-Jul-14
P14	W.E. Watch	Cathie McHenry	11-Jul-14
P15	Santa Ynez Rancho Estates Mutual Water Company, Inc.	Robert B. Field, President	26-Jun-14
P16	Private Citizen	Ross Rankin	18-Jul-14
P17	Private Citizen	James E. Marino	11-Jul-14
P18	Private Citizen	C. David and M. Andriette Culbertson	14-Jul-14
P19	Allen Matkins Leck Gamble Mallory & Natsis LLP	William R. Devine	13-Jul-14
P20	Private Citizen	Klaus M. & Lois S. Brown	10-Jul-14
P21	Santa Ynez Rancho Estates Mutual Water Company Inc.	Robert B. Field, President	17-Jun-14
P22	Santa Ynez Valley Alliance	Mark Oliver	13-Jun-14
P23	Private Citizen	E. and Jack Bohnet	14-Jun-14
P24	Private Citizen	Brian Kramer	18-Jun-14
P25	Private Citizen	Gerry B. Shepherd	23-Jun-14
P26	Stand Up for California	Cheryl Schmit	26-Jun-14
P27	Private Citizen	Gregory A. Schipper	27-Jun-14
P28	Private Citizen	Christine Burtness	27-Jun-14
P29	Private Citizen	Sidney and Linda Kastner	25-Jun-14
P30	Private Citizen	John Soles	11-Jul-14
P31	Private Citizen	Wendy Eisler	9-Jun-14
P32	Private Citizen	Mike Shuler	31-May-14
P33	Private Citizen	Ann Barrack	17-Jun-14
P34	Private Citizen	Sandra Jankowski	31-May-14
P35	Private Citizen	Thoma Martinov	30-May-14
P36	Private Citizen	Lindalee Baumgarten	29-May-14
P37	Private Citizen	Mark and Gay Infanti	24-Jun-14
P38	Private Citizen	Debbie Earle	24-Jun-14
P39	Private Citizen	Caryn and Tom Cantella	27-Jun-14
P40	Private Citizen	Kelly McGill	27-Jun-14
P41	Private Citizen	Marguerite LePley	26-Jun-14
P42	Private Citizen	Neil M. Cline	27-Jun-14
P43	Private Citizen	Dr. James & Nadine Riley	7-Jun-14
P44	Private Citizen	Sharee Marymee	11-Jun-14
P45	Private Citizen	Daniel J. Hoagland	26-Jun-14
P46	Private Citizen	Edward Batastini	27-Jun-14
P47	Private Citizen	Jeanne Hollingsworth	18-Jun-14
P48	Private Citizen	Edward A. Quigley	27-Jun-14
P49	Private Citizen	William B. and Carolyn S. Sanchez	1-Jul-14

Letter Number	Agency/Organization	Name	Date Received
P50	Private Citizen	L.C. Smith	NP
P51	Private Citizen	John Corbett	1-Jul-14
P52	Private Citizen	Michael Puentes	1-Jul-14
P53	Private Citizen	Rosalie R. Barranco	1-Jul-14
P54	Private Citizen	Bob Consoli	NP
P55	Private Citizen	Sybil Cline	1-Jul-14
P56	Private Citizen	Shawn and Antoinette Addison	31-Jun-14
P57	Private Citizen	Derek S. Jenner	31-Jun-14
P58	Private Citizen	Kyle Abello	1-Jul-14
P59	Private Citizen	Barbara and Norman Anderson	10-Jul-14
P60	Private Citizen	Kelly Elm	10-Jul-14
P61	Private Citizen	Lee and George Weir	10-Jul-14
P62	Private Citizen	Sandra L. Focht	12-Jul-14
P63	Private Citizen	Carey and Alix Kendall	12-Jul-14
P64	Private Citizen	Karen Langley Stephen	12-Jul-14
P65	Brownstein Hyatt Farber Shreck	Susan F. Petrovich	14-Jul-14
P66	Private Citizen	Michael Loman	14-Jul-14
P67	Private Citizen	Gary Charness	14-Jul-14
P68	Private Citizen	Dorothy Jardin	15-Jul-14
P69	Private Citizen	Wes Murphy	13-Jun-14
P70	Private Citizen	Gerry B. Shepherd	9-Jul-14
P71	Private Citizen	Norman and Barbara Anderson	10-Jul-14
P72	Private Citizen	Brian Asselstine	13-Jul-14
P73	Private Citizen	Don Carter	15-Jul-14
P74	Private Citizen	Ian Bernard	14-Jul-14
P75	Private Citizen	Patricia A. Hunter	6-Jul-14
P76	Private Citizen	D.B. Jenneve	12-Jun-14
P77	Private Citizen	Bill and Christine Krauch	10-Jul-14
P78	Kastner Ranch	Sidney and Linda Kastner	1-Jul-14
P79	Private Citizen	Michael A. Dunn	18-Jul-14
P80	Private Citizen	Michael A. Dunn	10-Jul-14
P81	Private Citizen	Michael A. Dunn	1-Jul-14
P82	Santa Ynez Rancho Estates Mutual Water Company Inc.	Robert B. Field, President	1-Jul-14
P83	Private Citizen	Bill and Christine Krauch	14-Jul-14
P84	Private Citizen	Carole Tacher	11-Jun-14
P85	Private Citizen	Carole Tacher	11-Jun-14
P86	Santa Ynez Rancho Estates Mutual Water Company Inc.	Robert B. Field, President	17-Jun-14
P87	Private Citizen	Wendy Eisler	12-Jun-14

Letter Number	Agency/Organization	Name	Date Received
P88	Santa Ynez Valley Concerned Citizens	Gregory Simon, Chair	23-Jun-14
P89	Private Citizen	Brian Kramer	24-Jun-14
P90	Private Citizen	Linda and Lee Rosenberg	27-Jun-14
P91	Private Citizen	Judith Stauffer	15-Jul-14
P92	Private Citizen	Tom Ryder	17-Jul-14
P93	Private Citizen	Christien Beebe	15-Jul-14
P94	Private Citizen	Terryl L. Bunn	15-Jul-14
P95	Private Citizen	Kelly B. Gray	25-Jun-14
P96	Private Citizen	Jane Quigley	27-Jun-14
P97	Private Citizen	Bo Derek	1-Jul-14
P98	Cappello & Noel LLP	Barry Cappello	11-Jul-14
P99	P.O.L.O.	Kathy Cleary	15-Jul-14
P100	Private Citizen	Lois S. Brown	10-Jul-14
P101	Santa Ynez Valley Concerned Citizens	Gregory M. Simon, Chairman	14-Jul-14
P102	The Board of Preservation of Los Olivos (P.O.L.O.)	The Board of Preservation of Los Olivos (P.O.L.O.)	10-Jul-14
P103	Private Citizen	Carey and Alix Kendall	17-Jul-14
P104	Private Citizen	Wendy Eisler	9-Jun-14
P105	Private Citizen	Nicole Di Camillo	26-Jun-14
P106	Private Citizen	Steve Pappas	26-Jun-14
P107	Save the Valley, LLC	Matthew M. Clarke, Attorney	14-Jul-14
P108	Private Citizen	Craig Metheany	24-Jun-14
P109	Private Citizen	Mr. and Mrs. Alexander M. Power	24-Jun-14
P110	Private Citizen	Marjarie Nelson	24-Jun-14
P111	Private Citizen	Erik Gregersen	24-Jun-14
P112	Private Citizen	Joseph Bocchino	24-Jun-14
P113	Private Citizen	Mindy Rice	25-Jun-14
P114	Private Citizen	Barbara and Norman Anderson	25-Jun-14
P115	Private Citizen	Susie Snow	25-Jun-14
P116	Private Citizen	Holly Harmon	27-Jun-14
P117	Private Citizen	Teresa Harmon	27-Jun-14
P118	Private Citizen	John H. Harmon	27-Jun-14
P119	Private Citizen	John Harmon	27-Jun-14
P120	Private Citizen	Judith A. Cory	27-Jun-14
P121	Private Citizen	Gary M. Cory	27-Jun-14
P122	Private Citizen	Wendy Wergeles	1-Jul-14
P123	Private Citizen	Sheridan Force	1-Jul-14
P124	Private Citizen	J.S.	1-Jul-14
P125	Private Citizen	Art and Terri Kaslow	1-Jul-14
P126	Private Citizen	Shirley Wood Force	1-Jul-14

Letter Number	Agency/Organization	Name	Date Received
P127	Private Citizen	Lois S. Brown	NP
P128	Private Citizen	Sharon M. S.	1-Jul-14
P129	Private Citizen	Kelly Burke	25-Jun-14
P130	Private Citizen	Pat Hoffman	1-Jul-14
P131	Private Citizen	Jack B. Hoffman	1-Jul-14
P132	Private Citizen	Jeanne Hollingsworth	NP
P133	Private Citizen	Erik Sheldon	1-Jul-14
P134	Private Citizen	Marilyn and Jim Elam	1-Jul-14
P135	Private Citizen	Donald W. Sheldon, Jr.	1-Jul-14
P136	Private Citizen	Rona Barrett	1-Jul-14
P137	Private Citizen	Lori Parker	1-Jul-14
P138	Private Citizen	Emily Sheldon	1-Jul-14
P139	Private Citizen	Michael Loman	1-Jul-14
P140	Private Citizen	Jeffrey E. and Susan G. Nelson	NP
P141	Private Citizen	Donna Sheldon	31-Jun-14
P142	Private Citizen	Dan Gerber	31-Jun-14
P143	Private Citizen	Virginia Cooper	31-Jun-14
P144	Private Citizen	Joni Nichols	1-Jul-14
P145	Private Citizen	Matthew JW Clark	7-Jul-14
P146	Private Citizen	Joanne C. Clark	7-Jul-14
P147	Private Citizen	Jack Clark	7-Jul-14
P148	Private Citizen	David Clark	7-Jul-14
P149	Private Citizen	Jordan JW Clark	7-Jul-14
P150	Private Citizen	Chuck and Irene Cunningham	12-Jul-14
P151	Private Citizen	Rick Nichols	12-Jul-14
P152	Private Citizen	Carey Kendall	24-Jun-14
P153	Private Citizen	Denison Bollay	16-Jul-14
P154	Private Citizen	Victor and Thoma Martinov	16-Jul-14
P155	Private Citizen	Lyn Rankin	18-Jul-14
P156	Private Citizen	Richard and Ronda Shawcroft	18-Jul-14
P157	Private Citizen	Mark V. Taylor	20-Jul-14
P158	Private Citizen	Deborah Foshee	14-Jul-14
P159	Private Citizen	J.R.	31-Jun-14
P160	Private Citizen	Stephen and Sharon Puchli	12-Jul-14
P161	Private Citizen	R. Lee Weir	26-Jun-14
P162	Private Citizen	Rebecca Keyko	26-Jun-14
P163	Private Citizen	George Weir	26-Jun-14
P164	Private Citizen	Ruth A.J.	NP
P165	Private Citizen	Robert Petersen	31-Jun-14
P166	Private Citizen	Lois S. Brown	19-Jun-14

Letter Number	Agency/Organization	Name	Date Received
P167	Private Citizen	Klaus M. Brown	19-Jun-14
P168	Private Citizen	Klaus M. Brown	17-Jun-14
P169	Private Citizen	Lois S. Brown	19-Jun-14
P170	Private Citizen	Wendy Wergeles	10-Jul-14
P171	Private Citizen	Gustavo and Shawn Duscanio	14-Jul-14
P172	Private Citizen	Erik Gregersen	10-Jul-14
P173	Private Citizen	Virginia Burroughs	11-Jul-14
P174	Private Citizen	Jon and Jean Clemens	22-Jul-14
P175	Private Citizen	Gregory Schipper	23-Jul-14

NA – Not applicable; letter sent by lead agency

NP – Not Provided

# **FEDERAL AGENCIES (F)**

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COMMENT LETTERS

LOIS CAPPS  
24TH DISTRICT, CALIFORNIA

2231 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-0524  
(202) 225-3601  
www.capps.house.gov

COMMITTEE ON  
ENERGY AND COMMERCE



**Congress of the United States**  
**House of Representatives**

June 24, 2014

Amy Dutschke, Regional Director  
Bureau of Indian Affairs – Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825

Dear Ms. Dutschke:


I write in support of the County of Santa Barbara's request for a 45-day extension of the comment period on the Final Environmental Assessment for the proposed trust acquisition of the Camp 4 property, located in Santa Barbara County within my congressional district (CA-24).

Given that the Environmental Assessment for the trust acquisition is nearly 2000 pages, including appendices, and the BIA received over 1000 comments on the initial draft, a 30 day comment period is insufficient for a proposal of this breadth and complexity.

An additional 45 days would allow the County and other local stakeholders an appropriate amount of time to properly review, consider, and formulate responses to the Environmental Assessment. I therefore request an extension of 45 days to allow the relevant information to be fully considered and reviewed by local stakeholders.

Thank you for your consideration.

Sincerely,

  
LOIS CAPPS  
Member of Congress

DISTRICT OFFICES:

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SAN LUIS OBISPO, CA 93401  
(805) 546-8348
- ☐ 301 EAST CARRILLO STREET, SUITE A  
SANTA BARBARA, CA 93101  
(805) 730-1710
- ☐ 1101 SOUTH BROADWAY, SUITE A  
SANTA MARIA, CA 93454  
(805) 349-3832

F1-01

# STATE AGENCIES (S)

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COMMENT LETTERS



## Central Coast Regional Water Quality Control Board

To: Amy Dutschke, Regional Director  
Bureau of Indian Affairs  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825  
(916) 978-6165  
Email c/o: chad.broussard@bia.gov

From: David Innis CPESC, QSD  
Environmental Scientist  
Stormwater/401 Water Quality Certification  
(805) 549-3150  
Email: David.Innis@waterboards.ca.gov

Date: June 27, 2014

Subject: **CENTRAL COAST WATER BOARD COMMENTS ON THE FINAL ENVIRONMENTAL ASSESSMENT FOR PROPOSED TRUST ACQUISITION OF FIVE PARCELS KNOWN AS THE CAMP 4 PROPERTY, SANTA BARBARA COUNTY**

Thank you for the opportunity to evaluate the above-referenced Final Environmental Assessment (Final EA). The Central Coast Regional Water Quality Control Board (Central Coast Water Board) is a responsible agency under the National Environmental Policy Act (NEPA). Our review consists of comments associated with the potential requirements and approvals for the Clean Water Act Section 401 Water Quality Certification and NPDES General Permit for stormwater discharges from construction activity. Specifically, Post-Construction Requirements to treat and infiltrate runoff from new development impervious surfaces in connection with housing development in the Construction General Permit and within Santa Barbara County regulatory jurisdiction.

### Clean Water Act section 401 Water Quality Certification

The Final EA correctly identifies that construction or earthmoving activity that may occur in surface waters under the jurisdiction of the Army Corps of Engineers will need to be certified by the Central Coast Water Board. The project may require roads, bridges, and culverts to cross these drainages which would require our assessment of impacts and mitigation of those impacts. In our certification we consider the impacts to waters of the United States (e.g., drainages with delineated ordinary high water marks) and waters of the state (e.g., upper creek banks, riparian habitat outside of the ordinary high water mark). It is nice to see the project plans recommend buffer strips around all of the drainages. We appreciate your consideration to protect of these habitats through avoidance and minimization to protect water quality. We would appreciate early contact with the project's development staff to assure that the certification process goes smoothly and cooperatively with other federal, state, and local resource agencies.

S1-01

S1-02

### Post-Construction Stormwater Requirements

Urban areas within Santa Barbara County are enrolled in the NPDES permit for Municipal Separate Storm Sewer Systems (MS4) under the Phase II Small MS4 General Permit (Phase II MS4). The Small Phase II MS4 requires urban centers in Santa Barbara County to implement Post-Construction Requirements (PCRs) in compliance with the Central Coast Water Board's Resolution R3-2013-0032 (Resolution; adopted July 12, 2013, Approving Post-Construction Stormwater Management Requirements for Development Projects in the Central Coast)<sup>1</sup>. Our Resolution is designed to treat common pollutants associated with urban development using Low Impact Development (LID) tools and using infiltration practices to reduce the hydrological modification to waterways associated with increased stormwater runoff from impervious surfaces such as roads, roof tops, sidewalks, driveways, and parking lots.

Although the proposed housing development will be on tribal lands, the Final EA expresses the concept that development would be in harmony with the existing lands and possibly with the surrounding development codes (e.g., County permits to access County roadways). In light of our interpretation of this interest, we would like the tribe to consider implementing and maintaining PCRs as currently required for other development projects in Santa Barbara County.

### Recommendations

1. As specified in the EPA Construction General Permit, the Tribe should consider implementing low impact and green infrastructure practices when designing the housing community<sup>2</sup>. In keeping with surrounding area development requirements, we recommend the Tribe evaluate the information available at our website, that of the Central Coast Low Impact Development Initiative (LIDI)<sup>3</sup>, and design professionals with proven LID experience. The Central Coast Water Board Post-Construction Requirements and LIDI design criteria are specifically tailored to the local climate, hydrology, soils, and topography. Additionally, Santa Barbara County provides Technical Guidance to implement LID in compliance with our Resolution at their Project Clean Water website<sup>4</sup>. Using these tools, we feel the project can be a model for other development in Californian and other states.
2. The Final EA presents several conceptual development scenarios. In keeping with LID and Green Infrastructure concepts, clustered development would limit the size of developed areas required for roads, sidewalks, and other impervious surfaces, and minimize utility placement. We prefer development designs that site structures and roads away from areas with naturally good infiltrating soils to maintain groundwater recharge capabilities. Additionally, the treatment and infiltration areas should be distributed throughout the development to prevent concentration of urban pollutants in one central location and potential migration to groundwater resources.

<sup>1</sup> You can review Resolution R3-2013-0032 at our website:

[http://www.waterboards.ca.gov/centralcoast/water\\_issues/programs/stormwater/docs/lid/lid\\_hydromod\\_charette\\_index.shtml](http://www.waterboards.ca.gov/centralcoast/water_issues/programs/stormwater/docs/lid/lid_hydromod_charette_index.shtml) Additional LID practices can be viewed by clicking links at the bottom of the page, too.

<sup>2</sup> National Pollutant Discharge Elimination System General Permit for Discharges from Construction Activities section 9. Permit Conditions Applicable to Specific States, Indian Country Lands, or Territories; subsection 9.1.2.4 (page 51) available at: [http://www.epa.gov/npdes/pubs/cgp2012\\_finalpermit.pdf](http://www.epa.gov/npdes/pubs/cgp2012_finalpermit.pdf)

<sup>3</sup> The Central Coast Low Impact Development Initiative's website for LID Technical Guidance can be accessed at: [http://www.centralcoastlidi.org/Central\\_Coast\\_LIDI/Home.html](http://www.centralcoastlidi.org/Central_Coast_LIDI/Home.html)

<sup>4</sup> Santa Barbara County Project Clean Water website for new and redevelopment and stormwater technical guidance is available at: <http://www.sbprojectcleanwater.org/development.aspx?id=76>

## Comment Letter S1 (Cont.)

Amy Dutschke

- 3 -

June 27, 2014

We appreciate the opportunity to review the project plans and comment on the Final Environmental Assessment. Please contact David Innis if you have any questions.

Sincerely,

Central Coast Water Board

S1-03  
(Cont.)

## Comment Letters S2 and S3

### Comment Letter S2

This comment letter is included in **Table A-1** as it is part of the administrative record but a copy was not included herein as the letter is a duplicate of Comment Letter S1.

### Comment Letter S3

This comment letter is included in **Table A-1** as it is part of the administrative record but a copy was not included herein as the letter solely correspondence from the commenter regarding letters received at the State Clearinghouse during the comment period on the Final EA.

# **LOCAL AGENCIES (L)**

COMMENT LETTERS

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County Of Santa Barbara



Mona Miyasato  
County Executive Officer

105 East Anapamu Street, Room 406  
Santa Barbara, California 93101  
805-568-3400 • Fax 805-568-3414  
www.countyofsb.org

Executive Office

July 11, 2014

Ms. Amy Dutschke, Regional Director  
Bureau of Indian Affairs,  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825  
E-mail: amy.dutschke@bia.gov

**Re: Final Environmental Assessment for Proposed Trust Acquisition of Five Parcels Known as the Camp 4 Property**

Dear Ms. Dutschke:

Thank you for the opportunity to comment on the *Final Environmental Assessment for Proposed Trust Acquisition of Five Parcels Known as the Camp 4 Property*. Attached are comments reflecting concerns related to the inadequacy of the Final Environmental Assessment (EA) and the need for a complete assessment of all possible impacts via an Environmental Impact Statement (EIS).

As documented in the *County of Santa Barbara's Comments on the May 2014 Final Environmental Assessment for the Santa Ynez Band of Chumash Indians Camp 4 Fee to Trust*, 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") at a time when relevant environmental impacts can be fully analyzed – at or near the end of the contractual restrictions on the land on December 31, 2022.

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 for Camp 4. (Natural Resources Def. Council v. Duvall 777 F.Supp. 1533, 1538 (E.D. Cal. 1991.))

Renée E. Bahl  
Assistant County Executive Officer  
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L1-01

L1-02

L1-03

If you should have any questions or require additional information, please contact my office at (805)568-3404.

L1-04

Sincerely,



Mona Miyasato  
County Executive Officer

Enclosures: *County of Santa Barbara's Comments on the May 2014 Final Environmental Assessment for the Santa Ynez Band of Chumash Indians Camp 4 Fee to Trust*  
*Exhibit to County's Comments on the Final EA for Camp 4*

cc: Santa Barbara County Board of Supervisors  
Glenn Russell, Director, Planning and Development Department  
Mike Ghizzoni, County Counsel  
Sam Cohen, Government and Legal Specialist, Santa Ynez Band of Chumash Indians  
Chad Broussard, Environmental Protection Specialist, BIA [chad.broussard@bia.gov](mailto:chad.broussard@bia.gov)

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**County of Santa Barbara's Comments  
on the May 2014 Final Environmental  
Assessment for the Santa Ynez Band  
of Chumash Indians Camp 4 Fee-to-Trust**

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## INTRODUCTION

The Santa Ynez Valley in Santa Barbara County is a distinctively rural area in which the environmental resources of the area have been prized and protected. As described in the community plan for the Valley:

The oak-studded Santa Ynez Valley, nestled between two towering mountain ranges in central Santa Barbara County, boasts an enviable quality of life for its residents. Still-friendly small towns with unique individual character are linked by scenic rural roads featuring bucolic views of farms, ranches and pristine natural areas. The local economy is strong, anchored by thriving agriculture and tourism industries. Residents enjoy an unhurried pace of life, night skies still dark enough for stargazing, clean air, ample recreational opportunities and abundant natural resources. The rural charm, comfort and beauty of the Valley, that has remained relatively unchanged for so long, stands in stark contrast to the “Anytown USA” atmosphere that has engulfed many communities across California and the rest of the country. (Santa Ynez Valley Community Plan at p. Overview.)

L1-05

Against this backdrop, the Santa Ynez Band of Chumash Mission Indians (“Tribe”) submitted an Application for Transfer of Title for Fee Lands into Trust. The Application proposes significant residential and related development on five parcels of land consisting of 1,433 nearly pristine acres in the Valley (commonly known as “Camp 4”) commencing in 2023. Camp 4 would be the largest and most significant development in the Valley in the last 50 years yet the environmental review for the project, the Final Environmental Assessment (“Final EA”), remains wholly inadequate.

First, the underpinnings of the Final EA are fatally flawed. The Final EA uses a present-day baseline for a development that will not proceed for almost a decade due to existing contractual restrictions on the land. Doing so almost certainly understates many of Camp 4’s impacts on environmental resources. It also underscores the fact that the fee

L1-06

to trust acquisition is not necessary at this time but could *and should* be delayed until pre-project conditions, including the appropriate baseline, and actual environmental impacts can be determined. This approach would better serve the protective mandates of the National Environmental Policy Act (“NEPA”).

L1-06  
(Cont.)

Second, if the environmental review proceeds, the Final EA cannot be used as a substitute for the proper level of environmental review, an Environmental Impact Statement (“EIS”). Under NEPA, an EIS must be prepared when a proposed federal action raises substantial questions about whether it will significantly affect the environment. *Natural Res. Def. Council v. Duvall*, 777 F.Supp. 1533, 1537 (E.D. Cal. 1991). Camp 4 undoubtedly does so. It is significant both in the context of its setting and the intensity of the development. The Final EA is inadequate.

L1-07

Third, in addition to the above, the Final EA still omits key analyses, contains factual misstatements and unsupported assumptions, and inadequately addresses cumulative impacts and project alternatives. These additional deficiencies in the environmental review process must be addressed to comply with NEPA’s “hard look” standard. Accordingly, the County of Santa Barbara (“County”) respectfully requests that the Department of the Interior, Bureau of Indian Affairs (“BIA”) delay the environmental review until pre-project conditions are known or, if it proceeds, prepare an EIS for Camp 4 that resolves the deficiencies in the Final EA as required by NEPA.

L1-08

#### PROCEDURAL BACKGROUND

In March 2013, the Tribe submitted a Proposed Tribal Consolidation and Acquisition Plan (“Consolidation Plan”) to the BIA. The Consolidation Plan included

L1-09

approximately 11,500 acres of the Santa Ynez Valley, including Camp 4. The BIA approved the Consolidation Plan on June 17, 2013. Following this approval, several parties including the County appealed the decision.

In July 2013, the Tribe submitted an Application for Transfer of Title for Fee Lands into Trust for Camp 4. In August 2013, the BIA released an Environmental Assessment on Camp 4 for public review and comment. The County provided comments on that Environmental Assessment on October 7, 2013.<sup>1</sup>

On October 11, 2013, the Tribe withdrew its Consolidation Plan and the Interior Board of Indian Appeals dismissed the pending appeals. The Tribe then prepared and submitted a revised Application for Transfer of Title for Fee Lands into Trust for Camp 4 in November 2013 that removed references to the withdrawn Consolidation Plan. In May 2014, the BIA released a Final EA for public review and comment. Comments were due on June 30, 2014. The County requested an extension of the time period to comment and the BIA extended the comment deadline to July 14, 2014.

The Final EA 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

L1-09  
(Cont.)

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<sup>1</sup> The County incorporates by reference its October 7, 2013 comments. The County notes the BIA took issue with some cases cited by the County in its prior comments. The cases cited by the County, however, stood for the black letter proposition for which they were cited. The County did not cite them as analogous situations or for fact-specific holdings.

("CEO"). The Discussion section below incorporates all of the comments and expertise of those Departments and cites to a primary source department as appropriate.

#### **CAMP 4 AND THE PROPOSED DEVELOPMENTS**

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. (EA at 1-5-1-6.) The 1,433 acres includes 21.9 acres of rights-of-way. (*Id.* at 1-1.) The property is zoned exclusively for agriculture. (*Id.* at 3-59.) 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. (*Id.* at 2-3-2-4.)

Camp 4 is under an existing Williamson Act Contract, which is a 10-year rolling contract. (*Id.* at 4-24.) The property has been preserved for agricultural use by a Williamson Act Contract since at least 1971. (P&D.) In August 2013, the Tribe submitted an application for non-renewal, meaning the Williamson Act contract will expire on December 31, 2022. (EA at 4-24.) On July 1, 2013, the Tribe passed Resolution 931 which requires compliance with the existing Williamson Act contract until the contract expires. (*Id.*)

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 have residential capacity, and 16 acres have economic development capacity. (*Id.* at 1-7.) The

L1-09  
(Cont.)

Tribe has 136 tribal members and approximately 1,300 lineal descendants. (*Id.*) The stated purpose of the Camp 4 Fee to Trust Application is to provide housing for current tribal members and anticipated growth because the current Reservation is claimed to be insufficient in size. (*Id.* at 1-6.) Camp 4 is located 1.75 miles from the Tribe's Reservation and does not have any shared boundaries with the Reservation.

The Final EA identifies two development Alternatives for the Camp 4 property. Alternative A consists of 1,433 acres to be converted to 143 five-acre residential lots. (*Id.* at 2-3.) A total of 793 acres would be covered by residential homes and transportation infrastructure. The project site would also include 206 acres of vineyards (a decrease of 50 acres from the existing 256 acres), 300 acres of open space/recreation areas, 98 acres of riparian corridor, 33 acres of oak woodland conservation, and 3 acres of Special Purpose Zone for utilities. (*Id.*)

Alternative B consists of 143 one-acre residential lots for tribal members and 30 acres of Tribal Facilities. (*Id.*) The residential lots and roadways would cover approximately 194 acres of the project site. (*Id.*) The Tribal Facilities would be 12,042 square feet and include a meeting hall, kitchen, breakroom, private office (13 rooms), conference room, general office, training room, and circulation area. (*Id.* at 2-15.) The Tribal Facilities propose 100 special events per year with up to 400 attendees plus vendors at each of the events. (*Id.* at 2-13.) This equates to events two days/nights a week, with an increase of approximately 800 visitors to the Valley each week. The Tribal Facilities also would include office space for up to 40 tribal employees and 250 parking spaces. (*Id.*) In addition, the project site under Alternative B would include 869

L1-09  
(Cont.)

acres of open space/recreational use and the same acreages of vineyard, riparian corridor and oak woodland conservation, and utilities as Alternative A. (*Id.* at 2-3.)

L1-09  
(Cont.)

## DISCUSSION

### **I. The Final EA Uses an Inappropriate Present-Day Baseline for a Future Development and Should Be Completed Closer in Time to the 2023 Development Date to Ensure an Adequate Environmental Review.**

In analyzing the effects of a proposed federal action, NEPA requires an agency to set forth the baseline conditions. *Half Moon Bay Fisherman's' Marketing Ass'n v. Carlucci*, 857 F.2d 505, 510 (9th Cir.1988). The NEPA baseline consists of the pre-project environmental conditions. *Id.* The Final EA uses a present-day baseline to assess Camp 4's impacts on the environment. A present-day baseline, however, does not represent the actual, pre-development conditions in 2023. By failing to use a future baseline, the Final EA understates Camp 4's effect on many of the resources discussed above, and potentially other resources as well.

L1-10

The Final EA uses present-day conditions as its baseline for determining the environmental effects of Camp 4. (EA at 3-1.) Under Section 3.0, the "Description of the Affected Environment," the various resource areas describe the "existing" condition of the resource. (*See, e.g., id.* at 3-8 ("[t]he following section describes the existing surface water, drainage, flooding, groundwater and water quality conditions in the area surrounding the project site"); 3-59 ("[t]he following describes the existing land use and land use planning considerations, including agriculture").) In addition, the Final EA states that it assumes a construction date of 2014 for purposes of evaluating impacts to certain resources. (*Id.* at 2-9.)

The proposed developments under Alternatives A and B, however, will not commence until 2023, almost a decade after the assumed construction date used for analyzing some resource impacts. (*Id.* at 2-9.) By assuming a construction date of 2014 and using a present-day baseline, the Final EA is incomplete and flawed. Rather than providing a “conservative approach,” it underestimates Camp 4’s potential impacts on numerous resources.

L1-10  
(Cont.)

For instance, the impacts to agriculture are based on present day approximations, not on an analysis of the state of agricultural lands in 2023. (*Id.* at § 4.1.8.) Significant changes to agricultural lands may occur irrespective of the project prior to 2023. The same is true of the impact to public services, including impacts to the water supply, solid waste, fire, police and emergency, schools, and parks and recreation. (*Id.* at §§ 4.1.2, 4.1.9.) If the current drought continues, the water supply for the Santa Ynez Valley could be substantially less in 2023 than it is now. Likewise, with basic services, the trend is that they degrade over time irrespective of Camp 4 or the projected Santa Ynez community build-out. (P&D.) Other local, regional, and statewide forces that have not been considered could impact this area by 2023.

L1-11

L1-12

Assessing the impacts of a development in 2023 based on a hypothetical 2014 construction date and corresponding baseline does not adequately consider the potential environmental impacts of Camp 4. More importantly, it likely understates the potential impacts in several resource areas. An EIS must be prepared that adequately considers all potential environmental impacts and their significance based on an appropriate baseline.

L1-13

The construction date of 2023 also calls into question the need for the proposed federal action and the completeness of any environmental review at this time. The stated need of the fee-to-trust transaction is for tribal housing and other facilities. (EA at § 1.3.) Since that need is not immediate, the Tribe has time to pursue development through County land use regulations or at a later date. Further, delaying the proposed federal action would better serve the goals of NEPA – to ensure that “environmental information is available to public officials and citizens *before* decisions are made and *before* actions are taken.” 40 C.F.R. §§ 1500.1(b) (emphasis added). Also, importantly, it would ensure that an appropriate baseline could be determined and used so that environmental impacts could be determined with some certainty. The environmental review on Camp 4 should be completed closer to the development date when actual pre-project environmental conditions are known and their impacts can be assessed.

L1-13  
(Cont.)

**II. If the Environmental Review Proceeds, an EIS Must Be Prepared Because the County Raises Substantial Questions About the Significant Effects of Camp 4 on the Environment.**

If the BIA does not delay the environmental review for Camp 4, it must prepare an EIS for the project. For all “major Federal actions significantly affecting the . . . human environment,” NEPA requires an agency to prepare an EIS. 42 U.S.C. § 4332(2)(C); 40 C.F.R. § 1502.3; *see also* 43 C.F.R. § 46.400. A party does not have to prove a project will significantly affect the environment but only has to raise substantial questions about “whether the proposed action *may* have a significant effect. . . .” *Duvall*, 777 F.Supp. at 1537 (emphasis added). When such questions are raised, an agency violates NEPA by failing to prepare an EIS. *Anderson v. Evans*, 371 F.3d 475, 494 (9th Cir. 2004).

L1-14

“Significantly” as used in NEPA requires consideration of both the context and intensity of a project. 40 C.F.R. § 1508.27. Context refers to the setting in which the proposed action takes place and means an action must be analyzed in several contexts such as society as a whole, the affected region, the affected interests and the locality. *Id.* § 1508.27(a). Intensity refers to “the severity of the impact.” *Id.* § 1508.27(b). As discussed fully below, Camp 4 is significant both in context and intensity. Therefore, an EIS must be prepared.

L1-14  
(Cont.)

**A. Camp 4 Is Significant in Context.**

Camp 4 proposes the conversion and development of over 1,400 acres of land zoned AG-II-100 by the County. (EA at 3-59.) The AG-II zone is applied to areas that are appropriate for agricultural land uses on prime and non-prime agricultural lands located within a rural area. (Santa Barbara County Land Use & Development Code § 35.21.020.) The intent of the AG-II zone is to preserve those lands for long-term agricultural use. (*Id.*) The Camp 4 property has been preserved for agricultural use since at least 1971 and has an intact, self-sustaining woodland and active agriculture, including vineyards and cattle grazing. (See EA at 1-6, 3-59; P&D.) Agricultural lands such as Camp 4 represent an important statewide, regional, and local interest. These interests would be significantly impacted by the proposed developments.

L1-15

**1. Statewide Importance of Agricultural Lands.**

Agriculture is “the production of food and fiber, the growing of plants, the raising and keeping of animals, aquaculture, and preparation for marketing of products in their natural form when grown on the premises, and the sale of products which are accessory

and customarily incidental to the marketing of products in their natural form grown on the premises.” (Santa Barbara County Comprehensive Plan, Agricultural Element at p. 5.) Agriculture in California is valued as an economic and environmental benefit to the people of the state, nation, and world. (*Id.* at p. 3; Santa Barbara County Environmental Thresholds and Guideline Manual at p. 7.) It supports one of California’s major industries and helps supply the nation with food. (*Id.*)

Farmland also is an important filter for rain and snowfall runoff, allowing groundwater basins to recharge themselves. (*Id.*) In addition, farms and ranches protect the rural way of life and provide wildlife habitats, valuable open space, and visual relief for urban dwellers. (*Id.*) “Because of these great public benefits, the unnecessary and/or premature conversion of agricultural lands to urban uses [is] discouraged.” (*Id.*)

## **2. Regional Importance of Agricultural Lands.**

Within Santa Barbara County, agricultural lands play a critical economic and environmental role as well. (*Id.*; Santa Barbara County Comprehensive Plan, Agricultural Element.) Agriculture is Santa Barbara’s main producing industry. (Santa Barbara County Environmental Thresholds and Guideline Manual at p. 7.) It helps sustain the rural lifestyle of the County and maintain open spaces. (Santa Ynez Community Plan EIR, Land Use Section at 4.1-1; Agricultural Resources Section at 4.15-2, 4.15-5.) In light of its importance, the County prioritizes its preservation in planning documents and regulations:

- **Agricultural Element Policy I.A:** The integrity of agricultural operations shall not be violated by recreational or other non-compatible uses. (Santa Barbara County Comprehensive Plan, Agricultural Element at p. 6.)

L1-15  
(Cont.)

- **Agricultural Element Policy I.D:** The use of the Williamson Act (Agricultural Preserve Program) shall be strongly encouraged and supported. The County shall also explore and support other agricultural land protection programs. (*Id.* at p. 7.)
- **Agricultural Element Policy I.F:** The quality and availability of water, air, and soil resources shall be protected through provisions including but not limited to, the stability of rural/urban boundary lines, maintenance of buffer areas around agricultural areas, and the promotion of conservation practices. (*Id.*)
- **Agricultural Element Policy II.D:** Conversion of highly productive agricultural lands whether urban or rural, shall be discouraged. The County shall support programs which encourage the retention of highly productive agricultural lands. (*Id.* at p. 8.)
- **Agricultural Element Goal I:** Santa Barbara County shall assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara Country. Agriculture shall be encouraged. Where conditions allow, (taking into account environmental impacts) expansion and intensification shall be supported. (*Id.* at p. 6.)
- **Agricultural Element Goal III:** Where it is necessary for agricultural lands to be converted to other uses, this use shall not interfere with remaining agricultural operations. (*Id.* at p. 8.)
- **Land Use Element Regional Goal, Agriculture:** In the rural areas, cultivated agriculture shall be preserved and, where conditions allow, expansion and intensification should be supported. Lands with both prime and non-prime soils shall be reserved for agricultural uses. (Santa Barbara County Comprehensive Plan, Land Use Element at p. 67.)

L1-15  
(Cont.)

3. **Local Importance of Agricultural Lands.**

Agriculture is similarly important at the community level. In the Santa Ynez Valley, agriculture is a strong component of community identity and a major contributor to the economy, including cattle grazing and wine production. (Santa

Ynez Community Plan EIR, Land Use Section at 4.1-1; Agricultural Resources Section at 4.15-2, 4.15-5.) The Santa Ynez Valley also specifically identifies preservation of agriculture as a planning and regulatory goal: “Agriculture should be preserved and protected as one of the primary economic bases of the Valley.” (Santa Ynez Valley Community Plan at p. 10.)

**4. Current Threats to Agricultural Resources.**

Despite the importance of agricultural land to the state, region, and community, the County has seen a deterioration of this valuable resource in the last 30 years. (Santa Barbara County Comprehensive Plan, Agricultural Element at p. 26.) Threats to viable agriculture in the County include increasing urbanization and conversion of agricultural lands. (*Id.*) “The growth of urban development into agricultural areas brings with it land use conflicts” which can increase regulatory measures that lead to additional costs for government agencies and farmers and interfere with productivity of operations. (*Id.*) These conflicts then contribute to the rate of agricultural conversion to other uses in surrounding properties, resulting in a cycle of accelerated loss. (*Id.*)

Additionally, the division of agricultural parcels into smaller sizes threatens agriculture in the County. (*Id.*) Multiple factors determine the economic viability of an agriculture operation, one of which is the amount of acreage required based on the crop type, soil characteristics, etc. (*Id.*) When land is broken up into smaller pieces, the pieces are too small to be economically viable agricultural units. (*Id.*) When agricultural economic viability is lost, there is increased pressure for further division and conversion

L1-15  
(Cont.)

to urban uses. (*Id.*) This phenomenon has become a real concern in Santa Barbara County. (*Id.*)

**5. The Proposed Development Is Significant In This Context.**

Camp 4 proposes to convert large amounts of agricultural land to residential development, utilities, and open/recreation space areas. (EA at 2-3, Table 2-1.) The loss of farm and grazing land totals 1,227 acres under either Alternative. (*Id.*) Of the 1,433 agricultural acres, only 206 are identified for vineyard agriculture, a decrease of 50 acres from the current vineyard operations. (*Id.*)

Specifically, Camp 4 proposes to convert 796 and 197 acres of agricultural land to residential subdivision and utility zones under Alternatives A and B, respectively. (*Id.*) It also proposes to convert significant portions of agriculture lands to open/recreation spaces (300 acres with Alternative A and 869 acres with Alternative B). (*Id.*) Additionally, under Alternative B, Camp 4 would convert 30 acres to tribal facilities. (*Id.*) The remaining 131 acres not used for agriculture in each Alternative would be used as Resource Management Zones for riparian corridors and oak woodland. (*Id.*) All of this development would occur in a rural setting with neighboring agricultural uses.

The Final EA states that Alternative A would impact at least 704 acres of the total 1,041.1 acres of grazing land and 76 acres of farmland of local importance; decrease vineyard production on prime agriculture land by 50 acres; and develop 3 acres of unique farmland with a wastewater treatment facility. (*Id.* at 4-22.) Under Alternative B, the Final EA states that the existing vineyard on prime agricultural land would be reduced by 50 acres, 3 acres of unique farmland would house a wastewater treatment facility, and 10

L1-15  
(Cont.)

acres of farmland of local importance would be converted to residential development. (*Id.* at 4-47.) The remaining residential development and open space/recreation areas would occur on grazing land. (*Id.*)

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(Cont.)

The Final EA understates the loss of agricultural lands by excluding the loss of agriculture to open space/recreation areas and riparian corridors. It suggests that the open space acreage could be used for grazing. (*Id.* at 4-22.) Open space and recreation under Alternative A total a combined 300 acres, and 869 acres under Alternative B. (*Id.* at 2-3.) Recreation development would include passive trails for pedestrians and equestrian trails. (*Id.* at 2-6.) The Final EA does not describe the grazing operations, which typically require a significant amount of land. Due to this lack of detail, there is no way to conclude that any grazing operations could or would continue or whether they would be compatible with open space/recreation areas. (P&D.)

L1-16

The Final EA further attempts to understate the significant impact on agriculture by arguing that the converted agricultural and grazing land represents a small loss in the overall percentage of those types of agricultural land in the County. (EA at 4-22, 4-47.) The Final EA's dismissal of the importance of Camp 4's impact on agricultural resources is akin to dismissing the impact of a residential development in the middle of a large forest system based on the percentage of remaining forestland in that area. It fails to address the importance of preserving agricultural lands and the character of the community and the state, regional, and community concerns regarding this resource. Camp 4's proposed development of over 1,400 acres of agricultural lands for residential use is significant in the context of its setting and an EIS must be prepared.

L1-17

**B. The Intensity of the Project Raises Substantial Questions About Its Significance.**

The Council on Environmental Quality provides ten factors under which the intensity of a project is evaluated: (1) impacts that may be both beneficial and adverse; (2) the degree to which the proposed action affects public health or safety; (3) unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas; (4) the degree to which the effects on the quality of the human environment are likely to be controversial; (5) the degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks; (6) the degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration; (7) whether the action is related to other actions with individually insignificant but cumulatively significant impacts; (8) the degree to which the action may adversely affect districts, sites, highways, structures or objects listed in or eligible for listing in the Register of Historic Places; (9) the degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973; and (10) whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment. 40 C.F.R. § 1508.27(b).

Degradation of some factor requires the preparation of an EIS. *See Sierra Club v. U.S. Forest Serv.*, 843 F.2d 1190, 1193 (9th Cir. 1988). Here, the project implicates the degradation of several factors and requires the preparation of an EIS.

L1-18

1. **The Project Threatens Unique Geographical Characteristics.**

Agriculture is a unique resource of the State, County, and the Santa Ynez Valley. As discussed above, protecting agriculture, including grazing, in the County is of critical importance to the area due to its economic and environmental benefits. The 2012 Santa Barbara County Agricultural Production Report indicated gross farm production to be \$1.3 billion. (Santa Barbara County Agricultural Production Report at p. 15.)

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. (*Id.* at Cover Letter.) Further, farmland and rangeland can conserve important ecosystems, including the delivery of fresh water and maintenance of habitats vital for native flora and fauna. (Santa Barbara County Environmental Thresholds and Guideline Manual at p. 7.) As even the Final EA recognizes, "adverse impacts to land use would result if the implementation of [the alternatives] resulted in the conversion of a significant percentage of county designated prime agricultural lands or other protected agricultural lands." (EA at 4-21.) Camp 4 proposes to convert a significant amount of such lands and is a threat to the viability of neighboring agricultural lands.

Camp 4 is comprised solely of rural, agricultural lands. (*Id.* at 3-59.) Both development alternatives would result in the conversion and urbanization of large amounts of those lands to residential subdivision (197 or 796 acres) and related open space/recreation areas (869 or 300 acres). (*Id.* at 2-3.) In addition, 131 acres would be maintained as riparian corridors. (*Id.*) The loss of agricultural land would total 1,227 acres. (*Id.*) Further, the historical and current cattle grazing operation on the project site

L1-19

could be totally eliminated. (*Id.*) There is no support in the Final EA establishing grazing would or could continue on the proposed development.

L1-19  
(Cont.)

In addition to the direct loss of agricultural land, a high-density residential development and Tribal Facilities would pose problems to preserving neighboring agriculture. The project could cause trespassing, vandalism, nuisance complaints, and decreased farming potential or loss of crop productivity. (Santa Barbara County Land Use & Development Code § 35.30.025; P&D.) Fencing to deter trespassers is costly and may hinder the movement of equipment and crops out of fields. (P&D.) The project also could require special management practices and add additional time, cost, and labor to agricultural production in the area. (*Id.*)

Likewise, the proposed Open Space/Recreation Zone provides a potential segway for the public to access adjacent agricultural areas, which may lead to trespassing, theft, littering, grass fires, and vandalism. Easy access farm equipment that is unlocked may become a target for theft and vandalism. (P&D.) In the past, the high value of recycled metal has resulted in an increase in the number of cases of sprinklers and copper wiring being stolen. (*Id.*) Finally, the increases in traffic, noise, and proximity of attendees at special events at the Tribal Facilities could necessitate changes to the surrounding agricultural operations. All of these factors threaten agriculture in the area and constitute a significant impact on the environment.

L1-20

**2. The Project Threatens Violations of Local Law and Protective Regulations.**

Camp 4 also threatens land use and regulatory requirements enacted for the protection of the environment and community. The County Comprehensive Plan, including the Santa Ynez Valley Community Plan, and the zoning ordinances and land use regulations govern appropriate land use within the project area. These policies and regulations protect and promote “the public health, safety, comfort, convenience, prosperity, and general welfare of residents and businesses in the County.” (Santa Barbara County Land Use & Development Code § 35.10.010.) Further, they:

- Provide standards and guidelines for the continuing orderly growth and development of the County that will assist in protecting the character and stability (social and economic) of agricultural, residential, commercial and industrial uses, as well as the character and identity of communities within the County;
- Conserve and protect the County’s natural beauty and setting, including waterways, hills and trees, scenic vistas, and historic and environmental resources;
- Create a comprehensive and stable pattern of land uses upon which to plan transportation, water supply, sewerage, energy, and other public facilities and utilities;
- Encourage the most appropriate uses of land in order to prevent overcrowding of land and avoid undue concentration of population, and maintain and protect the value of property; and
- Ensure compatibility between different types of development and land use. (*Id.*)

The violation of these local laws and protective regulations is a significant impact on the environment. “Adverse impacts to land use [ ] result if an incompatible land use within [the Alternatives] would result in the inability of the County to continue to implement existing land use policies.” (EA at 4-21.) It is clear Camp 4 will significantly

L1-21

impact land use if the County is unable to apply, due to BIA trust approval, its protective regulations to the site as the proposed development would violate many County plans, codes, and ordinances.

L1-21  
(Cont.)

**a. The County Comprehensive Plan.**

In addition to the policies discussed above regarding the importance and preservation of agriculture, Camp 4 conflicts with at least the following Comprehensive Plan policies:

- **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 at pp. 22, 73.)

L1-22

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. (P&D.) The proposed five-acre and one-acre residential lots contravene rural area policy countywide, including the Santa Ynez Valley Community Plan.

L1-22  
(Cont.)

**b. County Codes (Zoning, Agricultural Buffer, and Grading).**

Camp 4 also 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 and the Zone is Agriculture II, 100 acres minimum lot size. (EA at 3-59; Santa Barbara County Land Use & Development Code § 35.21.040.) 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 established such development was appropriate considering the carrying capacity of the land and suitability and productivity of the resultant parcels for sustained agriculture. (P&D.) An increase from 14 lots to the proposed 143 lots is a clear violation of the zoning ordinance.

L1-23

Camp 4 also is regulated by the Agricultural Buffer ordinance, which creates buffer zones to mitigate complaints about farming operations and the spreading of pests. (*Id.* at § 35.30.025.) Noxious weeds and harmful insects and diseases can spread into adjoining agricultural fields and lead to crop losses or an increased use of pesticides without proper maintenance of buffer zones. (*Id.*; P&D.) The buffer zone ordinance and

L1-24

the California pesticide regulatory program protect people and the environment from these effects and unsafe pesticide use. (P&D.)

Camp 4's proposed residential uses adjacent to farmland do not include adequate agricultural buffers and are not sited to minimize potential land use conflicts. (*Id.*) The County's Agricultural Buffer ordinance requires a 100 to 300 foot buffer between the incompatible residential or commercial uses and the property line of the agricultural parcel. (County Land Use & Development Code § 35.30.025.) As to this buffer, the Final EA states that "...undeveloped areas would serve the purpose of an agricultural buffer..." (EA at Comment L3-24.) This statement, however, is contradicted by the maps for Alternatives A and B. (*Id.* at Fig. 2-1 and 2-2.) Those maps clearly show residential lot lines directly adjacent to offsite lots to the north, east, and south. (*Id.*) There is no indication of any buffers from offsite properties in these areas.

L1-24  
(Cont.)

Additionally, the Santa Ynez Valley Community Plan Area requires minimizing "light pollution, glare and light trespass" in order to preserve the night sky. (County Land Use & Development Code § 35.30.120.) The construction of 143 residences and Tribal Facilities in one area threatens this regulation.

L1-25

**c. The Williamson Act and County Uniform Rules.**

The project also is inconsistent with the Williamson Act and the County's Uniform Rules. Under the Williamson Act, the County can enter into a contract to restrict the Property to agricultural use. Cal. Gov. Code § 51200 *et. seq.* In return, the Tribe receives property tax assessments that are much lower than fair market value. Under the County Uniform Rules, all land under contract must be in agricultural

L1-26

production except for 2 acres. All non-agricultural use, including residential and personal use, must occur within the 2 acres. (Uniform Rule 1-4.1.) These policies serve to preserve agriculture and open spaces in order to protect valuable resources including ecosystems and water resources. (See EA at 3-64; Santa Barbara County Environmental Thresholds and Guideline Manual at p. 7.) Development on lands that have been preserved grazing lands for decades conflicts with the protective mandates of the Williamson Act and County Uniform Rules.

L1-26  
(Cont.)

### **3. The Project Impacts Public Health and Safety Concerns.**

The Final EA improperly minimizes impacts to public services and safety issues. It does so by concluding, without a basis, that Camp 4 will not result in a “significant” increase in population. (EA at 4-16-4-17.) The Final EA reasons that tribal members who will occupy the new housing on Camp 4 already live in Santa Ynez Valley and, therefore, will simply change addresses in the Valley. (*Id.*) It is standard practice in regional impact evaluation, however, to assume for purposes of traffic and other public service impacts that any vacated housing will be backfilled with new inhabitants. (PW.)

L1-27

Despite its attempt to downplay the population increase, the Final EA recognizes that backfill could result in at least 415 new residents to the area. (EA at Response to Comment L3-12.) Additionally, under Alternative B, visitors will frequent the area for up to 100 events a year with 400 attendees each at the Tribal Facilities. (*Id.* at 2-13.) This increase of residents and visitors may significantly impact the demand for public safety services, groundwater and waste resources, and impact air quality and traffic control.

**a. Law Enforcement Services.**

Generally, the ratio of deputies to residents is .72 deputies for every thousand residents. (Sheriff.) Adding 415 residents and 800 visitors every weekend to the Valley could degrade law enforcement services in the area. An additional one-half to one deputy could be required in the area to respond to the population increase.

The Final EA ignores this impact by focusing on whether calls for service from the project would be “disproportionate” to other residential or commercial development in the County. (EA at 4-26.) This discussion misses the point – whether the project will *increase* the need for law enforcement services. The Final EA further improperly minimizes impacts on law enforcement services by stating: “The SBCSD and the Tribe ha[ve] completed negotiations to provide the SBCSD funding for one patrol vehicle and associated equipment. . .funding for Full Time Equivalent (FTE) position. . .and funding for maintenance on the patrol vehicle. . . .The agreement extends for four years and is for services on the Reservation, existing trust lands, and parcels currently owned in fee by the Tribe that may be conveyed to trust status within the four-year period (e.g. the project site).” (EA at 3-68.)

First, the above terms and agreement were considered and rejected by the County Board of Supervisors on June 3, 2014. (Minutes of the Santa Barbara County Board of Supervisors June 3, 2014 Meeting at p. 33.) Second, the proposed agreement did not include parcels owned in fee by the Tribe, except for a separate 6.9 acres on which the Tribe plans to build a cultural center, museum, park, and gift shop. Third, in considering the proposed agreement, the Board found that the agreement provided insufficient detail

L1-28

as to its terms and inadequate protections for the County. It also would have included a provision to reduce any payment by the Tribe under the contract by the amount of funding received by the Sheriff through the Special Distribution Fund, which can only be used to mitigate gaming impacts. Finally, if the term of the agreement is for 4 years, it may not be in place when construction begins in 2023 or, more importantly, concludes between 2027 and 2030.

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**b. Fire and Emergency Services.**

The project's increase in population and infrastructure also could impact Fire Department services. The Santa Barbara County Fire Department is an all-hazard emergency response agency and provides fire prevention, fire suppression (including wildland), emergency medical response, rescue response, hazardous material response, and other emergency response to all areas within the Santa Barbara County Fire Protection District. (Fire.) Development of 143 residences of 3,000 to 5,000 square feet and a much larger, potentially multi-story tribal facility could have a significant impact on fire services in the project area. (*Id.*) For example, the response for a residential structure fire in the area is four Type 1 engines (full size fire trucks with large diameter supply hoses and high capacity pumps) and a Battalion Chief. (*Id.*) Thus, 143 new large residences and a meeting hall in the area could significantly impact fire services.

L1-29

Further, the project could impact fire service due to an increase in emergency responder call load and the possibility that emergency responders will be committed to an incident when another emergency occurs. (*Id.*) In addition to the 143 new residences, Camp 4 proposes hosting special events every weekend with 800 attendees. These

special events would further increase the number of cars in the area, traffic, and likely emergency calls, including for alcohol-related incidents in the area.

Compounding these problems is the fact that County Fire would no longer have jurisdictional or response authority over the project site once it became trust land. (Fire.) There is no agreement, contractual or otherwise, in place giving County Fire permission to full access of tribal trust land for emergency response or prevention purposes. (*Id.*) All of the above factors likely would impact the delivery of emergency fire and medical services provided by the Santa Barbara County Fire Department. (*Id.*)

Additionally, the proposed development poses significant safety concerns from a fire perspective. The Final EA states that the Tribe will adopt the International Fire Code (“IFC”). The IFC is merely a model code and suggested, standard template for jurisdictions to use. (*Id.*) The California State Fire Marshall’s Office adopts certain applicable sections of the IFC along with many other state specific provisions to create the California Fire Code (“CFC”). (*Id.*)

The Santa Barbara County Fire Code consists of the CFC as well as additional requirements designed to address specific local needs, including the prevalence of wildfires. (*Id.*) 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. (*Id.*) Furthermore, new construction standards in a “High Fire Hazard” area, such as the Santa Ynez Valley, require specific building materials to reduce fire

L1-29  
(Cont.)

L1-30

risk. (*Id.*) If Camp 4 does not utilize the appropriate requirements, the safety of the Valley could be at risk, which is a significant environmental concern.

L1-30  
(Cont.)

**c. Schools, Parks and Recreation.**

An influx of residents in the Valley could also increase the need for schools, parks, and recreation. The Santa Ynez Valley Community Plan provides the following methodology for determining impacts to schools: 0.17 students/residential unit for elementary; 0.11 students/residential unit for middle school; and 0.18 students/residential unit for high school. (Santa Ynez Community Plan EIR, Public Services Section at 4.3-19.) Based on this methodology, projected student growth due to 143 new residences is estimated to be 22.78 elementary students, 15.73 middle school students, and 25.74 high school students.

Per Santa Barbara Environmental Thresholds and Guidelines Manual, school impacts are considered significant when a project generates sufficient students to require an additional classroom (assuming 29 students per classroom for elementary/junior high students, and 28 students per classroom for high school students). (p. 127.) Based on current enrollment, it is likely additional classrooms would be needed in the future. Also, many school playgrounds are used as recreation centers in Santa Ynez and they could be impacted as well. (Santa Ynez Community Plan EIR, Parks and Recreation Section at 4.2-6.) Accordingly, Camp 4 raises questions about its impact on schools, parks, and recreation.

L1-31

**d. Water Impacts.**

More residents in the Valley would equate to increased use of and impacts to groundwater resources. Camp 4 anticipates a withdrawal of 348 acre-feet-per-year (“AFY”) under Alternative A and 260 AFY under Alternative B. Alternative A would equal a net increase of 92 AFY and Alternative B would equal a net increase of 4 AFY. (EA at 4-5.) The Santa Barbara County Environmental Thresholds and Guidelines Manual defines the withdrawal of 61 AFY of water or more to be significantly adverse. (Santa Barbara County Environmental Thresholds and Guidelines Manual at Table 2, p. 75.) Alternative A is well over the significance threshold.

The Final EA attempts to discount the groundwater impacts by stating that the significance threshold relies on 20 year-old data and by pointing to an alleged surplus in the Upland Basin. (EA at Response to Comment L3-32.) This argument fails for several reasons. First, the groundwater threshold is a valid significance threshold still used by the County in addressing groundwater impacts.

Second, if anything, that threshold is higher and more favorable than it could be. The current threshold for the Santa Ynez Uplands Basin was adopted during a period when that basin had the greatest remaining life and low water usage. (Santa Barbara County Environmental Thresholds and Guidelines Manual at Table 2, p. 75.) Recent data on water supply, however, does not support the alleged surplus. (PW.) Recent data confirms that the basin is in a state of overdraft. The standing water levels in wells in the project area have fallen considerably from 2009 to 2013. Further, recent data suggests that the supplemental supplies obtained from the State Water Project and the Cachuma

L1-32

Project, that helped create a surplus in the past, will not constitute a long-term, stable additional water source. (PW.)

In addition, water in the project area recently has required treatment for chromium VI. (*Id.*) This treatment uses a considerable amount of water. (*Id.*) Per the recent groundwater sample completed by the Tribe, the groundwater in the project area has chromium levels of 32 micrograms per liter (ug/l), which exceeds the state mandated 10 ug/l. (EA at Appendix C.) 22 Cal. Code Regs. § 64213 (effective July 1, 2014).

The mitigation measures proposed in the Final EA – that the Tribe will recycle water, emphasize drought-tolerant landscaping, and not water turf grass during drought conditions – do not address the overdraft or long-term water resource issues. (*Id.* at 2-11, 5-2-5-3.) The mitigation measures also do not lessen the impacts on water resources to an insignificant level.

**c. Solid Waste.**

More residents in the Valley also would lead to increased waste disposal. The Final EA states that the residential development of Alternative A would produce approximately 157 tons of solid waste per year and anticipates processing that solid waste through the Santa Ynez Valley Recycling and Transfer Station and Tajiguas Sanitary Landfill. (*Id.* at 4-25-4-26.) This figure is based on an average of 2.61 persons per household and 2.3 pounds of waste per day. (*Id.* at 4-25.) As to Alternative B, the Final EA states that it would generate 173 tons of solid waste per year for the Tribal Facilities, housing, and related support facilities. (*Id.* at 4-49.)

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(Cont.)

L1-33

Additionally, the Final EA states that the special events under Alternative B would generate approximately 976 pounds of waste per event, based on 400 attendees per event. (*Id.*) In every other instance, however, the worst-case scenario is calculated with 1,000 maximum attendees. Calculating special events waste based on 1,000 maximum attendees would result in a waste generation per event of 2,440 pounds compared with the 976 pounds calculated in the Final EA. This would equal 122 tons of waste per year. Therefore, Alternative B would create 295 tons of waste per year in tribal facility and residential use alone. The Final EA does not attempt to quantify the amount of construction waste that will be generated under either Alternative.

L1-33  
(Cont.)

Under County standards, 196 tons of solid waste per year is considered a significant project impact. (Santa Barbara County Thresholds Manual at p. 139-40.) Alternative A is close to the significance threshold without addressing construction or other waste besides residential use. Alternative B is well-over the significance threshold.

In addition, the Final EA anticipates residential development will conclude between 2027 and 2030, after the Tajiguas Landfill is expected to reach capacity in the year 2026. (P&D.) The Final EA does not address alternative landfill locations. The solid waste generated by Camp 4 may cause a significant impact on the environment.

L1-34

**f. Traffic Impacts.**

It is apparent that the approved project could increase traffic and congestion in the Santa Ynez Valley and pose safety risks due to those increases. The property currently is accessed by County roads at Baseline Road and Armour Ranch Road and State Highways 154 and 246. (EA at 1-6.) Camp 4 proposes to add 143 residences and up to 100 events

L1-35

with as many as 400 attendees to the rural property accessed by those roads. (*Id.* at 2-3, 2-13.)

For State Highways 154 and 246, many of the highway segments would operate at Level of Service (“LOS”) D with the estimated project traffic. (*Id.* at 4-44-4-46.)

Although the traffic study states that LOS D is within California Department of Transportation’s (“Caltrans”) acceptable range of service, the department submitted a response to the initial EA stating that its LOS standard is LOS C. (*Id.* at Comment Letter S1.) Thus, Alternatives A and B would significantly degrade traffic in the area on those highways.

Further, the Final EA states that implementation of Alternative A or B, combined with regional growth and the Tribe’s hotel expansion project, would result in minor cumulatively considerable impacts to the County roadway segments. (*Id.* at 4-66-4-67.) Cumulative effects also cause several of the key intersections along State Highways 154 and 246 to degrade to LOS D, and LOS E or LOS F, far exceeding the Caltrans LOS C standard. (*Id.* at 4-64-4-68.) Mitigation measures for these impacts consist of funding contributions for roundabouts or signal improvements, which are to be implemented at the determination of Caltrans. (*Id.* at 5-8-5-9.) It is not clear when those improvements would be built, if at all. The funding contributions are not sufficient mitigation. Camp 4 clearly poses a threat to the degradation of traffic and safety on the roads.

**4. The Project Threatens Species and Unique Habitats.**

The project threatens protected oak trees and critical habitat of the endangered Vernal Pool Fairy Shrimp. Based on an aerial photo, there are estimated to be 333 oak

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(Cont.)

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L1-37

trees on the project site. (P&D.) “Alternative A would adversely affect oak trees . . . through removal of approximately 70 oak trees within the project site.” (EA at 4-12.) Likewise, “Alternative B would adversely affect oak trees . . . through removal of approximately 50 oak trees within the project site.” (*Id.* at 4-40.) Those proposals account for 21% and 15% of the oak trees on the project site, respectively. Removing that many trees likely would create significant impacts through habitat fragmentation, removal of understory, alteration of drainage patterns, disruption of the canopy, and disruption in animal movement in and through the woodland. (Santa Barbara County Environmental Thresholds and Guidelines Manual at p. 32.)

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(Cont.)

Further, 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.” (*Id.*) A threat to oak trees is a threat to many other species. The Final EA does not address this threat.

The Final EA proposes to mitigate the loss of oak trees by requiring an Arborist Report that requires a no net loss of trees and monitoring of revegetation. (EA at 5-4.) The proposed mitigation measure does not: (1) indicate the priority of avoidance of impacts to native trees; (2) direct future development to design around native trees; or (3) establish any criteria or setbacks for determining when trees are allowed to be removed. In addition, the oak tree replanting plan measure does not establish minimum replacement ratios and success criteria.

L1-38

For example, the County requires that removed oak trees be compensated at a ratio of 15:1. (County Deciduous Oak Tree Protection & Regeneration Ordinance, Art. IX,

Ch. 35, § 35-911, No. 2.) This replacement ratio helps ensure that that replacement trees will be established successfully. The Final EA only states that the Arborist Report will require a “no net loss” which could mean a 1:1 replacement ratio. That low of a replacement ratio would not mitigate the significant loss of oak trees. Even though a fully developed native tree avoidance and replacement plan would come later, the mitigation measures need to establish basic criteria in order to evaluate mitigation effectiveness in reducing anticipated impacts to native trees and associated habitat.

L1-38  
(Cont.)

In addition to protected oak trees, Vernal Pool Fairy Shrimp are assumed to be present within the seasonal wetlands on the property. “VPFS have the potential to occur and are assumed to be present within the seasonal wetlands. Implementation of Alternative A has the potential to remove approximately 0.10 acres of seasonal wetlands and 0.05 acres of wetland swales within the project site.” (*Id.* at 4-13.) Alternative B has the potential to remove 0.01 acres of seasonal wetlands within the project site. (*Id.* at 4-41.) Alternatives A and B also could adversely impact VPFS due to the assumed fill of habitat on the project site. (*Id.* at Response to Comment 3.1.7.) Based on these impacts, Camp 4 threatens species and unique habitats.

L1-39

##### **5. The Environmental Impacts of the Project Are Controversial.**

A federal action is controversial if a substantial dispute exists as to its size, nature or effect. *Sierra Club v. Babbitt*, 69 F.Supp.2d 1202, 1219 (E.D. Cal. 1999). The Final EA relies on certain methodologies and thresholds for assessing the impacts of Camp 4 that the County disputes. One primary source of contention is the use of the Farmland Conversion Impact Rating System (“FCIRS”) to evaluate impacts to agricultural

L1-40

resources. The FCIRS does not consider all of the important agricultural aspects of the region. (EA at Appendix G.) For example, the Farmland Conversion Impact Rating system does not include grazing land in its assessment because the definition of “Farmland” only includes Prime Farmland, and Farmland of Statewide, Unique or Local Importance. (*Id.* at Appendix G.) Grazing lands are not considered “farmland” according to the model, even though they clearly are. (*Id.*) This flaw is illustrated in Part VI, Percent of Site Being Farmed (Factor #3) of the Form. (*Id.*) Further, only 1 of 20 points was assigned to each of the sites. (*Id.*)

Contrastingly, under County policy, agricultural resources are valued based on nine components which are weighted according to their estimated resource value: (1) parcel size; (2) agricultural suitability; (3) adjacent land uses; (4) soil classification; (5) existing and historic land use; (6) agricultural preserve potential; (7) water availability; (8) comprehensive plan designation; and (9) combined farming operations. (Santa Barbara County Environmental Thresholds and Guideline Manual at pp. 12-16.) A project typically will have a significant effect if it will: (1) conflict with adopted environmental plans and goals of the community where it is located; or (2) convert prime agricultural land to non-agricultural use or impair the agricultural productivity of prime agricultural land. (*Id.* at p. 11.) Camp 4 does both and under the County’s value analysis a significant impact would be found. (P&D.)

Additionally, the Final EA ignores significance thresholds established by the County related to waste and water that indicate substantial impacts, and disputes evidence of impacts to public services such as water, waste, traffic, schools, fire, emergency and

L1-40  
(Cont.)

L1-41

sheriff services, and parks and recreation. Similarly, the Final EA disputes the expertise of Caltrans as to the appropriate level of service for the state highways and the Santa Ynez Valley water districts as to impacts to water resources in the Valley. (*See, e.g.*, EA at Response to Comments S1, L4.) Disagreement among experts and policies shows that the impacts of Camp 4 are controversial and should be fully analyzed in an EIS.

L1-41  
(Cont.)

**6. The Project Has Adverse Impacts.**

As indicated above, the proposed project has numerous adverse impacts, including impacts to agricultural resources, water, waste, traffic, schools, fire, emergency and sheriff services, and parks and recreation. In addition to those discussed above, visual resources may be adversely impacted.

L1-42

Both Alternatives propose significant residential development in a rural area, not zoned for that use, which are adjacent to scenic roads. In the case of Alternative B, there is no development of an urban density (one-acre parcels) in the area of Camp 4. (EA at Fig. 3-8.) Such an urban development in the middle of rural and inner-rural land holdings will stand out against the much less developed surroundings.

Additionally, both Alternatives may preclude rural views, including ridge lines, hillsides, and vegetation. Conclusory statements or Best Management Practices that the property would be developed to blend in with surrounding uses do not mitigate the potential visual impacts. A rendering of the proposed development that includes prototypical house and facility elevations and shows different public vantage points should be completed to fully analyze the visual impacts. Without such an analysis that

L1-43

shows no visual impacts, substantial questions remains as to Camp 4's impact on visual resources.

L1-43  
(Cont.)

Based on the regulatory standards for significance under NEPA, the County has raised substantial questions regarding the potential, significant environmental effects of Camp 4. Accordingly, the BIA should prepare an EIS for Camp 4 as required by NEPA.

L1-44

### **III. The Mitigation Measures Do Not Render Camp 4's Impacts Minor and an EIS Must Be Prepared.**

In evaluating the sufficiency of mitigation measures in an environmental assessment, courts "focus on whether the mitigation measures constitute an adequate buffer against the negative impacts that result from the authorized activity to render such impacts so minor as to not warrant an EIS." *Bark v. Northrop*, 2014 WL1414310, at \*12-13 (D.Or. 2014); *see also O'Reilly v. U.S. Army Corps of Eng'rs*, 477 F.3d 225, 231 (5th Cir. 2007). The mitigation measures must be "developed to a reasonable degree." *National Parks & Conservation Ass'n v. Babbitt*, 241 F.3d 722, 734 (9th Cir. 2001), *abrogated on other grounds*. "A perfunctory description, or mere listing of mitigation measures, without supporting analytical data, is insufficient to support a finding of no significant impact." *Id.* (quotations omitted).

L1-45

The Final EA purports to provide minimizing and/or avoidance mitigation measures in the areas of land resources, water resources, air quality, biological resources, transportation and circulation, public services, and visual resources. (EA at § 5.0.) It also purports to provide compensatory mitigation measures related to Vernal Pool Fairy Shrimp and California red-legged frogs. (*Id.* at 5-5-5-6.) The mitigation measures in the

Final EA do not provide the adequate detail and discussion required to support a finding of no significant impact. They also do not provide adequate protection against the significant adverse impacts of Camp 4.<sup>2</sup> Therefore, an EIS must be prepared for Camp 4.

L1-45  
(Cont.)

**A. Best Management Practices (“BMPs”) as Mitigation Measures Lack Sufficient Detail.**

For many of the resources, the mitigation measures simply refer to BMPs outlined in Section 2.0, Project Alternatives. (*See, e.g., id.* Land Resources at § 5.1; Water Resources at § 5.2; Air Quality at § 5.3; Biological Resources at § 5.4; Public Services at § 5.9; Hazardous Materials at § 5.11; Visual Resources at § 5.12.) The BMPs in Section 2.0 are mere listings of BMPs without any discussion of their effectiveness or ability to reduce a specific adverse impact to an insignificant level. (*Id.* at § 2.2.10 (stating “(BMPs) have been incorporated into the project design to eliminate or substantially reduce environmental impacts from Alternative A” and listing BMPs for various resource areas); *see also id.* at § 2.3.1.) With respect to visual resources, the Final EA only refers to BMPs in Section 2.0 as mitigation. The Final EA does not include any other mitigation measures for visual resources. (*Id.* at 5-11.) A listing of BMPs without a discussion of their effectiveness is insufficient to avoid preparing an EIS.

L1-46

In *Wilderness Soc. v. Bosworth*, the court addressed the Forest Services’ use of BMPs as mitigation measures without analyzing their effectiveness to combat the adverse impact. The Court found the BMPs inadequate: “Because BMPs have not been assessed

<sup>2</sup> Even if the mitigation measures had contained the appropriate level of detail, it is impossible to analyze if a particular mitigation measure will make a significant impact minor without knowing how significant the impact will be in 2023.

for their effectiveness against landslide events and because a high risk of landslides is acknowledged in the Fish Bate preferred alternative, the Court finds it is not reasonable for the Defendants to just summarily rely on BMPs to mitigate this environmental impact.” *Wilderness Soc. v. Bosworth*, 118 F.Supp.2d 1082, 1107 (D.Mont. 2000).

Likewise, in *Blackwood* the EA identified a series of BMPs designed in part to reduce the erosion from the project’s logging and road building activities. *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1214 (9th Cir. 1998). The Forest Service’s reliance on the BMPs was based on past observation in unburned areas with similar soil types where BMPs prevented a large increase in erosion. On that record, however, the court found “nothing in the EA to support the Forest Service’s conclusion that the proposed BMPs will be adequate in a severely burned area where increased levels of erosion have already occurred.” *Id.* The Final EA for Camp 4 does not even include the limited level of discussion rejected by courts regarding the proposed BMPs. It simply lists the BMPs without stating how effective the BMPs are in reducing a specific impact. That approach is insufficient.

**B. “Protective” Mitigation Measures Lack Sufficient Detail.**

The Final EA also includes “protective” mitigation measures, similar to the BMPs, for Land Resources, Water Resources, Biological Resources, Public Services, and Hazardous Materials. (EA at § 5.0.) Again, the “protective” measures provide no data regarding their effectiveness or how they mitigate a particular impact in the resource category. For example, one of the public service protective measures is “Fire extinguishers shall be maintained onsite and inspected on a regular basis.” (*Id.* at § 5.9.)

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(Cont.)

L1-47

This statement provides no analytical data upon which to conclude no significant impacts as to fire and emergency services remain. Without some reasoned discussion as to how the mitigation measure actually reduces impacts to an insignificant level, the environmental consequences cannot be evaluated.

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(Cont.)

**C. The Remaining Mitigation Measures Are Inadequate to Minimize or Avoid the Significant Effect.**

In addition to the above issues, the mitigation measures identified in Water Resources, Biological Resources, Transportation and Circulation, and Public Services do not minimize the impacts in those areas to an insignificant level. For Water Resources, the identified mitigation measures are insufficient to address the significant impact to the area water supply. In addition to BMPs, the mitigation measures include measures for utilizing recycled water and not watering turf lawn during local drought conditions. (*Id.* at 5-3.) These measures do not address the state of the Upland Basin's overdraft, long-term water concerns, or the need to decrease water usage below a significance threshold year round in normal weather conditions.

L1-48

As to the biological resources, the Final EA states that the impact of the removal of oak trees will be compensated 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. (*Id.* at 5-4.) The Final EA does not estimate 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

L1-49

animal movement through the woodland. Therefore, there is no analytical data upon which to determine the remaining environmental impact.

L1-49  
(Cont.)

For Public Services, the mitigation measures purport to “ensure that the construction and operation of Alternatives A or B would not have significant adverse impacts on fire and emergency services.” (*Id.* at 5-10.) The mitigation measures, however, contain no analytical data that shows call loads will be reduced sufficiently for emergency and fire services. In addition, they do not address safety concerns related to building codes, water supplies, or emergency access to the property. Rather, the mitigation measures for fire and emergency services focus on reducing the risk of fire during construction and other minor fire protections, such as fire extinguishers and evacuation plans. (*Id.*)

In addition, the mitigation measures discuss funding and contractual mitigation as follows: (a) granting County Fire permission to enter the project area after it is taken into trust and funding that activity through the Gaming Special Distribution Fund; or (b) entering into a new agreement for fire protection and emergency response services for the project area. (*Id.*) As to the former, those distributions may only be released by the Indian Gaming Local Community Benefit Committee for grant applications that “mitigate impacts from casinos on local jurisdictions.” Cal. Gov. Code § 12715(h). The project area does not relate to casino impacts. As to the latter, there is no indication that a new agreement will be reached with County Fire.

L1-50

In addition, neither provision mitigates the impacts on law enforcement services. As stated above, there is no agreement with the Sheriff’s office for public safety and

general law enforcement services at Camp 4. In fact, on June 3, 2014, the Board considered and rejected a contract for Sheriff services with the Tribe. One of the concerns at that time was the ambiguity of the agreement's scope of coverage. The mitigation measures for public services fail to mitigate the significant impacts on law enforcement, emergency and fire services.

L1-50  
(Cont.)

Lastly, as to Traffic and Circulation, the mitigation measures provide that the "Tribe shall contribute its fair share of the funding for the traffic improvements recommended below proportionate to the level of impact associated with the trips added by Alternative A and B." (EA at 5-8.) This mitigation measure is insufficient as it is dependent on approval, construction, and funding by the California Department of Transportation. It is not certain when, if at all, these traffic improvements would be built. Until that time, traffic impacts would be significant.

L1-51

In summary, the mitigation measures for Water Resources, Biological Resources, Transportation and Circulation, Public Services, and Visual Resources are inadequate and do not render the impacts associated with those resources insignificant. Accordingly, an EIS must be prepared for Camp 4.

L1-52

#### **IV. The Final EA is Inadequate as it Omits Key Analyses and Contains Inaccuracies and Conclusory Statements.**

In addition to the need for an EIS, the Final EA is inadequate under NEPA as it fails to fully analyze several resources and contains numerous factual inaccuracies and unsupported conclusions. NEPA requires a federal agency to take a "hard look" at the impacts of its proposed federal action, whether it is preparing an EA or EIS. *Anderson*,

L1-53

371 F.3d at 486. Failing to verify the factual accuracy of an EA violates NEPA as it shows the agency did not take a hard look at the actual proposed federal action. *Native Ecosystems Council v. U.S. Forest Service*, 418 F.3d 953, 964 (9th Cir. 2005); *see also* 40 C.F.R. § 1500.1(b). Further, conclusions in an EA must be supported by “some quantified or detailed information.” *Sierra Nev. Forest Protection Campaign v. Weingardt*, 376 F.Supp.2d 984, 991-92 (E.D. Cal. 2005). Pursuant to these standards, the Final EA is inadequate and additional environmental review is required.

L1-53  
(Cont.)

**A. The Description of the Project Lacks Sufficient Detail.**

The BIA is required to provide enough information in its environmental review to allow the public to provide informed comments on the environmental effects of the proposed action. *Weingardt*, 376 F.Supp.2d at 990-92 (E.D. Cal. 2005). The Camp 4 project description is not adequate because it fails to disclose components of Camp 4 that are vital to evaluating its environmental impacts.

**1. Residential Development.**

Camp 4 proposes 143 new residential lots. The project description, however, still does not identify the potential accessory structures on the lots. Rather, it states: “Accessory structures on the residential lots would be typical of those associated with single-family, rural residences.” (EA at Response to Comment L3-11.) Accessory structures could be significant and include a residential second unit, agricultural structures, residential accessory structures, greenhouses under 300 square feet, or an artist studio or guesthouse. (P&D.) These structures increase the number of new residents that would be accessing the site and in need of public services.

L1-54

Such an increase could be significant. Depending on what is considered “typical,” each lot could have four to five accessory structures or more. Further, if residential second units are “typical,” there could be twice the number of residents at Camp 4 and twice the impacts on traffic, water, solid waste, public services, and other resources. Without adequate detail of the complete residential development, the BIA and public cannot analyze or fully evaluate the potential impacts of Camp 4.

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(Cont.)

## **2. Tribal Facilities.**

The Final EA still lacks detail about the special events to be held at the Tribal Facilities. It does not discuss 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 at Response to Comment L3-11.) 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. While the Final EA may not have to include all of the specifics of the events, general information regarding the “events, functions, and ceremonies” is necessary to fully evaluate potential environmental impacts. (*Id.* at 2-13.)

L1-55

### **B. The Analysis of Agriculture Resources is Inadequate.**

Although it is clear Camp 4 creates potential significant impacts to agricultural resources, the discussion on agriculture in the Final EA still has glaring gaps. The Final EA fails to sufficiently analyze Camp 4’s compatibility with and impact on adjacent land uses. It also fails to adequately address the grazing operations on the property.

L1-56

**1. Agricultural Operations.**

The Final EA 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 Tribal Facilities in Alternative B are not compatible with agriculture. (P&D.)

The Final EA does not address impacts to neighboring agricultural production such as trespassing, vandalism, nuisance complaints, decreased farming potential, and pest risks. (*Id.*) Additionally, the Final EA does not analyze the potential impacts to agriculture as a result of the proposed Open Space/Recreation Zone, such as its potential segway for public access to adjacent agricultural areas. (*Id.*)

L1-56  
(Cont.)

**2. On-Site Grazing Operations.**

The Final EA also omits necessary analysis regarding Camp 4's grazing land. Of the 1,433 acres of Camp 4, 704 acres have historic and current primary use as a grazing operation. The project proposes most of the development on this existing grazing land without describing the current cattle grazing operation or analyzing the impact of converting 704 acres of grazing land on a community and regional level. Many farming operations are dependent on neighboring land uses for sustainability, or networks of farming operations. (P&D.) Further, and as stated above, the loss of grazing land affects water resources and ecosystems, which is not addressed by the Final EA.

L1-57

In addition, the Final EA still relies on the FCIRS (Form AD-1006) even though it recognizes that grazing land is a type of farmland under The Farmland Protection Policy Act. (EA at 3-63.) As discussed above, the FCIRS does not include grazing land in the

L1-58

assessment because the definition of “Farmland” only includes Prime Farmland, and Farmland of Statewide, Unique or Local Importance. (*Id.* at Appendix G.) Grazing lands are not considered “farmland” according to the model. (*Id.*) This flaw is illustrated in Part VI, Percent of Site Being Farmed (Factor #3) of the Form. (*Id.*) An environmental review of Camp 4 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.

L1-58  
(Cont.)

**C. The Analysis of Land Use Compatibilities Is Inadequate.**

The Final EA asserts throughout the analysis that the proposed housing developments would be “similar to” or “slightly smaller” than existing low density, rural residential development. (*Id.* at 2-18.) These statements do not provide the necessary analysis to determine similarity with other developments – such as the number of lots with residential homes in each area and the size of those homes and lots. Further, they are inaccurate.

L1-59

The proposed one-acre lots in Alternative B, as well as the Tribal Facilities are in no way compatible with the existing land uses. Adjacent rural residential lots in the area are 5, 10, 20, 40, and 100 acres in size. (*Id.* at Fig. 3-8.) There are no lots less than 5 acres in the area. One-acre lots are between five and 100 times more dense than any other development. From a land use and planning perspective, a one-acre lot subdivision is treated much differently than larger lots. (P&D.) It is considered an urban division, meaning it requires an urban water system and sewer connections, among other issues.

(*Id.*) Furthermore, a one-acre subdivision has a much greater visual impact than larger lots. (*Id.*)

L1-59  
(Cont.)

**D. The Analysis of Public Services Is Inadequate.**

As with agricultural resources, it is clear that Camp 4 may significantly impact public services in the area and, therefore, an EIS is required. The Final EA, however, also contains many inaccuracies that require clarification and omissions that should be addressed in any subsequent environmental review in the areas of fire protection and emergency medical services, law enforcement, and traffic.

L1-60

**1. Fire Protection and Emergency Medical Services.**

The Final EA'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. First, several sections of the Final EA incorrectly state that County Fire would provide emergency and structural fire protection services to the project area. For example, Section 2.2.4 of the EA reads: "The County Fire Department ... provides structural fire protection services to the project area. The Fire Department protects primarily residential areas, and responds to calls for structural fires as well as medical emergencies." 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.

L1-61

Further, there is no current agreement, contractual or otherwise, in place giving County Fire permission to full access of the Reservation or other tribal trust land for emergency response or prevention purposes. The automatically renewing agreement

referenced in the Final EA was entered into in 2002 and is for emergency, not prevention, response, at and around the Chumash Casino. (EA at Response to Comment L3-27; Fire.) It addresses the Casino area, not the entire reservation or other trust lands. (Fire.) The 2002 agreement certainly does not contemplate Camp 4 or the effects of such a large development on fire and emergency services.

Second, the Final EA 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 at 3.9.6.) 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 Final EA 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. (*Id.*)

Third, the Final EA 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. Also, the Final EA implies that one fire truck operated by County Fire in the vicinity of the project site can handle small structural fires such as residential fires. This is inaccurate as the response for a residential structure fire in this area is four Type 1 engines (full size fire trucks with large diameter supply hoses and high capacity pumps) and a Battalion Chief. Further, the

L1-61  
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L1-62

3,000 to 5,000 square foot dwellings and 12,000 square foot Tribal Facilities would not be classified as small. (*Id.*) The Final EA does not address the ability to handle these larger structures.

L1-62  
(Cont.)

Fourth, the Final EA makes reference to stored water and a water system meeting residential demand, but does not address the fire protection capabilities of the water supply system or the details of the system. (*Id.*) It also is unclear whether the suppression system meets the fire flow requirements for the Tribal Facilities, the most demanding structure in the development. (*Id.*) Likewise, it is unclear whether the interior roadways will permit adequate access for fires. (*Id.*)

Fifth, the Final EA 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. (*Id.*)

L1-63

Sixth, the Final EA indicates that the Tribe provides funds to County Fire related to this project area through the Special Distribution Fund. (EA at 3-69.) The Special Distribution Funds have provided a fourth paramedic position at Fire Station 32 and were specifically implemented to offset the 25 to 30 percent increase in Station 32 emergency

L1-64

responses related to the construction and operation of the casino. (Fire.) Funds from the Special Distribution Fund must be used only to offset the impacts on gambling on the local community. Cal. Gov. Code § 12715(h). These funds cannot be used for Camp 4 trust land.

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(Cont.)

Finally, under mitigation measures, the Final EA indicates that one potential mitigation measure is to grant permission to County Fire to enter the project site after it has been taken into trust pursuant to the current agreement and through existing funding. (EA at 5-10.) The existing funding is meant to offset the impacts on emergency services related to gambling, which could not include Camp 4. Further, the current agreement does not include trust lands other than the Casino area or contemplate service of a large area such as Camp 4.

L1-65

## **2. Law Enforcement.**

The initial EA included a mitigation measure requiring that the Tribe contract with CHP for speed enforcement, lane closures, traffic breaks, and queuing control to ensure that events do not interfere with roadway operations. The County pointed out that the mitigation measure lacked consideration of the potential need for additional law enforcement services to serve the needs of the event itself and 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.)

L1-66

The Final EA responds to these comments by stating “the Tribe has revised the tribal facilities proposed under Alternative B to exclude the banquet/exhibition hall. . . . [T]he primary events at the tribal facilities would include for tribal events, functions, and

ceremonies . . . These facilities would be open to tribal members and their guests and would accommodate up to 400 attendees. Additional law enforcement staff would not be necessary to promote an orderly event or ensure the safety of attendees.” (EA at Response to Comment L3-28.) An event of up to 400 people is still a large event that could require law enforcement and traffic services. The Final EA does not explain or analyze why these events would not require such services.

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(Cont.)

**V. The Final EA Does Not Adequately Address the Cumulative Impacts of Camp 4.**

An EA must fully assess the cumulative impacts of a project. *Te-Moak Tribe of Western Shoshone of Nev. v. U.S. Dept. of Interior*, 608 F.3d 592, 603 (9th Cir. 2010). A cumulative impact is “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.” 40 C.F.R. § 1508.7. In assessing cumulative impacts, “some quantified or detailed information is required. 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*, 608 F.3d at 603 (citation omitted).

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As previously explained by the County, the EA’s discussion of cumulative impacts unlawfully consists of perfunctory general statements about possible effects. Further, it does not include all reasonably foreseeable development in the area.

L1-68

**A. The Cumulative Impacts Analysis Does Not Consider All Reasonably Foreseeable Future Actions.**

The Final EA states that “[n]ear-Term cumulative conditions were established by reviewing the cumulative project database maintained by the County for projects within the Santa Ynez Valley” and considering the Casino’s expansion of its hotel and casino area. (EA at 4-57.) “Long-term (2030) cumulative conditions were established using the 20-year build out forecasts contained in the Santa Ynez Valley Community Plan.” (*Id.*) This 20-year build out includes 55 residential units; 1.14 acres of agricultural development other than wineries; .54 acres of winery development; and 35,493 square feet of facilities. (*Id.* at 4-58.)

First, this cumulative impact analysis does not include the 6.9 acres of land in the Valley approved by the BIA to be taken into trust for the Tribe. The 6.9 acres is directly across highway 246 from the Casino. The BIA approved the trust acquisition in 2005. *Preservation of Los Olivos and Preservation of Santa Ynez v. Pacific Regional Director, Bureau of Indian Affairs*, 58 IBIA 278 at 1 (IBIA 2014). The Interior Board of Indian Appeals upheld that decision on June 3, 2014. *Id.* The Tribe plans to develop a cultural center, museum, and park on the land, as well as a gift shop and support offices. This development would bring more visitors and workers to the area. Therefore, it could affect numerous resources in the area, including at least public services, waste and water

L1-69

resources, traffic, and air quality. These reasonably foreseeable impacts need to be addressed in the cumulative impacts analysis.<sup>3</sup>

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(Cont.)

**B. The Cumulative Impacts Analysis Does Not Contain Sufficient Detail.**

A cumulative impacts analysis must contain enough quantified or detailed information to assure the public that the cumulative impacts have in fact been analyzed. The Final EA's cumulative impacts analysis does not do so. It does not quantify any of the impacts or provide enough detail from which the public can be assured the cumulative impacts were sufficiently studied.

For example, in almost every subsection, the Final EA states that compliance with codes, standards, or ordinances means that no potential cumulative impacts would occur. (*See, e.g.*, EA at 4.4.1 and 4.4.2.) The Final EA, however, does not analyze the incremental impacts of past, present, and reasonably foreseeable future actions even with such compliance.

L1-70

Further, the cumulative impacts on several resources are summarily dismissed. For example, the Public Services subsection summarily concludes that "the combined need for public services may create a cumulative impact." (*Id.* at 4-72.) It does not quantify or detail how an increase of 55 residential units in the area and additional hotel patrons at the casino, along with the 143 residential units proposed for Camp 4, would impact fire and emergency services, law enforcement services, or schools and parks.

<sup>3</sup> The cumulative impacts analysis also does not address all future actions that are reasonably foreseeable in 2023. Since the Camp 4 development will not commence for another decade, the long-term conditions may be significantly different at that time and those additional impacts are presently unknown.

Conclusory statements lack the appropriate detailed analysis required for the cumulative impacts analysis.

Further, the cumulative impacts analysis incorrectly looks at the project in isolation in many areas. 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. (*Id.* at 4-60, 4-63.) Also, in the Public Services subsection, the BIA concludes that "*Alternatives A or B* would not result in significant cumulative impacts to public services." (*Id.* at 4-72.) This conclusory and isolated analysis is improper under NEPA.

L1-70  
(Cont.)

#### **VI. The Final EA Does Not Adequately Address Project Alternatives.**

NEPA requires agencies to study, develop and describe appropriate alternatives to the proposed federal action. 42 U.S.C. § 4332(2)(E); 40 C.F.R. § 1508.9; *see also* 43 C.F.R. § 46.310. The range of alternatives is essential to "sharply defining the issues and providing a clear basis for choice among options by the decision maker and the public." 40 C.F.R. § 1502.14. An agency must "rigorously explore and objectively evaluate all reasonable alternatives." *Id.* "The existence of a viable but unexamined alternative renders an [EA] inadequate." *Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024, 1038 (9th Cir. 2008). As stated in prior comments, the Final EA fails to adequately analyze the "No Action" Alternative and other reasonable project alternatives. The Final EA does not correct those deficiencies.

L1-71

The Final EA identifies the No-Action Alternative as an expansion of the vineyard by 50 acres. The No-Action Alternative, however, does not analyze the residential

development that is reasonably foreseeable if the proposed project does not go forward. (EA at 2-16.) Under current County regulations, some residential development is possible. (P&D.) The Final EA does not disclose that such alternative would be consistent with County policies and decrease costs and environmental impacts. (*Id.*; EA at 2-16.)

L1-71  
(Cont.)

Additionally, the purpose of the proposed federal action is to provide housing to accommodate the Chumash Tribe's current members and anticipated growth. (EA at 1-6.) As pointed out in the County's prior comments, 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 analysis. See *'Iio'ulaokalani Coalition v. Rumsfeld*, 464 F.3d 1083, 1098 (9th Cir. 2006).

L1-72

The Final EA dismisses off-site alternatives claiming: "there are no other available comparable lands that would provide a sufficient land base to support the proposed land uses to meet the purpose and need of the Proposed Action that are within the immediate area of the existing Reservation." (EA at 2-1.) The Final EA does not discuss why the lands need to be within the "immediate" area of the Reservation or what distance of lands was considered.

As to taking less land into trust, the Final EA claims: "all requested parcels are integral to meeting the purpose and need as fewer parcels would not provide acreage for housing assignments; circulation; multiple access and egress points for residential safety; agriculture operations to diversify tribally-governed commercial enterprises; open space, recreation, and conservation in accordance with tribal environmental ordinances; and

L1-73

associated utility infrastructure to support each of the designated land uses.” (*Id.*) There is no analysis as to why all lands are needed for circulation, egress, open space, and other areas. With one-acre sites, the needed acreage is only 143 acres, with perhaps a few more acres to accommodate circulation.

Housing needs 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.

Finally, the Final EA does not explain why a re-build of the existing Reservation is not a reasonable alternative. Redeveloping the existing residential area on the Reservation with a mixed-use, higher density 143 unit housing development would limit environmental impacts and address housing needs. Under the No Project Alternative, the Final EA states that such development could be considered if Camp 4 is not taken into trust. (*Id.* at 2-16.) Thus, it is a viable alternative. By eliminating a detailed analysis of feasible alternatives, the BIA violated NEPA.

### CONCLUSION

Based on the foregoing, an Environmental Impact Statement for Camp 4 must be prepared to fully analyze the potential environmental impacts of the project.

L1-73  
(Cont.)

L1-74

L1-75

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EXHIBIT A



## LAND USE ELEMENT

ADOPTED 1980  
AMENDED FEBRUARY 2011

SANTA BARBARA COUNTY  
COMPREHENSIVE PLAN



County of Santa Barbara  
Planning and Development  
123 E. Anapamu Street  
Santa Barbara, CA 93101

Land Use Element  
Republished August 2010

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The electronic version of the Santa Barbara County Comprehensive Plan can be found at: <http://longrange.sbcountyplanning.org>



Former Land Use Element Cover – Replaced March 2009

#### **IV. GOALS AND POLICIES**

##### **REGIONAL**

This plan is designed to encourage the qualities that make this County unique, by encouraging a balanced and diverse economy, promoting local self-sufficiency, by encouraging a balance in housing with jobs, stressing long-term productivity, living within our means in so far as availability of resources and services, providing moderate, orderly growth in harmony with our surroundings, and to provide for protection of the historical heritage which has enriched the lives of residents and visitors throughout the years.

In order to accomplish these objectives, this plan has four fundamental goals.

Environment: Environmental constraints on development<sup>vii 12 13</sup> shall be respected. Economic and population growth shall proceed at a rate that can be sustained by available resources.

Urbanization: In order for the County to sustain a healthy economy in the urbanized areas and to allow for growth within its resources and within its ability to pay for necessary services, the County shall encourage infill, prevent scattered urban development, and encourage a balance between housing and jobs.

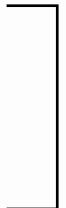
Agriculture: In the rural areas, cultivated agriculture shall be preserved and, where conditions allow, expansion and intensification should be supported. Lands with both prime and non-prime soils shall be reserved for agricultural uses.

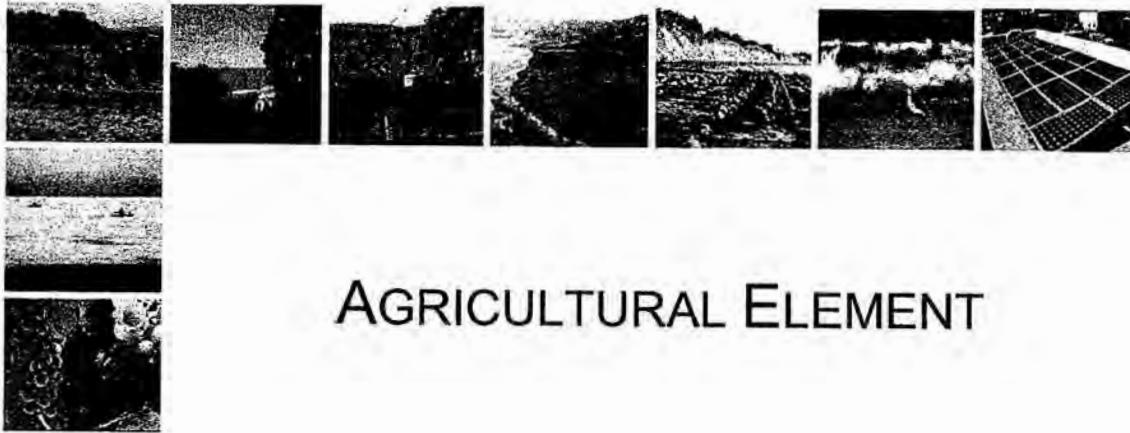
Open Lands: Certain areas may be unsuited for agricultural uses due to poor or unstable soil conditions, steep slopes, flooding or lack of adequate water. These open lands have importance as grazing, watershed, wildlife habitat, mineral resources, recreation, and scenic qualities. These lands are usually so located that they are not

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<sup>vii</sup> "Development" means any man-made change to improved or unimproved real property including but not limited to buildings or structures, mining, dredging, filling, grading, excavation, or drilling operations. Sand and gravel operations may be allowed in the same sense as flood control operations are allowed. Neither agricultural improvements nor oak tree removal are development within the meaning of this Element.

EXHIBIT B





## AGRICULTURAL ELEMENT

ADOPTED 1991

REPUBLISHED MAY 2009



SANTA BARBARA COUNTY  
COMPREHENSIVE PLAN

County of Santa Barbara  
Planning and Development  
123 E. Anapamu Street  
Santa Barbara, CA 93101

Agricultural Element  
Republished May 2009

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The electronic version of the Santa Barbara County Comprehensive Plan can be found at: <http://longrange.sbcountyplanning.org>



Former Agricultural Element Cover – Replaced March 2009

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Republished May 2009

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The Agricultural Element was processed under Resource Management Department Case No. 81-GP-3, and first was adopted on September 3, 1991 by Resolution No. 91-537 of the Santa Barbara County Board of Supervisors.<sup>1</sup>

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Republished May 2009

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PREAMBLE

Agriculture is vital to the needs of the nation and the world. Agriculture is the largest production industry in Santa Barbara County and contributes a very large inflow of money into the county's economy. The County, therefore, recognizes the need to protect and maintain a healthy economy and to provide for the conservation of its agriculture. The uniqueness and importance of agriculture in Santa Barbara County requires a specific planning document to guide the county government in addressing the future use of agricultural lands and resources.

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## DEFINITIONS

**AGRICULTURE:** The production of food and fiber, the growing of plants, the raising and keeping of animals, aquaculture, and preparation for marketing of products in their natural form when grown on the premises, and the sale of products which are accessory and customarily incidental to the marketing of products in their natural form grown on the premises.

**AGRICULTURAL IMPROVEMENT:** Agricultural activities or structures on agriculturally designated land which are not subject to building, grading, or brush-clearing permits. These activities and structures may be subject to special agricultural building, agricultural grading, or special agricultural brush-clearing permits.

**AGRICULTURAL DEVELOPMENT:** Any agricultural building, structure, practice, or operation that a) requires a building, grading, or brush-clearing permit on land designated for agriculture; and/or b) is located on land which has had no history of cultivation; and/or c) is on land not designated for agriculture. A permit solely for plumbing or electricity shall not constitute a standard building permit.

**AGRICULTURAL SUPPORT USE:** Uses such as the sorting and processing of local fruits and vegetables, wineries, or feed distribution; that are a necessary and integral part of maintaining on-premise production and marketing, and that are directly associated with onsite agricultural or ornamental crop, or animal raising operations. Other uses permitted by Conditional Use Permit in an agricultural district such as oil drilling are not to be construed as an agricultural support use.

**FEED DISTRIBUTION:** The temporary storage and dispersal of animal feed for the purpose of supporting the primary onsite animal raising activities. The use may include, for secondary purposes, the offsite dispersal of feed on an incidental basis, when not for the purpose of profit resale or of providing a regional service.

## GOALS AND POLICIES

GOAL I. Santa Barbara County shall assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara Country. Agriculture shall be encouraged. Where conditions allow, (taking into account environmental impacts) expansion and intensification shall be supported.

Policy IA. The integrity of agricultural operations shall not be violated by recreational or other non-compatible uses.

Imposition of any condition requiring an offer of dedication of a recreational trail or other recreational easement shall be discretionary (determined on a case-by-case basis), and in exercising its discretion, the County shall consider the impact of such an easement upon agricultural production of all lands affected by and adjacent to said trail or other easement.

1. On lands which are in agricultural production and have a zoning or Comprehensive Plan designation for agriculture, provisions for recreational trails or other recreational easements defined in the Comprehensive Plan may be imposed by the County as a condition for a discretionary permit or land division only in the following circumstances:
  - a. The area in which the trail is proposed to be located is land which is not under cultivation or being grazed or is not part of a rotation program, or is not an integral part of the agricultural operations on the parcel; or,
  - b. The land use permit requested is not for a use which is compatible with agricultural production on the property, as defined in the County Agricultural Preserve Uniform Rules. In this instance, the recreational trail or other recreational use shall be required to be located only on the portion of the property taken out of agricultural production for the permit; or,
  - c. The land division requested requires a rezoning of the property to a more intensive zone district than that applied to the property prior to the application.
2. A recreational trail or other recreational use shall not be required as a condition for a discretionary permit (except a land division or a rezone which permits a smaller minimum parcel size than that permitted on the property at the time of the application) on lands which are in agricultural production and have a zoning or Comprehensive Plan designation for agriculture, in the following circumstances:

- a. The permit requested is for a lot line adjustment or Minor Conditional Use Permit only; or,
  - b. The discretionary permit requested is compatible with the agricultural use of the land, as defined in the County Agricultural Preserve Uniform Rules.
3. The following trails shall not be subject to paragraphs 1 and 2 above due to their historic and recreational significance:  
  
Franklin Trail  
Arroyo Burro Trail  
Fremont Trail  
San Antonio Canyon Trail
4. Where trails are required, they shall be sited to minimize the impacts to prime soils, agricultural operations, public safety, and environmentally sensitive areas.

Policy I.B. The County shall recognize the rights of operation, freedom of choice as to the methods of cultivation, choice of crops or types of livestock, rotation of crops and all other functions within the traditional scope of agricultural management decisions. These rights and freedoms shall be conducted in a manner which is consistent with: (1) sound agricultural practices that promote the long-term viability of agriculture and (2) applicable resource protection policies and regulations.

Policy I.C. To increase agricultural productivity, the County shall encourage land improvement programs.

Policy I.D. The use of the Williamson Act (Agricultural Preserve Program) shall be strongly encouraged and supported. The County shall also explore and support other agricultural land protection programs.

Policy I.E. The County shall recognize that the generation of noise, smoke, odor, and dust is a natural consequence of the normal agricultural practices provided that agriculturalists exercise reasonable measures to minimize such effects.

Policy I.F. The quality and availability of water, air, and soil resources shall be protected through provisions including but not limited to, the stability of Urban/Rural Boundary Lines, maintenance of buffer areas around agricultural areas, and the promotion of conservation practices.

Policy I.G. Sustainable agricultural practices on agriculturally designated land should be encouraged in order to preserve the long-term health and viability of the soil.

GOAL II. Agricultural lands shall be protected from adverse urban influence.

Policy II.A. Santa Barbara County shall require measures designed for the prevention of flooding and silting from urbanization, especially as such damage relates to approved development.

Policy II.B. Santa Barbara County shall recognize, and give high priority to, the need for protection from trespass, thievery, vandalism, roaming dogs, etc., on all agricultural lands.

Policy II.C. Santa Barbara County shall discourage the extension by the Local Agency Formation Commission (LAFCO) of urban spheres of influence into productive agricultural lands designated Agriculture II (A-II) or Commercial Agriculture (AC) under the Comprehensive Plan.

Policy II.D. Conversion of highly productive agricultural lands whether urban or rural, shall be discouraged. The County shall support programs which encourage the retention of highly productive agricultural lands.

GOAL III. Where it is necessary for agricultural lands to be converted to other uses, this use shall not interfere with remaining agricultural operations.

Policy III.A. Expansion of urban development into active agricultural areas outside of urban limits is to be discouraged, as long as infill development is available.

Policy III.B. It is a County priority to retain blocks of productive agriculture within Urban Areas where reasonable, to continue to explore programs to support that use, and to recognize the importance of the objectives of the County's Right to Farm Ordinance.

GOAL IV. Recognizing that agriculture can enhance and protect natural resources, agricultural operations should be encouraged to incorporate such techniques as soil conservation and sound fire risk reduction practices.

Policy IV.A. Major wildfires cause severe erosion, property damage, and safety hazards. The County shall encourage range improvement and fire hazard reduction programs, including prescribed burning of brush and alternative non-burning techniques. Such programs shall be designed and conducted to avoid excessive erosion and other significant adverse effects on the environment for the purpose of increasing water yields, improving wildlife habitat, wildlife protection, and increasing agricultural productivity.

Policy IV.B. Because of fire-risk reduction or soil instability, the use of certain slopes for agricultural production may be preferable to leaving the land in its natural state, or allowing non-agricultural development provided that adverse effects are minimized.

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Policy IV.C. Grading and brush clearing for new agricultural improvements on hillsides shall not cause excessive erosion or downslope damage.

GOAL V. Santa Barbara County shall allow areas and installations for those supportive activities needed as an integral part of the production and marketing process on and/or off the farm.

Policy V.A. Santa Barbara County shall permit on-farm supportive installations for product handling and selling as prescribed in the Uniform Rules of the County's Agricultural Preserve Program.

Policy V.B. Santa Barbara County should allow areas for supportive agricultural services within reasonable distance and access to the farm user.

GOAL VI: The County should make effective-provision for access to agricultural areas and for the necessary movement of agricultural crops and equipment.

Policy VI.A. To the maximum extent feasible, the County Public Works Department shall design roads with the type and size of vehicles and/or equipment in mind which are used in the agricultural operations of the area.

## AGRICULTURAL LAND USE DEFINITIONS<sup>2</sup>

The purpose of an agricultural designation is to preserve agricultural land for the cultivation of crops and the raising of animals.

For the purposes of this Element, agriculture shall be defined as the production of food and fiber, the growing of plants, the raising and keeping of animals, aquaculture, and the preparation for marketing of products in their natural form when grown on the premises, and the sale of products which are accessory and customarily incidental to the marketing of products in their natural form grown on the premises. Lands eligible for this designation include, but are not limited to, lands with prime soils, prime agricultural land, grazing land, land in existing agricultural use, land with agricultural potential, and lands under Williamson Act contracts.

Plant crops include food and fiber crops, orchards and vineyards, field crops, and crops grown in nurseries, and greenhouses. Animal raising includes raising and keeping of horses, grazing, and stock raising activities. In addition to such uses, agricultural lands may be utilized for a limited number of other uses, including appropriate related or incidental residential uses; and the preparation for marketing of products as allowed under the appropriate zoning districts. Public works, public service, public utility and oil drilling uses which are found to be compatible with agriculture may also be permitted.

The following designations provide a description of agricultural lands that identify the more essential and productive agricultural areas as well as the average, and marginally productive lands. These land use designations have the following priority ranking for the identification of agricultural value:

1. AC Agriculture Commercial
2. A-II Agriculture - II
3. A-I Agriculture - I

### Agriculture-Commercial (AC) (40 - 320 or more acre minimum parcel size)

This category is for commercially farmed, privately owned land located within either Rural, Inner-Rural, Existing Developed Rural Neighborhoods or Urban Areas which meets the following criteria:

1. The land is subject to a Williamson Act Contract, including contracts that have been non-renewed, or
2. Parcels forty (40) acres or greater, whether or not currently being used for agriculture but otherwise eligible for Williamson Act Contract, may be included if they meet requirements of Uniform Rule No. 6.

This category includes compatible land uses and land uses that are necessary and a part of the agricultural operations. All types of crops and livestock are included. Both

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"prime" and "non-prime" soils (as defined in the Williamson Act and the County's Uniform Rule No. 6) and irrigated and non-irrigated lands are included.

Parcels which are smaller than forty (40) acres in size at the time of adoption of this Element, may be eligible for the AC designation if they are "prime" or "super-prime" as defined by the County Uniform Rules and are eligible for agricultural preserve status.

### Agriculture I (A-I) (5 or more acres minimum parcel size)

This designation applies to acreages of prime and non-prime farm lands and agricultural uses which are located within Urban, Inner Rural, and Rural Neighborhood areas.

### Agriculture II (A-II) (40 or more acres minimum parcel size)

This designation applies to acreages of farm lands and agricultural uses located outside Urban, Inner Rural and Rural Neighborhood areas. General agriculture is permitted, including but not limited to livestock operations, grazing, and beef production as well as more intensive agriculture uses.

### Agricultural Industry Overlay

The purpose of this overlay designation is, notwithstanding other provisions of this Plan, to provide for agriculturally related commercial and industrial uses in Rural Areas where appropriate. Development Plans and Conditional Use Permits shall be required pursuant to applicable zoning ordinances.

1. The request for the designation must be accompanied by a Development Plan and Conditional Use Permit, information outlining the reasons why it is necessary to put this overlay in the Rural Area, and must satisfy the following criteria:
  - a. The- use must be directly related to agriculture.
  - b. Special circumstances require that the project be located within the Rural Area.
  - c. The placement of the designation will provide particular and specific benefits which will advance the purposes and policies of this Plan.
  - d. The proposed site is currently designated as "A-II Agriculture-II" and is located within the Rural Area.
  - e. The use is not otherwise permitted under the agricultural land use designations of the Land Use Element and Zoning Ordinances.
  - f. The project site should not include prime soils, or environmentally sensitive areas where development would result in significant adverse impacts.

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- g. The overlay shall not be applied where it would have a significant adverse impact on adjacent residential areas.
- h. The placement of the designation will not represent a significant cumulative loss of agricultural land in the planning area.

The criteria set forth under Number 1 above, do not have to be met with respect to uses on lands designated with the "Agricultural Industry Overlay" prior to the date of the adoption of this Plan.

- 2. The following uses may be allowed with a Conditional Use Permit and Development Plan as required pursuant to applicable Zoning Ordinances: processing, packaging, treatment, and/or sale of agricultural commodities, transportation facilities required to support agriculture; and fertilizer manufacturing.

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## **BACKGROUND ON AGRICULTURE IN SANTA BARBARA COUNTY**

The Agricultural Element acknowledges that agriculture is a significant and important resource within Santa Barbara County; therefore, the Element has been created to enhance and protect that resource. To provide a context for understanding and analyzing the proposed Agricultural Element, this section will provide general information on agriculture in Santa Barbara County and will briefly discuss current problems and issues concerning agriculture.

### **1. OVERVIEW OF THE COUNTY**

There are approximately 1,756,000 total acres in Santa Barbara County, including the Los Padres National Forest, Vandenberg Air Force Base, and the Channel Islands. According to data compiled by the State Department of Conservation for the Important Farmlands Map for Santa Barbara County, these lands can be classified as follows: (October 28, 1985)

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Prime Farmland	70,180 acres	Land which has the best combination of physical and chemical characteristics for the production of crops
Farmland of Statewide Importance	5,750 acres	Land which has a good combination of physical and chemical characteristics for production of crops
Unique Farmland	29,130 acres	Land that is used for the production of specific high economic value crops
Farmland of Local Importance	30,410 acres	Land that is currently producing crops, or has the capability of production.
Grazing Land	1,201,810 acres	Land that is suitable for grazing; includes lands within the Los Padres Forest
Urban and Built-up Land	51,400 acres	Lands in urban use.
Other Lands	367,900 acres	Lands not included in any of the other categories, plus Santa Cruz, Santa Rosa, San Miguel, and Santa Barbara Islands.
<b>TOTAL</b>	<b>1,756,000 acres</b>	

These acreage figures indicate that there are some 105,060 acres of irrigated farmland in the County (prime Farmland, Farmland of Statewide Importance, and Unique Farmlands). In addition, there are 1,337,280 acres of grazing and dry-farmed land (Local Farmlands and Grazing). The total irrigated and non-irrigated agricultural acreage in 1985 was 1,442,340 acres. It should be noted that the grazing category includes lands within the Los Padres National Forest that are leased for grazing operations.

Santa Barbara County is considered a major agricultural producer. Of the 58 counties in the State of California, Santa Barbara County ranks 16th in gross agricultural value and 28th nationally among the over 3,000 counties.

Historically, agriculture has been the #1 industry in Santa Barbara County. In 1990, gross income from agricultural production was \$515,590,385 million (source: 1990 Agricultural Production Report). This exceeds the gross agricultural income from any previous year.

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Unlike many areas, the County is not dependent on a few major crops for the majority of the County's agricultural income. Table 1-1 contains information from the 1990 Agricultural Production Report on the 1990 value of and the acreage devoted to various crops or products produced within Santa Barbara County. The table includes only those commodities which generated at least a million dollars in 1990. As Table 1-1 indicates, in 1990, the County had 37 different commodities that generate in excess of \$1 million in income.

Much of the success of agriculture in this county can be attributed to the area's climate. The Farm Advisor's Office estimates that about one-half of the County's production is made possible by the uniqueness of the climate. Crops such as flower seeds, avocados, lemons, orchids, garbanzo beans and lima beans are grown competitively in the area because of the climate.

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TABLE 1-1  
 MILLION DOLLAR AGRICULTURAL COMMODITIES 1989  
 1989

<u>1989</u> <u>Ranking</u>	<u>Crop/Product</u>	<u>Acreage</u>	<u>Value</u>
1	Strawberries	2,611	\$ 60,761,746
2	Broccoli	17,385	40,119,411
3	Lettuce	7,573	31,281,249
4	Cattle & Calves	n.a	29,770,911
5	Cauliflower	7,466	22,999,674
6	Avocados	10,422	21,804,828
7	Celery	2,792	15,124,970
8	Grapes, wine	9,000	14,021,760
9	Chrysanthemums	n.a	13,605,972
10	Flowering Plants	n.a	7,883,756
11	Miscellaneous Flowers	n.a	7,729,122
12	Ornamentals & Ground Cover	n.a	6,383,070
13	Milk & Milk Products	n.a	5,889,097
14	Lemons	1,652	5,624,313
15	Flower Seeds	1,053	5,620,800
16	Orchid Plants	n.a	5,559,990

Source: 1989 Agricultural Production Report, Santa Barbara County.

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Table 1-2 contains historical information on agricultural income in the County by major crop group. Table 1-3 shows the income generated by the major crop groups as a percentage of total agricultural income for the given year. Examples of products produced within Santa Barbara County which make up these five crops groups are as follows:

Vegetable Crops

Broccoli  
Lettuce  
Cauliflower  
Celery  
Cabbage

Flowers & Ornamentals

Chrysanthemums  
Flowering Plants  
Orchid Plants & Flowers  
Gypsophila  
Flower seeds

Fruit & Nut Crops

Strawberries  
Avocados  
Grapes, wine  
Lemons

Field Crops

Dry Beans  
Alfalfa Hay  
Grain  
Bean Seeds

Animal Industries

Cattle & Calves  
Milk & Milk Products

As indicated by the historical data provided in Tables 1-2 and 1-3, agriculture in Santa Barbara County has moved away from animal industries and dry farming to more intensive types of farming. Where animal industries were once the leader in terms of their contribution to County agricultural income, these industries have been succeeded by the more intensive agriculture represented by vegetables, fruits & nuts and flowers & ornamentals. Field crops have been surpassed in annual income by the growing of flowers and ornamentals.

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TABLE 1-2  
 AGRICULTURAL INCOME  
 (in millions of dollars)

Crop Groups	1953	1963	1973	1983	1989
Vegetable Crops	15.8	14.8	54.3	131.2	181.2
Fruits & Nuts	9.1	12.9	26.5	57.8	162.9
Flowers & Ornament.	2.7	5.1	15.2	50.9	77.1
Animal Industries	19.5	21.9	39.2	50.6	46.2
Field Crops	6.8	12.1	16.9	28.2	13.8
Totals	53.9	66.8	152.2	318.8	481.2

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Source: Agricultural Commissioner's Annual Crop Reports.

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TABLE 1-3

INCOME OF MAJOR AGRICULTURAL CROP GROUPS AS A PERCENT OF TOTAL  
 AGRICULTURAL INCOME

(in millions of dollars)

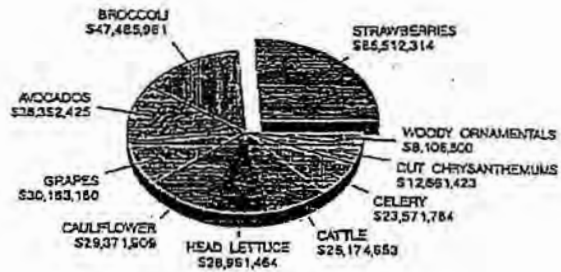
Crop Groups	1953	1963	1973	1983	1989
Vegetable Crops	29%	22%	36%	41%	37%
Fruits & Nuts	17%	19%	17%	18%	34%
Flowers & Ornament.	5%	8%	10%	16%	16%
Animal Industries	36%	33%	26%	16%	10%
Field Crops	13%	18%	11%	9%	3%
Totals	100%	100%	100%	100%	100%

Source: Agricultural Commissioner's Annual Crop Reports.

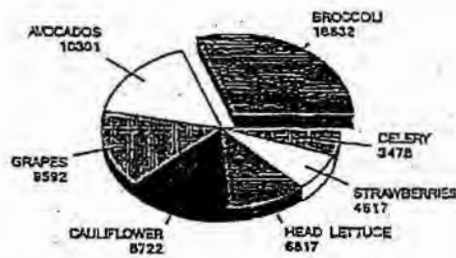
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FIGURE 1

SANTA BARBARA COUNTY  
THE TOP TEN PRODUCTS

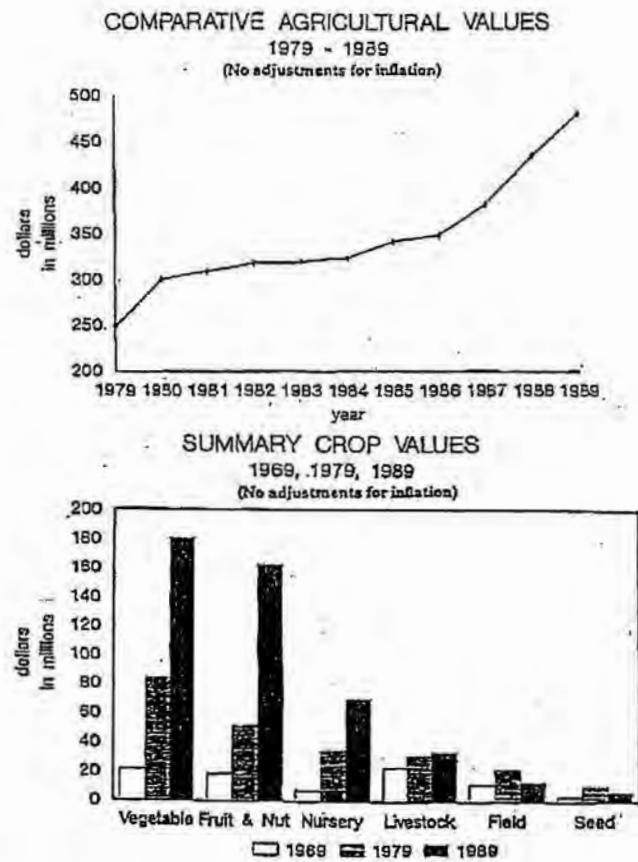


LEADING CROP ACREAGES  
1989



Source: Agricultural Commissioner's Annual Crop Reports.

FIGURE 2



Source: Agricultural Commissioner's Annual Crop Reports.

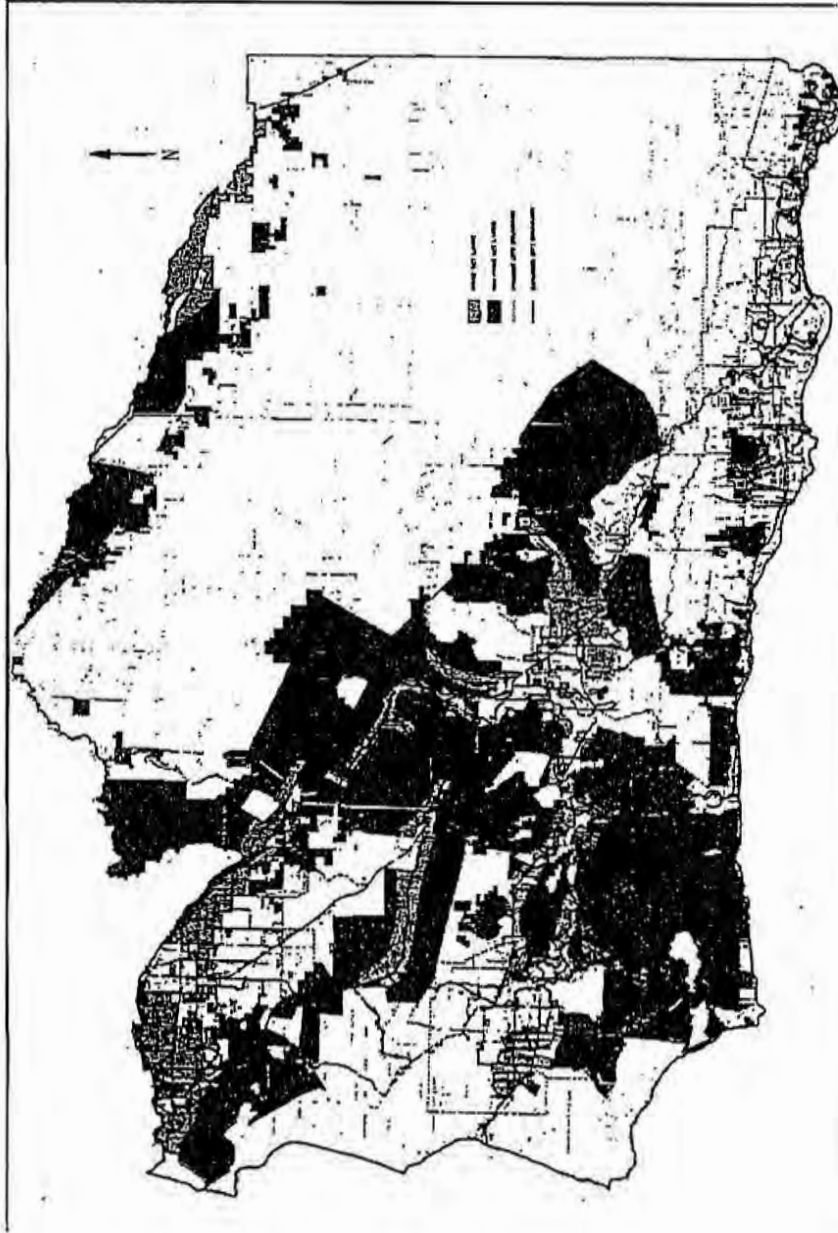
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As Table 1-1 illustrates, the income producing potential of an acre of some of the fruits and vegetables is staggering in comparison to that of some of the field crops and irrigated pasture land. For instance, in 1989 an acre of strawberries produced income of \$18,521 while an acre of alfalfa produced \$895. Celery yields \$6,777 per acre while dry beans produce \$858 per acre. This data may provide an explanation of the shift to more intensive types of agriculture within the County.

The County's commitment to the preservation of agriculture is demonstrated by strength of its Agriculture Preserve program. Currently, there are 950 agricultural preserve contracts in the County. These contracts now cover 2,001 parcels which contain a total of 531,400 acres. Figure 3 displays the location of the existing preserves throughout the County. While the majority of agricultural preserves were created during the 1960s and 1970s, a number of new preserves have been established over the past ten years. Since 1977, additional lands have been enrolled in the Cuyama area, Los Alamos, and along the Gaviota Coast, including some lands just west of Goleta. In recent years, approximately ten new preserves have been created annually. The 531,400 acres currently enrolled in the program represent 78 percent of the approximately 680,000 acres of producing agricultural lands that are in private ownership and, therefore, would be eligible for agricultural preserve status. This is verification of the success of Santa Barbara County's program.

FIGURE 3



Although the Agricultural Preserve Program is the strongest in the rural areas of the county, over 20,000 acres of prime agricultural lands located within one mile of City limits are enrolled in the program. This occurs mostly in the North County.

### 2. TYPES OF AGRICULTURE BY SUBAREA

Santa Barbara County is roughly rectangular in shape. There are approximately 50 miles between the northern tip of the County and the south coast and an east-west distance of about 65 miles. Elevations range from sea level to 6,800 feet. Within this vast area are various micro-climates which have naturally lead to distinct agricultural sub-regions within the County. This section describes the predominate types of agriculture within each subregion.

#### 2.1 South Coast

The principal areas where agriculture production takes place within the South Coast are the Carpinteria Valley and the area from Goleta to the western extent of this sub-region.

The Carpinteria Valley has been host to intensive agriculture since the 1870s. Currently, greenhouses occupy part of the valley floor. The production of chrysanthemums, orchids, other cut flowers and bedding plants within these greenhouses generates a significant amount of agricultural income. Avocados are planted on the valley floor and on hillsides to the extent that irrigation water is available.

The principal agricultural operations of the western portion of this sub-region include avocados, lemons, flowers and ornamentals, grazing and some vegetable production for sale at local roadside stands. Avocado and lemon production occurs mainly in, the canyons and the hillsides above the Goleta Valley and along the Gaviota Coast. Growth of avocados and lemons in this region is limited to its current acreage by a water moratorium and the nearly complete utilization of the groundwater. The flower and ornamental industries and the areas for the production of vegetables lie either within or adjacent to the Goleta Valley. As a result of this location, these operations face a potential for conflict with the surrounding urban uses.

#### 2.2 Santa Ynez

The Santa Ynez Valley has historically been a major cattle grazing region. However, in recent years, agricultural development has produced a number of commercial horse breeding farms and estate wineries and vineyards. In addition to cattle, wine grapes and horse breeding, the Santa Ynez Valley is also host to the growing of field crops, vegetables, and flower seeds.

There are many potential land use conflicts in this region with the expanding residential, ranchette and tourist land uses. The Valley's cattlemen are deeply concerned about the parcelization of non-prime lands into inefficient sizes.

### 2.3 Lompoc

The prime soils and climate of the Lompoc Valley make this area ideal for production of a variety of agricultural crops. Intensive agriculture began here in 1875. Apples, cherries and potatoes were the principal crops grown in this region at that time. With the introduction of irrigated agriculture, flower seed, vegetables and beans became the major agriculture commodities of this valley. Lompoc is world renowned for its flower seed industry. Outside of the valley floor, the foothills surrounding Lompoc support productive cattle grazing operations. These operations have been weakening in recent years. As a result, the cattlemen are calling for larger minimum parcel sizes so as to prevent the creation of parcel sizes too small for efficient grazing use.

### 2.4 Santa Maria Valley

The Santa Maria Valley is the agricultural trade center of the County. This intensive vegetable production region contains the largest area of prime agricultural lands in the County. This area is unique in that many of the farmers' residences, agricultural processing plants and dealerships are located within the City of Santa Maria. The area is well protected from urban encroachment by nearly complete coverage by agricultural preserve contracts. However, the City of Santa Maria is currently engaged in a Sphere of Influence Boundary Study that could potentially affect some 1,500 acres of lands currently enrolled in the County's Agricultural Preserve Program. (City of Santa Maria, Request for Proposal, Sphere of Influence Boundary Study and EIR, November 8, 1988) These agricultural lands are located adjacent to the City's existing east and west boundaries and would be candidates for annexation if included within the City's sphere of influence. Altogether, a total of 2,246 acres of agricultural lands could be affected by this change, representing 6 percent of the area's estimated 40,000 acres of irrigated agriculture. While the area possesses water quality problems, it will continue to be one of the County's most productive agricultural regions.

Vegetables and strawberries account for almost one-half of the area's irrigated acres and together they generate more than half of the county's farm income. In addition to vegetables and strawberries, field crops are grown on fallowed vegetable land and on non-irrigated prime land. Many of the foothills in the Casmalia and Tepusquet areas are used for the growing of wine grapes which are transported out of the Santa Maria Valley for processing. Beef cattle are grazed on the surrounding hillsides.

### 2.5 Cuyama

The Cuyama Valley is the most distinct region in all of Santa Barbara County. An interior valley at high elevations, the winters are cold and the summers are hot and dry. Rainfall in this region is sparse, averaging only about 5.5 inches per year. The area has grown mainly alfalfa. Given that the groundwater basin is seriously overdrafted, the future of irrigated crops in this area is questionable. The region has experimented with

alternate low water using crops but these have met with limited success. Cattle grazing continues to occupy the hillsides of the Cuyama Valley.

### 3. ISSUES AND CONCERNS

Agriculture is California's leading industry. With 31 million acres of agricultural land, California is the nation's leading agricultural state. However, in the last 30 years we have witnessed the constant whittling away of this valuable resource. Many of the problems that threaten the viability of agriculture are caused not only by the forces of nature but by humans. Some of the major problems that confront agriculturalists include increasing urbanization and conversion of agricultural lands, water supply problems, water quality problems and soil erosion.

As a coastal county, Santa Barbara County is particularly susceptible to the urban pressures created by an increasing resident population in the State. The growth of urban development into agricultural areas brings with it land use conflicts. As these land use conflicts arise, there is often pressure on local agencies to mediate the concerns through regulatory measures such as permit requirements and conditions on operations. Regulatory measures which are imposed can become costly for agriculturalists and may even interfere with the productivity of their operations. This contributes to the rate of agricultural conversions to other uses, resulting in a vicious cycle which accelerates the loss of agricultural lands.

In addition to the conversion of agricultural lands to urban uses, there is another phenomenon taking place which also threatens the future of agriculture. It is the division of agricultural parcels down to smaller parcel sizes. There are many factors which when taken together determine the economic viability of an agriculture operation. One very important factor is acreage which varies in the amount required depending on many of the other factors such as crop type, soil characteristics, etc. With many agricultural land divisions, although the land is not being converted to urban uses, it is broken up into pieces that are too small to be economically viable agricultural units. Once the economic viability of the land is lost, there is inherently increased pressure for further division of the property and ultimate conversion of the agricultural land to urban uses. Within the State, this phenomenon has become quite prolific. In Santa Barbara County, 113 agriculturally zoned parcels (30,168 total acres) were subdivided into a total of 432 parcels within the five year period from October 1, 1979 to September 30, 1984. Of these, 44 parcels which contained over 100 acres were divided into 233 parcels of which over 50 percent were below 100 acres in size.

The main physical resources of agriculture are land, climate and water. Each of these is essential. Of these, water presents the most difficult challenges in Santa Barbara County. In this County, agriculture depends mainly on groundwater. About 94 percent of agriculture's water supply is derived from this source. Since, six of the eight major groundwater basins within the County are currently overdrafted, adequate water for long-term agriculture is a major issue. Overall, agricultural water demand accounts for approximately 75 percent of the County's total water demand. Alternative sources of

water may come at a price that is quite high which could affect the economic viability of county agricultural operations.

According to a report published by the American Farmland Trust, in 12 of California's 20 coastal counties, more than half of the dry-farmed land is losing excessive amounts of soil to erosion. In this county, they have observed gullies four feet deep in some avocado orchards. Because erosion degrades the physical, chemical and biological characteristics of the soil, fertility is reduced. Although erosion is a natural process, cultivated agriculture and overgrazing can accelerate this process. As the erosion process proceeds, a soil's capacity to absorb and retain water diminishes which in turn increases runoff and erosion.

A very large issue concerning agriculture is profitability and economics. The typical squeeze put on farmers between rising costs and diminishing prices causes an apparent downturn in the agricultural economy which we have witnessed in recent years. In turn, this economic downturn has widespread effects on the banking systems, equipment manufacturers and the prosperity of rural communities. The roots of this situation are broad in scope, lying in macroeconomic factors on an international scale, and depend on such influences as foreign trade, unstable monetary conditions, foreign competition, and ineffective and contradictory federal farm policies.

Santa Barbara County is less affected by these gloomy conditions than many other agricultural areas because it produces so many specialty commodities. Each commodity has its own outlook which goes through cycles. Therefore, for some the outlook and profits are bright, while others are being phased out. For example, while all growers were adversely affected by high interest rates and fluctuating dollars seen during the 1980s, flower growers felt severe competition from cheap blooms imported from South America. A short crop of avocados has brought prices back to some of the highest ever experienced. Low rainfall reduced rangeland forage so that incomes were reduced in spite of rising national beef prices.

Given the importance of agriculture to our local economy and the need to provide for its economic viability and stability, the Agricultural Element can serve as a useful tool for the County to:

- assist farmers to continue farming,
- be supportive of a stable agricultural economy,
- protect natural resources and the environment,
- provide for orderly planning in the County.

## **Agricultural Element Implementation Measures**

(81-GP-3, 86-0A-21 & 22)

(88-FEIR-17)

### **1. Recreational Trails**

It is recommended that the Recreation portion of the Land Use Element of the Comprehensive Plan be updated. As part of that update, a trails acquisition program should be prepared. This program should determine the priority of the trails in the County based on the need for access into the Los Padres National Forest. The program should include acquisition options and a possible schedule for acquisition and ultimate opening of the trail. Impacts on the agricultural lands would be analyzed in the course of preparing this program, and mitigation measures would be recommended. Where trails would necessarily cross productive agricultural lands, mitigating measures would be required to void conflicts.

### **2. Water Conservation**

- 1) The County shall attempt to work with the Resource Conservation Districts (RCD's) and appropriate water districts in the developing water conservation plans. The County should, in concert with the RCD's, request that the Soil Conservation Service conduct a study to determine effective measures. Such plans should include water use evaluation programs and other specific measures for achieving irrigation efficiency.
- 2) The County shall encourage voluntary and appropriate water conservation activities and provide for financial and technical incentives for agricultural water conservation.

### **3. Grading and Brush Clearing**

Implement the County Grading Ordinance including the amendments adopted by the Board of Supervisors on August 13, 1991 and amend the County Brush-clearing Ordinance in a manner consistent with the intent of the FEIR Mitigation Measure (identified as M-9).

#### 4. Controlled burns and other non burning methods of fire risk reduction

It is suggested that the County take the lead in requesting the range Improvement Associations, in concert with the Soil Conservation Service, Cooperative Extension, Agricultural Commissioner, Fire Department, State Department of Fish and Game, and U.S. Forest Service to work together to (1) identify the additional information that is needed concerning beneficial and adverse effects of prescribed and controlled burns and alternative non-burning methods for fire hazard reduction on biological resources for the County, (2) determine the most cost-effective way of obtaining such information, (3) designate a lead agency in the County for collecting and processing the information, and (4) recommend guidelines for prescribed and controlled burns and alternative non-burning methods for accomplishing fire reduction that would minimize adverse impacts on the long term protection of botanical and biological resources, increase water yields, protect and/or improve wildlife habitat, provide wildlife protection, and increase agricultural productivity. To assure that adverse impacts on biological resources are minimized, a professional plant ecologist shall also be included on the team.

#### 5. Areas for Agricultural Support Use

The County needs to work with the Cities of Santa Maria, Guadalupe, Lompoc, and Carpinteria to identify areas for future agricultural support and industry. In some cases, it may be necessary to consider extension of existing urban boundaries and annexation of unincorporated lands for this purpose; in other cases unincorporated areas adjacent to urban boundaries might be appropriate for designation as agricultural industry. In identification of sufficient land areas for agricultural support and agricultural industry a necessary and specific part of the update of the Land Use Element for each planning area of the County. These updates should include an analysis of possibly redesignating existing vacant lands now designation for commercial or industrial use for agricultural support services.

#### 6. Minimum parcel sizes

The County shall re-evaluate the existing 100-acre minimum parcel size for grazing and other non-prime lands by considering standards including but not limited to, the substitution of existing minimum parcel sizes with a performance or carrying capacity method of establishing appropriate minimum acreage requirements. At the same time, the County should conduct additional studies to evaluate alternatives for allowing these non-prime lands to realize some portion of their non-agricultural value.<sup>3</sup>

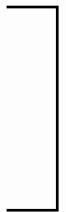
## CITATIONS

<sup>1</sup> Resolution No. 91-537 (Case No. 81-GP-3) Amended September 3, 1991 (Adopting Resolution of Agricultural Element).

<sup>2</sup> For a complete listing of all Land Use Definitions, including all nonagricultural definitions, see Land Use Element text.

<sup>3</sup> Resolution No. 91-542 (Case No. 81-GP-3) (88-FEIR-17) Amended September 3, 1991 (Adopted Agricultural Element Implementation Measures 1 through 6; the Implementation Measures are contained within the County Board of Supervisor certified Agricultural Element Final Environmental Impact Report 88-FEIR-17 for the purpose of substantially lessening potential significant impacts or reducing impacts to a level of insignificance.)

EXHIBIT C





COUNTY OF SANTA BARBARA

DECIDUOUS OAK TREE PROTECTION  
AND REGENERATION

ARTICLE IX OF CHAPTER 35  
SANTA BARBARA COUNTY CODE

Published: June 2003

Planning & Development  
123 East Anapamu Street  
Santa Barbara, California 93101  
805 568-2000

Planning & Development  
624 W. Foster Rd., Ste. C  
Santa Maria, California 93455  
805 934-6250

## Regulations

Commissioner to require a permit pursuant to Article IX of Chapter 35 of the Santa Barbara County Code shall be considered to have arisen under this article and be a violation of this article.

### **Sec. 35-910. Oak Tree Removals Not to Count Toward Thresholds.**

Where a public utility or other public entity has an easement over a portion of a lot, and if a public utility or other public entity removes protected oak trees within a utility or other public easement located over a portion of a lot, those protected oak tree removals shall not be counted toward the thresholds set out in Sec. 35-908 or in Sec. 35-909 for the remainder of the lot.

### **Sec. 35-911. Standards for Oak Tree Replacement.**

Where deciduous oak tree removal requires a permit under this ordinance, the following standards shall be adhered to:

1. The preparation and implementation of an Oak Tree Management Plan for the lot on which the oak tree removal will take place and any lot used for off-site replacement shall be required. The Management Plan shall be prepared or endorsed by the Oak Tree Specialist. The plan shall:
  - a. Demonstrate how the mix of deciduous oak tree savannas, woodlands, and forests on the lot will be preserved, created, enhanced, restored, and maintained, so that:
    - (1) The removal of protected oak trees does not divide the remaining savanna, woodland, and forest habitats into small, isolated fragments.
    - (2) Protection, maintenance, restoration, and enhancement of large blocks of savanna, woodland, and forests are given priority over maintenance, restoration, and enhancement of smaller, more isolated habitat patches.
    - (3) Valley and blue oak trees that link on- or off-site oak tree savannas, woodlands, forests, or other existing, proximate habitats are retained to the maximum extent feasible.
    - (4) On-site replacement is given priority over off-site replacement except where no suitable on-site locations exist, or reasonable use of the lot would be precluded as determined by Planning and Development along

## **Regulations**

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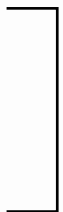
- with the Oak Tree Specialist. In such cases the replacement oak trees may be planted in an off-site location acceptable to the applicant, the landowner and the Oak Tree Specialist. For off-site replacement planting locations priority shall be given to nearby sites and to sites adjoining existing deciduous oak woodlands or providing links between deciduous oak woodlands.
- (5) There is avoidance of removal of actively used granary trees, raptor roosting or nesting trees, and trees in riparian and other wildlife corridors.
  - b. Comply with the following requirement, when applicable.
    - (1) When required by the Oak Tree Specialist on a case-by-case basis, a buffer area protecting the critical root zone shall be maintained around identified valley and blue oak trees retained on the lot.
  - c. Identify valley and blue oak tree replanting, restoration, conservation and enhancement sites on a plan or aerial photograph to facilitate mitigation monitoring and tracking; and identify the species, location, and size of all oak trees that are planted or protected as mitigation or to fulfill a condition on the permit.
  - d. Provide the deciduous oak tree replanting schedule and nurturing regime.
- 2. Protected oak trees that are removed shall be compensated at a 15:1 ratio by replacement planting, or protection of naturally occurring oak trees between six (6) inches and six (6) feet tall on the lot.
  - 3. Naturally occurring valley and blue oak seedlings/saplings, growing on the lot and between six (6) inches and six (6) feet in height that are protected and nurtured for five (5) years, may be counted as replacement (mitigation) trees under the Program.
  - 4. Any combination of acorns, planted seedlings/saplings, or naturally occurring valley and blue oaks between six (6) inches and six (6) feet tall, if established according to the requirements herein, may be used to achieve the required number of replacement trees.
  - 5. Replacement deciduous oak trees that are planted must come from nursery stock grown from locally-sourced acorns, or use acorns gathered locally, preferably from the same watershed in which they are planted. If planting is done using acorns, the ratio of acorns to protected oak trees removed shall be a minimum of forty-five (45) acorns for every

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**Regulations**

- protected valley oak tree removed. Up to three (3) acorns may be planted in the same hole.
6. Replacement deciduous oak trees shall be established in a location suitable for their growth and survival as determined by the Oak Tree Specialist, no closer than twenty (20) feet from each other or from existing oak trees and no farther than 165-180 feet from each other or existing oak trees unless otherwise approved by the Oak Tree Specialist.
  7. Valley oaks shall replace valley oaks removed and blue oaks shall replace blue oaks removed.
  8. The replacement deciduous oak trees shall be nurtured for five (5) years, the last two without supplemental watering, using techniques consistent with the most current version of the University of California publication "How to Grow California Oaks." At the end of the five years, ten trees for every protected tree removed must be alive, in good health as determined by the Oak Tree Specialist, and capable of surviving without nurturing and protection.
  9. Each replacement deciduous oak tree must be protected against damaging ground disturbance, soil compaction, or over-irrigation within the dripline. It must be fenced to protect it from grazing or browsing by animals both below and above ground until it has reached a minimum of eight (8) feet in height.
  10. Where conditions warrant and where agreed to by the landowner and Oak Tree Specialist, tree planting designs and nurturing practices (e.g. protective structures, watering schedules) may be adjusted to improve the probability that replacement trees will be established successfully.
  11. Valley oak tree removal encompassing an area of five (5) acres or greater shall require valley oak replanting of an area of comparable size in accordance with the requirements of this section, in an area of existing or historic valley oak habitat. This area shall be protected in the long-term where feasible.
  12. For the purposes of this ordinance, all replacement trees are considered protected oak trees regardless of size.

EXHIBIT D



# Uniform Rules for Agricultural Preserves and Farmland Security Zones



Santa Barbara County

September 2007

## 1-4.1. PRINCIPAL DWELLING

- A. A single principal dwelling shall be allowed on the premises.
- B. Premises made up of parcels less than 100 acres in size
  - 1. For premises with parcels between 20 acres and less than 100 acres, the principal dwelling and all accessory structures (including Residential Agricultural Units), landscaping, and non-agricultural roads serving the dwelling shall occupy no more than 2 acres or 3% of the parcel, whichever is smaller.
  - 2. In the case of superprime contracts (premises with parcels between 5 acres and less than 20 acres in size), the principal dwelling and all accessory structures, landscaping, and non-agricultural roads serving the dwelling shall occupy no more than 10,000 square feet or such larger area as is provided for under subsection D below.
  - 3. Farm buildings, corrals, and permitted agricultural employee housing shall not be subject to the above site limitation, except in the case of superprime contracts as described in subsection D below.
- C. Premises containing parcels greater than or equal to 100 acres in size
  - 1. For premises with multiple parcels with a zoning minimum parcel size of 100 acres or greater, a maximum of three principal dwellings may be allowed provided each dwelling is located on a separate legal parcel at least 100 acres in size. As a condition of a land use permit, the additional principal dwelling(s) shall be occupied by an immediate family member as defined herein, and the property owner shall provide evidence of a written agreement that all lands within the agricultural preserve contract shall be managed principally for agricultural purposes, subject to the terms and conditions of the Williamson Act and Uniform Rules, for the duration of the contract.
  - 2. Where premises contain parcels both less than 100 acres and equal to or greater than 100 acres in size, and an existing principal dwelling is located on a parcel less than 100 acres in size, no further principal dwellings are allowed.
  - 3. In the case of a single principal dwelling on the premises, the dwelling and all accessory structures (including Residential Agricultural Units), landscaping, and non-agricultural roads serving the dwelling shall occupy no more than 2 acres or 3% of the parcel, whichever is smaller.
  - 4. In the case of two or three principal dwellings on the premises, the total area occupied by all of the dwellings and all accessory structures (including Residential Agricultural Unit), landscaping, and non-agricultural roads serving the dwellings shall be no more

## Uniform Rule 1

than 3 acres. Farm buildings, corrals, and permitted agricultural employee housing shall not be subject to the above site limitation.

- D. Notwithstanding the commercial production requirements set forth in section 1-2.3.B, Superprime Land, superprime parcels greater than 10 acres (but less than 20 acres) may increase their development envelope allocation by planting additional land to commercial production. For each acre (or portion thereof) in size beyond a 10-acre parcel an additional 1,000 square feet may be added to the development envelope if 1 additional acre beyond the required minimum productive acreage is fully planted (as herein defined) in commercial agricultural production. Table 1-4 describes the increased allowances and planting requirements that are available for each parcel size. For example, a 15-acre parcel could increase its development envelope to a maximum of 15,000 square feet if at least 12 acres (5 acres above the minimum) are fully planted in commercial agricultural production. If a 15-acre parcel only wishes to add 2,000 square feet to its development envelope, then it would only need to plant 2 additional acres beyond its minimum productive acreage requirement of 7 acres. However, the maximum amount of square feet that a 15-acre parcel could add to its development envelope is 5,000, even if 6 or more acres above the minimum were planted.

This development envelope shall include the principal dwelling, landscaping, driveways, and accessory structures. Roads used for agricultural purposes are not included within the development envelope. Horse and other animal facilities (e.g. stables and corrals), new agricultural employee housing, and other similar agriculturally-related structures on superprime land may be remotely sited from the principal dwelling, as long as the total area occupied by these structures, when added to the area occupied by the principal dwelling and residential accessory structures, does not exceed the permitted envelope allowance as set forth in this section.

**Table 1-4. Development Envelope Allowances on Superprime Land**

Parcel Size (acres)	Maximum Development Envelope Allowance (square feet)	Planting Requirement to Receive Allowance (acres)	Minimum Productive Acreage (from Table 1-2)
for: 5 – 10	up to: 10,000	If: 4.75	4.75
> 10 – 11	11,000	6.00	5.00
> 11 – 12	12,000	7.50	5.50
> 12 – 13	13,000	9.00	6.00
> 13 – 14	14,000	10.5	6.50
> 14 – 15	15,000	12.0	7.00
> 15 – 16	16,000	13.5	7.50
> 16 – 17	17,000	15.0	8.00
> 17 – 18	18,000	16.5	8.50
> 18 – 19	19,000	18.0	9.00
> 19 – < 20	20,000	19.5	9.50

## Uniform Rule 1

- E. In order to preserve productive agricultural land to the maximum extent feasible, the development envelope shall minimize intrusion into agricultural areas and minimize 'barbell', 'peninsula', and 'finger' type configurations. A guest house or RSU, where allowed under the zoning ordinance, shall be included in the development envelope and must be clustered with the principal dwelling.

### **1-4.2. RESIDENTIAL AGRICULTURAL UNIT**

The purpose of a Residential Agricultural Unit (RAU) is to protect, promote and enhance an agricultural operation by providing either an additional housing opportunity for the agriculturist and his/her family or a potential additional income source that is incidental and supportive of the principal agricultural use of the land, while preserving the integrity of the agricultural area. The RAU may be occupied by the owner, a family member, an employee of the agricultural operation or a renter. RAUs are subject to the following provisions:

- A. In addition to the principal dwelling, one RAU may be permitted on the premises in AG-I-40, AG-II-40, AG-II-100, and AG-II-320 zone districts, in accordance with the RAU Program in the Santa Barbara County Code Chapter 35, Zoning. The RAU may be remotely sited in AG-II-100 and AG-II-320 zone districts, otherwise the RAU must be clustered with the principal dwelling.
- B. Whether the RAU is clustered or remotely sited, the combined area dedicated to residential uses (including the principal dwelling, RAU, and all accessory structures and improvements, e.g. non-agricultural driveways) shall not exceed 3% of the total parcel size or 2 acres, whichever is smaller. If remotely sited, the RAU shall be limited to a 1-acre building site.
- C. A RAU shall be located on the same parcel as the existing principal dwelling in compliance with the size, siting and other restrictions set forth in the Santa Barbara County Code Chapter 35, Zoning.

Nothing in this section affects an owner's ability to build agricultural employee housing pursuant to section 1-4.3 below.

### **1-4.3. AGRICULTURAL EMPLOYEE HOUSING**

All requests for agricultural employee housing units subject to a Williamson Act contract, including trailers, mobile homes on permanent foundations, and other types of permanent residential structures that are proposed on the premises shall be reviewed by the Agricultural Preserve Advisory Committee for a determination of need. Along with the agricultural employee, his or her family may occupy the agricultural employee housing.

EXHIBIT E



L1-80



COUNTY OF SANTA BARBARA

Planning and Development

## Environmental Thresholds and Guidelines Manual

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### 4. AGRICULTURAL RESOURCE GUIDELINES (Approved by the Board of Supervisors August 1993)

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#### A. Introduction.

**The State:** California's 36,000,000 acres of agricultural land produce important economic and environmental benefits to the people of the state, nation, and world. Covering one-third of the state, agricultural land supports one of California's major industries and is responsible for the production of an important portion of the nation's food and fiber. The state is also a major exporter of produce to the rest of the world. A unique combination of geography, climate and soils enables California agriculture to produce many crops that are produced nowhere else in the United States.

The state's agricultural land also plays a critical environmental role. Farmland is an important filter for rain and snowfall runoff, allowing groundwater basins to recharge themselves. Farms and ranches are wildlife habitats for many common game and endangered species. Agricultural land provides valuable open space, giving visual relief for urban dwellers, and protecting the rural way of life important to farmers, ranchers, and small-town residents. Because of these great public benefits, the unnecessary and/or premature conversion of agricultural lands to urban uses should be discouraged.

Achieving the goal of agricultural land conservation requires wise and efficient land use, and a strong commitment to that goal by local officials. A California appeals court in Cleary vs. County of Stanislaus (1981) 118 Section App. 3d 348, has indicated that the conversion of agricultural land to nonagricultural uses may in itself be considered a significant environmental impact. To assure that the impacts of agricultural land conversion are considered in project decisions, environmental documents should contain information about the impacts of projects on agricultural land. Government officials can make better decisions affecting agricultural land when they have complete data about the land and its relationship to the agricultural economy.

**The County:** Agriculture continues to be Santa Barbara County's major producing industry with a gross production value for 1991 of more than \$500 million. This is an increase of nearly two hundred million dollars from the 1981 total. Santa Barbara County's agricultural industry includes vegetable, field, fruit and nut, and seed crops, nursery products, livestock, poultry, and aviary products. (Santa Barbara County 1991 Agricultural Report)

The diversity of our agriculture continues to provide a strong economic base through its multiplier effect on our local economy. With thirty-seven different commodities exceeding a million dollars in value, our local agricultural diversity provides stability against the cyclic nature of weather, pests, and especially market fluctuations which currently are plaguing agriculture in other parts of the nation. (Op cit)

Agricultural preservation in the County has been extremely successful to date in placing lands adjacent to urban areas, as well as more remote lands, under Williamson Act agreement which provides for taxation according to agricultural rather than market value of the land.

Qualifications for lands to be designated as agricultural preserves are found in "Criteria for Agricultural Preserves", adopted by the Santa Barbara County Board of Supervisors. The land must either be in a Class I or II Soil Capability classification, as prescribed by the U.S. Soil Conservation Service, or qualify for an 80 to 100 rating in the Storie Index System to be designated prime land, in which case the minimum size of a preserve is 40 acres. Land also can qualify as prime if it fulfills one of the following: it supports livestock at a density of one animal per acre; is in orchard use that can return at least \$200 per acre; or is devoted to other agricultural production that generally would return \$200 per acre. Farm

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land not meeting these qualifications is classified as non-prime, and the minimum size for an agricultural preserve is 100 acres. However, in certain instances, super prime land of at least 5 acres in a separate ownership may be combined with adjacent prime land to meet the 40 acre minimum requirements.

### **B. Determination of Significant Effect.**

CEQA Section 15064 states that:

- “(b) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.
- (d) In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider both primary or direct and secondary or indirect consequences.
  - (1) Primary consequences are immediately related to the project such as the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant.
  - (2) Secondary consequences are related more to effects of the primary consequences than the project itself and may be several steps removed from the project in a chain of cause and effect. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution.”

CEQA Appendix G states that a project will normally have a significant impact on the environment if it will:

1. Conflict with adopted environmental plans and goals of the community where it is located.
2. Convert prime agricultural land to non-agricultural use or impair the agricultural productivity of prime agricultural land.

### **C. Comprehensive Plan Policies and Goals.**

The following agricultural goals and policies are taken from the County's Comprehensive Plan Land Use Element, the Environmental Resources Management Element (ERME), the Local Coastal Plan, the Agricultural Element, and adopted Community Plans.

#### **Land Use Element**

**Agriculture:** In the rural areas, cultivated agriculture shall be preserved and, where conditions allow, expansion and intensification should be supported. Lands with both prime and non-prime soil shall be reserved for agricultural uses.

**Carpinteria - Summerland Area Goal:** The agricultural economy and the semi-rural qualities of the area should be preserved. Every effort should be made to preserve fertile lands for agriculture.

**Santa Ynez Valley Area Goal:** Agriculture should be preserved and protected as one of the primary economic bases of the Valley.

**Goleta Area Goal:** Existing orchards and groves should be preserved, and expansion of agricultural land use, particularly orchards and grazing, should be encouraged.

**Lompoc Area Goal:** Prime agricultural lands should be preserved for agricultural use only. Preservation

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Policy LUA-S-2: New development adjacent to agricultural zoned property shall include buffers to protect the viability of agricultural operations adjacent to the community.

### **Montecito Community Plan**

Policy LUG-M-2.1: Agricultural activities on residential parcel that are consistent with the provisions of the applicable residential zone district shall be supported and encouraged by the County.

### **D. Methodology in Determining Agricultural Suitability and Productivity**

The County Initial Study form contains two questions pertaining to impacts on agricultural resources. The first is as follows:

“10.d. Will the proposal result in the conversion of prime agricultural land to non-agricultural use, impairment of agricultural land productivity (whether prime or non-prime), or conflict with agricultural preserve programs?”

The following weighting system is provided to perform a preliminary screening of a project's agricultural impacts during the initial study process. The initial study screening looks at the value of a site's agricultural suitability and productivity, to determine whether the project's impact on loss or impairment of agricultural resources would be a potentially significant impact. These are guidelines, to be used with flexibility in application to specific sites, taking into account specific circumstances and specific agricultural uses.

The weighted point system is utilized to assign relative values to particular characteristics of a site's agricultural productivity (e.g., soil type, water supply, etc.). Where the points from the following formula total 60 or more, the following types of projects will be considered to have a potentially significant impact:

- A division of land (including Parcel and Final Maps, etc.) which is currently considered viable but would result in parcels which would not be considered viable using the weighting system.
- A Development Plan, Conditional Use Permit, or other discretionary act which would result in the conversion from agricultural use of a parcel qualifying as viable using the weighting system.
- Discretionary projects which may result in substantial disruption of surrounding agricultural operations.

If a potentially significant impact is identified using these criteria, further more detailed, site-specific evaluation of agricultural impacts is completed in an EIR. This analysis should focus upon the factors and criteria, but not the points, in the weighting system of these guidelines, and any other relevant factors such as the history of agricultural use on the site, land use trends, etc. Final determination of the project's level of impact will be based on this analysis.

As a general guideline, an agricultural parcel of land should be considered to be viable if it is of sufficient size and capability to support an agricultural enterprise independent of any other parcel. To qualify as agriculturally viable, the area of land in question need only be of sufficient size and/or productive capability to be economically attractive to an agricultural lessee. This productivity standard should take into consideration the cultural practices and leasehold production units in the area, as well as soil type and water availability. For dry land farming and grazing operations the production or carrying capacity should be based upon normal rainfall years only, not periods of drought or heavy rainfall. It should be noted that the Santa Barbara County Cattlemen's Association has stated that an appropriate threshold for impacts to grazing land in the County is the displacement or division of land capable of sustaining between 25 to 30 animal units per year. This "threshold" utilizes a carrying

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capacity threshold similar to the weighting system below. Because of this, on grazing projects, detailed information of the number of animal units supportable on a particular parcel should also be considered in the project's environmental document.

The Agricultural Threshold is weighted toward physical environmental resources rather than economics. This emphasis is in keeping with CEQAs emphasis on physical environmental impacts and not social or economic impacts (State CEQA Guidelines Section 15131). Given high land values in the County and the subdivision and turnover of agricultural lands in some areas of the County, agricultural production on some lands may be economically marginal. Because of these factors, economics is considered primarily a planning issue and will not be addressed in environmental documents.

The following determination of agricultural land value is divided into nine components which are weighted according to their estimated resource value. These nine areas are:

Parcel size	Agricultural Suitability	Adjacent Land Uses
Soil Classification	Existing & Historic Land Use	Agricultural Preserve Potential
Water Availability	Comprehensive Plan Designation	Combined Farming Operations

1. **Parcel Size.** Large parcel size is, in general, an important indicator of potential agricultural suitability and productivity. However, because of the wide variability in the value of various agricultural products, suitable and productive parcel sizes also vary. Smaller parcels may be viable for high value crops, while significant acreage is necessary for viable grazing operations.

Project Parcel Size	Points Assigned
less than 5 acres	0 - 3
5 acres to less than 10 acres	4 - 6
10 acres to less than 40 acres	7 - 8
40 acres to less than 100 acres	9 - 10
100 acres to less than 500 acres	11 - 12
500 acres to less than 1000 acres	13 - 14
1000 acres or greater	15

2. **Soil Classification.** Points in this category are based primarily upon soil capability classes from the US Soil Conservation Services Soil Surveys.

The Soil Conservation Service has defined eight soil capability classes. Classes I and II are considered to be prime agricultural soils because they impose few limitations on agricultural production, and almost all crops can be grown successfully on these soils. More limited agricultural soils are grouped into Classes III and IV either because fewer crops can be grown on these soils, special conservation and production measures are required, or both these conditions exist. Classes V, VI, and VII include soils that are suited primarily for rangeland. (Class V is not found in the County.) Finally, soils and landforms that are unsuited for agricultural use are placed in Class VIII.

Where a variety of soil types are present on a site, weight should depend upon extent of useable prime/non-prime acreage. As appropriate, points may be assigned according to approximate percentages of site area containing various soil classifications.

Application of points within the ranges should be based on area and site-specific

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considerations. For grazing land, the SCS survey should be checked for opinion on soil suitability, and site vegetation should be inspected for forage value. Sites with soils which can support good forage should be assigned higher points within the range. Similarly, sites with soils classified as non-prime, but which can support specialized high cash crops (e.g., strawberries, avocados and specialty crops) should be assigned higher points within the ranges.

In addition, initial studies should note whenever a site contains large, contiguous areas of prime soil, as this may constitute a separate significant impact.

Soil Classification	Points Assigned
Class I (prime)	14 - 15
Class II (prime)	11 - 13
Class III	8 - 10
Class IV	6 - 7
Class V	1 - 5
Class VI	1 - 5
Class VII	1 - 5
Class VIII	0

3. **Water Availability.** Availability of water of suitable quantity and quality is a critical component of agricultural suitability and productivity. Assignments of points within the ranges should take into account suitability of water resources for the type of agriculture practiced (i.e. crops or grazing).

Water Availability	Points Assigned
Land has an adequate water supply from on/offsite sources suitable for crops or grazing	12 - 15
Land has water, but may be marginal in quantity or quality suitable for crops or grazing	8 - 11
Land does not have developed water supply but an adequate supply is potentially available	3 - 7
Land does not have developed water and potential sources are of poor quality/quantity	0 - 2

4. **Agricultural Suitability.** Based upon the Conservation Element of the Comprehensive Plan (p. 195) County lands were assessed and mapped for agricultural suitability classifications based on a computer model which applied weighted factors, including soil classification, water availability, slope, and environmental constraints (flood hazard, local water resources, biological tolerance-intensity, and high groundwater).

Because the Conservation Element does not fully account for the effects of weather on crop suitability, the assessment of suitability should account for the approximate frequency and intensity of frosts and other climactic factors in applying points within the ranges. Parcels which are relatively frost free and may accommodate multiple croppings may be considered more suitable than those which can support only a single crop or limited crop types due to climactic factors.

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Agricultural Suitability	Points Assigned
<b>CROPS</b>	
Highly suitable for irrigated grain, truck and field, orchard, or vineyard crops	8 - 10
Highly suitable for irrigated ornamentals, pasture, alfalfa, or dry farming	6 - 8
Moderately suitable for irrigated crops, orchard, ornamentals or dry farming	4 - 5
Low suitability for irrigated crops, orchard, ornamentals or dry farming	1 - 3
Unsuitable for crop production because of soil capabilities, environmental constraints, etc.	0
<b>GRAZING</b>	
Highly suitable for pasture or range	6 - 10
Moderately suitable for pasture or range	3 - 5
Low suitability for pasture or range	1 - 2
Unsuitable for pasture or range	0

5. **Existing and Historic Land Use.** Current or previous use of a property for agriculture can provide a practical measure of its suitability for agriculture, while urban development generally indicates a lack of suitability.

Existing and Historic Land Use	Points Assigned
In active agricultural production	5
In maintained range/pasture	5
Unmaintained, but productive within last ten years	3 - 5
Vacant land: fallow or never planted with range of suitabilities of agricultural potential	1 - 3
Substantial urban or agricultural industrial development onsite	0

6. **Comprehensive Plan Designation.** The County general plan land use maps designate property for long-range uses. Agricultural and open space designations generally provide an indicator of agricultural suitability. However, some older land use designations provide for smaller agricultural parcel sizes than are suitable or viable for sustaining agriculture today. Designations applied more recently by the County as part of community plan updates establish agricultural designations with more realistic parcel sizes. This should be taken into account in assessing suitability with this factor.

Comprehensive Plan Designation	Points Assigned
A - II	5
A-I	4
MA	3 - 4
Existing public/private open space or recreation	3 - 4
Proposed public/private open space or recreation	3 - 4
Open lands	3 - 4
Rural residential 40 - 100 acres	3 - 4
Residential Ranchette 5 - 20 acres	2
Residential less than 5 acres	0
Commercial, Industrial, Community Facility	0

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7. **Adjacent Land Uses (existing).** Adjacent land uses can play an important role in the continuing suitability and productivity of a property for agricultural uses. In general, being surrounded by agricultural or open space is conducive to continued agricultural use, while encroachment of urban uses may be problematic. However, applying points within the ranges should be based on specific circumstances and uses, recognizing that some urban uses are more compatible with agricultural, (e.g., industrial, public facilities), while others conflict (e.g., residential). In addition, the existence or ability to create buffers between incompatible uses should be considered in assessing agricultural suitability with this factor. The adequacy of agricultural support in the vicinity may be another factor affecting agricultural suitability.

Adjacent Land Uses	Points Assigned
Surrounded by agricultural operations or open space in a region with adequate support uses	9 - 10
Surrounded by agricultural operations or open space in a region without adequate agricultural support uses	7 - 8
Partially surrounded by agriculture/open space with some urban uses adjacent, in a region with adequate agricultural support uses <sup>1,2</sup>	7 - 8
Partially surrounded by agriculture/open space with some urban uses adjacent, in a region without adequate agricultural support uses <sup>1,2</sup>	3 - 6
Immediately surrounded by urban uses, no buffers	0 - 2

**Notes:**

- Various types of urban uses create more potential conflicts than others (e.g., residential could create more spraying problems than light industrial).
  - If project is well buffered, it may be agriculturally viable even with adjacent urban uses (e.g., stream, roadway).
8. **Agricultural Preserve Potential.** Qualifying for agricultural preserve designation under State Williamson Act agreement for prime and non-prime preserves entails meeting criteria for soil type, parcel size [individually or jointly with adjacent parcel(s)], and/or productivity/value on return. Agricultural preserves have constituted one of the most successful means of sustaining and preserving land in agriculture in California.

Agricultural Preserve Potential	Points Assigned
Can qualify for prime agricultural preserve by itself, or is in a preserve	5 - 7
Can qualify for non-prime agricultural preserve by itself	2 - 4
Can qualify for prime agricultural preserve with adjacent parcels	3 - 4
Can qualify for non-prime agricultural preserve with adjacent parcels	1 - 3
Cannot qualify	0

9. **Combined Farming Operations<sup>1</sup>.** This section is designed to award bonus points to parcels which provide a component of a combined farming operation. The reason these points are assigned as a bonus is to address cumulative impacts and to recognize the importance of combined farming operations in Santa Barbara County.

<sup>1</sup> Combined farming operation refers to more than one separate parcel managed as a single agricultural operation.

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Bonus Points for Combined Farming Operations	Points Assigned
Provides a significant component of a combined farming operation	5
Provides an important component of a combined farming operation	3
Provides a small component of a combined farming operation	1
No combined operation	0
Cannot qualify	0

**E. Use of State Important Farmlands Map**

A second question on agricultural land resources is included in the Initial Study under Land Use:

- “e. Will the proposal result in any effect [potentially significant adverse effect] upon any unique or other farmland of State or Local Importance?”

The State Important Farmlands Map is used in answering this question. The map is also considered in applying points under the "Agricultural Suitability" category.

The map identifies lands in the following categories:

**Prime Farmland** - (Land with the best combination of physical and chemical features for the production of agricultural crops)

**Farmland of Statewide Importance** - (Land with a good combination of physical and chemical features for the production of agricultural crops)

**Unique Farmland** - (Land of lesser quality soils used for the production of the State's leading agricultural cash crops)

**Farmland of Local Importance** - (All dry land farming area and permanent pasture)

**Grazing Land** - (Land on which the existing vegetation is suited to the grazing of livestock)

**Urban and Built-up Land** - (Land occupied by structures or infrastructure to accommodate a building density of at least one unit to one and one-half acres, or approximately six structures to ten acres)

**Other Land** - (Land which does not meet the criteria of any other category)

Biological Resources

4. Oak Woodlands and Forests.

- a. **Description.** There are three primary types of oak woodlands in Santa Barbara County: Valley Oak, Coast Live Oak, and Blue Oak woodlands. The number, type, and density of oak trees, and the relationship between trees and understory are principal characteristics which define the various types of woodlands. Oak habitats 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.
- b. **Impact Assessment Guidelines for Woodlands and Forest Habitat Areas.**<sup>6</sup> Project-created impacts may be considered significant due to changes in habitat value and species composition such as the following:
  - (1) Habitat fragmentation.
  - (2) Removal of understory.
  - (3) Alteration to drainage patterns.
  - (4) Disruption of the canopy
  - (5) Removal of a significant number of trees that would cause a break in the canopy or disruption in animal movement in and through the woodland

5. Impact Assessment for Individual Native Trees.<sup>6</sup>

- a. **Description.** Native specimen trees, regardless of size, are potentially significant, and rare native trees, which are very low in number or isolated in distribution (such as Island Oak) may be particularly significant. This significance evaluation is done on a case-by-case basis and considers tree size, numbers, location, relationship to habitat, etc.
- b. **Definition.** Specimen trees are defined, for biological assessment purposes, as mature trees that are healthy and structurally sound and have grown into the natural stature particular to the species.
- c. **Native Tree Impact Assessment.** In general, the loss of 10 percent or more of the trees of biological value on a project site is considered potentially significant.<sup>7</sup>

E. General Mitigation Guidelines for Biological Impacts.

- 1. **Mitigation Hierarchy.** The following general approaches to reducing biological impacts are presented in the order of their effectiveness.
  - a. **Avoidance.**

Avoid direct or indirect impacts to significant biological resources through project design.

<sup>6</sup> The impact assessment guidelines for oak trees, woodlands and forest habitat do not apply to non-discretionary level oak tree removal of protected and unprotected size under the Grading Ordinance Guidelines for Native Oak Tree Removal that are incorporated as Appendix A in County Code, Chapter 14. Non-discretionary-level oak tree removal of protected and unprotected size that is subject to and in compliance with these Guidelines has been previously analyzed in the program EIR, 00-EIR-07 RV1.

<sup>7</sup> The number of trees present onsite from which the 10 percent is measured may be calculated either by counting individual trees or by measuring the area of the tree canopy with a planimeter.

Groundwater Thresholds Manual for Environmental Review of Water Resources in Santa Barbara County

TABLE 2 - GROUNDWATER THRESHOLDS 1992 UPDATE

Revised Methodology for Determining Threshold of Significance

By Brian R. Baca, 6/92 (File "thresh2b.wk3") Revised 8/20/92

METHODOLOGY

An idealized reference basin having overdraft and storage characteristics similar to the overdraft basin with the greatest remaining life (Santa Ynez uplands) was chosen as a standard. The Threshold of Significance for this reference basin was set at an amount (61.9 AFY) that if added to the assumed overdraft would result in the loss of three percent of the remaining life of the Available Storage. The Threshold values for the actual basins are proportional to the Threshold for the reference basin based on the relative length of remaining life and the relative size of the basin. Remaining life is weighted at 75 percent; size at 25 percent. Threshold values are rounded to the nearest 1 AFY for use in project environmental review.

STANDARD REFERENCE BASIN

Net Overdraft (AFY)	Available Storage (AF)	Remaining life of Av. Strg. (Years)	Threshold of Significance Based on 3.000% Loss of Remaining Life of Avail. Stor.	Formula for Calculation of Reference Basin Threshold of Significance (x) in AFY. (3% loss of remaining life)
2000.000 a	900000.000 b	450.000 c	61.856 AFY d	$\frac{900000 \text{ AF}}{2000 \text{ AFY} + (x)} = 450 \text{ years} \cdot .97$

OVERDRAFTED/OVERCOMMITTED BASINS

Basin	Net Overdraft (AFY)	Available Storage (AF)	Remaining Life of Av. Strg. (Years)	Ratio to Standard Reference Basin		Combined Ratio (1) @ 75% (2) @ 25%	Calculated Threshold of Significance (Combined Ratio x 61.856)	Applied Threshold of Significance (AFY)
				(1)	(2)			
Santa Ynez Uplands	2028.00	900000.000	443.787	0.986	1.000	0.990	61.215	61
Buellton Uplands	833.000	153,800.000	184.634	0.410	0.171	0.350	21.677	22
San Antonio	8931.000	800,000.000	89.576	0.199	0.889	0.372	22.980	23
Lompoc	1918.000	170,000.000	88.634	0.197	0.189	0.195	12.058	12
Santa Maria	20,000.000	1,100,000.000	55.000	0.122	1.222	0.397	24.570	25
Cuyama	28,525.000	1,500,000.000	52.585	0.117	1.667	0.504	31.194	31
Montecito	426.000	16,000.000	37.559	0.083	0.018	0.067	4.147	4
Foothill	135.000	5000.000	37.037	0.082	0.006	0.063	3.904	4
Goleta North/Central	1488.000	18,000.000	12.097	0.027	0.020	0.025	1.556	2

BASINS IN SURPLUS (No Threshold of Significance Applies)

Basin	Net Overdraft (AFY)	Available Storage (AF)
Carpinteria	0.000	50,000.000
City of Santa Barbara	0.000	10,000.000
Toro Canyon	0.000	650.000
More Ranch	0.000	1200.000

## 15. SCHOOLS THRESHOLDS (INTERIM) (Approved by the Board of Supervisors, August 1993)

### A. Issue Summary.

The issue of existing and potential overcrowding of school facilities is of concern both locally and State-wide given the overall fiscal situation throughout the State of California and given the legal constraints regarding collection of funds and other mitigation on a project specific level. Several of the school districts in the County are currently experiencing overcrowding, including the Orcutt Union School District, Santa Maria Joint Union High School, and Hope School District, among others. Increased enrollment is difficult for the districts to deal with for a number of reasons which vary by district, including lack of existing facilities, lack of funding to construct new facilities and fund additional teachers, and lack of land to accommodate expanding campuses.

Under existing state law, a local jurisdiction cannot require mitigations or apply conditions which exceed the fees as allowed by state law for a development project which is consistent with its General Plan Designation. In many instances, this creates a situation where overcrowding may result from a project without the opportunity for mitigation through project conditions attached to a County permit. However, there are other measures, beyond the authority of the County, which may be used by the State and the school districts to address school facility impacts. These may include the use of temporary/portable classrooms, intra- or inter-district student transfers to less crowded schools, double session or year-round school schedules, and combination of classes of students on several grade levels. In the situation where the County is not able to recommend project specific mitigation which may reduce impacts to school facilities, the focus of CEQA is to disclose the impacts and to discuss the options which the school districts may use to address the overcrowding issue.

### B. Determination of Significant Impact.

A significant level of school impacts is generally considered to occur when a project would generate sufficient students to require an additional classroom. This assumes 29 students per classroom for elementary/junior high students, and 28 students per classroom for high school students, based on the lowest student per classroom loading standards of the State school building program. This threshold is to be applied in those school districts which are currently approaching, at, or exceeding their current capacity.

A project's contribution to cumulative schools impacts will be considered significant if the project specific impact as described above is considered significant.

### C. Methodology for Determining Significance.

At the present time, the Planning and Development Department has very little countywide information regarding school capacity status. Until we have compiled information on the various school districts in the County, the project planner should individually contact districts which may be affected by their project. A form has been developed which includes relevant questions to ask the affected districts regarding capacity, enrollment projections, and facility information. This form should be used to ensure that adequate information is received from the districts to determine if a significant impact would occur from the project.

### D. Context of Analysis.

Based upon Corona-Norco USD v. City of Corona, an ND rather than an EIR may be prepared for development projects having Class I impacts only on schools (schools impacts are the only cause for preparation of an EIR) for which mitigation is limited by law to payment of standard fees.

**Solid Waste Thresholds**

Office	sq. ft. x 0.0013
Educational Institutions	sq. ft. x 0.0010
Transportation, Communications and Utilities	sq. ft. x 0.0026
Manufacturing	sq. ft. x 0.0026

(Figures are based on Industry & National Standards as discussed in the Ventura County Solid Waste Thresholds)

For project types that are indicated above, the estimated waste stream can be determined by surveying similar uses, ideally within Santa Barbara County. If possible, three such uses should be used in the survey.

**Residual Impact Calculation:** Waste Generation (tons per year) x 0.50 (% of waste reduction) = tons per year.

**C. Thresholds of Significance.**

1. **Construction and demolition.** Construction and demolition waste accounts for 31 percent of all waste generated by residents of Santa Barbara County. In order to comply with AB939 requiring a minimum of 50 percent of all waste to be diverted from landfills, the particular source of waste has been targeted.

Any construction, demolition or remodeling project of a commercial, industrial or residential development that is projected to create more than 350 tons of construction and demolition debris is considered to have a significant impact on public services.

Although amounts of waste generated vary project to project we have the following estimates of projects that will reach the threshold of significance:

- a. Remodeling projects over 7,000 square feet for residential projects and 17,500 square feet for commercial/industrial projects.
- b. Demolition projects over 11,600 square feet for residential buildings and 7,000 square feet for commercial/industrial buildings.
- c. New construction projects over 47,000 square feet for residential buildings and 28,000 square feet for commercial/industrial buildings.

These estimates are based on the US Environmental Protection Agency's 1998 construction and demolition study (Document: EPA530-R-98-010; June 1998) and data gathered by the San Luis Obispo Integrated Waste Management Authority in 2005 and 2006.

2. **Operations/occupancy.**

- a. **Project specific.** The following thresholds are based on the projected average solid waste generation for Santa Barbara County from 1990 - 2005. The goals outlined in the Source Reduction and Recycling Element (SRRE) assume a 1.2 percent annual increase, which equates to approximately 4,000 tons per year increase in solid waste generation over the 15 year period. A project is considered to result in a significant impact to landfill capacity if it would generate five percent or more of the expected annual increase in waste generation thereby using a significant portion of the remaining landfill capacity. Based on the analysis conducted (as illustrated in Table 1), the numerical value associated with the five percent increase is 196 tons per year. As indicated above, source reduction, recycling and composting can reduce a project's waste stream (generated during operations) by as much as 50 percent. If a proposed project generates 196 or more tons per year after reduction and recycling efforts, impacts would be considered significant and unavoidable (Class I). Project approval

**Solid Waste Thresholds**

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would then require the adoption of overriding considerations. A typical single family residential project of 68 units or less would not trigger the threshold of significance.

- b. **Cumulative thresholds.** Projects with a specific impact as identified above (196 tons/year or more) would also be considered cumulatively significant, as the project specific threshold of significance is based on a cumulative growth scenario. However, as landfill space is already extremely limited, any increase of one percent or more of the estimated increase accounted for in the SRRE, mitigation would be considered an adverse contribution (Class III) to regional cumulative solid waste impacts. One percent of the SRRE projected increase in solid waste equates to 40 tons per year (in operational impacts). To reduce adverse cumulative impacts, and to be consistent with the SRRE, mitigation should be recommended for projects which generate between 40 and 196 tons of solid waste per year. Projects which generate less than 40 tons per year of solid waste would not be considered to have an adverse effect due to the small amount of solid waste generated by these projects and the existing waste reduction provisions in the SRRE. A typical single family residential project of 14 units or less would not trigger this adverse impact level.

**D. Mitigation Measures.**

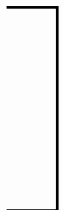
The following mitigation measures are suggested for projects which would exceed County solid waste thresholds. This is a partial list of measures and does not preclude measures which may be applicable on a project specific basis.

The applicant shall develop and implement a solid waste management plan to be reviewed and approved by Public Works Department Resource Recovery and Waste Management Division and the Planning and Development Department and shall include one or more of the following measures:

- Provision of space and/or bins for storage of recyclable materials within the site.
- Establishment of a recyclable material pickup area.
- Implementation of a curbside recycling program to serve new development.
- Development of a plan for accessible collection of materials on a regular basis (may require establishment of private pick-up depending on availability of County sponsored programs).
- Implementation of a monitoring program (quarterly, bi-annually) to ensure a 35 - 50 percent minimum participation in recycling efforts, requiring businesses to show written documentation in the form of receipts.
- Development of Source Reduction Measures, indicating method and amount of expected reduction.
- Implementation of a program to purchase recycled materials used in association with the proposed project (paper, newsprint etc.). This could include requesting suppliers to show recycled material content.
- Implementation of a backyard composting yard waste reduction program.

One or more of the above measures may apply to a specific project. County waste characterization studies estimate that implementation of the measures described can reduce waste generation by 50 percent. The expected reduction in waste generation from mitigation measures for a specific project should be developed in consultation with the Public Works Department Resource Recovery and Waste Management Division.

EXHIBIT F



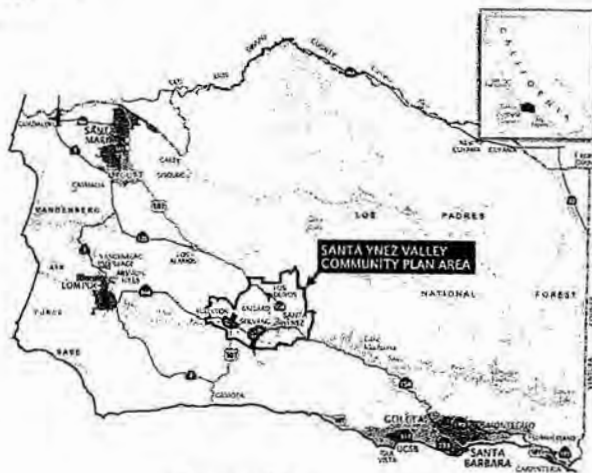
*Final*

# Santa Ynez Valley Community Plan EIR



*Vol. 1 of 2: EIR Analysis*  
*September 2009*

SCH# 2007071093



*Prepared by:*  
**County of Santa Barbara**  
**Office of Long Range Planning**

*With the assistance of:*  
**Rincon Consultants, Inc.**

Environmental Scientists Planners Engineers

## 4.1 LAND USE

### 4.1.1 Setting

This section analyzes potential short-term and long-term impacts relating to land use compatibility. The land use policies included in the proposed Community Plan are specifically intended to preserve and enhance the quality of the Plan Area through appropriate land use planning.

#### Santa Ynez Valley Setting

The Santa Ynez Valley Community Plan Area (Plan Area) is located in central Santa Barbara County, extending north from the Santa Ynez River to the Woodstock Ranch and Oak Trails subdivisions, and east from the western outskirts of the City of Buellton to the Rancho Estates neighborhood (refer to Figure 2-2 in Section 2.0 *Project Description*). The Plan Area is approximately 72 square miles (46,933 acres) and includes three unincorporated townships: Santa Ynez, Ballard, and Los Olivos. The incorporated cities of Buellton and Solvang are not part of the Plan Area.

The Plan Area contains 3,901 parcels, an area of approximately 45,380 acres. This is a net area determined by summing the acreage of all the Assessor's Parcels within the Plan Area. The "gross" acreage within the Plan Boundary, which includes areas such as public roads and right-of-ways, is approximately 46,933 acres, as mentioned above. Primary land uses in the Plan Area include agriculture, ranch-style residential, and visitor-serving commercial. Agriculture is the predominant land use designation with 43,441 acres, followed by residential at 1,580 acres, commercial at 110 acres, and very limited industrial at 51 acres. Agriculture is a strong component of community identity and a major contributor to the Santa Ynez Valley's economy. Vineyards are an increasingly important use throughout much of the Santa Ynez Valley. According to the 2000 Census, the total population within the Plan Area (not including the incorporated cities) is 9,850 residents. Approximately 56% of residents reside in the three townships. Correspondingly, the majority of the residential and commercial land within the Plan Area is found in or adjacent to the three townships. These communities range from small towns to rural in character and offer a wide range of services. They offer low to medium density residential development with community and tourist-serving commercial uses. Higher urban densities can be found in the nearby cities of Buellton and Solvang along with more intensive commercial and industrial development.

The Santa Ynez Valley Community Plan (SYVCP) separates the planning area into three distinct units that share many of the same characteristics and planning issues. They are: 1) the Urban Townships of Santa Ynez, Los Olivos and Ballard, 2) the Inner-Rural Area, and 3) the Rural Area. The townships or urban areas are home to most of the residents and almost all of the commercial and industrial development in the planning area. The Inner-Rural area surrounds the townships and incorporated cities and serves as a buffer between urban and rural uses. Development within the Inner-Rural area is limited to agricultural, recreational, and ranchette-style residential uses. Parcel sizes in the Inner-Rural area generally range from 5 to 40 acres. The Rural Area is characterized by larger parcels (40 to several hundreds of acres), low development densities, and larger-scale agricultural uses. While most higher-density residential development



In addition to these City and County owned parks, many joint use agreements exist between areas schools, youth and adult sports leagues, and the incorporated cities. These agreements provide the majority of the facilities and playing fields for these organizations year round and are supported by Comprehensive Plan Land Use Element Parks/Recreation Policy 5: "Schools and other public-owned lands should be utilized for joint use recreational activities whenever possible". The County contributed a share of Quimby Act fees (described below) to area schools to assist in the development of joint-use recreational facilities, and their acreage is included in calculations of parkland to population standards. College School in Santa Ynez provides baseball and softball fields for youth little league teams as well as a soccer field complex for American Youth Soccer Organization (AYSO) games. Santa Ynez High School has a track and tennis courts that are open to the public during hours when students are not using the facilities. The high school also provides a baseball field for adult leagues on weekends. Los Olivos School provides a softball field and turf area. No soccer fields are specifically designated at the Los Olivos School facilities; however, soccer use is allowed on most ball fields or turf areas where agreements exist. School facilities within the two cities are also jointly used by youth and adult organizations. Table 4.2-2 summarizes school recreational facilities in the Santa Ynez Valley.

**Table 4.2-2 School Recreational Facilities**

Schools with Joint Use Agreements	Facilities at School	Location	Acreage
Santa Ynez High School	One baseball diamond, two softball fields, tennis courts, track	2975 E. Hwy 246, Santa Ynez	10.3
College Elementary	One Pony League baseball diamond, three little league diamonds, turf area	3525 Pine St, Santa Ynez	7.2
Los Olivos School	One softball diamond and turf area	2540 Alamo Pintado Ave, Los Olivos	2.8
Jonata School	Two softball diamonds and turf area	301 Second St, Buellton	3.7
Oak Valley Elementary	Turf area and softball fields	595 Second St Buellton	3.5
<b>Total</b>			<b>27.5</b>

### Trails Setting

The Santa Ynez Valley contains many miles of recreational trail opportunities for Valley residents. Both on- and off-road trails exist, with the majority of on-road trails in the Plan Area being located near the townships and cities. The majority of off-road trails are located in the Los Padres National Forest, just outside of the Plan Area, but still accessible to residents in the Valley.

The Comprehensive Plan provides a Parks, Recreation, and Trails Map (PRT-4) that was last revised in 1988. Comprehensive Plan policy PRT-4 identified both existing and proposed trail corridors throughout the Santa Ynez Valley. Figure 4.2-1 illustrates a revised trails map to reflect the current conditions and status of existing trails in the Valley. As shown in this figure, there are two existing off-road trails within the Plan Area: one linking the residents of Calzada Avenue to Numancia Avenue and one aligned with the Class I bike path following Highway

**Significance After Mitigation:** *Programmatic Impacts of the Plan*

With the incorporation of the proposed policies and actions, mutual aid agreements with other law enforcement agencies, County Sheriff Department standards and payment of developer fees, potential impacts to police protection services would be mitigated to the extent feasible. Residual programmatic impacts of the Plan would be less than significant.

**Significance After Mitigation:** *Impacts Related to Development of AHOD Sites*

With the incorporation of the proposed policies and actions, mutual aid agreements with other law enforcement agencies, County Sheriff Department standards and payment of developer fees, potential impacts to police protection services would be mitigated to the extent feasible. Residual impacts related to the development of the AHOD sites would be less than significant.

**Impact PS-3      Public Schools**

*Programmatic Impacts of the Plan*

Plan Buildout and Rezones

The 20-year build-out under the proposed Community Plan would result in 821 additional primary and secondary residential units throughout the Plan Area. Further, the development of AHOD sites could result in an additional 115 residential units<sup>5</sup>. Using student generation rates of 0.17 students/residential unit for elementary, 0.11 students/residential unit for middle school, and 0.18 students/residential unit for high school<sup>6</sup>, the development of 821 new residential units could potentially generate approximately 221 K-8 students and 147 high school students at 20-year buildout. Of this total student growth, primary residential development would generate approximately 141 new K-8 students and 93 new high school students, while residential secondary units (RSU) would generate 84 K-8 students and 54 high school students.

As shown by Table 4.3-2, several school districts within the plan area have seen a declining student enrollment rate in recent years and thus may be able to accommodate the additional students generated by residential development under the Community Plan. However, depending upon the rate of development over the next 20 years, it is possible that as residential development occurs under the Community Plan, student enrollment rates could increase to levels that exceed capacity of schools within the Plan Area. If it is the case that schools become over-capacitated in future due to Community Plan residential development, as discussed in *Methodology and Significance Thresholds*, the collection of state-mandated fees (pursuant to Section 65995 (3)(h) of the California Government Code) is considered full and complete mitigation for impacts to public schools.

<sup>5</sup> As the AHOD site development would result in impacts to specific school districts, the effect on public schools of those sites are discussed separately under the Impacts Related to Development of AHOD Sites subheading below.

<sup>6</sup> Student generation rates are derived from Solvang and Santa Ynez Valley Union High School District's fee justification studies.



### Santa Ynez Valley Agricultural Resources

The Santa Ynez Valley is the County's second largest agricultural region with 231,000 acres in production. Wine grapes and row crops are produced along the Santa Ynez River in upper Santa Ynez Valley. While the hills along the valley edges are used for cattle grazing and vineyards, the valley's floor supports orchards, grains, hay and alfalfa (AREA Study, November 2007).

Within the Santa Ynez Valley Community Plan Area (Plan Area), approximately 43,441 acres (96% of the Plan Area) are zoned for agriculture, with existing minimum parcel sizes ranging from 5 to 40 acres in the Inner-Rural Area and from 40 to 100 acres in the Rural Area. Productive agricultural land accounts for approximately 31,270 acres of this agriculturally zoned area (refer to Figure 4.15-1).

The Santa Ynez Valley produces a wide variety of crops, including wine grapes, grains, hay and alfalfa, row crops, and deciduous fruits and nuts (e.g. apples, walnuts). Many of these crops are grown in the prime soils of the Santa Ynez River flood plain and along the Alamo Pintado Road and Highway 154 corridors. Cattle grazing occurs over much of the non-prime land, particularly on the hillsides that surround the Valley. The Valley is also a major equestrian center, supporting both large, world-class operations and small ranches. Wine grapes are particularly well suited to the soil and climate throughout the Valley, and vineyards have expanded rapidly over the last 10 years. Currently there are approximately 1,954 acres planted in wine grapes in the Plan Area, out of the approximately 20,829 acres countywide (or approximately 9.4% of the County's wine grapes).

**Table 4.15-3 Plan Area Agriculture**

Crop Types	Harvested Acres
Field Crops	3,860
Fruit and Nut Crops (Including Wine Grapes)	2,135
Grazing	22,333
Vegetable Crops	202
Nursery Products	142
Miscellaneous*	2,020
<b>Total</b>	<b>30,692</b>

Sources: Agricultural Commissioner's Crop Layer, 2006. Categories determined using Santa Barbara County's 2006 Agricultural Production Report (April 2007). Grazing total from 2004 Important Farmlands Map by the Department of Conservation.

\* Crop layers that did not fit into a crop type category from 2006 Agricultural Production Report; includes: Christmas tree, interplanted, uncultivated, and vertebrate control.

Over the last 20 years, the general trend has been toward conversion of grazing, dry-farmed or open land to more intensive agricultural production such as orchards, irrigated row crops and vineyards, which generally have higher production values per acre. A number of factors have led to agricultural intensification, including high land values when compared to the relatively low economic yield of the cattle business, advances in water delivery technology, the emergence of vineyards as a profitable alternative to grazing on non-prime soils, and the availability of large capital investment. In addition, the infrastructure need to support small- and medium-scale cattle producers has disappeared (AREA Study, November 2007). The Plan Area's agricultural lands provide numerous environmental benefits including enhancing biodiversity,



improving habitat for endangered species, sequestering carbon, improving soil and water quality, suppressing fires, and providing valuable open space, giving visual relief from the more urbanized township and inner rural areas, and contributing to the rural way of life important to farmers, ranchers, and small-town residents.

**Agricultural Preserve Lands.** Approximately 47% (20,291 acres) of the Planning Area's agriculturally zoned lands are enrolled in the Williamson Act Program (California Land Conservation Act of 1965). In addition, a recent update to the Uniform Rules allows mountainous zoned land to be eligible for the Williamson Act Program, which may increase enrollment acreage in the Plan Area in the future [Uniform Rule 1-2 (Eligibility Requirements)]. The Williamson Act is a mechanism that provides tax incentives to preserve land in agricultural production or open space. Under this voluntary program, the landowner agrees to keep the land in agricultural production or open space for a 10-year contract period (renewed annually with the County). In return, the property tax is assessed on the agricultural or open space value rather than the unrestricted market value. Longer-term contracts (20 years) can be negotiated under the farmland Security Zones, an option passed by the California Legislature in 1998. An agricultural preserve must consist of no less than 40 acres (if prime) and 100 acres (if non-prime), although two or more parcels may be combined if they are contiguous or in common ownership. Smaller agricultural preserves may be established if a board or council determines that the unique characteristic of the agricultural enterprise in the area calls for smaller agricultural units, and if the establishment of the preserve is consistent with the General Plan.

## AHOD Sites Agricultural Resources

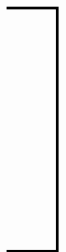
As described in greater detail under "Methodology and Significance Thresholds" in Section 4.15.2, the County of Santa Barbara uses a weighted point system to assign relative values to particular factors of a site's agricultural productivity in order to determine the potential for a project to have a significant impact on agricultural land and/or productivity. Each site's score is referenced herein. Refer to Impact AG-1 and Tables 4.15-4 through 4.15-6 for a more detailed discussion.

**AHOD Site A.** This site is located at 3145 Highway 246 in Santa Ynez and encompasses approximately 2.27 acres. Surrounding uses include primarily single-family residences to the north and east, and primarily commercial uses to the south and west. There is an area of Unique Farmland to the southwest across Highway 246 [as designated by the State Farmland Mapping and Monitoring Program (FMMP, 2004)], although this area is currently vacant with no agricultural production (Figure 4.15-3). Site A is currently developed with commercial and residential uses, including Caesar's Auto Detailing, a car wash, and a single-family residence. Development is located on approximately 1/3 of the property, in the southeastern portion. The remainder (majority) of the site is undeveloped.

Several soil types are located on-site, including Ballard fine sandy loam (0-2% slopes), Positas fine sandy loam (2-9% slopes), and Santa Ynez gravelly fine sandy loam (2-9% slopes). Although Ballard fine sandy loam (0-2% slopes) is prime with an irrigated Capability Class 1, this soil accounts for less than 0.2 acres (or 8.8%) of the site. Remaining on-site soil types are non-prime with an irrigated Capability Class 3. In addition, the FMMP designates the entire site as Urban (FMMP, 2004). Refer to Figure 4.15-2 for soils located on the site and Figure 4.15-3 for FMMP designations in the vicinity.



EXHIBIT G



L1-82

# **Santa Ynez Valley Community Plan**



County of Santa Barbara  
Planning & Development Department  
Office of Long Range Planning  
Board of Supervisors Adopted  
October 6, 2009

**BACKSIDE OF COVER**

# Santa Ynez Valley Community Plan OVERVIEW



## The valley

The oak-studded Santa Ynez Valley, nestled between two towering mountain ranges in central Santa Barbara County, boasts an enviable quality of life for its residents. Still-friendly small towns with unique individual character are linked by scenic rural roads featuring bucolic views of farms, ranches and pristine natural areas. The local economy is strong, anchored by thriving agriculture and tourism industries. Residents enjoy an unhurried pace of life, night skies still dark enough for stargazing, clean air, ample recreational opportunities and abundant natural resources. The rural charm, comfort and beauty of the Valley, that has remained relatively unchanged for so long, stands in stark contrast to the "Anytown USA" atmosphere that has engulfed many communities across California and the rest of the country.

## The History

The Valley's present day character has been shaped by its rich and varied history and the diversity of peoples that have called it home: from its original settlement by the Inceno Chumash people who inhabited 19 villages in the area, to the Spanish mission era that gave the Valley its name, to the Mexican land-grant rancho period that established agriculture as a dominant industry, to its role as terminus and transfer point of rail and stagecoach lines, to the establishment of the Danish colony of Solvang. Each period has left its mark on the Valley and is reflected in its buildings, people, customs, and rural lifestyle.

## The Valley Blueprint

In 2000, a diverse group of local residents came together with the goal of preserving the special qualities of the Valley and painting a picture of its future. They produced a visionary document entitled "The Valley Blueprint" which outlined consensus-based goals for development, public services, agriculture and infrastructure.

## The Santa Ynez Valley Community Plan

The Santa Ynez Valley Community Plan picks up where the Valley Blueprint left off and is intended to implement the Blueprint by translating "the vision" into formal policy that will preserve the character while enhancing its unique qualities. The Plan was developed over the course of 50+ community meetings with the involvement of hundreds of Valley citizens. The Plan process has not been easy, quick nor without controversy – but one might argue that few worthwhile civic efforts ever are.



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*Santa Ynez Valley Community Plan*

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**Land Use Area/Community Goals**

The Land Use Element also contains Area/Community Goals specific to the Santa Ynez Valley. These goals address the rate, location, and character of future growth, respect for environmental factors and constraints, maintenance of the agricultural economy and rural qualities of the area, the preservation of open space and the prevention of urban sprawl. The plan takes these existing goals into account and serves to implement them, particularly with regard to environmental constraints (e.g., steep slopes, fire hazards, geology, sensitive habitats, aesthetics, and agricultural resources).

**Population Growth**

*"Planning for the Valley should be geared to the concept of living with the resources available locally."*

**Agriculture**

*"Agriculture should be preserved and protected as one of the primary economic bases of the Valley."*

**Land Use**

*"Future residential development should not be located on prime food producing or pasture land, but close to existing public services. The beauty of the land should be preserved by limiting urban sprawl and creating buffer zones to maintain the individual character of each town."*

*Parcel sizes should progressively increase from urban centers to suburban belts, to ranches, to rural farming and grazing.*

*Density standards should be set to meet the needs of communities.*

*Medium and heavy industrial uses are not considered compatible with the Valley's unique life style.*

*Tourism should be encouraged as a use consistent with preservation of open space.*

*Housing supply should not be allowed to overtax present available resources*

*Open space should be used as settings for unique and historic areas. The rural view to the east of Mission Santa Ynez should be preserved in open space, and in agricultural use wherever possible."*

**2. HOUSING ELEMENT**

The Housing Element is a comprehensive assessment of projected housing needs for all segments of the jurisdiction and all economic groups. In addition, it embodies policies for providing adequate housing and includes programs for that purpose.

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*Santa Ynez Valley Community Plan*

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**2. LAND USE GENERAL – GOALS, POLICIES, ACTIONS AND DEVELOPMENT STANDARDS**

- GOAL LUG-SYV:** Maintain the Santa Ynez Valley's rural character and agricultural tradition while accommodating some well-planned growth within township boundaries that is compatible with surrounding uses.
- Policy LUG-SYV-1:** All existing Countywide Comprehensive Plan Elements and policies apply to the Santa Ynez Valley Planning Area in addition to those specific policies, development standards and action items identified in this plan.
- Policy LUG-SYV-2:** The Development Standards contained within this plan shall be used to implement the policies of the Plan. Where appropriate, these standards shall be applied to projects under review, unless a standard is inapplicable or ineffective and/or other standards have been required that more effectively implement the policies of the Plan.
- 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.
- Policy LUG-SYV-4:** Land Use and Zoning designations shall provide for reasonable use and development of property within given site constraints.
- Action LUG-SYV-4.1:** The County of Santa Barbara shall consider planning policies, development standards, and/or permit requirements that address alcohol establishments in the planning area.
- Policy LUG-SYV-5:** The Policies and Development Standards of this Plan shall be implemented in a manner that does not take private property for public use without just compensation as required by applicable law.
- Policy LUG-SYV-6:** The County shall oppose the loss of jurisdictional authority over land within the Plan area where the intended use is inconsistent with the goals, policies and development standards of the Plan or in the absence of a satisfactory legally enforceable agreement.
- Action LUG-SYV-6.1:** The County shall pursue legally enforceable government-to-government agreements with entities seeking to obtain jurisdiction

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*Santa Ynez Valley Community Plan*

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**3. AGRICULTURE AND RURAL LANDS GOALS, POLICIES, ACTIONS AND DEVELOPMENT STANDARDS**

<b>GOAL LUA-SYV:</b>	<b>Protect and Support Agricultural Land Use and Encourage Appropriate Agricultural Expansion.</b>
<b>Policy LUA-SYV-1:</b>	<b>The County shall develop and promote programs to preserve agriculture in the Santa Ynez Valley Planning Area.</b>
<b>Policy LUA-SYV-2:</b>	<b>Land designated for agriculture within the Santa Ynez Valley shall be preserved and protected for agricultural use.</b>
<b>Policy LUA-SYV-3:</b>	<b>New development shall be compatible with adjacent agricultural lands.</b>
<b>DevStd LUA-SYV-3.1:</b>	New non-agricultural development adjacent to agriculturally zoned property shall include appropriate buffers, such as trees, shrubs, walls, and fences, to protect adjacent agricultural operations from potential conflicts and claims of nuisance. The size and character of the buffers shall be determined through parcel-specific review on a case-by-case basis.
<b>Action LUA-SYV-3.2:</b>	The County should consider approval of Agricultural Industrial Overlay areas on a case-by-case basis to ensure that adequate facilities for processing, packaging, treatment and transportation of agricultural commodities exist in the Valley.
<b>Policy LUA-SYV-4:</b>	<b>Opportunities for agricultural tourism shall be supported where such activities will promote and support the primary use of the land as agriculture without creating conflicts with on-site or adjacent agricultural production or impacts to the environment.</b>
<b>Action LUA-SYV-4.1:</b>	The County shall consider an ordinance allowing agricultural farmstays in the Santa Ynez Valley in accordance with Health and Safety code Section 113870 where compatible with on-site and neighboring agricultural production.
<b>Action LUA-SYV-4.2:</b>	Planning and Development and the Agricultural Commissioner shall coordinate with other County departments (e.g. Economic Development Agency) and local and statewide organizations to promote agricultural tourism activities that are available in the County (e.g., Farmers' Markets, U-pick, harvest festivals, wineries, farmstays, etc.).
<b>Action LUA-SYV-4.3:</b>	Planning and Development shall work with the Agricultural Advisory Committee to create a new policy(ies) that provide land

EXHIBIT H



COUNTY OF SANTA BARBARA

Planning and Development

# Santa Barbara County Land Use & Development Code



Published December 2011

Updated June 2014

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SANTA BARBARA COUNTY CODE - CHAPTER 35 - COUNTY LAND USE & DEVELOPMENT CODE

Purpose and Applicability of Development Code

35.10.020

**CHAPTER 35.10 - PURPOSE AND APPLICABILITY OF DEVELOPMENT CODE**

**Sections:**

- 35.10.010 - Purpose of Development Code
- 35.10.020 - Authority, Relationship to Comprehensive Plan and Local Coastal Program
- 35.10.030 - Responsibility for Administration
- 35.10.040 - Applicability of the Development Code
- 35.10.050 - Validity

**35.10.010 - Purpose of Development Code**

The Santa Barbara County Land Use and Development Code, hereafter referred to as the "Development Code," constitutes a portion of Chapter 35 of the Santa Barbara County Code. This Development Code carries out the policies of the Santa Barbara County Comprehensive Plan and Local Coastal Program by classifying and regulating the uses of land and structures within the County, consistent with the Comprehensive Plan and the Local Coastal Program. This Development Code is adopted to protect and to promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents, and businesses in the County. More specifically, the purposes of this Development Code are to:

- A. Provide standards and guidelines for the continuing orderly growth and development of the County that will assist in protecting the character and stability (social and economic) of agricultural, residential, commercial and industrial uses, as well as the character and identity of communities within the County;
- B. Conserve and protect the County's natural beauty and setting, including waterways, hills and trees, scenic vistas, and historic and environmental resources;
- C. Create a comprehensive and stable pattern of land uses upon which to plan transportation, water supply, sewerage, energy, and other public facilities and utilities;
- D. Encourage the most appropriate uses of land in order to prevent overcrowding of land and avoid undue concentration of population, and maintain and protect the value of property; and
- E. Ensure compatibility between different types of development and land use.

**35.10.020 - Authority, Relationship to Comprehensive Plan and Local Coastal Program**

- A. **Authority.** The regulations within this Development Code are enacted based on the authority vested in the Santa Barbara County by the State of California, including: the California Constitution; the Planning and Zoning Law (Government Code Section 65000 et seq.); the California Coastal Act (Public Resources Code Section 30000 et seq.); the Subdivision Map Act (Government Code Section 66410 et seq.); and the California Environmental Quality Act (Public Resources Code Section 21000 et seq.)
- B. **Consistency with Comprehensive Plan, Community, Specific and Area Plans, and Local Coastal Program.** This Development Code is a primary tool used by the County to carry out the goals, objectives, and policies of the Santa Barbara County Comprehensive Plan, including any applicable community, specific or area plan and Local Coastal Program. The Santa Barbara County Board of Supervisors intends that all provisions of this Development Code be consistent with the Comprehensive Plan, including any applicable community, specific or area plan and Local Coastal Program, and that any land use, subdivision, or development approved in compliance with these regulations will also be consistent with the Comprehensive Plan, including any applicable community, specific or area plan and Local Coastal Program.
- C. **Local Coastal Program provisions.** The provisions of this Development Code identified as applicable within the Coastal Zone constitute, in conjunction with Chapter 9A (Brush Removal Southeasterly Coastal Area and Coastal Zone) and Chapter 14 (Grading), the County's ordinances for the implementation of the Local Coastal Program, in compliance with the California Coastal Act.

## CHAPTER 35.21 - AGRICULTURAL ZONES

### Sections:

- 35.21.010 - Purpose
- 35.21.020 - Purposes of the Agricultural Zones
- 35.21.030 - Agricultural Zones Allowable Land Uses
- 35.21.040 - Agricultural Zones Lot Standards
- 35.21.050 - Agricultural Zones Development Standards

### 35.21.010 - Purpose

This Chapter lists the land uses that may be allowed within the Agricultural zones established by Section 35.14.020 (Zoning Map and Zones), determines the type of planning permit/approval required for each use and provides basic standards for site layout and building size.

### 35.21.020 - Purposes of the Agricultural Zones

The purposes of the individual Agricultural zones and the manner in which they are applied are as follows.

#### A. AG-I (Agricultural I) zone.

1. The AG-I zone is applied to areas appropriate for agricultural use within Urban, Inner Rural, Rural (Coastal Zone only), and Existing Developed Rural Neighborhood areas, as designated on the Comprehensive Plan maps. The intent is to provide standards that will support agriculture as a viable land use and encourage maximum agricultural productivity.
2. Within the Coastal Zone, the AG-I zone is intended to designate and protect lands appropriate for long term agricultural use within or adjacent to urbanized areas and to preserve prime agricultural soils.

#### B. AG-II (Agricultural II) zone.

1. The AG-II zone is applied to areas appropriate for agricultural land uses on prime and non-prime agricultural lands located within the Rural Area as shown on the Comprehensive Plan maps. The intent is to preserve these lands for long-term agricultural use.
2. Within the Coastal Zone, the AG-II zone is intended to provide for agricultural land uses on large properties (a minimum of 40- to 320-acre lots) with prime and non-prime agricultural soils in the rural areas of the County, and to preserve prime and non-prime soils for long-term agricultural use.

### 35.21.030 - Agricultural Zones Allowable Land Uses

- A. **General permit requirements.** Table 2-1 (Allowed Land Uses and Permit Requirements for Agricultural Zones) identifies the uses of land allowed by this Development Code in each Agricultural zone, and the planning permit required to establish each use, in compliance with Section 35.20.030 (Allowable Development and Planning Permit Requirements).
- B. **Requirements for certain specific land uses.** Where the last column ("Specific Use Regulations") in Table 2-1 (Allowed Land Uses and Permit Requirements for the Agricultural Zones) includes a section number, the referenced Section may affect whether the use requires a Coastal Development Permit or a Land Use Permit, Development Plan, Minor Conditional Use Permit, or Conditional Use Permit, and/or may establish other requirements and standards applicable to the use.
- C. **Development Plan approval required, Coastal Zone.** Within the Coastal Zone, Final Development Plan approval in compliance with Section 35.82.080 (Development Plans) is required concurrent with the approval of a Coastal Development Permit for a structure, other than an agricultural reservoir, that is not otherwise required by this Development Code to have discretionary permit approval, and is 20,000 or

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<b>Table 2-1 - Continued</b>  <b>Allowed Land Uses and Permit Requirements for Agricultural Zones</b>	E	Allowed use, no permit required (Exempt)			
	P	Permitted use, Land Use or Coastal Permit required (2)			
	MCUP	Minor Conditional Use Permit required			
	CUP	Conditional Use Permit required			
	S	Permit determined by Specific Use Regulations			
	—	Use Not Allowed			
<b>LAND USE (1)</b>	<b>PERMIT REQUIRED BY ZONE</b>				<b>Specific Use Regulations</b>
	<b>AG-I</b>	<b>AG-I CZ</b>	<b>AG-II</b>	<b>AG-II CZ</b>	

**WATER SUPPLY & WASTEWATER FACILITIES**

Bulk water importation facilities	—	CUP	—	CUP	
Desalination facility, less than 15 connections	—	MCUP	—	MCUP	
Desalination facility, 15 to less than 200 connections	—	CUP	—	CUP	
Pipeline - Water, reclaimed water, wastewater, less than 20,000 sf	P(3)	P	P(3)	P	
Pipeline - Water, reclaimed water, wastewater, 20,000 sf or more	P(3)	MCUP	P(3)	MCUP	
Reservoir, less than 20,000 sf of total development	P	P	P	P	
Reservoir, 20,000 sf to less than 50,000 sf of total development	P	MCUP	P	MCUP	
Reservoir, 50,000 sf or more of total development	MCUP	MCUP	MCUP	MCUP	
Wastewater treatment system, individual, alternative	MCUP	MCUP	MCUP	MCUP	
Wastewater treatment system, individual	E	P	E	P	
Wastewater treatment facility, less than 200 connections	CUP	CUP	CUP	CUP	
Water diversion project	P	MCUP	P	MCUP	
Water extraction, commercial	CUP	CUP	CUP	CUP	
Water or sewer system pump or lift station (4)	—	P	—	P	
Water system with 1 connection	E	P	E	P	
Water system with 2 to less than 5 connections	P	MCUP	P	MCUP	
Water system with 5 or more connections (5)	MCUP	MCUP	MCUP	MCUP	
Water well, agricultural	E	P	E	P	

**Key to Zone Symbols**

AG-I	Agriculture I	CZ	Coastal Zone
AG-II	Agriculture II		

**Notes:**

- (1) See Article 35.11 (Glossary) for land use definitions.
- (2) Development Plan approval may also be required; see Section 35.21.030.C.
- (3) Limited to wastewater pipelines; see Article 35.5 for development standards.
- (4) In the Inland area, such facilities are allowed in compliance with the required planning permit to which the water or sewer pump or lift station is accessory.
- (5) In the Coastal Zone, limited to less than 200 connections.

**35.21.040 - Agricultural Zones Lot Standards**

Each subdivision and residential development shall comply with the following minimum lot area and building site requirements for the applicable zone.

- A. **Minimum lot area.** Each lot in a proposed subdivision shall comply with the minimum gross lot area requirements in Table 2-2 (Minimum Lot Area/Building Site Area).
- B. **Minimum building site area for residential use.** Each primary dwelling shall be located on a lot with the minimum gross area shown in Table 2-2 (Minimum Lot Area/Building Site Area). A dwelling and its accessory structures and uses may also be located on a smaller existing legal lot unless it is a fraction lot.

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Table 2-2 - Minimum Lot Area/Building Site Area

Zoning Map Symbol	Minimum Gross Lot Area
AG-I-5	5 acres
AG-I-10	10 acres
AG-I-20	20 acres
AG-I-40	40 acres
AG-II-40	40 acres
AG-II-100	100 acres
AG-II-320	320 acres

35.21.050 - Agricultural Zones Development Standards

- A. **General development standards.** Development within the Agricultural zones shall be designed, constructed, and established in compliance with the requirements in Table 2-3 (AG-I and AG-II Zones Development Standards) below, and all applicable standards in Article 35.3 through Article 35.7 of this Development Code. These standards apply within the Coastal Zone and Inland area, except where noted.
- B. **Community Plan overlay requirements.** Section 35.28.210 (Community Plan Overlays) establishes additional requirements and standards that apply to development and uses located in an applicable community or area plan as specified in Section 35.28.210 (Community Plan Overlays).

Table 2-3 - AG-I and AG-II Zones Development Standards

Development Feature	Requirement by Zone	
	AG-I & AG-I (CZ) Agriculture I	AG-II & AG-II (CZ) Agriculture II
<b>Residential density</b> Maximum density	<i>Maximum number of dwelling units allowed on a lot. The actual number of units allowed will be determined through subdivision or planning permit approval.</i> 1 one-family dwelling per lot; plus agricultural employee housing, residential agricultural units, and second units, where allowed by Table 2-1 and applicable standards provided that the lot complies with Section 35.21.040 (Agricultural Zones Lot Standards).	
<b>Setbacks</b>	Front	50 ft from road centerline and 20 ft from edge of right-of-way.
	Side	20 ft; 10% of lot width on a lot of less than 1 acre, with no less than 5 ft or more than 10 ft required.
	Rear	20 ft; 25 ft on a lot of less than 1 acre.
	Building separation	None, except as required by Building Code.
<b>Height limit</b> Maximum height	<i>Maximum allowable height of structures. See Section 35.30.090 (Height Measurement, Exceptions and Limitations) for height measurement requirements, and height limit exceptions.</i> 35 ft for a residential structure, no limit otherwise; Toro Canyon Plan area - 25 ft for a residential structure.	Coastal - No limit; Inland - 35 ft for a residential structure, no limit otherwise; Toro Canyon Plan area - 25 ft for a residential structure.
<b>Landscaping</b>	See Chapter 35.34 (Landscaping Standards).	
<b>Parking</b>	See Chapter 35.36 (Parking and Loading Standards).	
<b>Signs</b>	See Chapter 35.38 (Sign Standards).	

- C. **Development standards for agricultural structural development that does not require the approval of a Final Development Plan.** In addition to the development standards listed in Subsections 35.21.050.A, above, all development associated with the construction of agricultural structural

## **CHAPTER 35.30 - STANDARDS FOR ALL DEVELOPMENT AND LAND USES**

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### **Sections:**

- 35.30.010 - Purpose
- 35.30.020 - Applicability
- 35.30.025 - Agricultural Buffers
- 35.30.030 - Bikeways
- 35.30.040 - Coastal Trails
- 35.30.050 - Density
- 35.30.060 - Design Compatibility Standards
- 35.30.070 - Fences and Walls
- 35.30.080 - Flood Hazard Development Standards
- 35.30.090 - Height Measurement, Exceptions and Limitations
- 35.30.100 - Infrastructure, Services, Utilities and Related Facilities
- 35.30.110 - Lot Line Adjustments
- 35.30.120 - Outdoor Lighting
- 35.30.130 - Performance Standards
- 35.30.140 - Recreation and Visitor Serving Uses
- 35.30.150 - Setback Requirements and Exceptions
- 35.30.160 - Solar Energy Systems
- 35.30.170 - Solid Waste and Recycling Storage Facilities
- 35.30.180 - Storm Water Runoff Requirements
- 35.30.190 - Subdivisions, Lot Size

### **35.30.010 - Purpose**

This Article expands upon the standards of Article 35.2 (Zones and Allowable Land Uses) by addressing the details of site planning and project design. These standards are intended to ensure that all development:

- A. Produces an environment of stable and desirable character;
- B. Is compatible with existing and future development; and
- C. Protects the use and enjoyment of neighboring properties, consistent with the Comprehensive Plan.

### **35.30.020 - Applicability**

The requirements of this Article shall apply to all proposed development and new land uses, except as specified in Chapter 35.101 (Nonconforming Uses, Structures, and Lots) and shall be considered in combination with the standards for the applicable zone in Article 35.2 (Zones and Allowable Land Uses) and those in Article 35.4 (Standards for Specific Land Uses). If there is a conflict, the standards in Article 35.4 (Standards for Specific Land Uses) shall control.

### **35.30.025 - Agricultural Buffers**

- A. **Purpose and intent.** The purpose of agricultural buffers is to implement adopted Comprehensive Plan policies that assure and enhance the continuation of agriculture as a major viable production industry in Santa Barbara County through establishing development standards that provide for the creation of buffers between agricultural uses and new non-agricultural development and uses. The intent of agricultural buffers is to minimize potential conflicts between agricultural and adjacent land uses that result from noise, dust, light, and odor incidental to normal agricultural operations as well as potential conflicts originating from residential and other non-agricultural uses (e.g., domestic pets, insect pests and invasive weeds).

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- B. Applicability.** This Section applies to all discretionary applications for non-agricultural development and uses (project) which satisfy all of the following criteria:
1. The project site is located within an Urban or Inner-Rural Area, or an Existing Developed Rural Neighborhood, as designated on the Comprehensive Plan maps; or located on property zoned industrial that is located in the Rural Areas as designated on the Comprehensive Plan maps.
  2. The project site is located immediately adjacent to land that is:
    - a. Located in a Rural Area as designated on the Comprehensive Plan maps, and
      - (1) Has an agricultural zone designation as identified in Section 35.014.020 (Zoning Map and Zones) or Section 35-52 (Zoning District Designations and Applicability) of Article II, the Santa Barbara Coastal Zoning Ordinance or Article V of Ordinance No. 661, excluding state or federally owned land, or
      - (2) Is subject to a contract executed in accordance with the County Uniform Rules for Agricultural Preserves and Farmland Security Zones.
- C. Exceptions.** This Section does not apply to the following:
1. Single-family dwelling, residential second units and residential accessory structures.
  2. Farm employee dwellings and farm labor camps.
  3. Non-agricultural, discretionary development approved prior to May 9, 2013.
  4. Changes to a non-agricultural, discretionary project approved prior to May 9, 2013, provided that prior to an action by the review authority to approve an application in compliance with Subsection 35.84.040 C or D the review authority shall first determine that the changes to the project proposed by the application do not result in any new or greater impacts to agriculture than those resulting from the already approved project.
    - a. If the review authority cannot make the determination required in compliance with Subsection C.4, above, then the project shall be subject to the provisions of this Section.
  5. **Non-commercial agricultural uses.** An agricultural buffer is not required adjacent to a common lot line between the project site and an adjacent agriculturally zoned lot if the adjacent lot is used for non-commercial agriculture.
  6. State and County roadway projects.
  7. Lot line adjustments and modifications to lot line adjustments that:
    - a. Do not exceed a 10 percent increase or decrease in the area of the smallest existing lot; and
    - b. Do not result in an increase in the number of developable lots in compliance with Subsection 35.30.110.B.3.c.
- D. Agricultural buffer requirements.** All applications subject to this Section shall designate and maintain an agricultural buffer on the project site in compliance with this Section.
1. **Agricultural buffer width.** The width of the agricultural buffer shall be in compliance with the range of agricultural buffer widths as shown in the following Table 3-1 (Range of Agricultural Buffer Widths). Ranges are provided because unique circumstances may require the buffer width to be adjusted; however, the agricultural buffer width as adjusted shall neither be less than the minimum buffer width nor greater than the maximum buffer width shown in the following Table 3-1 (Range of Agricultural Buffer Widths). If the proposed project is located adjacent to a lot that contains both Production Agriculture and Rangeland or Pastureland, then the most protective buffer:
    - a. Shall be applied adjacent to any portion of the common lot line between the project site and the adjacent agriculturally zoned lot where Production Agriculture is immediately adjacent; and

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- b. May be applied to any portion of the common lot line between the project site and the adjacent agriculturally zoned lot where Production Agriculture is not immediately adjacent, if Production Agriculture is located on the adjacent lot within the distance, as measured from the common lot line, that is equal to the width of the required buffer that would otherwise be applicable to the project site.

Refer to Section II.C. (Agricultural Buffer Width Adjustment) of the Agricultural Buffer Implementation Guidelines (Appendix I) for guidance.

**Table 3-1 - Range of Agricultural Buffer Widths**

Project Land Use or Zoning	Project Location	Minimum Buffer Width (feet)	Maximum Buffer Width (feet)
Commercial or Industrial	Adjacent to production agriculture	100	300
	Adjacent to rangeland or pastureland	100	150
Residential, not located on a Small Lot located within an Urban Area	Adjacent to production agriculture	200	300
	Adjacent to rangeland or pastureland	100	150
Residential, located on a Small Lot located within an Urban Area	Adjacent to production agriculture	100	200
	Adjacent to rangeland or pastureland	100	150
Sensitive Non-agricultural Uses	Adjacent to production agriculture	300	400
	Adjacent to rangeland or pastureland	100	150

2. **Agricultural buffer location.** The agricultural buffer shall be located:
  - a. On the lot on which the non-agricultural project is proposed.
  - b. Adjacent to the common lot line between the project site and the adjacent agriculturally zoned lot.
3. **Agricultural buffer width measurement.** The agricultural buffer width shall be measured from the common lot line between the project site and the adjacent agriculturally zoned lot. The agricultural buffer shall be coterminous with the length of said common lot line.
4. **Agricultural buffer width adjustment.** The following factors shall be considered when determining the agricultural buffer width in compliance with Subsection D.1 (Agricultural buffer width), above. See the Agricultural Buffer Implementation Guidelines (Appendix I) for guidance in determining the appropriate agricultural buffer width.
  - a. **Site specific factors.** The following factors shall be considered when determining the agricultural buffer width:
    - (1) Crop type/agricultural practices.
    - (2) Elevation differences and topography.
    - (3) Extent and location of existing non-agricultural development.
    - (4) Location of existing roads or naturally occurring barriers.
    - (5) Historical land use on the agricultural lot.
    - (6) Future farming potential of the agricultural lot.
    - (7) Site design of the non-agricultural proposal.
    - (8) Non-agricultural lot size/configuration.
    - (9) Prevailing wind direction.
  - b. **Vegetative screening adjacent to production agriculture.** Vegetative screening may be used to offset an increase in the buffer width for projects adjacent to Production Agriculture, as it

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may be adjusted in compliance with Subsection D.4.a (Site-specific factors). See Subsection F.3 for vegetative screening criteria and the Agricultural Buffer Implementation Guidelines (Appendix I) for guidance.

- c. **Constrained agricultural areas.** If the adjacent lot is used for production agriculture and contains land areas that are constrained by physical features or easements such that those land areas cannot be used for agriculture, then the agricultural buffer width may be reduced on the project site by an amount equal to the width of the constrained land area located on the adjacent agricultural lot, provided:
  - (1) The physical feature is permanently part of the landscape (e.g., a protected riparian area, or rock out-cropping); and
  - (2) The physical feature or easement precludes any kind of agricultural use and be located adjacent to the non-agricultural project site.
5. **Comprehensive Plan consistency.** Where Comprehensive Plan policies and this Section both address agricultural buffer requirements, the most protective agricultural buffer requirement shall prevail.
6. **Reasonable use.** This Section is not intended, and shall not be construed as authorizing the review authority acting in compliance with this Section to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefore. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States or under this Development Code.
7. **Buffer recordation.**
  - a. **Notice to Property Owner required.** Prior to the approval of a Land Use Permit in compliance with Section 35.82.110 (Land Use Permits) or a Zoning Clearance in compliance with Section 35.82.210 (Zoning Clearance) following the approval of a discretionary planning permit, a Notice to Property Owner shall be required to be recorded by the property owner that will provide notification to all future owners and successors of the restrictions of this Section 35.30.025. Said Notice shall include:
    - (1) An exhibit showing the location of the agricultural buffer by metes and bounds description or surveyor's description.
    - (2) The uses that are allowed within the agricultural buffer in compliance with Section 35.30.025.E (Allowable uses within agricultural buffers).
    - (3) The Landscape, Lighting and Irrigation Plan in compliance with Section 35.30.025.F (Agricultural buffer Landscape, Lighting and Irrigation Plan requirements).
    - (4) The Maintenance Plan in compliance with Section 35.30.025.G (Agricultural buffer maintenance requirements).
  - b. The requirement to record said Notice in compliance with this Subsection D.7 shall be included as a condition of approval of an application for a discretionary planning permit subject to this Section.
- E. **Allowable uses within agricultural buffers.** The property owner shall use his best efforts to consult with the adjacent agricultural land owner(s) to address food safety and agricultural production concerns with regard to landscape, lighting, and vegetative screening design and siting. See the Agricultural Buffer Implementation Guidelines (Appendix I) for information on the purpose and intent of restricting uses within agricultural buffers and how to incorporate site design and other features that are compatible with agriculture.
  1. **Unrestricted uses within agricultural buffers.** Subject to other provisions of this Section, or other

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provisions of the County Code, the following uses may be allowed within a designated agricultural buffer:

- a. Drainage channels, irrigation canals, storm water retention basins and Low Impact Development (LID) drainage features.
  - b. Fences and walls.
  - c. Low-lying landscaping and vegetative screening that does not include trees or hedges exceeding three feet in height.
  - d. Oil and gas, wind energy and cogeneration facilities that are:
    - (1) Permitted in compliance with Article 35.5 (Oil and Gas, Wind Energy and Cogeneration Facilities), or
    - (2) Operated in compliance with Chapter 35.101 (Nonconforming Uses, Structures, and Lots).
  - e. Natural waterways including rivers, creeks, lakes, ponds, and flood plains.
  - f. Signs.
  - g. Solar energy systems permitted in compliance with Section 35.30.160 (Solar Energy Systems).
  - h. Telecommunication facilities permitted in compliance with Chapter 35.44 (Telecommunication Facilities).
  - i. Utility lines and facilities.
  - j. Any other use determined by the review authority to be consistent with the purpose and intent of the buffer requirement.
  - k. Modifications or additions to structures legally existing as of May 10, 2013 provided that any addition to a structure that is located within a buffer required by this Section shall not extend further towards the immediately adjacent agricultural lot.
2. **Restricted uses within agricultural buffers.** Subject to other provisions of this Section, or other provisions of the County Code, the following uses may be allowed within the agricultural buffer provided they are not located any closer to the common lot line between the project site and the adjacent agriculturally zoned lot than half the width of the buffer. This requirement may be modified by the review authority when it is determined that strict compliance with this section is not required to minimize conflicts with adjacent agriculture.
- a. Industrial or commercial loading docks and rear service areas.
  - b. Landscaping and vegetative screening.
  - c. Lighting.
  - d. Non-habitable structures such as those used for storage.
  - e. Parking areas including carports and garages.
  - f. Public and private open space areas with limited passive recreational uses such as trails, bike paths and walking paths.
  - g. Roads and transportation infrastructure.
3. **Prohibited uses within agricultural buffers.** Recreational uses such as parks, picnic areas, playgrounds and ball fields shall not be allowed in an agricultural buffer.
4. **Open space credit.** The agricultural buffer may be counted toward open space requirements as long as the limits on allowed uses are consistent with the requirements of this Section and the Development Code.

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5. The unrestricted uses, restricted uses and prohibited uses within the designated agricultural buffer shall be included as a condition of approval of the approved project.

**F. Agricultural buffer Landscape, Lighting and Irrigation Plan requirements.**

1. A Landscape, Lighting and Irrigation Plan (Plan) shall be required for all agricultural buffers. The Plan shall:
  - a. Graphically depict and label the agricultural buffer.
  - b. Graphically depict and label the following elements within the agricultural buffer:
    - (1) Erosion control measures.
    - (2) Hardscape.
    - (3) Irrigation systems.
    - (4) Landscaping, vegetation, and materials.
    - (5) Lighting.
  - c. Incorporate Low Impact Development (LID) measures to maximize runoff retention and groundwater infiltration on-site.
  - d. Incorporate a fence or other barrier that complies with the Development Code, with a minimum height of six feet, that discourages trespassing and domestic animals from crossing the common lot boundary between the project site and the adjacent agricultural land.
  - e. Prohibit the planting or installation of turf within 50 feet of the adjacent agricultural land unless required by County, State or Federal regulations.
  - f. Be compatible with the surrounding land uses and rural character of the agricultural area.
2. Landscaping, lighting and irrigation are not required within the agricultural buffer. However, if vegetation is included within the buffer, the plant palette shall meet the following requirements:
  - a. The plants shall be compatible with agriculture.
  - b. Shading of adjacent agricultural crops shall be minimized.
  - c. To the maximum extent feasible, the plants shall be fire resistant and drought- tolerant or low water use.
  - d. The plants shall not be considered noxious according to Section 4500 of the California Code of Regulations or considered invasive by the California Invasive Plant Council (Cal-IPC).
3. If a vegetative screen is used to offset an agricultural buffer width increase for production agriculture as described in Subsection D.4.b (Vegetative screening adjacent to production agriculture), the vegetative screen shall be consistent with the requirements in this Subsection F (Agricultural buffer Landscape, Lighting and Irrigation Plan requirements) and shall be in compliance with the following additional criteria:
  - a. The vegetative screen shall consist of two staggered rows of vegetation consisting of a layered canopy with evergreen trees and shrubs with foliage extending from the base to the crown.
  - b. The plants shall thoroughly screen the agricultural use from the non-agricultural use within five years from time of installation.
  - c. The minimum height of trees at maturity shall be 15 feet.
  - d. The vegetative screen shall be at least 25 feet deep.
4. The Landscape, Lighting and Irrigation Plan shall be compatible with the requirements in Subsection E (Allowable uses within agricultural buffers).
5. The applicant shall provide a signed and notarized agreement and a performance security acceptable

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to the Director that guarantees the installation of landscaping, lighting and irrigation and provides for the successful establishment of the agricultural buffer for a minimum of five years. The performance security shall be released upon approval by the Director.

**G. Agricultural buffer maintenance requirements.**

1. A Maintenance Plan shall be required that provides for the maintenance of the agricultural buffer for the life of the project. The Maintenance Plan shall:
  - a. Include provisions for managing agricultural pests such as vertebrate pests, invasive weeds, and crop threatening insects. Integrated Pest Management practices shall be used to the extent feasible.
  - b. Include provisions for removing weeds, trash and debris.
  - c. Provide for regular fuel management and removal of accumulated plant matter within the agricultural buffer so as to minimize fire risk.
  - d. Be consistent with the requirements in Subsection F (Agricultural buffer Landscape, Lighting and Irrigation Plan requirement).
  - e. Provide for the regular maintenance of the elements as described in Subsection F (Agricultural Buffer Landscape, Lighting and Irrigation Plan requirements).

**H. Future conversion of adjacent agricultural land.** If the underlying purpose for the agricultural buffer no longer exists, the review authority, upon application for permit revision in compliance with Division 35.8, (Planning Permit Procedures), may remove agricultural buffer requirements originally required in compliance with this Section.

**I. Findings.** In addition to other findings that may be required, the review authority shall not approve or conditionally approve any application subject to the requirements of this Section for which an agricultural buffer is required unless it first makes all of the following findings:

1. The design and configuration of the agricultural buffer minimizes, to the maximum extent feasible, conflicts between the adjacent agricultural and non-agricultural uses which are the subject of the permit application.
2. The Landscape, Lighting, Irrigation and Maintenance Plans are compatible with the character of the adjacent agricultural land and the rural setting.

**35.30.030 - Bikeways**

Within the Inland area, bikeways shall be provided where determined by the review authority to be appropriate and feasible for recreational and commuting use.

**35.30.040 - Coastal Trails**

Within the Coastal Zone, easements for trails shown on the Comprehensive Plan maps shall be required as a condition of project approval for the portion of the trail crossing the lot upon which a project is proposed.

**35.30.050 - Density**

- A. The densities specified in the Comprehensive Plan are maximums and may be reduced through discretionary project review if the review authority determines that a reduction is warranted by conditions specifically applicable to a site, including topography, geologic or flood hazards, habitat areas, or steep slopes.
- B. Density may be increased for an affordable housing project in compliance with Housing Element policies, provided that any project in the Coastal Zone is found consistent with all applicable provisions of the Local Coastal Program.

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violation fees imposed in compliance with applicable law have been paid. This finding shall not be interpreted to impose new requirements on legal nonconforming uses and structures under the requirements of Chapter 35.101 (Nonconforming Uses, Structures, and Lots).

6. Conditions have been imposed to facilitate the relocation of existing utilities, infrastructure and easements.

**C. Additional required findings for Lot Line Adjustments within an agricultural preserve.** In addition to the findings required under Subsection B. (Required findings for approval) above, the approval of a Lot Line Adjustment proposed on agriculturally zoned lots that are subject to an Agricultural Preserve Contract in compliance with the County Uniform Rules for Agricultural Preserves and Farmland Security Zones shall require that the review authority also make the following findings:

1. The new contract or contracts will enforceably restrict the adjusted boundaries of the lot for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.
2. There is no net decrease in the amount of the acreage restricted. In cases where two lots involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.
3. At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.
4. After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use.
5. The lot line adjustment would not compromise the long-term agricultural productivity of the lot or other agricultural lands subject to a contract or contracts.
6. The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.
7. The lot line adjustment does not result in a greater number of developable lots than existed prior to the adjustment, or an adjusted lot that is inconsistent with the Comprehensive Plan.

**35.30.120 - Outdoor Lighting**

- A. All exterior lighting shall be hooded and no unobstructed beam of exterior light shall be directed toward any area zoned or developed residential.
- B. Lighting shall be designed so as not to interfere with vehicular traffic on any portion of a street.
- C. **Mission Canyon, Santa Ynez Valley and Summerland Community Plan areas.**
  1. **General.** The regulations contained in this Subsection C. shall be known and referred to as the "Outdoor Lighting Regulations for the Mission Canyon, Santa Ynez Valley and Summerland Community Plan Areas."
  2. **Purpose.** The purpose of this Subsection C. is to create standards for outdoor lighting that minimize light pollution, glare, and light trespass caused by inappropriate or misaligned light fixtures. These standards conserve energy and preserve the nighttime sky while maintaining night-time safety, utility, security and productivity. The County of Santa Barbara recognizes that the unique development patterns and environments of Mission Canyon, Santa Ynez Valley and Summerland make them ideal areas for astronomical observation and enjoyment of the nighttime sky. Additionally, resources in the plan areas warrant the protection of nighttime viewsheds and wildlife corridors from light trespass. The County, through the provisions contained herein, intends to preserve and protect the nighttime environment of Mission Canyon, Santa Ynez and Summerland by regulating unnecessary and excessive outdoor lighting.

See "Lighting" within Article 35.11 (Glossary) for definitions related to outdoor lighting used within this Chapter.

3. **Approved materials and methods of installation.** The provisions of this Subsection are not intended to prevent the use of any design, material or method of installation not specifically proscribed by this Subsection provided any such alternate has been approved by the County. The Department may approve any such alternate provided that the proposed design, material or method:
  - a. Provides approximate equivalence to the specific requirements of this Subsection C.
  - b. Is otherwise satisfactory and complies with the intent of this Subsection C.
4. **Prohibited lights and lighting.**
  - a. All illuminated advertising signs shall be off between 11:00 p.m. and sunrise the following day, except that on-premises signs may be illuminated while the business is open to the public.
  - b. All outside illumination for aesthetic and decorative purposes that is not fully shielded (full cutoff) shall be prohibited between 9:00 p.m. and sunrise the following day.
  - c. Except for fully shielded (full cut off) lights, lighting associated with an outdoor recreational facility may only be illuminated between 9:00 p.m. and sunrise the following day to complete a specific organized recreational event, in progress and under illumination in conformance with this Subsection C.
  - d. Search lights, laser source lights, or similar high intensity lights shall not be permitted except in emergencies, by police and/or fire personnel, or for the purposes of gathering meteorological data.
  - e. Mercury vapor lights.
5. **Exemptions.** The following are exempt from the provision of this Subsection C.
  - a. All outdoor lighting fixtures lawfully installed prior to the effective date of this Subsection C (see Subsection C.9 (Effective date of Subsection C)), are exempt from the shielding requirements of this Subsection C, however, they shall be subject to the remaining requirements of this Subsection C.5 except that fully shielded (full cutoff) lights are not subject to a time restriction.
  - b. Fossil fuel lights.
  - c. Traffic control signs and devices.
  - d. Street lights installed prior to the effective date of this ordinance.
  - e. Temporary emergency lighting (e.g., fire, police, public works).
  - f. Moving vehicle lights.
  - g. Navigation lights (e.g., airports, heliports, radio/television towers).
  - h. Seasonal decorations with individual lights in place no longer than 60 days.
  - i. Lighting for special events as provided by Subsection C.8 (Temporary exemption).
  - j. Temporary lighting for agricultural activities of a limited duration, not including unshielded arena lights.
  - k. Except as provided below, security lights of any wattage that are controlled by a motion-sensor switch and which do not remain on longer than 10 to 12 minutes after activation.
    - (1) Security lights shall be required to be fully shielded in order to be exempt in compliance with this Subsection.

## SANTA BARBARA COUNTY CODE - CHAPTER 35 - COUNTY LAND USE & DEVELOPMENT CODE

### Standards for All Development and Land Uses

35.30.120

- l. Light fixtures shown on construction plans associated with building permits approved prior to the effective date of this Subsection C (see Subsection C.9 (Effective date of Subsection C)) are excluded from compliance with this Subsection for the initial installation only.
        - m. Solar walkway lights.
6. **General requirements.** All light fixtures that require a County permit prior to installation shall be subject to the following general requirements:
  - a. All outdoor light fixtures installed after the effective date of this Subsection C (see Subsection C.9 (Effective date of Subsection C)) and thereafter maintained upon private property, public property, or within the public right-of way shall be fully shielded (full cutoff).
    - (1) Within the Summerland Community Plan Area, sign illumination shall only illuminate the signage and shall not spill into adjacent areas.
  - b. All replaced or repaired lighting fixtures requiring a permit shall be subject to the requirements of this Subsection C.
  - c. Light trespass and glare shall be reduced to the maximum extent feasible through downward directional lighting methods.
  - d. Externally illuminated signs, advertising displays and building identification shall use top mounted light fixtures which shine downward and are fully shielded (full cutoff).
  - e. Outdoor light fixtures used for outdoor recreational facilities shall be fully shielded (full cutoff) except when such shielding would cause impairment to the visibility required in the intended recreational activity. In such cases, partially shielded fixtures and downward lighting methods shall be utilized to limit light pollution, glare, and light trespass to a reasonable level as determined by the Director.
  - f. Illumination from recreational facility light fixtures shall be shielded to minimize glare extending towards roadways where impairment of motorist vision might cause a hazard.
7. **Submittal of plans and evidence of compliance.** Any application for a permit that includes outdoor light fixtures (except for exempt fixtures in compliance with Subsection C.5) shall include evidence that the proposed outdoor lighting will comply with this Subsection C. The application shall include:
  - a. Plans showing the locations of all outdoor lighting fixtures.
  - b. Description of the outdoor lighting fixtures including manufacturers catalog cuts and drawings. Descriptions and drawings should include lamp or bulb type, wattage, lumen output, beam angle, and shielding.

The above plans and descriptions shall be sufficiently complete to enable the plan examiner to readily determine whether compliance with the requirements of this Subsection C have been met.
8. **Temporary exemption.** The following temporary exemptions shall not be allowed within the Mission Canyon Community Plan area.
  - a. The Director may grant a temporary exemption, as defined herein, for such activities, including, but not limited to circuses, fairs, carnivals, sporting events, and promotional activities, only if all of the following findings are first made:
    - (1) The purpose for which the lighting is proposed is not intended to extend beyond 30 days.
    - (2) The proposed lighting is designed in such a manner as to minimize light pollution as much as feasible.
    - (3) The proposed lighting will comply with the general intent of this article.

SANTA BARBARA COUNTY CODE - CHAPTER 35 - COUNTY LAND USE & DEVELOPMENT CODE

Standards for All Development and Land Uses

35.30.130

- b. The application for a temporary exemption shall at a minimum include all of the following information:
  - (1) Name and address of applicant and property owner.
  - (2) Location of proposed fixtures.
  - (3) Type, wattage and lumen output of lamp(s).
  - (4) Type and shielding of proposed features.
  - (5) Intended use of lighting.
  - (6) Duration of time for requested exemption.
  - (7) The nature of the exemption.
  - (8) Such other information as the Department may request.
- 9. **Effective date of Subsection C.**
  - a. **Mission Canyon Community Plan area.** The effective date of Subsection C for the Mission Canyon Community Plan area is May 2, 2014.
  - b. **Santa Ynez Community Plan area.** The effective date of Subsection C for the Santa Ynez Community Plan area is November 5, 2009.
  - c. **Summerland Community Plan area.** The effective date of Subsection C for the Summerland Community Plan area is June 6, 2014.

**35.30.130 - Performance Standards**

- A. **Inland area standards.** The following standards apply within all Inland areas.
  - 1. **Location of development.** No urban development shall be permitted beyond the boundaries of land designated on the Comprehensive Plan maps for urban uses, except in Existing Developed Rural Neighborhoods.
  - 2. **Environmental resource management.** The standards in this Section are from the Environmental Resource Management Element, and serve to implement policies and key recommendations contained in other elements of the Comprehensive Plan (e.g., the Seismic Safety and Safety, Conservation, and Open Space Elements).
    - a. Urbanization should be prohibited in all cases on lands subject to one or more of the following environmental factors:
      - (1) Geologic Problems Index V (see Seismic Safety and Safety Element);
      - (2) Reservoirs and areas tributary to existing and proposed reservoirs;
      - (3) Slopes of 30 percent or greater;
      - (4) Existing croplands with a high agricultural suitability rating (see Environmental Resource Management Element) or a Class I or II soil capability classification. However, urban uses may be permitted within urban areas on lots of 10 acres or less;
      - (5) Mineral resource sites;
      - (6) Existing parks and recreation sites, historic sites, and archaeological sites; and
      - (7) Proposed scientific preserves.
    - b. Urbanization should be prohibited except in a relatively few special instances on lands subject to one or more of the following environmental factors:
      - (1) Geologic Problems Index IV (see Seismic Safety and Safety Element);

# EXHIBIT I

# Agricultural Production Report

# 2012



## Santa Barbara County



*The cover.....*

*....depicts the wide variety of commodities  
grown in Santa Barbara County.*

*The cover and graphics were designed by Gus Maio .The world map base image on pages 7-8 was authorized for use by Creative Copy from Merced County. Special thanks to Stephanie Kennedy for heading up the production team for this year's crop report.*

Log #129



Agricultural Commissioner's Office  
Weights & Measures ■ County of Santa Barbara

**Cathleen M. Fisher**  
Commissioner / Director

April 15, 2013

**The Honorable Board of Supervisors**  
Santa Barbara County  
and  
**Karen Ross, Secretary**  
California Department of Food and Agriculture

I am pleased to submit the 2012 Santa Barbara County Agricultural Production Report. This annual report presents statistical information on the acreage, yield, and value of Santa Barbara County's agricultural products.

Agriculture continues to be the County's major producing industry. The 2012 gross production was valued at \$1,291,008,000. This is a \$96.6 million (8.1 %) increase in gross value when compared with the 2011 figure. 2012 is the seventh year in a row that agriculture surpassed the one billion dollar benchmark.

Santa Barbara County's diversified agriculture continues to provide a strong base for our local economy. Through the multiplier effect, it has a local impact in excess of 2.5 billion dollars.

It must be emphasized that the values in this report are gross values and in no way reflect net income. All of the various costs of production must be subtracted to determine net income.

I wish to express my appreciation for the cooperation of all the growers, organizations and individuals who provided the information necessary for this report and special thanks to the members of my staff who worked so hard at compiling it.

Respectfully submitted,

Cathleen M. Fisher  
Agricultural Commissioner

## Summary

		ACREAGE	FOB VALUE
Vegetable Crops	2012	66,460	\$437,426,911
	2011	66,510	\$437,149,140
Fruit & Nut Crops	2012	38,963	\$606,460,368
	2011	38,527	\$519,664,230
Nursery Products	2012	1,885	\$183,203,596
	2011	2,072	\$179,288,684
Field Crops	2012	599,742	\$11,980,820
	2011	600,414	\$11,890,527
Seed Crops	2012	2,008	\$9,331,951
	2011	2,094	\$9,635,385
Livestock and Poultry	2012		\$34,143,804
	2011		\$28,662,090
Livestock, Poultry & Apiary Products	2012		\$8,460,550
	2011		\$8,089,000
<b>Total</b>	2012	709,058	\$1,291,008,000
	2011	709,617	\$1,194,379,056

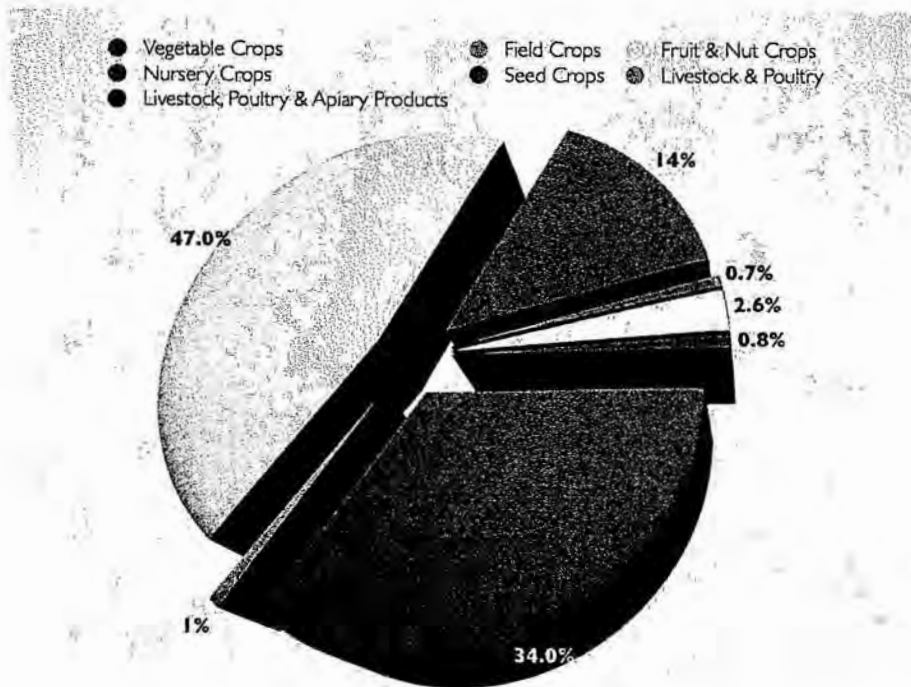


EXHIBIT J

**County of Santa Barbara**  
**BOARD OF SUPERVISORS**



*First District - Salud Carbajal*  
*Second District - Janet Wolf, Vice Chair*  
*Third District - Doreen Farr*  
*Fourth District - Peter Adam*  
*Fifth District - Steve Lavagnino, Chair*  
*Mona Miyasato, County Executive Officer*

**Action Summary**

**Tuesday, June 3, 2014**

**9:00 AM**

**COUNTY ADMINISTRATION BUILDING**  
**BOARD HEARING ROOM, FOURTH FLOOR**  
**105 EAST ANAPAMU STREET, SANTA BARBARA**

The Board of Supervisors meets concurrently as the Board of Directors of the Flood Control & Water Conservation District, Water Agency, the Santa Barbara Fund for Public and Educational Access and other Special Districts.

Live Web Streaming of the Board of Supervisors Meetings, Agendas, Supplemental Materials and Minutes of the Board of Supervisors are available on the internet at: [www.countyofsb.org](http://www.countyofsb.org).

2) SHERIFF

14-00410

HEARING - Consider recommendations regarding a Contract for Law Enforcement Services on the Chumash Reservation, as follows: (EST. TIME: 45 MIN.)

- a) Approve and authorize the Chair to execute a Contract for Law Enforcement Services with the Santa Ynez Band of Chumash Indians effective July 1, 2014; and
- b) Determine the action is exempt from the California Environmental Quality Act pursuant to California Environmental Quality Act (CEQA) Guidelines section 15061(b)(3).

COUNTY EXECUTIVE OFFICER'S RECOMMENDATION: POLICY

*HEARING TIME: 10:15 AM - 11:15 AM (1 HR)*

Received and filed staff presentation and conducted public hearing.

A motion was made by Supervisor Farr, seconded by Supervisor Adam, that this matter be Acted on as follows:

a) and b) No action taken.

Requested that the parties negotiate an amended agreement taking into consideration the concerns expressed by the Board at the hearing of June 3, 2014 and to return to the Board as appropriate.

The motion carried by the following vote:

Ayes: 3 - Supervisor Wolf, Supervisor Farr, and Supervisor Adam

Noes: 2 - Supervisor Carbajal, and Supervisor Lavagnino

County Of Santa Barbara



Mona Miyasato  
County Executive Officer

105 East Anapamu Street, Room 406  
Santa Barbara, California 93101  
805-568-3400 • Fax 805-568-3414  
www.countyofsb.org

Executive Office

June 11, 2014

Amy Dutschke, Regional Director  
Bureau of Indian Affairs - Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825

Rec Dir \_\_\_\_\_  
Dep RD Trust \_\_\_\_\_  
Dep RD IS \_\_\_\_\_  
Route \_\_\_\_\_  
Response Required \_\_\_\_\_  
Due Date \_\_\_\_\_  
Memo \_\_\_\_\_ Ltr \_\_\_\_\_  
Fax \_\_\_\_\_

Re: Notice of Final Environmental Assessment Comment Period – Extension Request

Dear Regional Director Dutschke:

The County of Santa Barbara is formally requesting a 45-day extension of the comment period on the Final Environmental Assessment for the proposed Fee to Trust acquisition of the property commonly referred to as Camp 4 to allow sufficient time for review, consideration and formulation of a complete response. The County believes that extending the comment period to August 14, 2014 is reasonable and fair given the significance of the decision at hand and the issues addressed in the environmental review.

The County received the Final Environmental Assessment on May 30, 2014 from the Bureau of Indian Affairs and has been diligently analyzing it since that time. The County, however, requires more than 30 days to carefully consider all elements of the Final Environmental Assessment submitted by the Bureau of Indian Affairs. Given the substantial number of comments provided by the County of Santa Barbara in response to the Draft Environmental Assessment (August 2013), the County cannot adequately review, assess the quality of the response presented in the Final Environmental Assessment and determine whether further comment is warranted within the 30-day comment period afforded in the Notice of Availability.

Additionally, the Bureau of Indian Affairs received 1,129 comment letters on the Draft Environmental Assessment from individuals, as well as, state and local agencies. The County requires adequate time to review those comments and the Bureau's response found in Chapter 2.0 and 3.0 of the Final Environmental Assessment. Adequate review of this lengthy collection of comments and the Bureau's response will greatly inform the County's comments, if any, on the Final Environmental Assessment.

The County believes that the additional 45-days are needed to allow for appropriate review of and response to this application and its environmental consequences. In addition, this brief extension of time furthers the goal of promoting public involvement in the environmental review process without significantly delaying that process. Thank you for your prompt consideration of this request.

Sincerely,

Mona Miyasato  
County Executive Officer

PACIFIC REGIONAL  
JUN 17 AM 9:03  
2014

Renée E. Bahl  
Assistant County Executive Officer  
rbahl@co.santa-barbara.ca.us

Terri Maus-Nisich  
Assistant County Executive Officer  
tmaus@countyofsb.org

Dennis Bozanich  
Assistant to the County Executive Officer  
dbozanich@co.santa-barbara.ca.us

L2-01

# **PRIVATE CITIZENS AND COMMERCIAL ENTITIES (P)**

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COMMENT LETTERS

June 18, 2014

Amy Dutschke, Regional Director  
Bureau of Indian Affairs (BIA)  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, ca. 95825

Reg Dir \_\_\_\_\_  
Dep RD Trust \_\_\_\_\_  
Dep RD IS \_\_\_\_\_  
Route DECRMS  
Response Required \_\_\_\_\_  
Due Date \_\_\_\_\_  
Memo \_\_\_\_\_ Ltr \_\_\_\_\_  
Fax \_\_\_\_\_

**SUBJECT: Comment, Environmental Assessment, Santa Ynez Band of Chumash Mission Indians, "Camp 4", approximately 1,400 acres, Santa Ynez, Ca. fee-to-trust.**

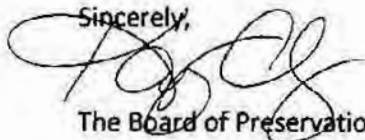
Dear Ms. Dutschke,

P.O.L.O. requests that all of P.O.L.O.'s previous comments on all fee-to-trust applications and the "TCA" submitted by Preservation of Los Olivos, P.O.L.O., to the BIA be included as comments to this final EA.

They are incorporated herein by reference.

**These comments do not include every impact, and they are not intended to limit comments on any future documents regarding "Camp 4", including future FONSI's and Environmental Impact Studies.**

Sincerely,



The Board of Preservation of Los Olivos, P.O.L.O.  
P.O. Box 722  
Los Olivos, Ca. 93441  
[www.polosyv.org](http://www.polosyv.org)

P1-01

RECEIVED  
JUN 24 AM 7:00  
PACIFIC REGIONAL  
OFFICE

---

From: Rydzik, John [john.rydzik@bia.gov]  
Sent: Friday, July 11, 2014 8:47 AM  
To: Trenton Wilson  
Cc: Chad Broussard; Amy Dutschke  
Subject: Fwd: FW: EA Comments, SY Chumash Mission Indians

Trent,

See attached comment letters, more comment letters to come after this email.

John Rydzik

Chief, Division of Environmental, Cultural Resources Management & Safety Bureau of Indian Affairs

2800 Cottage Way

Sacramento, CA 95825

(916) 978-6051

----- Forwarded message -----

From: Amy Dutschke <amy.dutschke@bia.gov<<mailto:amy.dutschke@bia.gov>>>  
Date: Fri, Jul 11, 2014 at 8:38 AM  
Subject: FW: EA Comments, SY Chumash Mission Indians  
To: John Rydzik <john.rydzik@bia.gov<<mailto:john.rydzik@bia.gov>>>, Chad Broussard  
<chad.broussard@bia.gov<<mailto:chad.broussard@bia.gov>>>

FYI

From: Kathy Cleary [<mailto:keleary@cfinc.us><<mailto:keleary@cfinc.us>>]  
Sent: Thursday, July 10, 2014 5:09 PM  
To: amy.dutschke@bia.gov<<mailto:amy.dutschke@bia.gov>>  
Subject: EA Comments, SY Chumash Mission Indians

Dear Regional Director Amy Dutschke,

Below please find P.O.L.O.'s additional comments to the Environmental Assessment: Santa Ynez Band of Chumash Mission Indians 1,400 acres, "Camp 4".

This below letter was also mailed this date and should arrive to you Saturday.

Thank you,

Kathy Cleary

(BELOW PLEASE FIND A COPY OF THE ABOVE ATTACHED LETTER IN CASE YOU CANNOT OPEN IT)

July 10, 2014

**Amy Dutschke, Regional Director Bureau of Indian Affairs (BIA)**

**Pacific Regional Office**

**2800 Cottage Way**

**Sacramento, Ca. 95825**

**SUBJECT: P.O.L.O. ADDITIONAL Comments**, Environmental Assessment, Santa Ynez Band of Chumash Mission Indians, "Camp 4", approximately 1,400 acres, Santa Ynez, Ca. fee-to-trust.

**P.O.L.O. REQUESTS a FULL ENVIRONMENTAL IMPACT STUDY (E.I.S.) and an outside agency to make the final determination on the E.I.S.**

Dear Regional Director Dutschke,

Preservation of Los Olivos (P.O.L.O.) is a group of citizens who are dedicated to preserving the highest quality of life in our rural community. Our mission is to be actively involved with educating the community on issues and local, state, and federal government in their decision making in order to ensure the balance of our rural environment, local business economy, and in defense of the public's health and safety. We endeavor to assure conscientious stewardship of our inherent resources: water, air, open spaces, habitat areas, agriculture, local businesses, cultural resources and our heritage that make up the quality of life we enjoy in the Santa Ynez Valley.

P2-01

P.O.L.O. has submitted comments on the Camp 4 Environmental Assessment, both the original EA and the revised EA. We ask that all previous EA comments be included, in addition to all NEPA arguments and other arguments P.O.L.O. presented to the BIA and IBIA in the 6.9 acre fee-to-trust appeal, and all comment letters to the 5.68 fee-to-trust application, including the 2005 Letter from the Office of the Governor.

P2-02

P.O.L.O. is writing this letter to provide *additional comment* on the "Camp 4" EA to better your understanding of the concern of our members who believe their lives will be forever changed, their quality of lives will be devastated, and their properties will be severely devalued by the acceptance of "Camp 4" into federal trust.

P2-03

### **The Santa Ynez Valley**

The Santa Ynez Valley is a spectacular, bucolic valley in Santa Barbara County, Ca. Development is

8/11/2014

Untitled attachment 00010.htm

carefully controlled by very rigorous County land use rules and regulations. Community members are active and involved in development and land use. The Santa Ynez Valley Community Plan (SYVCP) was recently completed after ten years. Community members volunteered hundreds of hours in the development of the SYVCP. This plan is a detailed and thorough framework to ensure careful development for water resources, public safety, maintained roads and highways, and clean air quality.

Generations of families live in the Valley. Visitors from all over the Country and world have chosen to buy property to live and work and raise their families here. This is because of the spectacular beauty and the lifestyle that includes small towns and the ability to know its elected officials, and be actively involved in local government and its decision-making.

P2-03  
(Cont.)

The passion of the people who live in and love this Valley is easy to understand. The Valley is an open, agricultural community surrounded by beautiful mountain ranges. Rolling hills studded with oak trees provide the topography for a thriving wine industry. The location and weather is perfect for those who love and ride horses, and who raise cattle and crops. The land, beauty, small towns and relationships are why many people have chosen this Valley to raise their children and build businesses.

### Placement of Land into federal trust

This is why the people of the Santa Ynez Valley have tremendous concern over what could happen to this beautiful valley and their quality of lives by the placement of "Camp 4", over 1,400 acres, into federal trust. The placement of land into trust disrupts the SYVCP and established County development process. Property owners would have no reasonable expectations of future development that could be next door to them or down the street. Tribal governments claim they are entitled to function outside the established County process and have unrestricted development rights. There would be no way to protect resources and ensure public health and safety.

They see their lives forever changed.

"Camp 4", this 1,400 acres in the heart of the Santa Ynez Valley, is the size of the City of Solvang. The Bureau of Indian Affairs has stated that it will not place development restrictions on land in trust. To give an example of the possible future of "Camp 4", on page 1-6 of the EA, the Santa Ynez Band state that they need this 1,400 acres for 1,300 lineal descendants and to provide for future generations. This raises the question of how many homes and what will the commercial development be to provide for the current tribal members, the 1,300 lineal descendants, and future generations? Unrestricted development with the potential of massive increases in density and change of use to commercial would have tremendous impact on the Santa Ynez Valley and the people who live here. The tribal government has no accountability to the surrounding community or other Santa Barbara County citizens that it will impact. Community members who have chosen to live here to be involved with government decision-making will no longer be able to participate.

P2-04

The Bureau of Indian Affairs, and Department of the Interior can no longer make their decisions to place land into federal trust in a vacuum – promoting and considering only the needs of people of Indian descent. Thousands of people in the Santa Ynez Valley and Santa Barbara County who have chosen to live here for the above reasons and many more, will be harmed by the placement of this 1,400 acres into federal trust.

We are entitled to unbiased and fair representation.

## Comment Letter P2 (Cont.)

8/11/2014

Untitled attachment 00010.htm

In addition to the above reasons, P.O.L.O. submits this below list summary of comments of previous comment letters to be included. *These comments do not include every impact, and they are not intended to limit comments on any future documents regarding "Camp 4", including future Environmental Impact Studies.*

1. All previous EA comments by P.O.L.O. on "Camp 4".
2. All previous NEPA comments by P.O.L.O. on all fee-to-trust applications by the Santa Ynez Band of Chumash Mission Indians.
3. All arguments by P.O.L.O. presented to the B.I.A and IBIA in the 6.9 acre fee-to-trust appeal, including: The Supreme Court in *Carcieri* held that only tribes that were federally recognized in 1934 are entitled to the fee-to-trust benefits of the 1934 Indian Reorganization Act. The Santa Ynez Band was not a federally recognized tribe in 1934. They were not formally recognized by the federal government until 1964 when their constitution, articles of incorporation, and bylaws were approved by the Secretary of Interior. The Santa Ynez Band are not entitled to fee-to-trust benefits.
4. All previous comments by P.O.L.O. on the 5.68 fee-to-trust application, including the 2005 Letter from the Office of the Governor.
5. All NEPA comments P.O.L.O. has presented to the B.I.A. and IBIA.
6. P.O.L.O. requests that the BIA relinquish its role as lead agency regarding this EA to an alternate agency, including but not limited to the Council of Environmental Quality, that will provide objective decision-making on this Environmental Assessment to ensure that the rights of all people are represented.
7. Once in federal trust, the use of the land can be changed. 25 CFR Part 151 does not authorize the Department of the Interior to impose restrictions on a Tribe's future use of land that has been taken into trust.
8. NEPA requires that all foreseeable uses be considered. An E.I.S. is required to consider all foreseeable uses.
9. The EA fails to address the impact of the "TCA". The Santa Ynez Band withdrew it without prejudice. It can be reinstated at any time.
10. The EA fails to address "commercial enterprises", page 1-7, "Purpose and Need": "Secondarily, the trust acquisition of the proposed trust land would also allow full tribal governance over its existing agricultural operations on the property; thereby allowing the Tribe to continue to build economic self sufficiency through diversified tribally- governed commercial enterprises. Under the Proposed Action, the tribal government would be able to fully exercise its sovereignty over its own future growth."
11. The EA fails to address the impact on water. Potential unrestricted development could impact the water supply to residents in the Santa Ynez Valley and Santa Barbara. In addition, tribes are making claims to water rights. A Hastings College Law Review Article, Summer, 2013 states: "...This note will lay out arguments the Santa Ynez Chumash Band of Indians could use to secure a right to groundwater..." (Appendix I or go to: [http://www.palosvy.org/hotTopics/pdf/Research-LR-Santa-Ynez-Ground-Water-19%20HastingsWNWJEnLPoly\\_277.pdf](http://www.palosvy.org/hotTopics/pdf/Research-LR-Santa-Ynez-Ground-Water-19%20HastingsWNWJEnLPoly_277.pdf))

P2-05

P2-06

P2-07

## Comment Letter P2 (Cont.)

8/11/2014

Untitled attachment 00010.htm

12. The EA fails to address the TCA and fee-to-trust transfer of land outside the Santa Ynez Valley Community Plan (SYVCP). The SYVCP was adopted in 2009 after 10 years. It provides guidance for thoughtful decision-making. The TCA removes land from the SYVCP.

(<http://longrange.sbcountyplanning.org/planareas/santaynez/documents/Board%20of%20Supervisors%20Adoption/Electronic%20Docket/Master%20Final%2010-15-09.pdf>)

Santa Barbara attorney Barry Cappello informed Congresswoman Capps in 2011 about the removal of the 1,400 acres from the Santa Ynez Valley Community Plan outside of the established process. (See Appendix J or go to: [http://www.polosyv.org/hotTopics/pdf/11-18-11-CN\\_Lois\\_Capps.pdf](http://www.polosyv.org/hotTopics/pdf/11-18-11-CN_Lois_Capps.pdf))

P2-08

The Santa Ynez Band is required to comply with applicable State and local law, including the Santa Ynez Valley Community Plan, regardless of whether the lands are taken into trust. See *Hawaii v. Office of Hawaiian Affairs*, 129 S.Ct. 1436 (2009). "See also Secretary of Interior's Notice Regarding Indian Property In California, Adoption and Application of State Law, 30 Fed. Reg. 8722 (1965)."

13. The EA fails to address increased crime that occurs on land in trust- Indian Reservations. This is well documented: "The Country's 310 Indian reservations have violent crime rates that are more than two and a half times higher than the national average, according to data compiled by the Justice Department. American Indian women are 10 times more likely to be murdered than other Americans. They are raped or sexually assaulted at a rate four times the national average." (Appendix K or go to: <http://www.nytimes.com/2012/02/21/us/on-indian-reservations-higher-crime-and-fewer-prosecutions.html?pagewanted=1&r=0>)

P2-09

14. The EA fails to address the impact of the Santa Ynez Band's claim of land as aboriginal territory on the State of California. In a 2005 letter from the Office of Governor Schwarzenegger, the Governor wrote: "Further, while the Tribe seeks to justify the acquisition as a re-acquisition of the "Chumash cultural group's" aboriginal territory, it has not demonstrated either a political entitlement to that territory...Allowing up to 108 federally recognized tribes in California to place into trust land for which they have an aboriginal claim could involve more than 75 million acres... Such a result would constitute federal interference with the powers reserved to the State in a manner patently at odds with the intent of the Tenth Amendment." (See Appendix L or go to: <http://www.polosyv.org/hotTopics/pdf/LetterFromGov.pdf>)

P2-10

15. The EA fails to address the Williamson Act, and impact of the removal of 1,400 acres for the fee-to-trust from the Williamson Act.

P2-11

16. The EA fails to address the impact of development on the Scenic Highway.

17. The EA fails to address recorded easements.

P2-12

18. The EA was completed by AES. There are allegations that AES has violated NEPA with its work with other tribes: "Martin found that the Cowlitz tribe, its attorneys, partners and lobbyists had "at least 71 formal telephonic or in-person meetings" with AES while the lead agency, the Bureau of Indian Affairs (BIA), had virtually no active role in the preparation of the environmental study. This is illegal under NEPA." Because of these allegations, a different, more independent consultant should be hired to prepare the EIS to avoid future issues. (See Appendix M or go to: <http://archive.constantcontact.com/fs096/1102324248697/archive/1109368311474.html>)

P2-13

**Conclusion: This Environmental Assessment is inaccurate and incomplete. The Bureau of Indian**

P2-14

## Comment Letter P2 (Cont.)

8/11/2014

Untitled attachment 00010.htm

**Affairs is unable to provide fair review to represent and protect all citizens.**

***P.O.L.O. requests an Environmental Impact Statement and referral to an outside agency for its review.***

**These comments do not include every impact, and they are not intended to limit comments on any future documents regarding "Camp 4", including future Environmental Impact Studies.**

Sincerely,

The Board of Preservation of Los Olivos,

P.O.L.O.

P.O. Box 722 Los Olivos, Ca. 93441

[www.polosyv.org](http://www.polosyv.org)

**BELOW PLEASE FIND P.O.L.O.'s JUNE 18th COMMENT LETTER**

kathy cleary <[kcleary@cfcinc.us](mailto:kcleary@cfcinc.us)>

To: [amy.dutschke@bia.gov](mailto:amy.dutschke@bia.gov)

CORRECTED: EA COMMENT, 1400 acres

Dear Amy,

Please delete the previous letter emailed earlier. Here is P.O.L.O.'s comment letter:  
This letter will also be mailed by US mail.

Thank you,

Kathy Cleary  
P.O.L.O.

June 18, 2014

Amy Dutschke, Regional Director

Bureau of Indian Affairs (BIA)

Pacific Regional Office

2800 Cottage Way

Sacramento, ca. 95825

P2-14  
(Cont.)

## Comment Letter P2 (Cont.)

8/11/2014

Untitled attachment 00010.htm

**SUBJECT: Comment, Environmental Assessment, Santa Ynez Band of Chumash Mission Indians, "Camp 4", approximately 1,400 acres, Santa Ynez, Ca. fee-to-trust.**

Dear Ms. Dutschke,

P.O.L.O. requests that all of P.O.L.O.'s previous comments on all fee-to-trust applications and the "TCA" to the BIA be included as comments to this final EA.

They are incorporated herein by reference.

**These comments do not include every impact, and they are not intended to limit comments on any future documents regarding "Camp 4", including future FONSI's and Environmental Impact Studies.**

Sincerely,

The Board of Preservation of Los Olivos, P.O.L.O. P.O. Box 722 Los Olivos, Ca. 93441 [www.polosyv.org](http://www.polosyv.org)

**BELOW PLEASE FIND P.O.L.O.'s OCTOBER 3, 2013 COMMENT LETTER**

October 3, 2013

Amy Dutschke, Regional Director Bureau of Indian Affairs (BIA) Pacific Regional Office  
2800 Cottage Way

Sacramento, ca. 95825

**SUBJECT: Comment, Environmental Assessment, Santa Ynez Band of Chumash Mission Indians, "Camp 4", approximately 1,400 acres, Santa Ynez, Ca. fee-to-trust.**

Dear Ms. Dutschke,

Preservation of Los Olivos, P.O.L.O., is a grass roots citizen group in the Santa Ynez Valley representing approximately 1,000 people. P.O.L.O. has appeared as an interested party in BIA and IBIA cases, and has commented on many issues regarding BIA decision-making that is aggressively promoting expansion of Tribal land into federal trust. The BIA's expansion of Tribal land into federal trust is of critical importance to our community, and communities throughout the United States. Tribal

P2-15

P2-16

## Comment Letter P2 (Cont.)

8/11/2014

Untitled attachment 00010.htm

governments claim that when land is in federal trust it is outside local and state jurisdiction and taxation. Tribal government leadership is not accountable to the non-Indian community - the non-Indian community does not elect them - yet their decision-making impacts the community.

Impacts of placing land into federal trust include public health, safety and welfare, property values, and also taxation. Tribal businesses on land in trust are not subject to taxation. Consequently, expansion impacts such as crime, water usage, road repair and school funding are paid for by the taxpayer. In addition, even Tribes with casinos generating hundreds of millions of dollars in revenue receive federal subsidies from taxpayer dollars.

The BIA has consistently ignored these impacts on communities.

Please refer to [www.polosyv.org](http://www.polosyv.org) for our Mission Statement and for documents demonstrating P.O.L.O.'s longstanding involvement with this issue. In particular, refer to P.O.L.O.'s Written Statement for the Record submitted to the United States House of Representatives House Resources Committee Subcommittee on Indian and Alaska Native Affairs, July 22, 2011.

(<http://www.polosyv.org/images2/pages/index/POLOCongressmanYoung4.pdf>)

P2-16  
(Cont.)

Amy Dutschke, Regional Director  
Bureau of Indian Affairs (BIA)  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, ca. 95825

RECEIVED  
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JUL 12 2014

SUBJECT: Comment Environmental Assessment, Santa Ynez Band of Chumash  
Mission Indians, "Camp 4", approximately 1,400 acres, Santa Ynez, CA fee-to-trust.

Dear Ms. Dutschke,

The proposed change in land use from private to fee-to-trust will have an enormous environmental as well as economic impact on the Santa Ynez Valley in California. Native oaks and other plants will be taken down to make way for many new homes. There already is a water shortage in the Santa Ynez Valley, and these additional homes and other buildings or establishments as well as a proposed golf course will dramatically increase this shortage. The loss of taxation will make it more difficult for the school system of the Santa Ynez Valley to provide the high quality of education it currently provides. The increase in traffic coming into the Santa Ynez Valley due to the Chumash Casino will continue to add to air pollution, demand for water and sewer as well a loss of habitat for local plants and animals.

P3-01


There are many homes available for the Chumash to purchase and live in the community without impacting the environment. If the Chumash need to build housing, it can be accomplished by going through regular channels in Santa Barbara County. I believe that with their new wealth the Chumash are intent on obtaining through fee-to-trust as much land as possible in the Santa Ynez Valley. Although their current leadership state that they will not build another casino on "Camp 4", once the property is theirs through fee-to-trust, they could do it. That would be devastating to the environment, increasing traffic, air pollution, demand for water and sewer and loss of habitat for local species of plants and animals.

In addition, I request that all of P.O.P.O.'s previous comments on all fee-to-trust applications and the "TCA" submitted by Preservation of Los Olivos, P.O.L.O., to the BIA be included as comments to this final EA. They are incorporated herein by reference.

P3-02

These comments do not include every impact, and they are not intended to limit comments on any future documents regarding "Camp 4", including future FONSI's and Environmental Impact Studies.

Sincerely,

  
Kristina Petersen  
234 3RD Street  
Solvang, CA 93463

Reg Dir ad  
Dep RD Trust ✓  
Dep RD IS ✓  
Route brockus  
Response Required ✓  
Due Date ✓  
Memo ✓ Ltr ✓  
Fax ✓

Mr. Chad Broussard, Environmental Protection Specialist  
Dept. of the Interior, Bureau of Indian Affairs  
Pacific Regional Office, Suite 2820  
2800 Cottage Way  
Sacramento, CA 95825

June 13, 2014

Subject: Request of Time Extension for Comment Period – Final Environment  
Assessment for Camp 4 for Santa Ynez Band of Chumash Indians

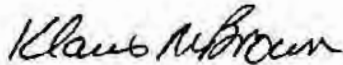
Dear Mr. Broussard,

I am a resident of Rancho Estates in Santa Ynez, Ca. My home is located within a half mile or so of the 1433 acre Camp 4 site that is the subject of this Final Environmental Assessment (EA) as part of the fee-to-trust process. I provided several pages of comments on the initial 1000 page EA to the BIA on 7 October 2013. Based on my previous comments, I am very interested in this EA now that it is available for comment by the public.

This EA is almost 2000 pages as prepared by the Chumash Tribe and the BIA. It comprises information on the important subjects of land and water uses and resources, air quality, impacts of wildlife, and traffic, to name a few. All of the subjects are complex, clearly interrelated, and difficult to understand without adequate time for an individual to assess and comment on such a lengthy, detailed document. I am also concerned about the potential references to the Tribal Consolidation Area (TCA) which has been withdrawn by the Tribe.

Therefore, I request a 60 day extension beyond the current June 30, 2014 deadline for public comment. As part of a public process, sufficient time for all individuals and entities to provide complete and meaningful comments on this important local issue is in the interest of all concerned. Thank you in advance for your timely approval of this request.

Sincerely



Klaus M. Brown  
5465 Baseline Ave  
Santa Ynez, CA 93460

CC: Amy Dutschke, BIA Regional Director

P4-01

P4-02

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RECEIVED

**Lawrence E. Hunt  
Consulting Biologist**

Amy Dutschke, Regional Director  
Bureau of Indian Affairs, Pacific Regional Office  
2800 Cottage Way  
Sacramento, California 95825

10 July 2014

**Subject: Comments on Final Environmental Assessment for Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust, Santa Ynez Valley, Santa Barbara County, California.**

Ms. Dutschke,

I have reviewed the Final Environmental Assessment (EA), dated 14 May 2014, for this project, including the Response to Comments, the Final Biological Assessment (BA), dated November 2013, attached as Appendix E, and the Request For Concurrence Letter to the USFWS, attached as Appendix F to the EA. I have the following comments regarding potential project-related impacts to biological resources.

P5-01

In general, the BIA's responses to comments in the Final EA fall short of addressing deficiencies noted in my previous review letter. The general tone of the responses is "we did an adequate job the first time and no new analyses are required". While the magnitude of impacts may be less under Alternative B (reduced development intensity), there remain significant, unavoidable impacts to individual species, their habitats, and habitat connectivity and wildlife movement associated with either project alternative. These impacts require preparation of an Environmental Impact Statement (EIS).

P5-02

I will address various Responses to Comments in the order presented in the Final EA:

*P996-02, p. 3-194 and P998-26, p. 3-201:* Bald eagles could use oak trees on-site as temporary roosts; golden eagles likely forage on-site. Impacts to these, and other federally-regulated species (such as mountain plover), are not adequately analyzed in the Final EA. The stated mitigation measure that nest surveys will be conducted 14 days in advance of construction is ineffective if construction begins outside the nesting season because the project calls for the removal of up to 70 oak trees and placement of residential development in grassland and savanna habitats. Without knowing how birds use the project area during the breeding season, impacts to resident and migratory nesters cannot be adequately assessed. The list of bird species observed on-site during the field surveys for the updated BA lists a fraction of the species that occur on-site as residents or migratory species, as noted in the Santa Barbara Audubon Society letter. Systematic breeding bird surveys (including owl surveys), conducted by a qualified ornithologist and encompassing the breeding season, will provide an accurate environmental baseline from

P5-03

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which to analyze impacts to avian resources in the project area and nesting and seasonal habitat use by migratory species.

P5-03  
(Cont.)

**P998-04, p. 3-195 and P998-28, p. 3-202:** The response fails to account for the fact that the most of the project area is connected to larger open spaces northeast, southeast, southwest, and south of the project area. Even a casual examination of GoogleEarth imagery reveals that the project area provides a broad habitat connection between foothill regions in the San Rafael Range to the northeast and the Santa Ynez River and foothills of the Santa Ynez Mountains to the south and southwest. The response is based upon a narrow and misleading interpretation of what constitutes dispersal habitat for wildlife and plants. The response assumes, without evidence, that the degraded seasonal drainage that traverses the northwestern portion of the project area is the "...primary mechanism for linking the project site to other habitats located to the north and southwest of the project site." The response goes on to state, "Because it [the project area] is bounded on a majority of sides by non-habitat land uses, the property does not serve to link any other significant natural habitat regions to one another; therefore, no additional wildlife corridors were identified in the EA." Based on this interpretation, mitigation measures aimed at protecting the narrow, degraded seasonal drainages on-site as the only movement corridors completely misses the value of the project area as a whole for wildlife and plant dispersal. A qualified biologist, using tracking cameras strategically placed along drainages and upland areas and monitoring seasonally, would provide an accurate baseline for analyzing potential project-related impacts to wildlife movement and habitat fragmentation.

P5-04

The latter response states that "Only one wildlife corridor was identified on the project site." What methods were employed to identify that this is a wildlife corridor, and that no others exist on-site? Again, the response assumes that establishing narrow buffer zones around a few seasonal drainages will protect and promote wildlife movement through the site, while completely ignoring the significance of connected, extensive upland habitat in wildlife movement.

**P998-12, p. 3-196:** The modified BA, dated November 2013, notes that focused botanical surveys were only conducted during a 7-week window in one year (early March and late April 2012), not over three seasons as stated in the Response to Comment. Considering that seasonal precipitation was significantly below average during the 2011/2012 and 2012/2013 rainy seasons, focused surveys should be conducted during at least one season of average or above-average precipitation.

P5-05

**P998-15, p. 3-197:** The Tribal Oak Tree Ordinance allows for oak trees to be removed if they interfere with tribal development plans. Additionally, the Ordinance does not include blue oaks, which is the keystone species for oak savanna on-site. Functionally, the Ordinance affords little or no protection to oaks under the proposed development scenarios. Best Management Practices developed for the RMZs for oak woodland on-site (p. 2-6 of Final EA) allows for cutting, trimming, and pruning oak trees, and states that, "...ground disturbance would be limited within the dripline of any oak tree in the zone..." The latter statement appears to allow "limited" ground disturbance within the dripline of oaks, whatever that means. Disturbance within the dripline will disrupt the small feeder roots upon which mature oak trees depend and will disrupt

P5-06

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recruitment of oaks by disturbing rooted seedlings (acorns). These types of unregulated and unmonitored BMPs will degrade individual oak trees and oak woodland/savanna on-site.

P5-06  
(Cont.)

*P998-16, p. 3-197:* The Final EA, as with the Draft EA and BA, does not describe minimum mapping units for vegetation mapping, but it appears from Figure 3-4 in the Final EA that oak trees in the southern half of the project area that appear in densities comparable to those mapped as oak savanna in the north, are not mapped. Oak savanna does not have to be “dominated by oaks”. By its very definition, grassland is devoid of trees. The presence of a single oak tree changes the nature and use of grassland around that tree. Grassland environments with widely spaced oak trees (oak savanna) provide distinctly different foraging, nesting, and microhabitat opportunities for wildlife compared to grasslands devoid of trees. Figure 3-4 and the analysis of impacts underestimate the extent of oak savanna across the project area. Given that both Alternatives A and B result in significant loss of individual oak trees and fragmentation of existing oak savanna habitat, these project designs should be interpreted as Class I impacts to these resources.

P5-07

*P998-17, p. 3-198 and P998-31, p. 3-203:* The response simply repeats the “mitigation” measure. The language is confusing and affords no functional protection for oak resources because it uses words such as “limited” and “whenever feasible”. Limited to what and who decides what is feasible?

The oak tree mitigation program in Section 5.4 of the Final EA falls far short of protecting or enhancing oak resources impacted by either development scenario:

- 70 oak trees are proposed for removal. Routine County and State replacement standards require a minimum 10:1 replacement ratio in order to have any chance of getting a no net loss of oak trees. This would require planting and monitoring survivorship of a minimum of 700 trees. The Final EA and Tribal Oak Tree Ordinance propose no such ratio, just a vague goal of “no net loss” of oak trees.
- A qualified biologist, not a “qualified arborist”, should survey trees that will be removed. Specifically, resident hole-nesting species, such as acorn woodpeckers and bats, may be using trees as permanent nests/roosts, and/or granary trees. Granary trees should be protected because they provide a food storage resource for multiple woodpecker groups. However, because the analyses were limited only to project-related effects on federally-listed species, these types of impacts to non-listed but nonetheless regionally important species were not considered.
- A qualified restoration biologist, not an arborist, should prepare, implement, and monitor any revegetation plan. Arborists are not trained biologists.

P5-08

Perhaps most importantly, the oak tree mitigation program focuses oak replacement (planting) on a few drainages and vegetated swales and their narrow buffers. What about the broad upland oak savanna habitats and grassland that formerly was savanna but from which trees were removed? On-site savanna habitat currently supports only mature trees (mostly blue oaks) with little or no recruitment as a result of decades of livestock grazing and oak removal. A primary goal of any oak tree mitigation program should be enhancement of existing oak savanna, including

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prohibiting land uses that negatively impact oak survivorship and recruitment. The Tribe should consult with oak woodland and oak savanna experts at the University of California-Santa Barbara and the nearby University of California Sedgwick Preserve to develop a biologically-based oak tree mitigation program that includes enhancement of drainage as well as upland habitats for coast, valley, and blue oaks.

P5-08  
(Cont.)

**P998-19, p. 3-199:** Selecting "...an arborist with acceptable qualifications to fit the Tribe's objectives", hardly sounds like an objective preservation-based approach to oak habitat protection and enhancement. A qualified biologist, not an arborist, should develop oak tree protection plans that not only preserve, but enhances oak savannah and promotes habitat connectivity and long-term stability of this resource. Arborists are not trained biologists and have little or no experience "working with biological resources." The RMZs need to be biologically-based, not developed to present the least interference with development plans.

P5-09

**P998-22, p. 3-199 and 3-200:** The response includes the statement that, "Should construction activities be anticipated to occur within 500 feet of the seasonal wetlands, a qualified biologist must be present to demarcate the buffer zone..." This is confusing because elsewhere in the EA, it seems that the purpose of mitigation is to establish buffer areas that are supposed to exclude construction activities. For the proposed mitigation measure to work, a qualified VPFS biologist needs to conduct protocol-level surveys of the entire project area during a year of normal or above-normal precipitation, identify all potential VPFS breeding habitat (including small depressions), then establish a 500-foot exclusion zone around these sites. Ideally, this should occur during conceptual siting and before final siting so that project elements can avoid these features and the 500-foot buffers. The biologist should demarcate all features with construction fencing that would remain in place throughout construction.

The USFWS mapped the Lake Cachuma Critical Habitat Core Area in the vicinity of the project area on the basis of soils and geology that is conducive to seasonal water feature and vernal pool formation. Some of these features may be very small and persist for one or a few seasons, to be replaced as other small depression form elsewhere. Critical habitat designation allows for long-term persistence of VPFS in these core areas by identifying soil and hydrological processes that support depressions and other features used by VPFS for breeding and promoting the long-term temporal stability of local populations at the metapopulation level through habitat connectivity. Simply protecting the tiny, widely disconnected habitat areas identified in the Final EA and stating that the project will only impact "0.15 acre for Alternative A and 0.01 acre for Alternative B" in relation to the 1,400-acre project area is misleading and misses the point of establishing critical habitat in the first place. Again, surveys as described above would permit evaluation of the overall quality and location of VPFS breeding habitat within the mapped critical habitat on-site.

P5-10

Appendix R of the Final EA is a Request for Concurrence from the USFWS that, by implementing the mitigation measures listed in the EA, there will be no significant adverse effects to VPFS or VPFS habitat. It should be noted here that the Final EA (p. 5-6) includes a mitigation measure that states that, "Should the USFWS determine that even with the mitigation presented in the BA, impacts to VPFS may be significant, the Tribe shall, through passage of a

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Business Committee Resolution, only approve for consideration those site plans that exclude development of residential units within the VPFS designated critical habitat." Presumably non-residential development, such as roadways and Tribal facilities (Alternative B), would remain. This contingency significantly changes both development scenarios and would require additional analysis to determine the effects of restricting development to the northern half of the project area on biological resources.

P5-10  
(Cont.)

**P998-25, p. 3-201:** The State of California Department of Fish and Wildlife has been petitioned to list the Townsend's big-eared bat (*Corynorhinus townsendii*) as Endangered in the State of California and is currently conducting inquiries on this matter. Federal actions do not trump State-listed species protection. A known big-eared bat roost occurs within 1.5 miles of the project area. Multi-seasonal, nighttime acoustical surveys of the project area should be conducted to determine where and when particular species, including big-eared bats, are using the site as foraging and/or temporary or permanent roosting habitat. Habitat enhancements, such as bat boxes, properly sited and installed by a qualified bat biologist, should be part of all habitat enhancement efforts on-site.

P5-11

**Impacts of Night-Lighting.** The Final EA does not analyze impacts of night-lighting on wildlife use of RMZs and open space areas adjacent to development envelopes. The Visual Resources section of the Final EA provides some mitigation to decrease the effects of night-lighting, such as use of shielding and down-directed lighting. The mitigation should include the Santa Ynez Valley Community Plan Development Standard regarding night-lighting (BIO-SYV-4.2): *Only fully shielded (full cutoff) night lighting shall be used near stream corridors. Light fixtures shall be directed away from the stream channel.* Additionally, the wattage and number of street lights should be reduced to the minimum necessary for public safety. Sodium-arc lamps and other unshielded lights should be prohibited throughout the development.

P5-12

**Review of BIA Letter requesting concurrence from USFWS that project Alternatives A and B will not significantly affect Vernal Pool Fairy Shrimp (VPFS) and California Red-Legged Frog (CRLF) (Appendix R in Final EA).** This letter downplays the fact that the entire southern half of the project area falls within designated critical habitat for the VPFS, as well as the fact that field surveys for VPFS and their aquatic habitats were conducted when the site held no surface water. Response to Comment P998-22 on p. 3-200, erroneously states that "...suitable habitat for VPFS is not present on-site." The project area supports a significant portion of the Lake Cachuma Critical Habitat Core Area as described in the USFWS Recovery Plan for this species.

P5-13

Regardless, the Final EA assumes VPFS are present on-site and mitigates on this basis. According to the BIA letter, "...the document [Final EA] has been updated to clarify that no development would occur within the vernal pool (seasonal wetlands and seasonal swale) habitat areas of the project site under Alternatives A and B." However, VPFS could be present in other on-site depressions and small water features that are evident only when they hold surface water during the rainy season. The non-protocol surveys conducted to date likely underestimate the number and extent of seasonal water features on-site that could support VPFS. Protocol-level

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surveys for VPFS should be conducted in all depressions that hold surface water for at least 14 days during a normal or above-normal rainy season.

P5-13  
(Cont.)

Statements that the project will have no impact on CRLF are likewise conjectural. CRLF are capable of moving distances in excess of a mile through upland habitat from aquatic sites (L.E. Hunt, pers. observ.). While the project area does not appear to support suitable aquatic habitat for CRLF, this species may occur in Santa Agueda Creek and other off-site, man-made ponds (e.g., the large pond located on private property 400-500 feet east of the east-central portion of the project area). The project area is well within the dispersal ability of this species from these sites. Drift fence/pitfall trap surveys for CRLF should be conducted in portions of the project area that lie within a one-mile radius of off-site permanent and intermittent water features where no barriers to on-site dispersal exist.

P5-14

Page 5-6 of the Final EA states that, "Should the USFWS determine that even with the mitigation presented in the BA, impacts to VPFS may be significant; the Tribe shall, through passage of a Business Committee Resolution, only approve for consideration those site plans that exclude development of residential units within the VPFS designated critical habitat." This statement completely changes the project description. If implemented, such a resolution will restrict development to the northern half of the project area, which will certainly result in greater impacts to biological resources in those locations. Also, does this mean that roadways and tribal facilities would still be constructed in VPFS critical habitat? Impacts to biological resources under this scenario have not been analyzed in any environmental document to date.

P5-15

The Revised BA and Final EA do not adequately characterize the resident or seasonal biological resources present on-site because, under NEPA and the Federal ESA allowances, the analyses are restricted to federally-listed species. A host of State and Federal non-listed, special-status species are either known from or potentially occur on the project area. Coupled with the fact that the analysis of impacts to biological resources is based on an inadequate number of surveys that were conducted during drought years, the conclusions of the Revised BA and Final EA regarding the marginal biological value of the project area and its low importance within the regional open space mosaic are cursory and without merit. An EIR should be prepared because it would include analysis of the aforementioned scenario of no residential construction within critical habitat for the VPFS as one of several project alternatives, and because it would permit analysis of impacts to the full spectrum of special-status biological resources. Thank you for your time and the opportunity to comment on this project.

P5-16

Sincerely,

*Lawrence E. Hunt*

Lawrence E. Hunt

Hunt & Associates Biological Consulting Services  
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Santa Barbara, California 93111  
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July 10, 2014

Amy Dutschke, Regional Director  
Bureau of Indian Affairs  
Pacific Regional Office  
2800 Collage Way  
Sacramento, CA 95825  
[amy.dutschke@bia.gov](mailto:amy.dutschke@bia.gov)

*VIA U.S. MAIL AND EMAIL*

**Re: Comments on Final Environmental Assessment for Santa Ynez Band of Chumash Indians Camp 4 Fee-To-Trust**

Dear Ms. Dutschke:

This comment letter is sent by the Environmental Defense Center (EDC) on behalf of the Santa Ynez Valley Alliance (SYVA), in response to the Bureau of Indian Affairs' (BIA) Final Environmental Assessment (Final EA) for the proposed Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust proposal. The SYVA works collaboratively with individuals, groups and governments to protect the rural character of the Santa Ynez Valley and support good stewardship of natural and agricultural resources through education, comprehensive planning and public participation. EDC protects and enhances the environment through education, advocacy and legal action.

SYVA appreciates the opportunity to comment on the Final EA and on the responses to comments on the Draft Environmental Assessment (Draft EA) contained in the Final EA. SYVA maintains that the proposed project still imposes several significant impacts, precluding issuance of a Finding of No Significant Impact (FONSI). As stated in its comment letter on the Draft EA, SYVA contends that an Environmental Impact Statement (EIS) is required in order to fully evaluate and disclose the significant impacts of the proposed project.

Several significant impacts – impacts to biological resources, loss of agricultural land, land use conflicts, and cumulative impacts – which are important issues to SYVA and its members – are inadequately addressed in the EA and must be fully identified and addressed through the EIS process. As discussed in detail below, the flaws in the EA make it legally inadequate under the National Environmental Policy Act (NEPA), and we strongly encourage the BIA to initiate preparation of an EIS, so that the public and decision makers will be fully informed of the project's potential impacts.

July 10, 2014

Amy Dutschke, Regional Director re Comments on Final EA for Camp 4 Fee-to-Trust

Page 2

## I. Summary

As discussed in detail below, the Final EA for the proposed project is insufficient. The Final EA fails to analyze a reasonable range of alternatives for the project, inappropriately winnowing down the available alternatives by claiming that the objectives of the proposed project cannot occur without the fee-to-trust transfer, a tactic that results in alternatives that do not actually lessen many of the potentially significant effects of the project.

The Final EA also fails to adequately address and analyze the potentially significant impacts of the proposed project on a host of biological resources, including oaks and oak savannahs, birds, wetlands and state-listed species. In addition, the Final EA fails to adequately address and analyze potentially significant impacts caused by the proposed project's conflict with land use policies and ordinances, especially in regards to agricultural land conversion, and conflicts with biological resources policies.

Furthermore, the Final EA fails to adequately identify and analyze potential cumulative impacts of the proposed project, a significant requirement under NEPA. Given all of the deficiencies in the EA's analysis, it is clear that an EIS is required in order to fully address the potentially significant effects of the proposed project. Not only has the EA failed to adequately raise and analyze all potentially significant impacts, those potentially significant impacts actually raised in both the EA and by commenters on the EA indicate that an EIS is required.

## II. Project Alternatives

A fundamental problem with the EA is that it does not analyze a reasonable range of alternatives. *See Klamath-Siskiyou Wildlands Ctr. v. U.S. Forest Serv.* (E.D. Cal. 2004) 373 F. Supp. 2d 1069, 1088 ("NEPA mandates that an agency consider and discuss the range of all reasonable alternatives to the proposed action..."). While an agency is not required to analyze alternatives that do not meet the purpose and need of the project, "[n]or, however, can the agency narrowly define its purpose and need so as to winnow down the alternatives until only the desired one survives." *Id.*

Here, the BIA has foreshortened the available alternatives for the project by inaccurately claiming that the purpose of the proposed project cannot be accomplished without the fee-to-trust transfer. The EA states that the purpose for taking the property into trust is to "provide housing to accommodate the Tribe's current members and anticipated growth." (Final EA at 1-6). The Final EA then states:

[T]he only reasonable alternatives are to either take no action or take the requested parcels into trust on behalf of the Tribe to alleviate the existing shortage of developable land and associated housing on the Tribe's Reservation. Other potential alternatives to the Proposed Action, such as a reduction in the number of parcels taken into trust or alternative locations do not meet the definition of "reasonable" under the CEQ Regulations for Implementing NEPA.

P6-02  
(Cont.)

P6-03

P6-04

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Final EA at 2-1. The EA fails to acknowledge that the purpose and need for the project can be accomplished without taking the property into trust. The Tribe could pursue existing County processes for rezoning and redevelopment of the fee property to accommodate housing and other project objectives. The failure of the EA to analyze this option as an alternative makes the analysis inadequate under NEPA and conflicts with the BIA's own regulations, which require BIA to review not only the purpose for which the land will be used in a fee-to-trust application, but also "[j]urisdictional problems and potential conflicts of land use which may arise" (25 C.F.R. § 151.10).

P6-04  
(Cont.)

Given the significant impacts to the property resulting from development of the land for residential and tribal facilities, the EA should have analyzed a greater range of alternatives that provide more options for minimizing the impacts of the proposed development (e.g., a "clustered" approach to development of housing, greater preservation of agricultural land and biological resources, etc.).

P6-05

One of the major impacts of the proposed project is the conversion of the subject 1411.1 acres from agriculturally zoned land to largely non-agricultural land. In *Klamath-Siskiyou*, the court rejected as inadequate an EA that only analyzed two alternatives besides the no-action alternative for a timber harvest and watershed improvement project. The two alternatives were "nearly identical" and the agency failed to analyze an alternative that would have reduced the amount of timber harvest. Likewise here, although Alternatives 1 and 2 vary somewhat in layout and density of development, the impacts on agricultural land are the same – in both Alternatives, only 206 acres of the original 1411.1 acres, a mere 14% – would remain designated for agriculture (Final EA at 3-16).

P6-06

The narrow range of alternatives studied in the EA fails to satisfy NEPA's requirement that a reasonable range of alternatives be analyzed. Based on this and the other significant impacts of the proposed project, the BIA should develop an EIS that includes additional alternatives that meet the project's objectives, but do so with lesser development intensity, and which would analyze the possibility of obtaining the project objectives without a fee-to-trust transfer. See *W. Watersheds Project v. Abbey* (9th Cir. 2013) 719 F.3d 1035, 1050-51 (holding that an EA for a grazing allotment violated NEPA because the alternatives analysis, which considered three alternatives in addition to the no-action alternative, failed to address a reasonable range of alternatives):

[T]he action alternatives each considered issuing a new grazing permit *at the same grazing level as the previous permit*...we do question how an agency can make an informed decision on a project's environmental impacts when each alternative considered would authorize the same underlying action... the EA process for the [allotment] was deficient in its consideration of alternatives *insofar as it did not consider in detail any alternative that would have reduced grazing levels*.

P6-07

*Id.* at 1050-53 (emphasis added). Likewise here, the EA fails to consider how the proposed need for the project – housing and tribal facilities – can be met in any way other than a fee-to-trust transfer and in any way that reduces impacts to agricultural and other resources.

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### III. Environmental Consequences

The EA fails to adequately address impacts to biological resources, land use impacts, and conflicts with local ordinances and policies that protect biological and other resources. The Final EA also fails to respond to several comments made on the Draft EA on these issues. Because the EA fails to adequately address environmental consequences, and because there are environmental consequences constituting potentially significant effects on the environment, an EIS is necessary.

P6-08

#### A. Biological Resources

*i. Evidence by Hunt and Associates Biological Consulting Services demonstrates that the EA insufficiently addresses Impacts to Biological Resources, necessitating an EIS*

Hunt and Associates Biological Consulting Services concludes that the Final EA does not adequately respond to comments submitted on the Draft EA, and that an EIS is required to address significant biological resource impacts. By focusing on several EA responses to comments and important biological issues below, Hunt and Associates illustrates substantive deficiencies with the Final EA.<sup>1</sup>

*P996-02, p. 3-194 and P998-26, p. 3-201*

The mitigation for impacts to nesting and roosting birds, including federally-regulated bald eagles, golden eagles and mountain plovers, is inadequate because it calls for nesting surveys within 14 days of construction beginning, but does not require that the nesting surveys occur during the nesting season. Moreover, the EA includes less than half the birds recorded on the site by the Audubon society experts, demonstrating the EA's insufficiency in evaluating impacts to avian species.

P6-09

*P998-04, p. 3-195 and P998-28, p. 3-202*

Without evidence, the EA incorrectly states that the primary wildlife movement corridor is a degraded stream channel. The EA ignores the value of the site as a wildlife and plant dispersal corridor and the value of connected upland habitat as wildlife movement corridors.

*P998-12, p. 3-196*

The modified Biological Assessment (BA) notes that focused botanical surveys were only conducted during a 7-week window in one year (early March and late April 2012), not over three seasons as stated in the Response to Comment. Seasonal precipitation was significantly below average during the 2011/2012 and 2012/2013 rainy seasons, so focused surveys should be conducted during at least one season of average or above-average precipitation.

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<sup>1</sup> Hunt and Associates Biological Consulting Services, Comments on Final Environmental Assessment for Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust, Santa Ynez Valley, Santa Barbara County, California, attached hereto as Exhibit A.

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### *P998-15, p. 3-197*

The Tribal Oak Tree Ordinance affords little or no protection to oaks under the proposed development scenarios, allowing removal to accommodate development and affording no protection to blue oaks. The Ordinance and proposed Best Management Practices identified in the EA allow for cutting, trimming, and pruning oak trees in the Resource Management Zone (RMZ), and appears to allow vague “limited” ground disturbance within the dripline of oaks, damaging the small feeder roots upon which mature oak trees depend and disrupting recruitment of oaks but the EA overlooks these impacts.

### *P998-16, p. 3-197*

In Figure 3-4 in the Final EA, oak trees in the southern half of the Project area appear in densities comparable to those mapped as oak savanna in the north, but are not mapped as savannah habitat. The EA fails to explain the rationale for considering oaks in the north to be part of a savannah but not considering oaks in the south to be part of a savannah. Figure 3-4 and the analysis of impacts underestimate the extent of oak savanna. Both Alternatives A and B result in significant loss of individual oak trees and fragmentation of existing oak savannah habitat, which is a significant impact.

### *P998-22 on pages 3-199 and 3-200*

The Final EA includes a mitigation measure that states that, “Should the USFWS determine that even with the mitigation presented in the BA, impacts to VPFS may be significant, the Tribe shall, through passage of a Business Committee Resolution, only approve for consideration those site plans that exclude development of residential units within the VPFS designated critical habitat.” (Final EA at 5-6). This contingency significantly changes both development scenarios and would require additional analysis to determine the effects of restricting development to the northern half of the Project area on biological resources.<sup>2</sup> Regardless, unless and until this measure is incorporated into the project or an enforceable MOU, it is uncertain how effective it will be.

### **Impacts of Night-Lighting**

The Final EA does not analyze impacts of night-lighting on wildlife use of RMZs and open space areas adjacent to development envelopes.

### **Review of BIA Letter requesting concurrence from USFWS that Project Alternatives A and B will not significantly affect VPFS and CRLF (Appendix R in Final EA).**

Statements that the Project will have no impact on California Red Legged Frog (CRLF) are likewise conjectural. CRLF are capable of moving distances in excess of a mile through upland habitat from aquatic sites.

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<sup>2</sup> SYVA supports clustering residential development as described in this mitigation measure.

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**ii. *The EA Fails to Address Potential Impacts to State-Listed Species in Violation of NEPA.***

The EA fails to address or analyze potential impacts of the proposed project to species listed under the California Endangered Species Act (“CESA” – Cal. Fish & Game Code § 2050 *et seq.*) as rare, threatened or endangered. Nor does the EA address the potential impacts of the proposed project on species recognized as “Species of Special Concern” by the California Department of Fish and Wildlife. The Final EA’s justification for such failure to address potential impacts to these species, which claims that under CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook a “discussion of federally-listed species is sufficient for an EA,” is clearly erroneous (Final EA at 3-194). See *Sierra Club v. U.S. Forest Serv.* (9th Cir. 1988) 843 F.2d 1190, 1193 (“CEQ regulations outline factors that an agency must consider in determining whether an action ‘significantly’ affects the environment... [t]hese factors include, inter alia... ‘[w]hether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment,’ 40 C.F.R. § 1508.27(b)(10).” (emphasis added). The CESA is clearly a state law which implements requirements for the protection of the environment and therefore any potential violation of this law by the proposed project must be addressed.

The BIA cannot limit its analysis to only federally-listed species, when the project could potentially impact state-listed species or state Species of Special Concern, in violation of CESA. CESA-listed species in Appendix E that were not analyzed in the EA include seaside bird’s beak. While this species is a coastal dune plant, it has been recorded and vouchered near Lompoc, California and has the potential to occur onsite. Other state-protected species that were not addressed in the EA but occur in the Project vicinity include Coulter’s goldfields, Dwarf calceadenia, and a number of other plants, as well as pallid bat and Townsend’s big-eared bat and other wildlife species.<sup>3</sup> Some of these state-protected species are included in EA Appendix E (e.g., Coulter’s goldfields) but were not addressed in the EA’s impact analysis. Other species (e.g., pallid bat) and several species identified by Santa Barbara Audubon (i.e., three Watch List species observed onsite: prairie falcon, ferruginous hawk and California horned lark, and two State Species of Concern expected to occur onsite: grasshopper sparrow and burrowing owl)<sup>4</sup> are omitted from and not addressed in the EA or Appendix E. California horned lark has been recorded breeding on the Project site by Audubon, an organization with renowned expertise in ornithology. In *Sierra Club*, the court held the Forest Service’s decision not to prepare an EIS was unreasonable and EAs prepared for timber sales were inadequate. The EAs were inadequate in part because of their failure to address how the project might have violated *state* water quality standards. *Sierra Club*, 843 F.2d at 1195.

The CEQ regulations, 40 C.F.R. § 1508.27(b)(10), require [agencies] to consider state requirements imposed for environmental protection to determine whether the action will have a significant impact on the human environment...[n]owhere do the EAs mention the impact of logging upon California’s water quality standards. Because substantial

<sup>3</sup> See comments by Hunt and Associates Biological Consulting Services on Draft EA. October 2, 2013.

<sup>4</sup> Santa Barbara Audubon Society comments on Draft EA. October 5, 2013.

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questions have been raised concerning the potential adverse effects of harvesting these timber sales, an EIS should have been prepared. [CITATION]. The Forest Service's decision not to do so was unreasonable. *Id.* at 1177. It failed to account for factors necessary to determine whether significant impacts would occur. Therefore, its decision was not "fully informed and well-considered." [CITATIONS].  
*Sierra Club*, 843 F.2d at 1195.

P6-10  
(Cont.)

The EA's failure to analyze the potential for state-listed species to occur on the project site fails to comply with NEPA's requirement that an agency determine whether an action significantly affects the environment by assessing whether the action "threatens a violation of...State, or local law or requirements imposed for the protection of the environment" *Sierra Club*, 843 F.2d 1190 (emphasis added). This failure renders the EA inadequate, and indicates that an EIS is necessary in order to address such potentially significant effects on the environment.

***iii. The EA Fails to Address Impacts to Coast Live and Valley Oaks, Which are Protected by Local Ordinances.***

Just as with potential violations of CESA, the EA should also address potential violation of local ordinances that protect environmental resources such as oak trees. SYVA raised this issue in its comments on the Draft EA. The comments stated that the oak savanna vegetation alliance "include[s] both coast live and valley oaks, both of which are protected by County ordinance." (Comment Letter P998).<sup>5</sup> The Final EA's response to comments does not respond to this issue (Final EA at 3-195, addressing comment P998-04), nor does the EA address this potential conflict with a "local law or requirements imposed for the protection of the environment," as required by NEPA. 40 C.F.R. § 1508.27(b)(10).

P6-11

***iv. The EA fails to Consider Impacts to all Wetlands.***

The EA fails to consider wetlands pursuant to the definition utilized by the County of Santa Barbara, the US Fish and Wildlife Service and the California Fish and Game Commission. These agencies consider areas which exhibit wetland hydrology, wetland soils or wetland vegetation to be wetlands (a 1-parameter wetland).<sup>6</sup> However, the EA appears to only consider an area to be a wetland if it exhibits all three wetland parameters (a 3-parameter wetland).<sup>7</sup> As a result, areas which would be identified and protected as wetlands by the County and other agencies may not even be identified in the EA.

P6-12

<sup>5</sup> County of Santa Barbara Deciduous Oak Tree Protection and Regeneration. Article IX of Chapter 35, Santa Barbara County Code. *See also* Santa Barbara Comprehensive Plan Conservation Element – Oak Tree Protection in the Inland Rural Areas of Santa Barbara County.

<sup>6</sup> Santa Barbara County CEQA Thresholds and Guidelines Manual at 6-5 & 6-7.

<sup>7</sup> EA at 3-30.

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**v. *The EA fails to include Buffers around Wetlands to Prohibit Development that would Damage the Wetlands.***

The EA at 4-13 – 4-14 incorrectly characterizes the mitigation measures from the BA and EA pages 5-4 through 5-6 as requiring permanent buffers around – and preservation of – all seasonal wetlands and wetland swales. However, the BA and EA merely require *temporary* buffers during construction. Moreover, these measures *allow development within the buffers*. Contrary to the EA's assertion, there are no apparent measures that require the proposed project to avoid buffer areas around the seasonal wetlands and swales. The EA appears factually incorrect in this regard – on one hand claiming that buffers will protect the wetlands but on the other hand allowing development within those buffers. An EIS should be developed which will either (1) clarify that wetland buffer mitigation measures allow development within the buffers and therefore find a significant impact to wetlands, or (2) require avoidance of all 1-, 2- and 3-parameter wetlands.

P6-13

Hunt and Associates Biological Consulting Services takes issue with the EA's treatment of wetland buffers in Response P998-22 on pages 3-199 and 3-200: The Final EA's response is confusing because it describes buffers around wetlands but then allows development within those buffers.

**vi. *The EA incorrectly claims that Impacts to Sensitive Habitats potentially supporting Locally Rare Species would be protected through Santa Barbara County Mitigation Requirements.***

The EA claims that "Any sensitive habitats with the potential to support populations of local endangered species would be protected through Santa Barbara County mitigation requirements."<sup>8</sup> However, in other places, the EA points out that once taken into trust, the property will no longer be under the land use jurisdiction of the County, making County mitigation requirements inapplicable to the property. An EIS should be developed which requires that County mitigation measures be implemented.

P6-14

**vii. *The EA's Oak Tree Mitigation Measures are Insufficient to reduce Impacts to Oak Trees and Oak Savannah Habitat to Less than Significant.***

For the following reasons, the EA's mitigation measures for loss of oak trees are insufficient, warranting a significant impact finding.

- Replanting oak trees does not mitigate for lost oak savannah habitat because oak savannah habitat consists of many interacting species in addition to oak trees, including understory plant species.
- The measure does not specify whether planted oaks must be from local acorns adapted to the site to ensure success, and to preserve the oak population's genetic

P6-15

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<sup>8</sup> EA at 4-63.

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integrity, which is standard practice in oak habitat and native oak tree replacement.

- Performance standards for successfully replacing oak trees, such as percent survival and growth rates, are not included in the EA.
- The measure does not require revising the project design to avoid oak trees where feasible.

Hunt and Associates Biological Consulting Services also addresses the inadequacy of oak tree and oak habitat mitigation. In Response to Comment P998-17 at page 3-198 and Response to Comment P998-31 and page 3-203, the responses simply repeat the “mitigation” measure which is confusing because it uses undefined terms such as “limited.”

According to Hunt and Associates, the oak tree mitigation program in Section 5.4 of the Final EA falls far short of protecting or enhancing oak resources impacted by either development scenario because:

- Routine County and State replacement standards, including the County Oak Tree Protection and Regeneration Ordinance, require a minimum 10:1 replacement ratio in order to result in no net loss of oak trees. The Final EA and Tribal Oak Tree Ordinance propose no such ratio, nor performance standards assuring “no net loss” of oak trees. A 10:1 ratio is necessary to account for mortality and to address the temporal impacts of replacing 100+ year old trees with saplings.
- A qualified biologist, not a “qualified arborist”, should survey trees that will be removed to assess issues such as the impacts on resident hole-nesting species (e.g., such as acorn woodpeckers and bats). However, the analyses were limited only to project-related effects on federally-listed species, and omits these impacts.
- Perhaps most importantly, the oak tree mitigation program focuses oak replacement (planting) on a few drainages and vegetated swales and their narrow buffers, and does not promote oak regeneration, which is needed to ensure survival of the oak savannah habitat over time.

***viii. Waters of the U.S. Mitigation Measures do not reduce Impacts to Less than Significant.***

For the following reasons, the EA’s discussion of impacts to Waters of the U.S. and related mitigation measures appear inconsistent and moreover are insufficient to lessen significant impacts:

- Mitigating impacts to Waters of U.S. does not necessarily mitigate impacts to all 1-, 2- and 3-parameter wetlands.

P6-15  
(Cont.)

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- The EA finds that Waters of the US will be replaced at a minimum 1:1 ratio.<sup>9</sup> However, the EA also says that seasonal wetlands will be avoided “during construction.”<sup>10</sup> It appears inconsistent to state on one hand that the loss of 2.28 acres of seasonal wetlands, wetland swales and ephemeral drainages will be fully mitigated at a minimum of 1:1, and on the other hand to state that all seasonal wetlands will be buffered and avoided.<sup>11</sup> An EIS should be required which clarifies whether wetlands and Waters of the US are being completely avoided by development or will be impacted and replaced with artificial wetlands.

P6-16  
(Cont.)

*ix. Responses to Hunt and Associates Biological Consulting Services  
Comments:*

**RTC P998-13**

The response to Hunt’s comment P998-13 fails to acknowledge the local definition (or any definition) for native grassland. The County definition includes all areas where relative cover by native grassland species exceeds 10%.<sup>12</sup> Instead, without referencing any definition, the EA claims that native grasses are not “dominant” and therefore that native grasslands do not occur onsite.

P6-17

In addition, non-grass species such as forbs and wildflowers, which help comprise native grasslands, are important indicators of the presence of native grasslands, but the EA also fails to consider the relative cover of non-grass species that occur in native grasslands. As a result, the EA lacks substantial evidence to find that there are no native grasslands onsite.

**RTC P998-14**

The EA fails to respond to Hunt’s comment P998-14 specifically regarding using acoustic surveys to identify bats. Failure to identify any bat species is a major omission. Bats including State Species of Concern are believed to utilize the site.<sup>13</sup> Approximately half of local bat species are considered rare.

P6-18

**RTC P998-24**

The response to Hunt’s comment P998-24 does not address impacts to foraging raptors such as the Golden Eagle. This omission is significant in that the EA only assesses impacts to nesting and roosting raptors. Foraging habitat is critical to support roost and nest sites. Nesting cannot be successful if foraging habitat to support nesting is insufficient. Failure to consider impacts to foraging habitat, and by extension to suitable nest sites and nesting success, is a substantial omission in the EA.

P6-19

<sup>9</sup> EA at 5-5.

<sup>10</sup> EA at 5-5.

<sup>11</sup> EA at 5-5.

<sup>12</sup> Santa Barbara County Thresholds and Guidelines Manual at 6-8 and 6-9.

<sup>13</sup> Hunt and Associates Biological Consulting Services comments on Draft EA at 8, October 3, 2013.

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**RTC P998-33, -34, and -35**

The EA responses bear no relationship to Hunt and Associate's comment P998-33, -34 and -35. The EA does not respond to Hunt's comments P998-33, -34 and -35. This appears to be an error during drafting of the final EA. Failure to respond to these comments is a significant omission which renders the EA inadequate pursuant to NEPA.

P6-20

**RTC P998-42 – P998-46**

The EA entirely omits any responses to Hunt and Associate's comments P998-42 through P998-46. This is a significant omission that renders the EA incomplete and legally flawed.

P6-21

**B. Land Use**

Under NEPA, the EA must accurately describe the affected environment, including the existing physical environment, and existing land use designations and policies. (40 C.F.R. § 1502.15). This description provides the necessary baseline from which to determine the environmental consequences of the project. Although the EA mentions existing land use designations and policies, the EA fails in many instances to adequately identify the significant impacts of the project caused by conflicts with existing land use designations and policies. *See* 40 C.F.R. § 1502.16(c) (environmental consequences analysis includes an analysis of "[p]ossible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned.").

Instead, the EA in several instances erroneously claims that there would *only* be conflicts if the project resulted in local agencies being unable to enforce their own policies *outside* of the project's boundaries. (Final EA at 3-15). While in some instances, the EA must analyze impacts outside the project's boundaries – for example, as discussed below, biological resource policies that would span the proposed project site and lands outside the project site, cumulative impacts, etc. – analysis of the project's conflicts with local policies and ordinances is a distinct requirement under NEPA,<sup>14</sup> entirely separate from an analysis of project's impact on local government's ability to apply those policies and ordinances on parcels outside the project boundaries.

P6-22

***i. Agricultural Land Conversion***

Because the conversion of approximately 86% of the property from agricultural land use designation to non-agricultural uses conflicts with the Santa Barbara Comprehensive Plan and the Santa Ynez Valley Community Plan (SYVCP), both of which protect agriculture, this should be considered a significant impact in the EA and analyzed as such. The Comprehensive Plan's Land Use Element's policies conclude that:

<sup>14</sup> 40 C.F.R. 1502.16(c).

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In rural areas, cultivated agriculture shall be preserved and where conditions allow, expansion and intensification should be supported. Lands with both prime and non-prime soils shall be reserved for agricultural uses.<sup>15</sup>

The SYVCP also specifically states that “[l]and designated for agriculture within the Santa Ynez Valley shall be preserved and protected for agricultural use.”<sup>16</sup>

The EA fails to address the proposed project’s direct conflicts with these existing land use policies. The Draft EA correctly points out that the entire project site is currently zoned Agricultural II (AG-II-100) and that “[d]evelopment of tribal housing on the 1,433-acre property would not be consistent with the allowed land uses under the AG-II-100 zoning and the AC land use designation identified by the Santa Barbara Comprehensive Plan if it remained in the jurisdiction of the County[.]” (Draft EA at 3-57, 4-20). The EA does not, however, analyze these conflicts as significant impacts, instead claiming that “adverse impacts to land use would result if an incompatible land use within the project parcels would result in the inability of the County to continue to implement existing land use policies *outside of the project boundaries*.” (Final EA at 3-15) (emphasis added).

Although it is accurate that after the trust acquisition the project parcels would be exempt from County land use regulations, the EA should still address the impacts of the proposed project based on current land use plans and policies. *See* BIA NEPA Handbook, Appendix 17 at 15-16 (emphasis added)

Conflicts of Federal Proposal With Land Use Plans, Policies or Controls. How should an agency handle potential conflicts between a proposal and the objectives of Federal, state or local land use plans, policies and controls for the area concerned?... The agency should first inquire of other agencies whether there are any potential conflicts. *If there would be immediate conflicts*, or if conflicts could arise in the future when the plans are finished (see Question 23(b) below), *the EIS must acknowledge and describe the extent of those conflicts*.

By failing to address potential and actual conflicts, and relying on the change in land use jurisdiction that would occur *after the project’s approval*, the EA fails to adequately inform the public of the full impacts of the proposed project. *See N. Plains Res. Council, Inc. v. Surface Transp. Bd.* (9th Cir. 2011) 668 F.3d 1067, 1084-85 (holding that evaluating impacts based on future changes, such as mitigation measures, as opposed to evaluating impacts based on the existing environmental setting “presupposes approval,” and is therefore inappropriate under NEPA, stating, “NEPA obligations to determine the projected extent of the environmental harm to enumerated resources *before* a project is approved.”) (emphasis original).

<sup>15</sup> SYVCP at 8, *citing* Santa Barbara County Comprehensive Plan, *Land Use Element*. *See also* *Agricultural Element*, containing numerous goals and policies to protect and maintain agriculture.

<sup>16</sup> Policy LUA-SYV-2 (SYVCP at 73).

P6-22  
(Cont.)

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As in *N. Plains*, where the agency erroneously failed to look at the impacts of the proposed project by relying on future mitigation measures addressing those impacts, the EA here also relies on future changes, in this case changes in land use jurisdiction, as an excuse for not looking at the on the ground impacts that will occur as a result of the project. This does not satisfy NEPA's requirements to address potential conflicts with local land use ordinances and policies, nor the requirement to assess the potential impacts of a project in comparison to the *existing* environmental setting. The EA is therefore flawed in this assessment and an EIS should be developed to fully analyze these potentially significant impacts.

P6-23  
(Cont.)

**ii. Conflicts with Santa Ynez Valley Community Plan Biological Resources Policies**

The proposed project also has several conflicts with the Biological Resource Protection Policies and Development Standards contained in the SYVCP, but the EA omits analysis of all of these Policies and Development Standards. The EA must be revised to find significant Land Use and Biological Resources Impacts due to these conflicts.

The EA states that impacts to biological resources "would be considered significant if Alternative A would ... conflict with local Policies or Ordinances protecting biological resources." However, the EA then fails to analyze consistency with local Policies and Ordinances adopted to protect biological resources. SYVA conducted the attached analysis, Exhibit B, of consistency with the SYVCP Biological Policies and Development Standards. As shown in this analysis, the Project conflicts with numerous Policies and Development Standards enacted for the purpose of protecting biological resources. The plain language in the EA's Biological Resources section requires the BIA to analyze the Project's consistency with Policies and Ordinances on the Project site. However, no such analysis was undertaken in the EA. Therefore, the attached Policy Consistency Analysis is the only evidence in the record regarding the Project's compliance with biological resources Policies and Ordinances. This analysis supports a finding that the Project conflicts with applicable Policies and Development Standards, and therefore supports a finding that the Project results in significant biological resource and land use impacts.

P6-24

In addition, the EA also does not consider or analyze consistency with the SYVCP's biological resource policies as they would apply to lands *outside the Project site* (e.g., policies affecting wildlife corridors that span the site and adjacent parcels such as DevStd BIO-SYV-3.1<sup>17</sup>), as the EA itself says is required. With regards to wildlife corridors, the Project will interrupt an important onsite wildlife movement corridor as noted by Hunt and Associates, and as a result the County will no longer be able to apply and enforce this Development Standard on adjoining parcels because the wildlife corridor would have already been broken by the proposed project. There is simply no mention of these Policies and Development Standards in the EA. This significant omission renders the EA inadequate under NEPA.

P6-25

<sup>17</sup> DevStd BIO-SYV-3.1: Development shall not interrupt major wildlife travel corridors. Typical wildlife corridors include riparian habitats, rivers, streams, and floodplains, and unfragmented areas of grassland, oak woodland, and coastal scrub. Corridors shall allow for wildlife movement. Where practical, options for road undercrossings shall be explored.

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#### IV. Cumulative Impacts

The EA fails to adequately consider all potential cumulative effects of the project. Under NEPA, EAs must adequately analyze the cumulative effects of a proposed project. *See Native Ecosystems Council v. Dombeck* (2002) 304 F.3d 886, 896 (“The importance of ensuring that EAs consider the additive effect of many incremental environmental encroachments is clear. ‘[I]n a typical year, 45,000 EAs are prepared compared to 450 EISs.... Given that so many more EAs are prepared than EISs, adequate consideration of cumulative effects requires that EAs address them fully.’ [CITATIONS]”). (emphasis original). *See also Te-Moak Tribe of W. Shoshone of Nevada v. U.S. Dep’t of Interior* (2011) 608 F.3d 592, 602 (An EA must “fully address cumulative environmental effects or ‘cumulative impacts.’”).

The EA fails to adequately consider the potential cumulative effects of:

1. Conversion of agricultural land;
2. The potential for resubmission of the Tribal Consolidation and Acquisition (TCA) Plan; and
3. The potential for redevelopment of existing housing on tribal lands.

The EA fails to address the potential cumulative effect of conversion of such a large amount of land from agricultural designation to non-agricultural uses. The Draft EA cursorily states:

[t]he 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.

Draft EA at 4-64.

The EA fails to address whether the conversion of such a large swath of land from agricultural to non-agricultural land may have indirect effects on the community. Indirect effects are “later in time or farther removed in distance, *but are still reasonably foreseeable*. Indirect effects may include *growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.*” 40 C.F.R. § 1508.8 (emphasis added). *See, e.g., TOMAC v. Norton* (2003) 240 F. Supp. 2d 45, 50 (BIA EA for casino development was held inadequate for failing to take requisite “hard look” at potential impacts of casino upon growth and development of local community, stating “[s]everal courts have struck down FONSI decisions where agencies failed to evaluate the growth-inducing effects of major federal projects in small communities.”)

Likewise here, the conversion of a large area of land, especially in such a prominent location, from agricultural use to residential and other uses can create the impression that such conversions are acceptable, encouraging other local land owners to seek the same conversions. Such conversions can cumulatively result in changes to the rural and agricultural character of the

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community, which conflicts with the policies set forth in the SYVCP for agricultural protection and promotion. The SYVCP states, “agriculture is a strong component of community identity and a major contributor to the Santa Ynez Valley’s economy” and “land designated for agriculture within the Santa Ynez Valley shall be preserved and protected for agricultural use.” (SYVCP at 2, 73). The EA should have addressed the potential cumulative impacts of agricultural land conversion and the failure to do so fails to comply with NEPA’s requirement to analyze cumulative impacts. 40 C.F.R. § 1508.8.

The Final EA also fails to consider the potential for resubmission of the already approved Tribal Consolidation and Acquisition Plan and corresponding Tribal Consolidation Area (TCA). The Tribe submitted the TCA Plan to the BIA in March 2013, identifying approximately 11,500 acres for acquisition within the Santa Ynez Valley. Although following appeals the Tribe withdrew the already-approved TCA Plan, this was done without prejudice (Final EA at 3-2 – 3-3), meaning that the Tribe could request the Plan be reinstated at any time. This is a reasonably foreseeable possibility that warrants much greater review of the potential cumulative impacts of the proposed project and the TCA Plan. Under NEPA, there need not be a finalized project in order to trigger the requirement to address cumulative impacts, let alone a project that was already approved. *See N. Plains*, 668 F.3d at 1078-79:

[P]rojects need not be finalized before they are reasonably foreseeable. “NEPA requires that an EIS engage in reasonable forecasting. Because speculation is ... implicit in NEPA, [ ] we must reject any attempt by agencies to shirk their responsibilities under NEPA by labeling any and all discussion of future environmental effects as crystal ball inquiry.” [CITATIONS]...“reasonably foreseeable future actions need to be considered even if they are not specific proposals.” [CITATIONS].

Here, the fact that the TCA Plan was already approved and withdrawn without prejudice makes it much less speculative that it could be reinstated, warranting consideration of the cumulative impacts of the two projects. NEPA requires agencies to identify such potential future projects and analyze the cumulative impacts. *See Te-Moak Tribe*, 608 F.3d at 607, *supra* (holding that an EA’s cumulative impacts analysis was inadequate for failing to adequately address the cultural impacts of reasonably foreseeable mining activities in the cumulative effects area).

Finally, the EA fails to consider the potential cumulative impacts from potential redevelopment of the existing tribal housing that may no longer be utilized for housing after development of the new housing identified in the proposed project. The BIA has the burden of identifying and analyzing potential future projects that warrant a cumulative effects analysis. *See Te-Moak Tribe*, 608 F.3d at 605, *supra* (holding that the burden is on the agency to identify cumulative impacts, stating that Plaintiffs “need not show what cumulative impacts would occur. To hold otherwise would require the public, rather than the agency, to ascertain the cumulative effects of a proposed action...Such a requirement would thwart one of the ‘twin aims’ of NEPA—to ‘ensure[ ] that the agency will inform the public that it has indeed considered environmental concerns in its decisionmaking process.’ [CITATIONS]...Instead, we conclude that Plaintiffs must show only the potential for cumulative impact.”) Accordingly, the EA must identify the future uses of the existing tribal housing sites and how those future uses combined with the

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(Cont.)

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proposed project may create cumulative impacts (e.g., growth inducement, population density, water resources, etc.).

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(Cont.)

## V. Mitigation

As part of the justification for not producing an EIS, the Final EA states that “[t]he Tribe will be legally bound to implement mitigation measures, which are necessary to reduce adverse impacts to a minimal level, because it is intrinsic to the project, required by federal law, required by agreements between the Tribe and local agencies, and/or subject to a tribal resolution.” (Final EA at 3-5). NEPA requires that mitigation measures be identifiable enough to be meaningfully evaluated. 40 C.F.R. 1502.16(h). See *Neighbors of Cuddy Mountain v. U.S. Forest Serv.* (9th Cir. 1998) 137 F.3d 1372, 1380 (Forest Service EIS was inadequate due in part to “perfunctory description of mitigating measures,” stating “Mitigation must be discussed in sufficient detail to ensure that environmental consequences have been fairly evaluated...[a] mere listing of mitigation measures is insufficient to qualify as the reasoned discussion required by NEPA.”). See also *Blue Mountains Biodiversity Project v. Blackwood* (9th Cir. 1998) 161 F.3d 1208, 1214 (EA inadequate for inadequacy of mitigation measures).

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Because the Final EA relies on the conclusion that mitigation measures will “minimize identified impacts” the Final EA should be revised to specifically state the mechanisms by which mitigations will be required, implemented and enforced. See *W. Land Exch. Project v. U.S. Bureau of Land Mgmt.* (D. Nev. 2004) 315 F. Supp. 2d 1068, 1091 (EA inadequate because it “contain[ed] no assurance that any of the mitigation measures that ‘could be employed’ actually will be, and defers ‘further definition’ of the measures and development of funding mechanisms until some unspecified point in the future...[t]he record contains no ‘supporting analytical data,’ [CITATION]... Courts upholding an agency’s reliance on mitigation measures in deciding to forego an EIS have noted at least some details of the proposed plans and made some findings as to their effectiveness, even where those plans were not worked out to the last detail at the moment of decision.”). Here, the Final EA’s identification of mitigation measures and the mechanisms by which they will be enforced lack the requisite details to ensure that they will be effective, and should thus be modified to be better developed.

## VI. Preparation of an EIS is Required

Based on (1) the deficiencies in the EA’s analysis of potentially significant effects on the environment discussed throughout this letter, and (2) the potentially significant effects actually identified in the EAs, an EIS is clearly required for this proposed project. See *High Sierra Hikers Ass’n v. Blackwell* (9th Cir. 2004) 390 F.3d 630, 640 (“If the EA establishes that the agency’s action ‘may have a significant effect upon the environment’ then an EIS must be prepared.”) As discussed throughout this letter, the proposed project will have potentially significant effects on agriculture, biological resources, land use conflicts, cumulative impacts, etc. An EIS should be employed any time, as in the case here, there is a substantial question as to whether a project may have significant effects. See *Anderson v. Evans* (9th Cir. 2004) 371 F.3d 475, 488 (“to prevail on the claim that the federal agencies were required to prepare an EIS, the plaintiffs need not demonstrate that significant effects will occur. A showing that there are

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“*substantial questions* whether a project may have a significant effect’ on the environment’ is sufficient.”) (emphasis original).

It is particularly telling that the EAs developed for this project are so extensive. An EA that is of this length and breadth likely indicates that an EIS would be more appropriate. See NEPA’s Forty Most Asked Questions, Question Question 36b (“[a]gencies should avoid preparing lengthy EAs except in unusual cases...[i]n most cases, however, *a lengthy EA indicates that an EIS is needed.*” (emphasis added)).<sup>18</sup> See also NEPA’s Forty Most Asked Questions, Question 36a, stating that EAs are to be “concise” documents that have the following functions:

*briefly* provides sufficient evidence and analysis for determining whether to prepare an EIS; (2) it aids an agency’s compliance with NEPA when no EIS is necessary, i.e., it helps to identify better alternatives and mitigation measures; and (3) it facilitates preparation of an EIS when one is necessary.<sup>19</sup>

These guidance documents also indicate that the “Council [CEQ] has generally advised agencies to keep the length of EAs to not more than approximately 10-15 pages.” *Id.* The length of this proposed project’s EA indicates that this is not the type of project that can be quickly summarized in an EA, but one that should be fully analyzed through an EIS, which provides a more full assessment and analysis of such potentially significant effects of a project. See, e.g., *Anderson*, 371 F.3d at 494, *supra* (lengthy EA still not sufficient when EIS was required):

[n]o matter how thorough, an EA can never substitute for preparation of an EIS, if the proposed action could significantly affect the environment... We stress in this regard that an EIS serves different purposes from an EA. An EA simply assesses whether there will be a significant impact on the environment. An EIS weighs any significant negative impacts of the proposed action against the positive objectives of the project. Preparation of an EIS thus ensures that decision-makers know that there *is* a risk of significant environmental impact and take that impact into consideration. As such, an EIS is more likely to attract the time and attention of both policymakers and the public.”

In order to fully address the potentially significant impacts raised in this and other comment letters, and the EA itself, an EIS should be prepared for the proposed project.

<sup>18</sup> BIA NEPA Handbook at 26.

<sup>19</sup> *Id.*

## Comment Letter P6 (Cont.)

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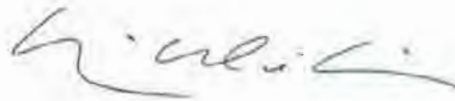
Thank you for your consideration of these comments.

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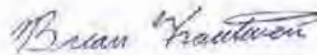
Sincerely,



Linda Krop,  
Chief Counsel



Nicole Di Camillo,  
Staff Attorney



Brian Trautwein,  
Environmental Analyst

cc: Santa Ynez Valley Alliance  
Chad Broussard, Environmental Protection Specialist, BIA (*via email*)

### Attachments:

Exhibit A – Hunt and Associates Biological Consulting Services, Comments on Final Environmental Assessment for Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust, Santa Ynez Valley, Santa Barbara County, California

Exhibit B – Camp 4 Project Analysis of Consistency with Santa Ynez Valley Community Plan Biological Resources Policies

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**EXHIBIT A**

**Lawrence E. Hunt  
Consulting Biologist**

Amy Dutschke, Regional Director  
Bureau of Indian Affairs, Pacific Regional Office  
2800 Cottage Way  
Sacramento, California 95825

24 June 2014

**Subject: Comments on Final Environmental Assessment for Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust, Santa Ynez Valley, Santa Barbara County, California.**

Ms. Dutschke,

I have reviewed the Final Environmental Assessment (EA), dated 14 May 2014, for this project, including the Response to Comments, the Final Biological Assessment (BA), dated November 2013, attached as Appendix E, and the Request For Concurrence Letter to the USFWS, attached as Appendix F to the EA. I have the following comments regarding potential project-related impacts to biological resources.

In general, the BIA's responses to comments in the Final EA fall short of addressing deficiencies noted in my previous review letter. The general tone of the responses is "we did an adequate job the first time and no new analyses are required". While the magnitude of impacts may be less under Alternative B (reduced development intensity), there remain significant, unavoidable impacts to individual species, their habitats, and habitat connectivity and wildlife movement associated with either project alternative. These impacts require preparation of an Environmental Impact Statement (EIS).

I will address various Responses to Comments in the order presented in the Final EA:

**P996-02, p. 3-194 and P998-26, p. 3-201:** Bald eagles could use oak trees on-site as temporary roosts; golden eagles likely forage on-site. Impacts to these, and other federally-regulated species (such as mountain plover), are not adequately analyzed in the Final EA. The stated mitigation measure that nest surveys will be conducted 14 days in advance of construction is ineffective if construction begins outside the nesting season because the project calls for the removal of up to 70 oak trees and placement of residential development in grassland and savanna habitats. Without knowing how birds use the project area during the breeding season, impacts to resident and migratory nesters cannot be adequately assessed. The list of bird species observed on-site during the field surveys for the updated BA lists a fraction of the species that occur on-site as residents or migratory species, as noted in the Santa Barbara Audubon Society letter. Systematic breeding bird surveys (including owl surveys), conducted by a qualified ornithologist and encompassing the breeding season, will provide an accurate environmental baseline from

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which to analyze impacts to avian resources in the project area and nesting and seasonal habitat use by migratory species.

**P998-04, p. 3-195 and P998-28, p. 3-202:** The response fails to account for the fact that the most of the project area is connected to larger open spaces northeast, southeast, southwest, and south of the project area. Even a casual examination of GoogleEarth imagery reveals that the project area provides a broad habitat connection between foothill regions in the San Rafael Range to the northeast and the Santa Ynez River and foothills of the Santa Ynez Mountains to the south and southwest. The response is based upon a narrow and misleading interpretation of what constitutes dispersal habitat for wildlife and plants. The response assumes, without evidence, that the degraded seasonal drainage that traverses the northwestern portion of the project area is the "...primary mechanism for linking the project site to other habitats located to the north and southwest of the project site." The response goes on to state, "Because it [the project area] is bounded on a majority of sides by non-habitat land uses, the property does not serve to link any other significant natural habitat regions to one another; therefore, no additional wildlife corridors were identified in the EA." Based on this interpretation, mitigation measures aimed at protecting the narrow, degraded seasonal drainages on-site as the only movement corridors completely misses the value of the project area as a whole for wildlife and plant dispersal. A qualified biologist, using tracking cameras strategically placed along drainages and upland areas and monitoring seasonally, would provide an accurate baseline for analyzing potential project-related impacts to wildlife movement and habitat fragmentation.

The latter response states that "Only one wildlife corridor was identified on the project site." What methods were employed to identify that this is a wildlife corridor, and that no others exist on-site? Again, the response assumes that establishing narrow buffer zones around a few seasonal drainages will protect and promote wildlife movement through the site, while completely ignoring the significance of connected, extensive upland habitat in wildlife movement.

**P998-12, p. 3-196:** The modified BA, dated November 2013, notes that focused botanical surveys were only conducted during a 7-week window in one year (early March and late April 2012), not over three seasons as stated in the Response to Comment. Considering that seasonal precipitation was significantly below average during the 2011/2012 and 2012/2013 rainy seasons, focused surveys should be conducted during at least one season of average or above-average precipitation.

**P998-15, p. 3-197:** The Tribal Oak Tree Ordinance allows for oak trees to be removed if they interfere with tribal development plans. Additionally, the Ordinance does not include blue oaks, which is the keystone species for oak savanna on-site. Functionally, the Ordinance affords little or no protection to oaks under the proposed development scenarios. Best Management Practices developed for the RMZs for oak woodland on-site (p. 2-6 of Final EA) allows for cutting, trimming, and pruning oak trees, and states that, "...ground disturbance would be limited within the dripline of any oak tree in the zone..." The latter statement appears to allow "limited" ground disturbance within the dripline of oaks, whatever that means. Disturbance within the dripline will disrupt the small feeder roots upon which mature oak trees depend and will disrupt

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recruitment of oaks by disturbing rooted seedlings (acorns). These types of unregulated and unmonitored BMPs will degrade individual oak trees and oak woodland/savanna on-site.

**P998-16, p. 3-197:** The Final EA, as with the Draft EA and BA, does not describe minimum mapping units for vegetation mapping, but it appears from Figure 3-4 in the Final EA that oak trees in the southern half of the project area that appear in densities comparable to those mapped as oak savanna in the north, are not mapped. Oak savanna does not have to be “dominated by oaks”. By its very definition, grassland is devoid of trees. The presence of a single oak tree changes the nature and use of grassland around that tree. Grassland environments with widely spaced oak trees (oak savanna) provide distinctly different foraging, nesting, and microhabitat opportunities for wildlife compared to grasslands devoid of trees. Figure 3-4 and the analysis of impacts underestimate the extent of oak savanna across the project area. Given that both Alternatives A and B result in significant loss of individual oak trees and fragmentation of existing oak savanna habitat, these project designs should be interpreted as Class I impacts to these resources.

**P998-17, p. 3-198 and P998-31, p. 3-203:** The response simply repeats the “mitigation” measure. The language is confusing and affords no functional protection for oak resources because it uses words such as “limited” and “whenever feasible”. Limited to what and who decides what is feasible?

The oak tree mitigation program in Section 5.4 of the Final EA falls far short of protecting or enhancing oak resources impacted by either development scenario:

- 70 oak trees are proposed for removal. Routine County and State replacement standards require a minimum 10:1 replacement ratio in order to have any chance of getting a no net loss of oak trees. This would require planting and monitoring survivorship of a minimum of 700 trees. The Final EA and Tribal Oak Tree Ordinance propose no such ratio, just a vague goal of “no net loss” of oak trees.
- A qualified biologist, not a “qualified arborist”, should survey trees that will be removed. Specifically, resident hole-nesting species, such as acorn woodpeckers and bats, may be using trees as permanent nests/roosts, and/or granary trees. Granary trees should be protected because they provide a food storage resource for multiple woodpecker groups. However, because the analyses were limited only to project-related effects on federally-listed species, these types of impacts to non-listed but nonetheless regionally important species were not considered.
- A qualified restoration biologist, not an arborist, should prepare, implement, and monitor any revegetation plan. Arborists are not trained biologists.

Perhaps most importantly, the oak tree mitigation program focuses oak replacement (planting) on a few drainages and vegetated swales and their narrow buffers. What about the broad upland oak savanna habitats and grassland that formerly was savanna but from which trees were removed? On-site savanna habitat currently supports only mature trees (mostly blue oaks) with little or no recruitment as a result of decades of livestock grazing and oak removal. A primary goal of any oak tree mitigation program should be enhancement of existing oak savanna, including

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prohibiting land uses that negatively impact oak survivorship and recruitment. The Tribe should consult with oak woodland and oak savanna experts at the University of California-Santa Barbara and the nearby University of California Sedgwick Preserve to develop a biologically-based oak tree mitigation program that includes enhancement of drainage as well as upland habitats for coast, valley, and blue oaks.

**P998-19, p. 3-199:** Selecting "...an arborist with acceptable qualifications to fit the Tribe's objectives", hardly sounds like an objective preservation-based approach to oak habitat protection and enhancement. A qualified biologist, not an arborist, should develop oak tree protection plans that not only preserve, but enhances oak savannah and promotes habitat connectivity and long-term stability of this resource. Arborists are not trained biologists and have little or no experience "working with biological resources." The RMZs need to be biologically-based, not developed to present the least interference with development plans.

**P998-22, p. 3-199 and 3-200:** The response includes the statement that, "Should construction activities be anticipated to occur within 500 feet of the seasonal wetlands, a qualified biologist must be present to demarcate the buffer zone..." This is confusing because elsewhere in the EA, it seems that the purpose of mitigation is to establish buffer areas that are supposed to exclude construction activities. For the proposed mitigation measure to work, a qualified VPFS biologist needs to conduct protocol-level surveys of the entire project area during a year of normal or above-normal precipitation, identify all potential VPFS breeding habitat (including small depressions), then establish a 500-foot exclusion zone around these sites. Ideally, this should occur during conceptual siting and before final siting so that project elements can avoid these features and the 500-foot buffers. The biologist should demarcate all features with construction fencing that would remain in place throughout construction.

The USFWS mapped the Lake Cachuma Critical Habitat Core Area in the vicinity of the project area on the basis of soils and geology that is conducive to seasonal water feature and vernal pool formation. Some of these features may be very small and persist for one or a few seasons, to be replaced as other small depression form elsewhere. Critical habitat designation allows for long-term persistence of VPFS in these core areas by identifying soil and hydrological processes that support depressions and other features used by VPFS for breeding and promoting the long-term temporal stability of local populations at the metapopulation level through habitat connectivity. Simply protecting the tiny, widely disconnected habitat areas identified in the Final EA and stating that the project will only impact "0.15 acre for Alternative A and 0.01 acre for Alternative B" in relation to the 1,400-acre project area is misleading and misses the point of establishing critical habitat in the first place. Again, surveys as described above would permit evaluation of the overall quality and location of VPFS breeding habitat within the mapped critical habitat on-site.

Appendix R of the Final EA is a Request for Concurrence from the USFWS that, by implementing the mitigation measures listed in the EA, there will be no significant adverse effects to VPFS or VPFS habitat. It should be noted here that the Final EA (p. 5-6) includes a mitigation measure that states that, "Should the USFWS determine that even with the mitigation presented in the BA, impacts to VPFS may be significant, the Tribe shall, through passage of a

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Business Committee Resolution, only approve for consideration those site plans that exclude development of residential units within the VPFS designated critical habitat." Presumably non-residential development, such as roadways and Tribal facilities (Alternative B), would remain. This contingency significantly changes both development scenarios and would require additional analysis to determine the effects of restricting development to the northern half of the project area on biological resources.

**P998-25, p. 3-201:** The State of California Department of Fish and Wildlife has been petitioned to list the Townsend's big-eared bat (*Corynorhinus townsendii*) as Endangered in the State of California and is currently conducting inquiries on this matter. Federal actions do not trump State-listed species protection. A known big-eared bat roost occurs within 1.5 miles of the project area. Multi-seasonal, nighttime acoustical surveys of the project area should be conducted to determine where and when particular species, including big-eared bats, are using the site as foraging and/or temporary or permanent roosting habitat. Habitat enhancements, such as bat boxes, properly sited and installed by a qualified bat biologist, should be part of all habitat enhancement efforts on-site.

**Impacts of Night-Lighting.** The Final EA does not analyze impacts of night-lighting on wildlife use of RMZs and open space areas adjacent to development envelopes. The Visual Resources section of the Final EA provides some mitigation to decrease the effects of night-lighting, such as use of shielding and down-directed lighting. The mitigation should include the Santa Ynez Valley Community Plan Development Standard regarding night-lighting (BIO-SYV-4.2): *Only fully shielded (full cutoff) night lighting shall be used near stream corridors. Light fixtures shall be directed away from the stream channel.* Additionally, the wattage and number of street lights should be reduced to the minimum necessary for public safety. Sodium-arc lamps and other unshielded lights should be prohibited throughout the development.

**Review of BIA Letter requesting concurrence from USFWS that project Alternatives A and B will not significantly affect VPFS and CRLF (Appendix R in Final EA).** This letter downplays the fact that the entire southern half of the project area falls within designated critical habitat for the VPFS, as well as the fact that field surveys for VPFS and their aquatic habitats were conducted when no water was present on-site. Response to Comment P998-22 on p. 3-200, erroneously states that "...suitable habitat for VPFS is not present on-site." This statement ignores the fact that the project area supports a significant portion of the Lake Cachuma Critical Habitat Core Area as described in the USFWS Recovery Plan for this species.

Regardless, the Final EA assumes VPFS are present on-site and mitigates on this basis. According to the BIA letter, "...the document [Final EA] has been updated to clarify that no development would occur within the vernal pool (seasonal wetlands and seasonal swale) habitat areas of the project site under Alternatives A and B." However, VPFS could be present in other on-site depressions and small water features that are evident only when they hold surface water during the rainy season. The surveys likely underestimate the number and extent of seasonal water features on-site that could support VPFS. Protocol-level surveys for VPFS should be conducted in all depressions that hold surface water during a normal or above-normal rainy season.

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Page 5-6 of the Final EA states that, "Should the USFWS determine that even with the mitigation presented in the BA, impacts to VPFS may be significant; the Tribe shall, through passage of a Business Committee Resolution, only approve for consideration those site plans that exclude development of residential units within the VPFS designated critical habitat." This will effectively restrict development (at least of residential units) to the northern half of the project area, but could result in greater impacts to biological resources in this portion of the project area. Impacts under this scenario have not been analyzed in any document to date.

Statements that the project will have no impact on CRLF are likewise conjectural. CRLF are capable of moving distances in excess of a mile through upland habitat from aquatic sites. While the project area does not appear to support suitable aquatic habitat for CRLF, this species may occur in Santa Agueda Creek and other off-site, man-made ponds (e.g., the large pond located on private property 400-500 feet east of the east-central portion of the project area). The project area is well within the dispersal distance from these sites and drift fence/pitfall trap surveys should be conducted in portions of the project area that lie within a one-mile radius of off-site permanent and intermittent water features where no barriers to on-site dispersal exist.

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The characterization of biological resources in the Final EA is based on limited surveys conducted during drought years. The document does not adequately reflect the diversity of plant and animal communities present on-site permanently or seasonally. The conclusions of the Final EA regarding the value of the project area as a major component of the larger mosaic of open space in this region, the type and nature of wildlife "corridors", and the location and direction of wildlife movements on and through the project area are cursory, with no basis in field study. Most of these deficiencies stem from restricting the analysis of project-related impacts to federally-listed species, per NEPA and Federal ESA allowances. In doing so, the Final EA presents a limited picture of impacts to biological resources. These criticisms, taken together, require that an EIS be prepared in order to analyze impacts to the full spectrum of biological resources in greater detail.

Thank you for your time and the opportunity to comment on the Final EA.

Sincerely,

Lawrence E. Hunt

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**EXHIBIT B**

## **Camp 4 Project Analysis of Consistency with Santa Ynez Valley Community Plan Biological Resources Policies**

**The following analysis evaluates the proposed Project's consistency with the Policies and Development Standards of the Santa Ynez Valley Community Plan ("Plan") which is part of Santa Barbara County's Comprehensive Plan.**

- **Policy BIO-SYV-1:** Environmentally sensitive biological resources and habitat areas shall be protected and, where appropriate, enhanced.

*Inconsistent.* The Camp 4 Project does not protect or enhance environmentally sensitive biological resources and habitats. It allows for reductions in wildlife corridors and oak habitat.<sup>1</sup>

- **Action BIO-SYV-1.1:** The following general criteria are used to determine which resources and habitats in the Santa Ynez Valley Planning Area are identified as environmentally sensitive:
  - Unique, rare, or fragile communities which should be preserved to ensure their survival in the future;
  - Habitats of rare and endangered species as protected by State and/or Federal law;
  - Outstanding representative natural communities that have values ranging from particularly rich flora and fauna to an unusual diversity of species;
  - Specialized wildlife habitats which are vital to species survival;
  - Areas structurally important in protecting natural landforms that physically support species (e.g., riparian corridors protecting stream banks from erosion, shading effects of tree canopies);
  - Critical connections between separate habitat areas and/or migratory species' routes; and
  - Areas with outstanding educational values that should be protected for scientific research and educational uses now and in the future, the continued existence of which is demonstrated to be unlikely unless designated and protected.
- **Action BIO-SYV-1.2:** The following biological resources and habitats shall be identified as environmentally sensitive:
  - Santa Ynez River;
  - Streams and creeks (including major tributaries to the Santa Ynez River);
  - Central coastal scrub;
  - Coast live oak woodlands;
  - Valley oak woodland with native grass understory;
  - Valley oak savanna (if five or more acres and unfragmented)
  - Native grasslands; (as defined on page 159)
  - Wetlands;
  - Sensitive native flora; and
  - Critical wildlife habitat/corridors.

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<sup>1</sup> See comments on Draft EA, Draft BA and Final EA by Hunt and Associates Biological Consulting Services.

Exhibit B – Santa Ynez Valley Alliance, *Camp 4 Project Analysis of Consistency with SYVCP Biological Resources Policies*, Page 2

*Inconsistent.* Under Plan Actions BIO-SYV-1.1 and BIO-SYV-1.2, the Camp 4 Site would be identified with ESH including a major tributary of the Santa Ynez River (Zanja de Cota Creek's main tributaries), wetlands, critical wildlife habitats and corridors, and valley oak savannah. With the exception of some of the wetlands, which may be protected pursuant to the provisions of the Biological Assessment, portions of the other ESHs would be damaged by the development, including loss and fragmentation of wildlife habitat and corridors, loss of valley oak savannah, and inadequate buffering of the creek ESHs.<sup>2</sup> In addition, fill of 2.28 acres<sup>3</sup> of seasonal wetlands, wetland swales and ephemeral drainages also violates the Plan's policies and actions.

- **Policy BIO-SYV-2:** The County shall encourage the dedication of conservation or open space easements to preserve important biological habitats. Where appropriate and legally feasible, the County shall require such easements.

*Inconsistent.* Because the Camp 4 Project fails to cluster the proposed development to preserve important oak savannah habitat, it would not be found consistent with this Policy. An open space conservation easement would be appropriate and legally feasible as mitigation for a project of this intensity in this location. Even with the proposed open space, the Project would fail to protect important habitat areas and would be found inconsistent.

- **Policy BIO-SYV-3:** Significant biological communities shall not be fragmented by development into small, non-viable areas.

*Inconsistent.* The Project divides the site's biological resources, fragmenting them into small, less viable habitats.<sup>4</sup>

- **DevStd BIO-SYV-3.1:** Development shall not interrupt major wildlife travel corridors. Typical wildlife corridors include riparian habitats, rivers, streams, and floodplains, and unfragmented areas of grassland, oak woodland, and coastal scrub. Corridors shall allow for wildlife movement. Where practical, options for road undercrossings shall be explored.

*Inconsistent.* As noted by Hunt and Associates, the site includes significant wildlife movement corridors which would be significantly damaged by the development as proposed. The EA focusses on one small drainage as a wildlife corridor but ignores the site's "unfragmented areas of grassland" which the Policy notes can be important wildlife corridors.

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<sup>2</sup> See comments on Draft EA, Draft BA and Final EA by Hunt and Associates Biological Consulting Services.

<sup>3</sup> 2.52 acres under Alternative B. EA at 4-41

<sup>4</sup> See comments on Draft EA, Draft BA and Final EA by Hunt and Associates Biological Consulting Services.

Exhibit B – Santa Ynez Valley Alliance, *Camp 4 Project Analysis of Consistency with SYVCP Biological Resources Policies*, Page 3

- **POLICY BIO-SYV-4:** Sensitive habitats shall be protected to the maximum extent possible, and compensatory mitigation shall be prescribed when impacts to or loss of these areas cannot be avoided. As listed in Action BIO-SYV-1.2, sensitive habitat types include: Riparian, Coastal and Valley Freshwater Marsh, Southern Vernal Pool, Valley Needlegrass Grassland, Coastal Scrub, Coast Live Oak Woodland, Valley Oak Woodland and Savanna, streams and creeks, and wetlands. In addition, federally designated critical habitat for threatened or endangered species shall also be considered to be sensitive habitat. Natural stream corridors (channels and riparian vegetation) shall be maintained in an undisturbed state to the maximum extent feasible in order to protect banks from erosion, enhance wildlife passageways and provide natural greenbelts. Setbacks shall be sufficient to allow and maintain natural stream channel processes (e.g., erosion, meanders) and to protect all new structures and development from such processes. Prior to the approval of a Land Use permit for discretionary projects, County staff will determine whether sensitive biological resources may be present on the subject property by consulting Appendix D, the Santa Ynez Valley Vegetation Map; the CNDDB; and/or other P&D references. If these resources may be present on the parcel or within 100 feet, the applicant must provide a biological survey report from a qualified biologist that determines whether or not the Project would impact sensitive biological resources. If wetlands, riparian habitats or jurisdictional waters occur on the property, the report would include a wetland delineation following the U.S. Army Corps of Engineers (2006) procedures.

*Inconsistent.* This Policy requires avoidance of sensitive habitats when feasible and allows for compensatory mitigation only when avoidance is not feasible. The Project however does not avoid or attempt to avoid all sensitive habitats, and instead allows for loss of the sensitive Valley Oak Savannah, wetlands and stream channels in conflict with this Policy. The EA does not analyze whether avoidance is feasible e.g., through clustering of the 143 homes outside of the sensitive habitats. Instead, the EA acknowledges that some of these sensitive habitats will not be avoided, regardless of feasibility, in conflict with this Policy.

The EA does not provide compensatory mitigation for the loss of oak savannah habitat, opting instead to include only a tree replacement measure which does not replace the oak savannah habitat.

The EA apparently only considers 3-parameter wetlands.<sup>5</sup> It does not appear to consider 1-parameter wetlands, including valley freshwater marshes, which are protected by Policy BIO-SYV-4. As a result, these very sensitive wetland habitats would not be avoided where feasible, and may be destroyed without mitigation in conflict with the Policy.

- **DevStd BIO-SYV-4.1:** Development shall include a minimum setback of 50 feet in the Urban and Inner-Rural areas, 100 feet in the Rural areas, and 200 feet from the Santa Ynez River, from the edge of riparian vegetation or the top of bank whichever is more protective. The setbacks may be adjusted upward or downward on a case-by-case basis

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<sup>5</sup> EA at 3-30.

Exhibit B – Santa Ynez Valley Alliance, *Camp 4 Project Analysis of Consistency with SYVCP Biological Resources Policies*, Page 4

depending upon site specific conditions such as slopes, biological resources and erosion potential.

*Potentially Inconsistent.* While a site plan showing location of homes has not been provided and therefore consistency with this Development Standard cannot be ascertained with certainty, the general site plan provided in the EA illustrates residential development in proximity to several streams, raising the concern that the creek setback would not be 100 feet as required by the Development Standard. Homes could be clustered on smaller lots and this would achieve the required setback without reducing the number of homes desired. However, the homes are not clustered and it appears that the Project is potentially inconsistent with this Development Standard.

- **DevStd BIO-SYV-4.2:** Only fully shielded (full cutoff) night lighting shall be used near stream corridors. Light fixtures shall be directed away from the stream channel.

*Potentially Inconsistent.* The Project Description and EA do not provide adequate detail regarding lighting controls near the creek corridors. The EA includes no mitigation measures to limit lighting along creeks, e.g., as recommended by Hunt and Associates. The EA includes wetland buffers and bird nest buffers – but these only apply to construction activities, not to the proposed structures or light sources. Given the information provided, it is likely that the Project would be found inconsistent with this Development Standard.

- **DevStd BIO-SYV-4.3:** No structures shall be located within a natural stream corridor except: public trails that would not adversely affect existing habitat, dams necessary for water supply projects, flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, agricultural roads and crossings in rural areas zoned for agricultural use, fences, pipelines and bridges may be permitted when no alternative route or location is feasible. All development shall incorporate the best mitigation measures feasible to minimize the impact to the greatest extent.

*Inconsistent.* The Plan's Development Standard limits development in natural streams to flood control projects designed to protect existing structures, dams necessary for water supply, and public trails. The Project includes no fewer than nine roads crossing the onsite natural stream corridors and drainages.<sup>6</sup> Some of the roads would cross drainages on span bridges where necessary to allow water to flow from the site.<sup>7</sup> However, even if some or all of these roads cross the creeks on span bridges, the structure would still be constructed in and above the stream channel. Moreover, shading of stream habitat caused by the structure in the stream corridor would adversely affect the natural stream corridor habitat. Allowing these roads in the stream corridors would conflict with this Development Standard.

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<sup>6</sup> EA Figure 2-1.

<sup>7</sup> EA at 4-35.

Exhibit B – Santa Ynez Valley Alliance, *Camp 4 Project Analysis of Consistency with SYVCP Biological Resources Policies*, Page 5

- **DevStd BIO-SYV-4.5:** To protect Coastal and Valley Freshwater Marsh, Southern Vernal Pool, and other types of wetland habitats, land use development proposals shall include a minimum setback of 50 feet in the Urban and Inner-rural areas and 100 feet in the Rural areas unless this would preclude reasonable use of the outer edge of the habitat and can be adjusted on a case-by-case basis depending on the quality of the habitat and the presence of special status species or other sensitive biological resources.

*Potentially Inconsistent.* The EA and BA include no measures which would require any permanent setback for development. While the BA would require temporary, 500-foot buffers for construction near wetlands, the BA allows development within this buffer with no permanent setback from wetlands. Therefore, pending a site plan depicting minimum 100-foot permanent wetland buffers, the Project would be found inconsistent with this Development Standard.

- **DevStd BIO-SYV-4.6:** To protect Valley Needlegrass Grassland, Coastal Scrub and oak woodland habitats, development shall include a minimum setback of 15 feet in the Urban and Inner-rural areas and 30 feet in the Rural areas. The setbacks can be adjusted on a case-by-case basis depending on the quality of the habitat and the presence of special status species or other sensitive biological resources unless this would preclude reasonable use of property. The establishment of setbacks shall consider CalFire clearance requirements to ensure that these habitats are not disturbed as a result of clearance requirements.

*Potentially Inconsistent.* This Development Standard requires a setback from oak woodland habitats, but does not appear to require a setback from oak savannah habitats. The Project does not include a setback from the oak savannah habitat. However, if the Development Standard were interpreted to require a setback from oak savannah habitat, the Project would be found inconsistent.

- **DevStd BIO-SYV-4.8:** If the presence of Valley Needlegrass Grassland, Coastal Scrub, Live Oak Woodland, and Valley Oak Woodland and Savanna habitats are confirmed by the biological survey, prior to the issuance of a Land Use permit for discretionary projects, the applicant shall submit a restoration plan that details compensatory mitigation for any impacts to or loss of such habitats. Compensatory mitigation will be at a ratio prescribed by the County consistent with the County's Deciduous Oak Tree Protection Ordinance, if applicable, and otherwise shall be at least 2:1 (acreage of habitat created: acreage of habitat lost). The restoration plan shall be prepared by a qualified biologist and describe on- or off-site mitigation areas, number of plants to be planted and source of planting stock, planting and maintenance schedule, and success criteria. The County shall approve the length of the performance monitoring period and methods to ensure that success criteria are met. If suitable mitigation areas are not available, the applicant may contribute funds, at an amount approved by the County, to a conservation fund such as the Oak Woodlands Conservation Fund.

Exhibit B – Santa Ynez Valley Alliance, *Camp 4 Project Analysis of Consistency with SYVCP Biological Resources Policies*, Page 6

*Inconsistent.* The Project proposes to remove 50 individual oak trees to accommodate development.<sup>8</sup> These trees are part of the environmentally sensitive Valley Oak Savannah habitat. This Development standard requires a 2:1 replacement of Valley Oak Savannah. The Project does not include a Valley Oak Savannah habitat restoration plan as recommended by Hunt and Associates and as required by this Development Standard. Therefore the Project is inconsistent with this Development Standard.

- **Policy BIO-SYV-5:** Pollution of the Santa Ynez River, streams and drainage channels, underground water basins and areas adjacent to such waters shall be minimized.

*Potentially Inconsistent.* The Project would include a wastewater treatment plant which would discharge treated effluent. "Treated effluent would be recycled and applied to land on the parcels to be taken into trust and so impacts to water quality would less than significant."<sup>9</sup> (sic) Effluent would enter local streams (which flow into the Santa Ynez River) by overland flow during precipitation events with saturated soil conditions when effluent cannot physically percolate into the soil as envisioned in the EA. However, the EA does not provide adequate details to assess the effectiveness of the plant at minimizing surface water and groundwater pollution, e.g., the quality of effluent water, and the ability of the soil to absorb effluent water during saturated soil conditions so that effluent does not run off into creeks and subsequently the river. Therefore, pending more information about the wastewater treatment and effluent disposal, the Project would be found inconsistent with Policy BIO-SYV-5.

- **Policy BIO-SYV-8:** Native protected trees and non-native specimen trees shall be preserved to the maximum extent feasible. Non-Native specimen trees are defined for the purposes of this policy as mature trees that are healthy and structurally sound and have grown into the natural stature particular to the species. Native or non-native trees that have unusual scenic or aesthetic quality, have important historic value, or are unique due to species type or location shall be preserved to the maximum extent feasible.
- **DevStd BIO-SYV-8.2:** Development shall be sited and designed at an appropriate size and scale to avoid damage to native protected trees (e.g., sycamore, cottonwood, willow, etc.), non-native roosting and nesting trees, and non-native protected trees by incorporating buffer areas, clustering, or other appropriate measures. Mature protected trees that have grown into the natural stature particular to the species should receive priority for preservation over other immature, protected trees. Where native protected trees are removed, they shall be replaced in a manner consistent with County standard conditions for tree replacement.

*Inconsistent.* Some of the trees onsite are over 200 years old. It is feasible to avoid damage to and loss of the specimen trees on the site simply by clustering homes closer together. As planned however the Project does not seek to cluster development to avoid native specimen

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<sup>8</sup> EA at 4-40.

<sup>9</sup> EA at 4-35.

Exhibit B – Santa Ynez Valley Alliance, *Camp 4 Project Analysis of Consistency with SYVCP Biological Resources Policies*, Page 7

trees, as recommended by Hunt and Associates, and would remove 50 or more oak trees<sup>10</sup> many of which are unique, historic and specimen oak trees, and would replace them with seedlings or saplings in conflict with this Policy and Development Standard.

- **Policy BIO-SYV-9:** Trees serving as known raptor nesting sites or key raptor roosting sites shall be preserved to the maximum extent feasible.
- **DevStd BIO-SYV-9.1:** A buffer (to be determined on a case-by-case basis) shall be established around trees serving as raptor nesting sites or key roosting sites.

*Potentially Inconsistent.* Until pre-construction surveys are completed, it will not be known whether the Project would remove raptor nest or roost sites, or would adequately buffer nest or roost sites. Hunt recommends “point-count surveys, conducted at different times of the year” as necessary to ascertain impacts to nesting raptors.<sup>11</sup> Given the Project’s proposed removal of several dozen mature oak trees, it is potentially inconsistent with this Policy pending pre-construction avian surveys.

- **Policy BIO-SYV-14:** Where sensitive plant species and sensitive animal species are found pursuant to the review of a discretionary project, efforts shall be made to preserve the habitat in which they are located to the maximum extent feasible. For the purpose of this policy sensitive plant species are those species which appear on a list in the California Native Plant Society’s Inventory of Endangered Vascular Plants of California. Sensitive animal species are those listed as endangered, threatened or candidate species by the California Department of Fish and Game and the U.S. Fish and Wildlife Service.
- **DevStd BIO-SYV-14.1:** Efforts shall be made to avoid and preserve the habitat in which sensitive plant and animal species are located to the maximum extent feasible. A monitoring plan shall be provided that details on-site biological monitoring to be conducted during construction to ensure that these resources are not impacted during construction.
- **DevStd BIO-SYV-14.2:** Where sensitive plant species populations cannot be avoided, the applicant shall submit to the County a compensatory mitigation plan. This plan shall include measures to establish the species to be impacted in suitable habitat on-site or at an off-site location in the project vicinity. Collection of seeds or propagules from the area to be impacted shall be conducted. Habitat enhancement of on-site areas containing these species can be used in lieu of, or in concert with, planting new areas. The plan shall contain success criteria and a monitoring plan to ensure the establishment of these species. A County-designated conservation bank may be established for projects in which compensatory mitigation cannot be performed on-site.
- **DevStd BIO-SYV-14.3:** Areas containing sensitive plant species listed on the CNPS List 1B that will be avoided, and those areas which will be planted or enhanced, shall be

<sup>10</sup> Hunt and Associates comments on Final EA at 1 noting potential for removal of 70 oak trees.

<sup>11</sup> Lawrence E. Hunt Consulting Biologist comments on draft EA. October 3, 2013.



**Santa Barbara Audubon Society, Inc.**

*A Chapter of the National Audubon Society*

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July 14, 2014

Amy Dutschke  
Regional Director  
Bureau of Indian Affairs, Pacific Regional Office  
2800 Cottage Way  
Sacramento, California 95825

Subject: Comments on Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust Final  
Environmental Assessment, Santa Ynez Valley, Santa Barbara County, California.

Dear Ms. Dutschke:

Santa Barbara Audubon Society (SBAS) is a chapter of the National Audubon Society. SBAS educates members of the Santa Barbara community about birds and their habitats and advocates responsible legislation and public policies which help preserve our natural resources. SBAS has about 1100 members in Santa Barbara County.

SBAS has reviewed the Final Environmental Assessment (FEA), including the consultant's responses to our comment letter on the Draft Environmental Assessment<sup>1</sup>. We include that letter in this current response by reference. We still believe that the assessment of biological resources in the FEA is inadequate and flawed for the following reasons:

The project site is an important wintering ground for several migratory bird species and birds of prey, yet there were no surveys conducted in any month between September and March. Point-count surveys should be conducted at several different times of the year, in order to characterize use of the site as foraging and nesting habitat for migratory birds and raptors. The FEA, in Appendix E, Species Lists and Biological Assessment, shows only 16 bird species observed on the site. In contrast, an on-line bird observation site, e-Bird<sup>2</sup>, shows 94 species at the Armour Ranch Road "hot spot" on the border of the site. Again, this severe discrepancy demonstrates the inadequacy of the biological survey. The FEA does not justify the inadequate surveys nor explain how other observers could have seen so many more species.

The FEA states, "No migratory birds or other birds of prey were observed nesting during the 2011, 2012, and 2013 biological surveys of the project site." This statement severely strains credibility and clearly demonstrates the inadequacy of the survey. A thorough survey of all habitats within the project area would have certainly detected several species nesting, including western meadowlark and red-tailed hawk. California horned larks, a Watch List species, have been observed breeding on the property by local birders as well.

<sup>1</sup> SBAS letter to DIA dated October 5, 2013.

<sup>2</sup> See <http://ebird.org/ebird/hotspot/L419284>.

P7-01

P7-02

The FEA is also inadequate because it does not analyze the impact of the project on the Bald or Golden Eagle nor does it discuss how protection of those species under the Bald and Golden Eagle Protection Act would relate to the project. This project is not exempt from the federal Bald and Golden Eagle Protection Act. The FEA does not mention the occurrence of the Golden Eagle on the project site. The site has nearly perfect grassland and oak savanna foraging habitat for Golden Eagles. Golden eagles have been reported on the site.<sup>3,4,5</sup> Bald eagles are known to winter at nearby Cachuma Lake; Santa Barbara County even offers eagle cruises in the winter months. In addition, it is widely known among Santa Barbara County birders that Bald Eagles nest within approximately two miles of the site. Bald Eagle nesting has also been observed at the nearby University of California Sedgwick Reserve. A Bald Eagle was observed on the Camp 4 site on 27 December 2009 by Libby Lindsay<sup>6</sup>. The fact that the impact of the project on Bald and Golden Eagles is not stated is a serious flaw in the FEA. The impact of the project on these species must be determined. The consultant's response to our previous comments on this issue do not provide any justification to this serious omission from the FEA.

P7-03

The consultant's response to our comments on the DEA stated, "As stated in Section 5.4.4 of the EA, nesting bird surveys, which would include raptors such as eagles, would be performed within 14 days prior to commencement of construction activities." This is inadequate. The EA needs to determine the impact of habitat loss on Bald and Golden Eagles. Just performing nest surveys before construction would not adequately assess the impact of habitat loss on eagle species. It is likely that the Camp 4 project would significantly impact the habitat needs of local eagle populations, particularly the Golden Eagle.

SBAS again emphasizes the inadequacy of the biological survey done for this project. We urge, again, that the BIA to significantly improve the survey methodology and conduct a thorough, complete, and accurate survey. The BIA should also perform an analysis of the impact of the project relative to the protections afforded eagles under the Bald and Golden Eagle Protection Act. Then an unbiased professional assessment of the environmental impact of the project should be completed.

P7-04

Yours truly,



Stephen J. Ferry  
Co-President  
Santa Barbara Audubon Society

<sup>3</sup> See <http://ebird.org/ebird/hotspot/L419284>. A Golden Eagle was observed on the site on 31 July 2013 by Casey Ryan.

<sup>4</sup> Golden eagles are regularly observed in this area. See, for example, <http://groups.yahoo.com/neo/groups/sbcobirding/conversations/messages/18639> and <http://groups.yahoo.com/neo/groups/sbcobirding/conversations/messages/18492>.

<sup>5</sup> See comments on DEA by Lawrence E. Hunt, Hunt and Assoc., 3 October 2013.

<sup>6</sup> See <http://ebird.org/ebird/hotspot/L419284>.

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July 11, 2014

**Via Overnight Mail & Email**

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**Re: Final Environmental Assessment for Proposed Trust Acquisition of Property Known as "Camp 4" in Santa Ynez, California**

APN: 141-121-51

APN: 141-140-10

APN: 141-230-23

APN: 141-240-02

Dear Ms. Dutschke:

Thank you for the opportunity to address the final environmental assessment for the proposed trust acquisition of the property known as "Camp 4." We write on behalf of Save the Valley, LLC, an organization concerned with preservation of the Santa Ynez Valley. As noted in the final environmental assessment, Camp 4 is subject to Government Code section 51200, *et seq.* (the "Williamson Act"). As you know, the Williamson Act restricts the use and development of certain properties under its purview.

P8-01

In April 2010, the Santa Ynez Band of Mission Indians (the "Tribe") purchased Camp 4 from Fess Parker Ranch, LLC ("Fess Parker"). After purchasing Camp 4, the Tribe was required to sign and record a simple "Notification of Assumption of Williamson Act Contract," which acknowledges that it assumes Camp 4 subject to all Williamson Act encumbrances. Over four years has passed since the Tribe purchased Camp 4 and it has still not signed and recorded the required Assumption Agreement. Thus, the Tribe has never publicly acknowledged it is bound by all the restrictive covenants and encumbrances for Camp 4.

P8-02

In July 2013, the Tribe applied to the Bureau of Indian Affairs (the "BIA") to have Camp 4 accepted from fee status into trust by the United States. That application is the subject of this instant final environmental assessment. Both the Tribe's application and the final environmental assessment note that the Tribe has "internally" agreed to comply with the Williamson Act during the nine year non-renewal period until the Camp

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4 Williamson Act Contract expires. However, as described above, the Tribe has never publicly acknowledged and agreed that it is bound by all the restrictive covenants and encumbrances for Camp 4 by signing and recording the Assumption Agreement provided by Santa Barbara County, as per the Uniform Rules adopted by the County of Santa Barbara Board of Supervisors in September 2007.

In its application, the Tribe has also failed to submit a similar "Acknowledgment of Restrictive Covenants" form as per the Fee-to-Trust Handbook issued by the Department of Interior BIA Affairs Office of Trust Services Division of Real Estate Services. Further, the final environmental assessment itself is inconsistent with the Williamson Act. Without the recorded Assumption Agreement by the Tribe to be bound by the Williamson Act for the remainder of the nine-year non-renewal period, there would be no way to enforce the Williamson Act's express provisions.

For the reasons discussed herein, Save the Valley, LLC requests that, prior to any further consideration of the Tribe's fee to trust application, the BIA require that the Tribe: (1) sign the Assumption Agreement provided to them by the County of Santa Barbara and record the agreement in the Recorder's Office of the County of Santa Barbara; and (2) submit a Restrictive Covenants Acknowledgment form to the BIA, which acknowledges that Camp 4 is subject to all the encumbrances of the Williamson Act.

#### **STATEMENT OF FACTS**

On April 1, 2010, Fess Parker transferred its entire interest in Camp 4 to the Tribe. (**Exhibit 1** [deed]; **Exhibit 2** [parcel map].) Camp 4 is subject to restrictions established by the Williamson Act. The restrictions are set forth in a type of contract which, for the land in question, has been identified as contract 71-AP-37. The restrictions run with the land. That is, any successor takes the land with the restrictions intact.

P8-02  
(Cont.)

The Williamson Act establishes a program to enroll land in Williamson Act or Farmland Security Zone contracts whereby the land is enforceably restricted to agricultural, open space, or recreational uses in exchange for reduced property tax assessments. The Act is administered through Uniform Rules. (**Exhibit 3** [excerpts of the Santa Barbara County Uniform Rules for Agricultural Preserves and Farmland Security Zones which implement the Williamson Act in Santa Barbara County].) Essentially, in exchange for these restriction covenants on the use of the land, the landowner is allowed to pay decreased property taxes.

These Uniform Rules were approved by the Santa Barbara County Board of Supervisors on September 25, 2007 and clearly state specific guidelines for compliance. The rules provide that the transferee, the Tribe, obtains the Assumption Notice Form from Planning and Development Department. County Counsel shall then review and approve as to form and return the form to the applicant (the Tribe) for subsequent recording by the County Recorder's Office. To ensure that the restrictions run with the land, Uniform Rule 6-2(A) requires that the subsequent buyer "immediately" sign the assumption agreement and record the assumption agreement in the County of Santa Barbara:

The transferee shall cause to be completed and signed immediately subsequent to the instrument creating the new ownership a Notification of Assumption of Williamson Act/Farmland Security Zone Contract.

After purchasing Camp 4 from Fess Parker, the Tribe did not immediately sign and record the assumption agreement. In fact, over four years after the Tribe purchased Camp 4, it still had not signed nor

recorded the assumption agreement. Yet, during those four years after it purchased the property, the Tribe benefited from paying reduced property taxes based on the Williamson Act contract. (See **Exhibit 4**.)

Somehow, it finally came to the attention of the Santa Barbara County Agricultural Preserve Advisory Committee (the "APAC") that the Tribe had failed to sign the assumption agreement and record it with the County of Santa Barbara. The APAC is charged with administering and enforcing the Williamson Act/Farmland Security Zone contracts with landowners such as the Tribe. It includes representatives from the Agricultural Commissioner's Office, Assessor's Office, County Surveyor's Office, Cooperative Extension, Planning and Development, and the agricultural community.

On December 2, 2013, the APAC wrote to the Tribe about its failure to sign the assumption agreement and record it in the County of Santa Barbara Recorder's office. (**Exhibit 5** [Dec. 2 letter].) The letter informed the Tribe of its failure to comply and noted a previous hearing held on November 1, 2013, when the Tribe informed the APAC that it had failed to fulfill this requirement. The APAC informed the Tribe:

[T]his oversight created a situation inconsistent with the Uniform Rules. Uniform Rule 6-1.7 requires that landowners remain in compliance during the entire life of the contract, even after nonrenewal has been initiated.

The APAC went on to notify the Tribe that it had "sixty (60) days to remedy the contract violation. At the end of that time, if the violation has not been corrected, APAC will consider the item again for a determination on how to proceed." Three months later the Tribe still had not complied.

On March 3, 2014, the Tribe wrote to Planning and Development and the Agriculture Preserve Committee and requested the form identified in the Uniform Rules as a "Notification of Assumption of Williamson Act/Farmland Security Zone Contract." The Tribe also indicated it had received a document entitled "the Process for Assumption Contracts" as well as an agreement to pay a fee associated with the filing. Finally, the Tribe indicated it was "currently collecting the following information and creating our own assumption notice letter" even though the Uniform Rules required the Tribe to use a form provided by the County of Santa Barbara. (**Exhibit 6**.)

On March 13, 2014, the Tribe provided the APAC with some basic information required by the Williamson Act, but the Tribe did not sign the notice of assumption and did not record it with the Recorder's office. (**Exhibit 7**.)

One month later, the Tribe still had not signed an assumption agreement and recorded it with the County of Santa Barbara. On April 4, 2014, the APAC held a meeting at which time it addressed the issue with the Tribe. The agenda item described the issue as follows: "Consider the letter of December 2, 2013 from the committee to the Santa Ynez Band of Mission Indians regarding their failure to assume a Williamson Act contract, determine if the violation of Uniform Rule 6-2 A still exists, and a make a determination of how to proceed." (**Exhibit 8**.)

At the meeting, Florence Trotter-Cadena, Santa Barbara County Planner (speaking via remote hook-up from Santa Maria County Administration Building) reported that the Tribe had "begun" the Assumption Process of the Williamson Act Contract for Camp 4. She was probably referring to the March 13, 2014 letter which provided basic information about the parcels of land.

After Ms. Trotter-Cadena's report, the members of APAC began a discussion to entertain a motion that the violation of the contract had been corrected by the Tribe. A member of the public, Steve Pappas, asked Ms. Trotter-Cadena to reconfirm a comment that she had made in her presentation that the assumption of the contract "was in progress," but had not yet been completed. She replied, "That is correct." Mr. Pappas turned to the Chair of the APAC and the County Council present at the meeting, and asked County Council, "How can the Ag Preserve Advisory Committee even entertain a motion that the violation was corrected and that no further action was needed given the Assumption Process was not yet complete, just on their word that they will finish it and fully legally assume the Williamson Act Contract?"

County Counsel agreed with Mr. Pappas. County Counsel then advised APAC that the exact language of the motion should be "No Action Taken." This precise motion was made and unanimously passed by the Committee members.

On April 15, 2014, County Counsel wrote to the Tribe providing detailed instructions and an assumption agreement to execute and record with the Recorder for the County of Santa Barbara. (**Exhibit 9.**) As of the date of this letter, the Tribe has not yet complied. To date, the Tribe has also failed to submit an Acknowledgment of Restrictive Covenants form to the BIA as part of its fee to trust application, despite the fact that it is bound by the Williamson Act's encumbrances on Camp 4 for at least nine more years.

#### **REQUESTED ACTION BY THE BIA**

The importance of the Williamson Act and preservation of the real estate under its purview cannot be argued or minimized. The Act and the governing contracts protect agriculture and retain open space for its scenic beauty and value as wildlife habitat. This conservation expressly discourages premature conversion of land to urban land uses, thereby curtailing sprawl and promoting logical urban growth and provision of urban services. This is not hyperbole. Rather, these statements are taken directly from the Uniform Rules – to "ensure the long-term retention of these benefits, land enrolled in the program is prevented from being readily converted to urban or other non-agricultural uses."

P8-02  
(Cont.)

The Tribe, as the transferee of property subject to a Williamson Act contract, is mandated to sign and record an assumption agreement. This is to publicly acknowledge that the Tribe is bound by the terms of the Williamson Act contract. Lest there be any doubt, even the definition of the phrase "Notification of Assumption of Williamson Act Contract" states that "when all the land under a single contract is transferred to a new owner and no changes to contract boundaries result, the new owner shall assume the original contract and all of the requirements therein, and submit to the County such a notification." The Uniform Rules also make it abundantly clear that the assumption agreement shall be executed and recorded with the Recorder's office for the County of Santa Barbara immediately.

If the BIA approves the acquisition application, Camp 4 will be accepted into trust free from any and all encumbrances, since the Tribe has yet to acknowledge that it is bound by the Williamson Act for a period of at least nine more years. This would allow the Tribe to both ignore its obligation to sign and record the assumption agreement, and immediately initiate development of Camp 4 in direct violation of the restrictive covenants placed on the land by the Williamson Act. The Act's express policy of promoting land conservation in the State of California would be a nullity.

Page 5 of 5

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For the reasons discussed herein, Save the Valley, LLC requests that, prior to any further consideration of the Tribe's fee to trust application, the BIA require that the Tribe: (1) sign the Assumption Agreement provided to them by the County of Santa Barbara and record the agreement in the Recorder's Office of the County of Santa Barbara; and (2) submit a Restrictive Covenants Acknowledgment form to the BIA, which acknowledges that Camp 4 is subject to all the encumbrances of the Williamson Act.

P8-02  
(Cont.)

Thank you for your prompt attention to this matter.

Sincerely,

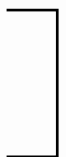


Matthew M. Clarke

MMC/mmm

cc: Chad Broussard (chad.broussard@bia.gov)

**EXHIBIT 1**



RECORDING REQUESTED BY  
FIRST AMERICAN TITLE

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:  
S.Y. BAND OF MISSION INDIANS  
P.O. BOX 517  
SANTA YNEZ, CA. 93460  
ATTN TRIBAL ADMINISTRATOR

MAIL TAX STATEMENTS TO:  
SALE AS ABOVE

TRANSFER TAX NOT MADE PART  
OF THE PERMANENT RECORD

6 UNIN  
SUR UNP

Assessor's Parcel Nos.: 141-140-10; 141-121-51;  
1441-230-23 and 141-240-02

GRANT DEED

RECORDING FEE \$ 10.00

Recorded REC FEE 30.00  
Official Records  
County of CONFIRMED COPY 4.00  
Santa Barbara SURVEY MIDDLE 10.00  
Joseph E. Holland

09:19AM 01-Apr-2010 TP  
Page 1 of 6

The undersigned Grantor declares that Documentary Transfer Tax is not part of the public records.

**FOR A VALUABLE CONSIDERATION**, receipt of which is hereby acknowledged, **FESS PARKER RANCH LLC**, a California limited liability company ("Grantor"), hereby grants to the **SANTA YNEZ BAND OF MISSION INDIANS** ("Grantee"), that certain real property located in the County of Santa Barbara, State of California that is more particularly described on the attached Exhibit 1, which is incorporated herein by reference.

Such grant is subject to all encumbrances and other matters of record, all leases, non-delinquent real property taxes, all building codes and other applicable laws, ordinances and governmental regulations affecting the Property and all matters that would be disclosed by a survey or physical inspection.

*Signature of Grantor Appears on Following Page*

RECEIVED

REC'D  
S.B. COUNTY PLANNING & DEVELOPMENT

IN WITNESS WHEREOF, Grantor has caused its duly authorized representatives to execute this instrument as of the date hereinafter written.

Dated: 3/26/2010

GRANTOR:

FESS PARKER RANCH LLC,  
a California limited liability company

By Fespar Enterprises LLC,  
a California limited liability company,  
Its Manager

By: W. J. Osterbauer  
Name: W. J. OSTERBAUER  
Title: CEO

Exhibit 1

Legal Description of Real Property

Order Number: 4205-3460634  
Page Number: 9

**LEGAL DESCRIPTION**

Real property in the unincorporated area of the County of Santa Barbara, State of California, described as follows:

**PARCEL 1: (APN: 141-121-51 AND PORTION OF APN: 141-140-10)**

LOTS 9 THROUGH 18, INCLUSIVE, OF TRACT 18, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105580 OF OFFICIAL RECORDS.

**PARCEL 2: (PORTION OF APN: 141-140-10)**

LOTS 1 THROUGH 12, INCLUSIVE, OF TRACT 24, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105581 OF OFFICIAL RECORDS.

**PARCEL 3: (PORTIONS OF APNS: 141-230-23 AND 141-140-10)**

LOTS 19 AND 20 OF TRACT 18 AND THAT PORTION OF LOTS 1, 2, 7, 8, 9, 10, AND 15 THROUGH 20, INCLUSIVE, OF TRACT 16, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THAT LIES NORTHEASTERLY OF THE NORTHEASTERLY LINE OF THE LAND GRANTED TO THE STATE OF CALIFORNIA BY AN EXECUTOR'S DEED RECORDED APRIL 2, 1968 IN BOOK 2227, PAGE 136 OF OFFICIAL RECORDS OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105582 OF OFFICIAL RECORDS.

**PARCEL 4: (APN: 141-240-02 AND PORTION OF APN: 141-140-10)**

LOTS 1 THROUGH 12, INCLUSIVE, OF TRACT 25, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105583 OF OFFICIAL RECORDS.

**PARCEL 5: (PORTION OF APN: 141-230-23)**

THAT PORTION OF LOTS 3 AND 6 OF TRACT 16, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY

Order Number: 4205-3460634  
Page Number: 10

RECORDER OF SAID COUNTY, THAT LIES NORTHEASTERLY OF THE NORTHEASTERLY LINE OF THE LAND GRANTED TO THE STATE OF CALIFORNIA BY AN EXECUTOR'S DEED RECORDED APRIL 2, 1968 IN BOOK 2227, PAGE 136 OF OFFICIAL RECORDS OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105584 OF OFFICIAL RECORDS.

EXHIBIT 2

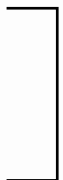
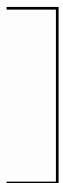




EXHIBIT 3



# Uniform Rules for Agricultural Preserves and Farmland Security Zones



Santa Barbara County

September 2007

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## INTRODUCTION

### I. PURPOSE OF AGRICULTURAL PRESERVE PROGRAM AND UNIFORM RULES

The *Santa Barbara County Uniform Rules for Agricultural Preserves and Farmland Security Zones* (hereafter referred to in this document as Uniform Rules or Rules) is the set of rules by which the County administers its Agricultural Preserve Program under the California Land Conservation Act of 1965, better known as the Williamson Act. The purpose of the Williamson Act is the long-term conservation of agricultural and open space lands. The Act establishes a program to enroll land in Williamson Act or Farmland Security Zone contracts whereby the land is enforceably restricted to agricultural, open space, or recreational uses in exchange for reduced property tax assessments. Participation in the program is voluntary by the County and by the eligible landowners.

The Act requires that each participating local government have a set of uniform rules for administering Williamson Act and Farmland Security Zone contracts within its jurisdiction. The County's Uniform Rules establish the basic requirements of all contracts and are incorporated as a part of each contract. As a part of every contract, therefore, any change in the County's Rules applies to every contract currently in effect with the exception of rules specifically applied prospectively and those compatible uses permitted under Section 51238.3 of the Williamson Act.

Conservation of agricultural and open space land benefits the general public by discouraging premature conversion of land to urban land uses, thereby curtailing sprawl and promoting logical urban growth and provision of urban services. The Agricultural Preserve Program both protects agriculture and retains open space for its scenic qualities and value as wildlife habitat. Most directly, it contributes to the state's agricultural economy and the availability of fresh, nutritious, varied and affordable food. To ensure the long-term retention of these benefits, land enrolled in the program is prevented from being readily converted to urban or other non-agricultural uses. This is achieved by the County through conscientious and consistent enforcement of the Uniform Rules and the terms of the contracts, which also maintains the constitutionality of administering preferential property tax assessments for these lands.

### II. AGRICULTURAL PRESERVES AND WILLIAMSON ACT CONTRACTS

As a participating county, the Williamson Act mandates that areas of the County be designated as agricultural preserves for application of the program. Land within the preserves that meets the eligibility requirements may enroll in the Agricultural Preserve Program through a Williamson Act or Farmland Security Zone contract with the County. It is Santa Barbara County's practice to establish the preserves simultaneously with enrollment in a contract, resulting in coterminous boundaries between the preserves and the contracts. Thus land anywhere within the County that

## DEFINITIONS

Some of the terms defined below are taken directly from the Williamson Act. The definitions in the Williamson Act (WA) may be amended from time to time by the state legislature. Any changes made to the Act's definitions will supersede the definitions included in these Rules. Other terms are taken directly from County zoning ordinance (Santa Barbara County Code Chapter 35, Zoning). Those definitions are also subject to change in response to future zoning ordinance amendments. In some cases, definitions are derived from County zoning ordinances or the Williamson Act but have been tailored to the requirements of the County's Agricultural Preserve Program and may be more restrictive than the zoning ordinances or the Williamson Act. Lastly, there are those definitions which have been developed specifically for the purposes of these Rules.

**Agricultural employee:** a person who primarily works or is engaged in agriculture.

**Agricultural preserve:** an area of contracted land devoted to either agricultural use, recreational use, or open space use, as herein defined, or any combination of those uses and which is established in accordance with the provisions of the Williamson Act and these Rules (derived from WA).

**Agricultural use:** the use of land for the purpose of producing an agricultural commodity for commercial purposes (WA).

**Cancellation:** the immediate removal from contract of a parcel or premises under Williamson Act or Farmland Security Zone contract.

**Commercial:** any activity or operation involving compensation or remuneration for its products or services.

**Commercial composting facility:** a commercial facility that is operated for the purpose of producing compost from the onsite and/or offsite organic material fraction of the waste stream and is permitted, designed, and operated in compliance with the applicable regulations contained in the California Code of Regulations, Title 14, Division 7, as may be amended from time to time. Non-commercial composting that is part of an agricultural operation is not included within this definition (derived from the Santa Barbara County Code, Chapter 35, Zoning).

**Contiguous:** Property shall be considered to be contiguous for the purposes of these Uniform Rules if two or more properties are adjoining, touch at a point or share a common boundary, or are separated by a road, street, utility easement, railroad right-of-way or other public facility so long as the property is owned in common and can reasonably be operated as a single agricultural unit (derived from Subdivision Map Act).

**Contract:** the legal document that binds the parties under the terms of the Williamson Act and these Rules.

### Definitions

**Contracted land:** land under either a Williamson Act or Farmland Security Zone contract; used generally to refer to all land in the County enrolled in the Agricultural Preserve Program.

**Development envelope:** the area of land in an agricultural preserve within which all residential, residential accessory structures, and other structures and uses not associated with the commercial agricultural operation, including landscaping and access to the buildings or structures, are located. Examples of such structures include, but are not limited to, guest houses, non-agricultural roads, and personal horse stables. Septic systems would be included in this development envelope if they take land out of agricultural production.

**Fully planted:** in conjunction with prime and superprime land, land devoted to active crop production, excluding both agricultural and non-agricultural buildings and structures as well as non-producing land. Fully planted land does not include: diseased or otherwise previously producing land which is not currently producing an adequate income for qualification as prime or superprime land; unplanted easements or unplanted setbacks; driveways and roads; waterways, wetlands and other terrain features that will not support commercial agricultural production.

**Guest ranch:** agricultural tourism that provides accommodation to paying guests incidental to or in conjunction with the principal commercial agricultural operation (derived from Santa Barbara County Code Chapter 35, Zoning).

**Guest house:** detached living quarters of a permanent type of construction without kitchen or cooking facilities of any kind, intended and used primarily for temporary guests of the occupants of the main building on the parcel on which such guest house is located, and not rented or otherwise used as a separate dwelling (Santa Barbara County Code Chapter 35, Zoning).

**Historic structure:** a structure that was built on or moved onto land prior to the land being placed under a Williamson Act contract and meets the requirements of the Cultural Resource Guidelines Historical Resources Element for a historic structure.

**Immediate family:** the spouse of the landowner, the natural or adopted children of the landowner, the parents of the landowner, the siblings of the landowner, or the grandchildren of the landowner.

**Land reclamation fill:** fill consisting of solid materials or soil that is non-toxic, noncombustible, non-organic and not hazardous, and which is used as fill to contour existing uneven terrain for the purpose of reclaiming land for agricultural use (County Grading Ordinance).

**Managed wetland area:** an area, which may be an area diked off from the ocean or any bay, river or stream to which water is occasionally admitted, and which, for at least three consecutive years immediately prior to being placed within an agricultural preserve pursuant to these Rules, was used and maintained as a waterfowl hunting preserve or game refuge or for agricultural purposes (WA).

### Definitions

**Multiple contract preserve:** the situation whereby two or more contiguous prime and/or superprime premises, none of which qualify independently as an agricultural preserve, are combined to meet the minimum preserve size of 40 acres; each ownership remains under a separate contract, but each ownership's continuing individual eligibility depends on remaining within a minimum 40-acre block of contracted land.

**Nonprime land:** land that is not prime (or superprime). This may include, but is not limited to, land used for grazing or dry farming (derived from WA).

**Nonrenewal:** withdrawal of land under contract whereby the contract remains in effect for the remainder of the term of the contract (i.e. 9 years for a Williamson Act contract or 19 years for a Farmland Security Zone contract).

**Notification of Assumption of Williamson Act Contract:** when all the land under a single contract is transferred to a new owner and no changes to contract boundaries result, the new owner shall assume the original contract and all of the requirements therein, and submit to the County such a notification.

**Open space use:** the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, if the land is within a scenic highway corridor, a wildlife habitat area, a saltpond, a managed wetland area, or a submerged area, as these terms are herein defined in these Rules (derived from WA).

**Parcel:** a single parcel of land in one ownership, the boundaries of which are delineated in the latest recorded parcel map, subdivision map, or Certificate of Compliance recorded in the County Recorder's Office or deed provided that such recorded deed does not create or attempt to create a parcel in violation of the provisions of any applicable California law or County ordinance (Santa Barbara County Code Chapter 35, Zoning); also referred to as legal parcel. Unless otherwise specified, the gross acreage of the parcel is considered to be the parcel size.

**Premises:** the area of land under a single Williamson Act or Farmland Security Zone contract; the premises may comprise a single legal parcel or multiple contiguous legal parcels under the same ownership.

**Prime land:** means any of the following:

1. All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.
2. Land which qualifies for rating 80 through 100 in the Storie Index Rating.
3. Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.
4. Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing

### Definitions

period on an annual basis from the production of unprocessed agricultural plant production not less than five hundred dollars (\$500) per acre.

5. Land which has returned from production of unprocessed agricultural plant products an annual gross value of not less than five hundred dollars (\$500) per acres for three of the previous five years, except that for irrigated pasture this figure will be two hundred dollars (\$200) per acre for three of the previous five years (derived from WA).
6. In all cases, prime land must have a secure water source adequate to support the agriculture on the premises.
7. Superprime land is a subset of prime land – see definition.

**Principal dwelling:** a dwelling serving as the primary inhabited structure.

**Recreational use:** the use of the land in its agricultural or natural state by the public, with or without charge, for any of the following: walking, hiking, picnicking, wilderness camping, scenic viewing, swimming, boating, fishing, hunting, horseback riding or other similar low intensity recreational activities (derived from WA).

**Replacement contract:** a contract that is required when the boundaries or principal uses (i.e. Agriculture, Open Space, or Recreation) of the original contract are changed.

**Rescission:** the process of simultaneously voiding an existing contract and entering into a new contract where there is no reduction in the amount of land under contract.

**Residential Agricultural Unit (RAU):** an attached or detached single family dwelling unit on a permanent foundation located in the AG-I-40, AG-II-40, AG-II-100, and AG-II-320 zone districts, or a detached duplex on a permanent foundation located in the AG-II-320 zone district, which provides complete, independent living facilities for one or more persons in addition to a principal one-family dwelling. A RAU shall not be sold, transferred, or financed separately from the principal structure, but may be rented or leased on a non-exclusive basis. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation, and shall be located entirely on the same parcel that contains the principal dwelling (Santa Barbara County Code Chapter 35, Zoning).

**Submerged area:** any land determined by the Board of Supervisors to be submerged or subject to tidal action and found by the Board to be of great value to the state as open space (WA).

**Superprime land:** prime agricultural lands of the County south of the Santa Ynez Mountains and east of Gaviota Pass which are highly productive due to the combination of soils and climate that are uniquely suitable to specialty horticultural produce and floral varieties, and that are capable of supporting commercially viable agricultural operations on parcels as small as five acres. Superprime land is a subset of prime land and can be combined with either prime contracts or other superprime contracts to form a prime preserve of at least 40 acres. In order to qualify, it must meet specific production requirements that are different than regular prime land, as outlined in section 1-2.3 and Table 1-2 of these Rules.

### Definitions

**Wildlife habitat area:** a land or water area designated by the Board of Supervisors, after consulting with and considering the recommendation of the Department of Fish and Game, as an area of great importance for the protection or enhancement of the wildlife resources of the state (WA).

**Winery:** A bonded establishment primarily used for the purpose of processing grapes or other fruit products. Processing includes, but is not limited to, crushing, fermenting, blending, aging, storage, bottling, and wholesale/retail sales (Santa Barbara County Code Chapter 35, Zoning).

## UNIFORM RULE 6

### Administration

#### 6-1. CONTRACT TERMINATION

*Adopted December 13, 1971, Amended by Resolution No. 84-464, October 8, 1984, and Resolution No. 07-193 (September 25, 2007)*

The purpose of this section is to establish standards for the termination of Williamson Act and Farmland Security Zone contracts and the withdrawal of land from Agricultural Preserves and Farmland Security Zones, without impairing the integrity of the program. The procedures developed under this Rule are in accordance with the Williamson Act, and shall be used to process all requests for withdrawal from Agricultural Preserves and Farmland Security Zones and for termination of Williamson Act and Farmland Security Zone contracts. Methods for terminating Williamson Act contracts include nonrenewal, cancellation, annexation, public acquisition, and rescission. Except where expressly stated otherwise, the methods of termination presented below also apply to Farmland Security Zone contracts.

Under the Williamson Act, contracts are automatically renewed each year following the first year of a 10-year contract (or a 20-year contract for a Farmland Security Zone), unless the landowner or County serves a notice of nonrenewal or the contract is terminated by one of the other methods described below. Once the period of nonrenewal or termination has come to an end, the contract shall expire and the agricultural preserve or farmland security zone making up the boundaries of the contract shall be simultaneously disestablished.

##### 6-1.1. NONRENEWAL (Unilateral notice by landowner or County)

Withdrawal by a notice of nonrenewal is the preferred method considered in all instances, whether for all or part of the contracted land where whole parcels are involved. This method is open to either party to the contract, does not require a finding of fact, and provides for an adjustment in land assessed values, pursuant to Section 426 of the Revenue and Taxation Code.

Upon serving a notice of nonrenewal, the existing contract shall remain in effect for the balance of the period remaining from the date of the original execution or the last renewal of the contract, whichever is more recent.

When landowners seek to nonrenew a part of their contracted land they must serve a notice of nonrenewal for the whole contract and seek a replacement contract for the land remaining; the part to continue under contract must separately be able to meet County eligibility requirements.

## 6-1.2. CANCELLATION

### A. Petition by Owner

An owner may petition the Board of Supervisors for cancellation of his or her Williamson Act or Farmland Security Zone contract because there is a need for a change in land use. Cancellation may occur only if the County consents; it is an exacting process. Cancellation is an expensive method of terminating a contract. To cover administrative costs, each petitioner shall pay a processing fee in an amount established by resolution by the Board of Supervisors. Processing fees may be high due to the need to prepare staff reports, conduct public hearings, and the potential environmental review requirements under the California Environmental Quality Act. The State requires a cancellation fee equal to 12.5% (25% for Farmland Security Zones) of the current fair market value of the land as though it were free from contractual restriction.

The existence of an opportunity for another use of the land under contract shall not be sufficient reason for the cancellation of a contract. A potential alternative use of the land may be considered only if there is no proximate, noncontracted land suitable for the use to which it is proposed the contracted land be put. The uneconomic character of an existing agricultural use shall likewise not be sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

When a landowner wishes to cancel a contract, the landowner shall petition the Board of Supervisors for cancellation, and the landowner has the burden of producing evidence to prove the circumstances which warrant contract cancellation. The owner shall cite (1) the reasons why cancellation is desired, (2) what changes in circumstances have occurred, (3) why immediate action is necessary, and (4) how the landowner is affected by the changes in circumstances. The requirements for cancellation differ between Williamson Act and Farmland Security Zone contracts as outlined below.

#### 1. Williamson Act Contracts

The Board of Supervisors may grant tentative approval for cancellation of a Williamson Act contract only if it can make all of the findings for either a. or b. below, as provided in Sec. 51282 of the Government Code:

##### a. Cancellation is consistent with the purposes of the Williamson Act:

- (1) Cancellation is for land on which a notice of nonrenewal has been served; and
- (2) Cancellation is not likely to result in the removal of adjacent lands from agricultural use; and
- (3) Cancellation is for an alternative use which is consistent with the applicable provisions of the comprehensive plan; and

- (4) Cancellation will not result in discontinuous patterns of urban development; and
- (5) There is no proximate noncontracted land which is both available and suitable for the proposed use or development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

or

b. Cancellation is in the public interest:

- (1) Other public concerns substantially outweigh the objectives of the Williamson Act; and
- (2) There is no proximate noncontracted land which is both available and suitable for the proposed use, or development of the contracted land would provide more contiguous patterns of urban development of proximate noncontracted land.

2. Farmland Security Zone Contracts

- a. As required by Section 51282 of the Williamson Act, to cancel a Farmland Security Zone contract, the County shall make both of the findings specified in paragraphs a and b of section 1 above, based on substantial evidence in the record. Further, subdivisions (b) through (e) of Section 51282 of the Williamson Act shall apply to the findings made by the County.
- b. In its resolution tentatively approving cancellation of the contract, the County shall find all of the following:
  - (1) That no beneficial public purpose would be served by the continuation of the contract.
  - (2) That the uneconomic nature of the agricultural use is primarily attributable to circumstances beyond the control of the landowner and the local government.
  - (3) That the landowner has paid a cancellation fee equal to 25 percent of the cancellation valuation calculated in accordance with the provision set forth in section 6-1.2.B.3.
- c. The Director of Conservation must approve the cancellation. The Director may approve the cancellation after reviewing the record of the tentative cancellation provided by the County, only if he or she finds both of the following:
  - (1) That there is substantial evidence in the record supporting the decision.
  - (2) That no beneficial public purpose would be served by the continuation of the contract.

- d. A finding that no authorized use may be made of a remnant contract parcel of five acres or less left by public acquisition pursuant to section 51295 of the Government Code, may be substituted for the finding in subsection 2.a above.

**B. Cancellation Process**

1. Applications for cancellation for all or part of an Agricultural Preserve (where whole parcels are involved) shall be referred to the County Planning Commission for a recommendation to the Board of Supervisors. The application shall be accompanied by a proposal for a specified alternative use of the land. Once an application for cancellation is deemed complete pursuant to Section 65943 of the Government Code, the County shall immediately mail a notice to the Director of Conservation. Notification and communication with the Director of Conservation shall comply with section 51284.1 of the Williamson Act.

The Planning Commission shall hold a noticed public hearing(s) to consider cancellation of the contract and disestablishment of the Agricultural Preserve or Farmland Security Zone, and any rezoning and amendment of the County Comprehensive Plan necessary to permit the nonagricultural uses contemplated by the applicant.

2. Applications for cancellation shall be referred to the Agricultural Preserve Advisory Committee for comment and report to the Board of Supervisors.
3. Prior to any action by the Board giving tentative approval to the cancellation of any contract, the County Assessor shall determine the current fair market value of the land as though it were free of the contractual restriction. The Assessor shall certify to the Board the cancellation valuation of the land for the purpose of determining the cancellation fee. At the same time, the Assessor shall send a notice to the assessee indicating the current fair market value of the land as though it were free of the contractual restriction. The notice shall advise the assessee of the right to appeal the fair market value of the land under Section 1605 of the Revenue and Taxation Code and that the appeal shall be filed within 60 days of the date of mailing printed on the notice or the postmark date therefore, whichever is later.
4. The Board of Supervisors shall schedule a noticed public hearing to consider the request for cancellation upon receipt of the above reports from the Planning Commission, the Agricultural Preserve Advisory Committee, and the Assessor. If recommended by the Planning Commission, the Board of Supervisors shall also hold concurrent noticed public hearings to consider any rezoning and Comprehensive Plan amendments necessary. Notification of these hearings to the Director of Conservation shall comply with section 51284 of the Williamson Act.
5. Prior to giving tentative approval to the cancellation of any contract the Board shall determine and certify to the County Auditor the amount of the cancellation fee which

the landowner must pay the County Treasurer as deferred taxes upon cancellation. That fee shall be an amount equal to 12.5% of the cancellation valuation of the property for a Williamson Act contract and 25 % for a Farmland Security Zone contract.

6. Cancellation of the Williamson Act contract shall be contingent upon payment, in full, of the cancellation fee. The cancellation fee shall be paid to the Clerk of the Board of Supervisors, who shall transmit that fee to the County Auditor. The fee shall be paid prior to the final approval of cancellation. If the Board of Supervisors finds that it is in the public interest to do so, it may waive any payment or any portion of a payment by the landowner, or may extend the time for making the payment or a portion of the payment contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, if the requirements set forth in section 51283.(c) of the Williamson Act are met.
7. The Board of Supervisors shall not grant cancellation for a portion of a contract (where whole parcels are involved) if the land proposed to remain under the contract would not be able to meet County eligibility criteria. Either sufficient qualifying land must remain under contract, or the petition must be made for cancellation of the entire contract.
8. Once the Board of Supervisors has granted tentative cancellation of a contract, the Clerk of the Board shall record a tentative certificate of cancellation pursuant to Section 51283.4 of the Williamson Act, which enumerates specified conditions and contingencies that must be satisfied prior to issuing a final certificate of cancellation. The landowner shall notify the Board of Supervisors when the conditions and contingencies have been satisfied. Within 30 days of receipt of the notice, and upon determination that the conditions and contingencies have been satisfied, the Board shall execute and record a certificate of cancellation of the contract. If the landowner has been unable to satisfy the conditions and contingencies, the landowner shall notify the Board of the particular conditions or contingencies he or she is unable to satisfy. Within 30 days of receipt of the notice, and upon a determination that the landowner is unable to satisfy the conditions and contingencies listed, the Board shall execute and record a certificate of withdrawal of tentative approval of a cancellation of contract.

#### **6-1.3. RESCISSION**

- A. Notwithstanding any other provision of these Uniform Rules, the County, upon petition by a landowner, may enter into an agreement with the landowner to rescind a contract in accordance with the contract cancellation provisions of section 51282 of the Williamson Act in order to simultaneously place other land within the County under an agricultural conservation easement, consistent with the purposes and, except as provided in subsection A.2 below, the requirements of the Agricultural Land Stewardship Program pursuant to Division 10.2 (commencing with Section 10200) of the Public Resources Code, provided that the Board of Supervisors makes all of the following findings:

### Uniform Rule 6

1. The proposed agricultural conservation easement is consistent with the criteria set forth in Section 10251 of the Public Resources Code.
  2. The proposed agricultural conservation easement is evaluated pursuant to the selection criteria in Section 10252 of the Public Resources Code, and particularly subdivisions (a), (c), (e), (f), and (h), and the Board makes a finding that the proposed easement will make a beneficial contribution to the conservation of agricultural land in its area.
  3. The land proposed to be placed under an agricultural conservation easement is of equal size or larger than the land subject to the contract to be rescinded, and is equally or more suitable for agricultural use than the land subject to the contract to be rescinded. In determining the suitability of the land for agricultural use, the County shall consider the soil quality and water availability of the land, adjacent land uses, and any agricultural support infrastructure.
  4. The value of the proposed agricultural conservation easement, as determined pursuant to Section 10260 of the Public Resources Code, is equal to or greater than 12.5 percent of the cancellation valuation of the land subject to the contract to be rescinded, determined by the County Assessor to be the current fair market value of the land as though it were free of contractual restriction. The easement value and the cancellation valuation shall be determined within 30 days before the approval of the County of an agreement pursuant to this section.
- B. Notwithstanding any other provision of these Rules, the parties may upon their mutual agreement rescind a contract in order simultaneously to enter into an open-space easement agreement pursuant to the Open-Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070)), provided that the easement is consistent with the Williamson Act for the duration of the original contract. The easement would enforceably restrict the same property for an initial term of not less than 10 years and would not be subject to the provisions of Article 4 (commencing with Section 51090) of Chapter 6.6. This action may be taken notwithstanding the prior serving of a notice of nonrenewal, and the land subject to the contract shall be assessed pursuant to Section 423 of the Revenue and Taxation Code.
- C. Notwithstanding any other provision of this chapter, the parties may upon their mutual agreement rescind a contract in order simultaneously to enter into a new contract pursuant to these Uniform Rules, which new contract would enforceably restrict the same property for an initial term at least as long as the unexpired term of the contract being so rescinded but not less than 10 years. Such action may be taken notwithstanding the prior serving of a notice of nonrenewal relative to the former contract.

**6-1.4. ANNEXATION BY CITY**

On the annexation by any city in the County of any land under a Williamson Act contract the city shall succeed to all rights, duties, and powers of the County. Under certain limited circumstances defined in Section 51243.5 of the Williamson Act a city may elect not to succeed to the rights, duties, and powers of the County under the contract. For Farmland Security Zone contracts, see the provisions of sections 51296.3 through 51296.6 of the Williamson Act.

Whenever part of the land under a Williamson Act contract is removed from such status through annexation to a city, the part remaining under contract must be able to meet County eligibility criteria. In the event that unqualified land is left subject to contract, the County shall immediately serve notice of nonrenewal for such land.

In cases of annexation of land under contract, coordination is encouraged between the annexing city, Local Agency Formation Commission (LAFCO), the County, and the landowner to ensure that proper protocol is being followed and that all parties are provided the opportunity to comment and work towards the best possible outcome for all parties involved.

**6-1.5. EMINENT DOMAIN OR OTHER ACQUISITION**

Pursuant to section 51295 of the Williamson Act, upon the termination of an action in eminent domain for the condemnation of the fee title, or of an acquisition in lieu of eminent domain, for a public improvement by a public agency, for land subject to a Williamson Act contract, the contract shall be null and void for all land actually taken or acquired, as of the date the action was filed. If, in either such action, only part of the land under contract is acquired, and the remaining land is not able to meet County eligibility criteria, a notice of nonrenewal shall be filed immediately by the County against such remaining land.

No public agency or person, except as provided for in §51293, shall propose to acquire and locate a public improvement within an agricultural preserve unless the following findings are made:

- A. The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.
- B. If the land is agricultural land covered under a contract pursuant to these Rules for any public improvement, that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.

When land in an agricultural preserve is acquired by a public entity, the public entity shall notify the Director of Conservation within 10 working days. The notice shall include a general explanation of the decision and the findings made pursuant to A and B above.

For Farmland Security Zone contracts, see sections 51296.3 through 51296.6 of the Williamson Act for the relevant rule and requirements.

**6-1.6. TERMINATION OF MULTIPLE CONTRACT PRESERVES**

At the time of termination, cancellation, or notice of nonrenewal, parcels in a multiple contract preserve (e.g. contiguous lands qualifying under subsection 1-2.2.A.2) may not be continued under contract if the remaining land cannot qualify by itself. At such time the County may (but shall not be required to) serve a notice of nonrenewal on the remaining land if it does not otherwise qualify for participation in the Agricultural Preserve Program. In the event the remaining land does not qualify for the Agricultural Preserve Program and a determination is made that it would be in the public interest to retain the remaining land in the Agricultural Preserve Program, then those parcels may remain under contract if the Board of Supervisors makes all of the findings set forth in subsection 1-2.2.B.4 of these Rules.

**6-1.7. MONITORING AND ENFORCEMENT**

Williamson Act and Farmland Security Zone contracts are binding agreements between landowners and the County that assume that the terms of the contract continue to be met in exchange for the restricted property tax assessments. As such, landowners must remain in compliance during the entire life of the contract, even after nonrenewal has been initiated. If, at any time, the APAC finds that the terms of a contract, including the requirements set forth in these Rules, are no longer being met, the County shall give the landowner sixty (60) days to remedy the contract violation. If the violation persists at the end of this period, the issue shall be brought in front of the APAC at its next scheduled meeting for a determination on how to proceed. Options for addressing unresolved violations include recommendation to the Board of Supervisors for the immediate issuance of a notice of nonrenewal or, for those contracts already in nonrenewal, court action.

The County shall monitor the Agricultural Preserve Program to ensure continued compliance by periodically reviewing the continuing eligibility of properties under contract and checking for violations. Methods for monitoring include:

- A. Review of (1) permit applications and recorded documents (e.g. residential construction or processing facility; property transfers), and/or (2) neighbor complaints. In conjunction with a permit application or neighbor complaint, the County may conduct field visits to ensure that the contracted land continues to meet eligibility requirements or determine whether any contract violations have occurred.
- B. For prime and superprime contracts for which enrollment into the Agricultural Preserve Program is dependent upon maintaining sufficient gross annual income from the agricultural operation, minimum land in production, or other contractual requirements, shall make production reports, commodity sales receipts, agricultural income forms from their income tax records, or other use or income records relating to the contracted land available to the County upon request.
- C. The Assessor may report to the APAC any premises which do not appear to meet the eligibility requirements set forth in Rule 1-2.

## 6-2. TRANSFER OF OWNERSHIP OF CONTRACTED LAND

*Adopted by Resolution No. 73-788 (December 3, 1973), Amended by Resolution Nos. 80-407 (September 15, 1980) Resolution No. 84-464 (October 8, 1984) and Resolution No. 07-193 (September 25, 2007)*

The purpose of this section is to establish procedures for the maintenance of contracts wherein changes in legal description and/or ownership occur without impairing the integrity of the program. The procedures developed under this section are in accordance with the Williamson Act, and shall be used to process all transfers of ownership in Williamson Act and Farmland Security Zone contracts.

- A. Transaction that transfers all land restricted by a Williamson Act or Farmland Security Zone contract where no changes in boundaries occur.

The transferee shall cause to be completed and signed immediately subsequent to the instrument creating the new ownership a *Notification of Assumption of Williamson Act/Farmland Security Zone Contract* (form may be obtained by contacting Planning and Development). The assumption notice shall include the legal description set forth in the instrument which transferred the ownership interest or a reference to the recording data for the contract being assumed, and shall submit said document along with the applicable fee to Planning and Development. County Counsel shall then review and approve as to form and return the form to the applicant for subsequent recording by the County Recorder's Office.

- B. Transaction that transfers a portion of land restricted by a Williamson Act or Farmland Security Zone contract, where whole legal parcels are transferred.

1. The transferee(s) shall cause to be completed and filed with the Agricultural Preserve Advisory Committee a new contract application for each of the ownerships, together with such fee as is required. The transferor shall similarly furnish a new application for the portion retained.
2. New contracts shall be signed and recorded by transferor(s) and transferee(s) immediately subsequent to the transaction creating new ownership(s).
3. Should any transfer of ownerships create parcels which do not qualify under the eligibility criteria set forth in these Rules, the County shall serve notice of nonrenewal on the nonconforming parcels, and record its notice of nonrenewal.

- C. Transaction that transfers a portion of land restricted by a Williamson Act or Farmland Security Zone contract where subdivisions occur.

1. Only whole legal parcels are allowed within Williamson Act and Farmland Security Zone contracts. Any boundary changes that subdivide parcels, therefore, must first be processed by the County Planning and Development Department through its subdivision procedures, and must meet all requirements of such process before any action may be taken by the Agricultural Preserve Advisory Committee.

2. The transferee(s) shall cause to be completed and filed with the Planning and Development Department new Williamson Act or Farmland Security Zone contract applications, maps and legal descriptions for each of the ownerships, together with such fees as are required. The transferor shall similarly furnish applications, maps and legal descriptions together with such fees as are required for the portion retained.
  3. New contracts shall be signed and recorded by transferor(s) and transferee(s) immediately subsequent to the transaction creating new ownership(s).
  4. Should any transfer of ownership create parcels which do not qualify under the eligibility criteria set forth in these Rules, the County shall serve and record a notice of nonrenewal on the non-complying parcels.
- D. Transfer of all or a portion of land under a Williamson Act or Farmland Security Zone contract between immediate family members.

Nothing contained in these Uniform Rules shall prevent the transfer of ownership from one immediate family member to another (per section 51230.1 of the Williamson Act) of a portion of land which is currently designated as an agricultural preserve under contract, if all of the following conditions are satisfied:

1. The parcel to be transferred is a whole legal parcel at least 10 acres in size in the case of prime agricultural land or at least 40 acres in size in the case of nonprime land; and
2. The legal parcel to be transferred conforms to the applicable local zoning and land division ordinances and local coastal program; and
3. The parcel to be transferred complies with all applicable requirements of these Rules and relevant County zoning ordinances relating to agricultural income and permanent agricultural improvements which are imposed by the County as a condition of a contract executed covering the land of which the legal parcel to be transferred is a portion. For purposes of this paragraph, if the contracted land already complies with these requirements, the portion of that land to be transferred shall be deemed to comply with these requirements; and
4. There exists a written agreement between the immediate family members who are parties to the proposed transfer that the land which is subject to a Williamson Act or Farmland Security Zone contract and the portion of that land which is to be transferred will be operated under the joint management of the parties subject to the terms and conditions and for the duration of the contract.

A transfer of ownership described above shall have no effect on any contract covering the land of which a portion was the subject of that transfer. The portion so transferred shall remain subject to that contract.

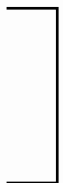
Uniform Rule 6

Upon transferring land to an immediate family member pursuant to this section, the landowner shall provide a *Notice to the County Agricultural Commissioner* of said agreement.


E. Successors in Interest.

When title to land subject to contract passes to successors, and in so doing creates circumstances whereby the land, or the remaining land subject to contract, no longer meets County eligibility criteria, a notice of nonrenewal shall be filed immediately by the County against such unqualified land.

EXHIBIT 4



# Comment Letter P8 (Cont.)

 <b>HARRY E. HAGEN, CPA</b> TREASURER-TAX COLLECTOR COUNTY OF SANTA BARBARA FEDERAL TAX ID# 95-6002833		P.O. BOX 579 SANTA BARBARA, CA 93102-0579 (805)568-2920 SANTA BARBARA (805)346-8330 SANTA MARIA		<b>2013-2014</b> <b>SECURED TAX STATEMENT</b> FOR THE FISCAL YEAR JULY 1, 2013 TO JUNE 30, 2014																																																													
PARCEL NUMBER 14114010-00-3		ASSESSEE ON JANUARY 1, 2013 INTENTIONALLY OMITTED		CORTAC-SUBSCRIBER LOAN NUMBER																																																													
ADDRESS OF PROPERTY 4400 BASELINE AVE SANTA YNEZ CA 93460				ASSESSED VALUE LAND/MINERAL RIGHTS 1,279,168 IMPROVEMENTS 2,922,701 PERSONAL PROPERTY 0 GROSS TOTAL 4,201,869 HOMEOWNER'S EXEMPTION 0 OTHER EXEMPTIONS 0 NET TOTAL 4,201,869																																																													
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**2** **2013-2014**  
 WHEN PAYING 2ND INSTALLMENT,  
 RETURN THIS STUB WITH YOUR REMITTANCE

SECOND INSTALLMENT PAID

1ST INSTALLMENT MUST BE PAID BEFORE 2ND  
 INSTALLMENT. TO PAY TOTAL AMOUNTS OF 1ST AND  
 2ND INSTALLMENTS, SEND BOTH STUBS.

INTENTIONALLY OMITTED

10% PENALTY PLUS \$30.00 CHARGE MUST BE INCLUDED  
 IF NOT PAID BY 5:00 PM OR U.S. POSTMARKED BY APRIL  
 10, 2014

\$24,411.28

CHECK THIS BOX FOR ADDRESS CHANGES ON  
 REVERSE

BILL NUMBER

14114010-00-3-2

DELINQUENT

NONE

PRIOR YEAR TAXES CONTACT OUR  
 OFFICE FOR CURRENT AMOUNT

THIS AMOUNT DUE  
 FEB. 1, 2014 \$22,164.80  
 DELINQUENT AFTER  
 APRIL 10, 2014

PAY ONLINE: [WWW.SBTAXES.ORG](http://WWW.SBTAXES.ORG)

MAKE PAYMENT TO:  
**HARRY E. HAGEN**  
**TREASURER-TAX COLLECTOR**  
 COUNTY OF SANTA BARBARA  
 P.O. BOX 579  
 SANTA BARBARA, CA 93102-0579

000132001411401000314041000000221648000000024411283

**1** **2013-2014**  
 WHEN PAYING 1ST INSTALLMENT,  
 RETURN THIS STUB WITH YOUR REMITTANCE

FIRST INSTALLMENT PAID

INTENTIONALLY OMITTED

10% PENALTY MUST BE INCLUDED IF NOT PAID BY  
 5:00 PM OR U.S. POSTMARKED BY DECEMBER 10,  
 2013

\$24,381.28

CHECK THIS BOX FOR ADDRESS CHANGES ON  
 REVERSE

BILL NUMBER

14114010-00-3-1

DELINQUENT

NONE

PRIOR YEAR TAXES CONTACT OUR  
 OFFICE FOR CURRENT AMOUNT

THIS AMOUNT DUE  
 NOV. 1, 2013 \$22,164.80  
 DELINQUENT AFTER  
 DEC 10, 2013

TOTAL AMOUNT OF 1ST & 2ND  
 INSTALLMENTS \$44,329.60

\*MAIL BOTH STUBS WHEN PAYING TOTAL AMOUNT

PAY ONLINE: [WWW.SBTAXES.ORG](http://WWW.SBTAXES.ORG)

MAKE PAYMENT TO:  
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**TREASURER-TAX COLLECTOR**  
 COUNTY OF SANTA BARBARA  
 P.O. BOX 579  
 SANTA BARBARA, CA 93102-0579

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JOSEPH E. HOLLAND  
County Clerk, Recorder and Assessor  
105 E. Anapamu St 2<sup>nd</sup> Floor  
Santa Barbara, CA 93101  
(805) 568-2550

511 E. Lakeside Parkway - Suite 115  
Santa Maria, CA 93455  
(805) 346-8310

SECURED PROPERTY NOTICE OF VALUES

Assessor Parcel Number: 141-140-010  
Situation Location: 4400 Baseline Ave  
Santa Ynez 93460

According to Santa Barbara County records, you are currently under contract as a participant in the Agricultural Preserve Program (Williamson Act) and/or you have an Agricultural Conservation Easement. You will receive your regular tax bill from the County Tax Collector's office in October 2013.

The County Assessor is required to assess this property each year to ensure that the value placed on the tax roll is in compliance with the Williamson Act and the Revenue & Taxation Code. Consequently, the assessed value cited below is the lesser of the: 1) Economic value, 2) Proposition 13 Factored Base Value, or 3) the current Fair Market Value.

YOUR TAXES WILL BE BASED ON THE VALUES SHOWN BELOW

Assessed Value - Fiscal Year 2013-14

Land	\$1,279,168
Structures	\$1,698,135
Living Improvements	\$1,224,566
Trade Fixtures	0
Personal Property	0
Mobile Home	0
<b>Total Assessed Value</b>	<b>\$4,201,869</b>
Less Homeowners' Exemption	0
Less Other Exemptions	0
<b>Net Assessed Value</b>	<b>\$4,201,869</b>

**Informal Review:** If you believe this assessment is incorrect, you have the right to an informal review with the Assessor's office. Please contact your nearest Assessor's office.

**Your right to appeal:** You also have the right to a formal appeal of the assessment which involves (1) the filing of an *Application for Changed Assessment*, (2) a hearing before an appeals board, and (3) a decision by the appeals board. An *Application for Changed Assessment* form is available from, and should be filed with, the Clerk of the Appeals Board between July 2 and November 30. The Clerk will set an assessment appeal hearing. If the applicant and the Assessor can reach an agreement prior to the hearing, a written stipulation may be filed with the Assessment Appeals Board. The Assessor, County Counsel and the applicant must sign the stipulation. The Assessment Appeals Board may, at a hearing, accept the stipulation or reject it and set a hearing date. Call the Clerk of the Board at (805) 568-2240 to request an *Application for Changed Assessment* or for help in completing the form. The Clerk of the Board is located at 105 E. Anapamu St. Room 407, Santa Barbara, CA 93101.

THIS IS NOT A TAX BILL

Type:AGP

# Comment Letter P8 (Cont.)

<b>HARRY E. HAGEN, CPA</b> TREASURER-TAX COLLECTOR COUNTY OF SANTA BARBARA FEDERAL TAX ID# 95-6002833		P.O. BOX 579 SANTA BARBARA, CA 93102-0579 (805)568-2920 SANTA BARBARA (805)346-8330 SANTA MARIA		<b>2013-2014</b> <b>SECURED TAX STATEMENT</b> FOR THE FISCAL YEAR JULY 1, 2013 TO JUNE 30, 2014																																																													
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## 2

**2013-2014**  
WHEN PAYING 2ND INSTALLMENT.  
RETURN THIS STUB WITH YOUR REMITTANCE

INTENTIONALLY OMITTED

10% PENALTY PLUS \$30.00 CHARGE MUST BE INCLUDED IF NOT PAID BY 5:00 PM OR U.S. POSTMARKED BY APRIL 10, 2014

\$373.94

CHECK THIS BOX FOR ADDRESS CHANGES ON REVERSE

SECOND INSTALLMENT PAID

BILL NUMBER  
14123023-00-3-2

DELINQUENT  
NONE

PRIOR YEAR TAXES CONTACT OUR OFFICE FOR CURRENT AMOUNT

THIS AMOUNT DUE  
FEB. 1, 2014  
DELINQUENT AFTER  
APRIL 10, 2014

\$312.68

PAY ONLINE: [WWW.SBTAXES.ORG](http://WWW.SBTAXES.ORG)

MAKE PAYMENT TO:  
HARRY E. HAGEN  
TREASURER-TAX COLLECTOR  
COUNTY OF SANTA BARBARA  
P.O. BOX 579  
SANTA BARBARA, CA 93102-0579

000132001412302300314041000000003126830000000373946

## 1

**2013-2014**  
WHEN PAYING 1ST INSTALLMENT.  
RETURN THIS STUB WITH YOUR REMITTANCE

INTENTIONALLY OMITTED

10% PENALTY MUST BE INCLUDED IF NOT PAID BY 5:00 PM OR U.S. POSTMARKED BY DECEMBER 10, 2013

\$343.94

CHECK THIS BOX FOR ADDRESS CHANGES ON REVERSE

FIRST INSTALLMENT PAID

BILL NUMBER  
14123023-00-3-1

DELINQUENT  
NONE

PRIOR YEAR TAXES CONTACT OUR OFFICE FOR CURRENT AMOUNT

THIS AMOUNT DUE  
NOV. 1, 2013  
DELINQUENT AFTER  
DEC 10, 2013

\$312.68

TOTAL AMOUNT OF 1ST & 2ND INSTALLMENTS \$625.36


\*MAIL BOTH STUBS WHEN PAYING TOTAL AMOUNT

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COUNTY OF SANTA BARBARA  
P.O. BOX 579  
SANTA BARBARA, CA 93102-0579

000131001412302300313121000000003126830000000343945

# Comment Letter P8 (Cont.)

	<b>HARRY E. HAGEN, CPA</b> TREASURER-TAX COLLECTOR COUNTY OF SANTA BARBARA FEDERAL TAX ID# 95-6002833	P.O. BOX 579 SANTA BARBARA, CA 93102-0579 (805)568-2920 SANTA BARBARA (805)346-8330 SANTA MARIA	<b>2013-2014</b> <b>SECURED TAX STATEMENT</b> FOR THE FISCAL YEAR JULY 1, 2013 TO JUNE 30, 2014
PARCEL NUMBER <b>14124002-00-6</b>	ASSESSEE ON JANUARY 1, 2013 <b>INTENTIONALLY OMITTED</b>	CORTAC-SUBSCRIBER <b>LOAN NUMBER</b>	

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TAX RATE AREA NUMBER <b>62-023</b>	TAX RATE PERCENT <b>1.05178</b>	PRIOR YEARS TAXES <b>NONE</b>	FIRST INSTALLMENT <b>\$264.95</b>	SECOND INSTALLMENT <b>\$264.95</b>	TOTAL <b>\$529.90</b>
DELINQUENT DUE NOV. 1, 2013 DELINQUENT AFTER DEC. 10, 2013			DUE FEB. 1, 2014 DELINQUENT AFTER APRIL 10, 2014 TAXES DUE		

TAX DISTRIBUTION BY AGENCY	AMOUNT	TAX DISTRIBUTION BY AGENCY	AMOUNT
<b>BASIC PROPERTY TAXES:</b>			
0001 PROPOSITION 13: 1% TAX	568-2124 \$484.78		
6651 COLLEGE ELEM BOND 2004	685-7300 \$12.98		
9421 ALLAN HANCOCK CC BOND 2006	922-6966 \$12.12		
<b>TOTAL BASIC PROPERTY TAXES:</b>	<b>\$509.88</b>		
<b>FIXED CHARGES:</b>			
2591 STA YNEZ FLD ZNE BENEFIT	568-3449 \$20.02		
<b>TOTAL FIXED CHARGES:</b>	<b>\$20.02</b>		
<b>TOTAL TAXES</b>	<b>\$529.90</b>		

## 2

### 2013-2014

WHEN PAYING 2ND INSTALLMENT,  
RETURN THIS STUB WITH YOUR REMITTANCE

INTENTIONALLY OMITTED

10% PENALTY PLUS \$30.00 CHARGE MUST BE INCLUDED  
IF NOT PAID BY 5:00 PM OR U.S. POSTMARKED BY APRIL  
10, 2014

**\$321.44**

CHECK THIS BOX FOR ADDRESS CHANGES ON  
REVERSE

### SECOND INSTALLMENT PAID

BILL NUMBER  
14124002-00-6-2

DELINQUENT  
**NONE**

PRIOR YEAR TAXES CONTACT OUR  
OFFICE FOR CURRENT AMOUNT

1ST INSTALLMENT MUST BE PAID BEFORE 2ND  
INSTALLMENT. TO PAY TOTAL AMOUNTS OF 1ST AND  
2ND INSTALLMENTS, SEND BOTH STUBS.

THIS AMOUNT DUE  
FEB. 1, 2014 **\$264.95**

DELINQUENT AFTER  
APRIL 10, 2014

**PAY ONLINE: WWW.SBTAXES.ORG**

MAKE PAYMENT TO:  
**HARRY E. HAGEN**  
**TREASURER-TAX COLLECTOR**  
 COUNTY OF SANTA BARBARA  
 P.O. BOX 579  
 SANTA BARBARA, CA 93102-0579

000132001412400200614041000000002649520000000321440

## 1

### 2013-2014

WHEN PAYING 1ST INSTALLMENT,  
RETURN THIS STUB WITH YOUR REMITTANCE

INTENTIONALLY OMITTED

10% PENALTY MUST BE INCLUDED IF NOT PAID BY  
5:00 PM OR U.S. POSTMARKED BY DECEMBER 10,  
2013

**\$291.44**

CHECK THIS BOX FOR ADDRESS CHANGES ON  
REVERSE

### FIRST INSTALLMENT PAID

BILL NUMBER  
14124002-00-6-1

DELINQUENT  
**NONE**

PRIOR YEAR TAXES CONTACT OUR  
OFFICE FOR CURRENT AMOUNT

THIS AMOUNT DUE  
NOV. 1, 2013 **\$264.95**

DELINQUENT AFTER  
DEC 10, 2013

TOTAL AMOUNT OF 1ST & 2ND  
INSTALLMENTS **\$529.90**


\*MAIL BOTH STUBS WHEN PAYING TOTAL AMOUNT

**PAY ONLINE: WWW.SBTAXES.ORG**

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 COUNTY OF SANTA BARBARA  
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 SANTA BARBARA, CA 93102-0579

000131001412400200613121000000002649520000000291443

# Comment Letter P8 (Cont.)

 <b>HARRY E. HAGEN, CPA</b> TREASURER-TAX COLLECTOR COUNTY OF SANTA BARBARA FEDERAL TAX ID# 95-6002833		P.O. BOX 579 SANTA BARBARA, CA 93102-0579 (805)568-2920 SANTA BARBARA (805)346-8330 SANTA MARIA		<b>2013-2014</b> <b>SECURED TAX STATEMENT</b> FOR THE FISCAL YEAR JULY 1, 2013 TO JUNE 30, 2014																									
PARCEL NUMBER 14112151-00-5		ASSESSEE ON JANUARY 1, 2013 INTENTIONALLY OMITTED		CORTAC-SUBSCRIBER LOAN NUMBER																									
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0001 PROPOSITION 13: 1% TAX 568-2124		\$39,697.88																											
6651 COLLEGE ELEM BOND 2004 686-7300		\$1,063.11																											
9421 ALLAN HANCOCK CC BOND 2006 922-6966		\$992.45																											
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FIXED CHARGES:		AMOUNT																											
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TOTAL FIXED CHARGES:		\$1.22																											
TOTAL TAXES		\$41,754.66																											

**2** **2013-2014**  
 WHEN PAYING 2ND INSTALLMENT,  
 RETURN THIS STUB WITH YOUR REMITTANCE

INTENTIONALLY OMITTED

10% PENALTY PLUS \$30.00 CHARGE MUST BE INCLUDED  
 IF NOT PAID BY 5:00 PM OR U.S. POSTMARKED BY APRIL  
 10, 2014

\$22,995.06

CHECK THIS BOX FOR ADDRESS CHANGES ON  
 REVERSE

**SECOND INSTALLMENT PAID**

BILL NUMBER  
 14112151-00-5-2

DELINQUENT  
 NONE

PRIOR YEAR TAXES CONTACT OUR  
 OFFICE FOR CURRENT AMOUNT

1ST INSTALLMENT MUST BE PAID BEFORE 2ND  
 INSTALLMENT. TO PAY TOTAL AMOUNTS OF 1ST AND  
 2ND INSTALLMENTS, SEND BOTH STUBS.

THIS AMOUNT DUE  
 FEB. 1, 2014 **\$20,877.33**  
 DELINQUENT AFTER  
 APRIL 10, 2014

PAY ONLINE: [WWW.SBTAXES.ORG](http://WWW.SBTAXES.ORG)

MAKE PAYMENT TO:  
**HARRY E. HAGEN**  
**TREASURER-TAX COLLECTOR**  
 COUNTY OF SANTA BARBARA  
 P.O. BOX 579  
 SANTA BARBARA, CA 93102-0579

000132001411215100514041000000208773310000022995061

**1** **2013-2014**  
 WHEN PAYING 1ST INSTALLMENT,  
 RETURN THIS STUB WITH YOUR REMITTANCE

INTENTIONALLY OMITTED

10% PENALTY MUST BE INCLUDED IF NOT PAID BY  
 5:00 PM OR U.S. POSTMARKED BY DECEMBER 10,  
 2013

\$22,965.06

CHECK THIS BOX FOR ADDRESS CHANGES ON  
 REVERSE

**FIRST INSTALLMENT PAID**

BILL NUMBER  
 14112151-00-5-1

DELINQUENT  
 NONE

PRIOR YEAR TAXES CONTACT OUR  
 OFFICE FOR CURRENT AMOUNT

THIS AMOUNT DUE  
 NOV. 1, 2013 **\$20,877.33**  
 DELINQUENT AFTER  
 DEC 10, 2013

TOTAL AMOUNT OF 1ST & 2ND  
 INSTALLMENTS **\$41,754.66**

\*MAIL BOTH STUBS WHEN PAYING TOTAL AMOUNT

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 COUNTY OF SANTA BARBARA  
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 SANTA BARBARA, CA 93102-0579

000131001411215100513121000000208773310000022965060

EXHIBIT 5





Agricultural Commissioner's Office  
Weights & Measures ■ County of Santa Barbara

Cathleen M. Fisher  
Commissioner / Director

December 2, 2013

Vincent Armenta  
Santa Ynez Band of Chumash Indians  
PO Box 517  
Santa Ynez, CA 93460

Dear Mr. Armenta:

According to Rule 6-2(A) of the Santa Barbara County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Uniform Rules), following a transaction that transfers all land restricted by a Williamson Act contract where no changes in boundaries occur, "The transferee shall cause to be completed and signed immediately subsequent to the instrument creating the new ownership a Notification of Assumption of Williamson Act/Farmland Security Zone Contract".

It has come to the attention of the Santa Barbara County Agricultural Preserve Advisory Committee (APAC) that this requirement has not been met by the Santa Ynez Band of Chumash Indians with respect to their ownership of the property under contract 71-AP-37. This matter was on the agenda and was heard at the November 1, 2013 APAC meeting. At that time, Sam Cohen, agent for the owner, stated that no action had been taken by the owner to fulfill this requirement. As a result, APAC found that this oversight created a situation inconsistent with the Uniform Rules. Uniform Rule 6-1.7 requires that landowners remain in compliance during the entire life of the contract, even after nonrenewal has been initiated. In accordance with Uniform Rule 6-1.7, you are hereby notified that you have sixty (60) days to remedy the contract violation. At the end of that time, if the violation has not been corrected, APAC will consider the item again for a determination on how to proceed.

Sincerely,

Guy Tingos  
Chairman of APAC

Cc: Terri Maus-Nisich, interim CEO  
Jennifer Richardson, Deputy County Counsel  
Florence Trotter-Cadena, Senior Planner

263 Camino del Remedio • Santa Barbara, California 93110  
Phone (805) 681-5600 • Fax (805) 681-5603  
[www.countyofsb.org/agcomm/](http://www.countyofsb.org/agcomm/)

EXHIBIT 6





Santa Ynez Band of Chumash Indians

P.O. Box 517 • Santa Ynez, CA 93460  
805-688-7997 • Fax 805-686-9578  
www.santaynezchumash.org

**BUSINESS COMMITTEE**  
Vincent Armenta, *Chairman*  
Richard Gomez, *Vice Chairman*  
Kenneth Kahn, *Secretary/Treasurer*  
David D. Dominguez, *Committee Member*  
Gary Pace, *Committee Member*

March 3, 2014

Planning and Development  
123 E. Anapamu Street  
Santa Barbara, CA 93101

RE: PROCESS FOR ASSUMPTION CONTRACTS  
Camp 4 approximately 1,400 acres

Dear Agricultural Preserve Planner:

Pursuant to 6-2(A) of the Uniform Rules for "Transfer of Ownership of Contracted Land," the Santa Ynez Band of Chumash Indians ("Tribe") as the transferee of approximately 1,400 acres of land restricted by a Williamson Act contract hereby request from Planning and Development that that form identified in the Uniform Rules as a *Notification of Assumption of Williamson Act/Farmland Security Zone Contract* (form may be obtained by contacting Planning and Development).

I have also received the PROCESS FOR ASSUMPTION CONTRACTS which is not referenced in the Uniform Rules.

I have received an Agreement to Pay form which is not referenced in the Uniform Rules.

We are currently collecting the following information and creating our own assumption notice letter:

The assumption notice shall include the legal description set forth in the instrument which transferred the ownership interest or a reference to the recording data for the contract being assumed, and shall submit said document along with the applicable fee to Planning and Development. County Counsel shall then review and approve as to form and return the form to the applicant for subsequent recording by the County Recorder's Office.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Cohen".

Sam Cohen  
Cell: 805-245-9083

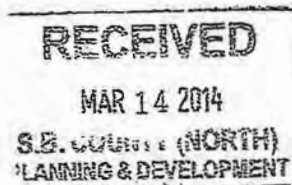


EXHIBIT 7





Santa Ynez Band of Chumash Indians

P.O. Box 517 • Santa Ynez, CA 93460  
805-688-7997 • Fax 805-686-9578  
www.santaynezchumash.org

March 13, 2014

BUSINESS COMMITTEE

Vincent Armenta, Chairman  
Richard Gomez, Vice Chairman  
Kenneth Kahn, Secretary/Treasurer  
David D. Dominguez, Committee Member  
Gary Pace, Committee Member

Kim Probert, Planner  
County of Santa Barbara Planning and Development  
624 Foster Road  
Santa Maria, CA 93455  
[kprobert@county.santa-barbara.ca.us](mailto:kprobert@county.santa-barbara.ca.us)

RE: Process of Assumption: Williamson Land Conservation Contract  
Designation: 71-AP-37; 71-RZ-67—J.V. Crawford, et al. Preserve; Recording Date: 02-03-1972

Dear Ms. Probert:

The Santa Ynez Band of Mission Indians ("Tribe") as the successor in interest to J.V. Crawford, et al., to the above Conservation Contract hereby gives the County of Santa Barbara the following information for the following approximately 1,400 acres of real property (the "Property"):

1. Assessor Parcel Number(s):

Parcel 1: (APN: 141-121-51 and portion of APN: 141-140-10)  
Parcel 2: (Portion of APN: 141-140-10)  
Parcel 3: (Portions of APNs 141-230-23 and 141-140-10)  
Parcel 4: (APN: 141-240-02 and portion of APN 141-140-10)  
Parcel 5: (Portion of APN: 141-230-23)


2. Agricultural Preserve Number: Designation: 71-AP-37; 71-RZ-67—J.V. Crawford, et al. Preserve

3. Current Property Owner

Santa Ynez Band of Chumash Indians  
P.O. Box 517  
Santa Ynez, CA 93460  
Phone: 805-688-7997 / Fax: 805-686-9578

4. Previous Owner: Fess Parker Enterprises.
5. Current fee: \$358.94 attached.
6. Original Recording Date: Feb. 3, 1972, Instrument No. 3889, Book 2385, Page 431
7. Agreement to Pay Processing Fees, attached

Sincerely,

  
Sam Cohen, Government/Legal Specialist  
Santa Ynez Band of Chumash Indians

14AGP-00000-00010  
SY Band of Chumash Indians Assumption Contract  
4400 Baseline Avenue  
141-121-051; 141-140-010; 141-230-023; 141-240-002/AG-II-100  
Planner: Florence Trotter-Cadena

RECEIVED

MAR 14 2014

S.B. COUNTY (NORTH)  
PLANNING & DEVELOPMENT

Santa Barbara County Agreement for Payment Form



COUNTY OF SANTA BARBARA

Planning and Development

RECEIVED  
www.sbcountyplanning.org

MAR 14 2014

S.B. COUNTY (NORTH)  
PLANNING & DEVELOPMENT

# AGREEMENT FOR PAYMENT OF PROCESSING FEES

County of Santa Barbara (hereinafter COUNTY) and S. B. County of Chumash the  
Financially Responsible Party (hereinafter FRP)

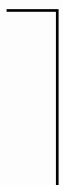
AGREE AS FOLLOWS (check all applicable boxes):

1. This Agreement is in reference to permit processing costs associated with case numbers (list case #s or attach additional sheets):

Case 4 Williamson Act Assumption  
WAGP-00000-00010

2. A security deposit or fixed fee will be collected at time of project submittal. Security deposit projects will receive monthly invoices to be paid within 25 days from invoice date. Upon completion of project review, any remaining security deposit will be refunded to the FRP. If a fixed fee project has unique characteristics or raises complex issues which would make the case more expensive to process, it will be converted to a monthly billing process, as detailed above. If it is necessary to utilize consultant services, a deposit to cover consultant costs will be requested from the FRP prior to execution of the contract with the consultant. If the FRP elects to utilize outside contractors to expedite permit processing, consultant costs plus indirect overhead will be charged on an hourly basis.
3. The FRP is responsible for payment of all permit processing costs associated with the cases listed above. If, during the course of processing, the financial responsibility changes, the new financially responsible party must complete an Agreement for Payment which will release the previous FRP from further financial obligations and designate the new FRP. The undersigned FRP remains financially responsible until a new FRP signs a separate Agreement for Payment.
4. For projects that receive a monthly billing, the FRP will receive from the COUNTY a P&D Project Cost Estimate Worksheet. This worksheet is informational. It is a good faith effort to provide the FRP with an estimate of project costs for the duration of permit processing. If unforeseen circumstances arise during permit processing which substantially increase the level of effort and estimated costs, COUNTY will send the FRP a revised worksheet.
5. If an invoice is not paid within 25 days COUNTY may stop work and close the case.

**EXHIBIT 8**





# COUNTY OF SANTA BARBARA

## AGRICULTURAL PRESERVE ADVISORY COMMITTEE AGENDA

Meeting of April 4, 2014

9:00 a.m.

**\*REVISED-** Item #9 has been changed to an action item.

Guy Tingos, Agricultural Commissioner's Office  
 Brian Tetley, Planning & Development Department  
 Vida McIsaac, Assessor's Office  
 Aleks Jevremovic, County Surveyor  
 Royce Larsen, San Luis Obispo Cooperative Extension

Santa Barbara County  
 Planning & Development  
 Courtyard Floor Conference Room, 3<sup>rd</sup> Floor  
 123 East Anapamu Street  
 Santa Barbara, CA. 93101  
 (805) 568-2000

**REMOTE TESTIMONY:** Persons may address the Agricultural Preserve Advisory Committee by using the remote video testimony system located at Planning & Development, 624 W. Foster Road, Suite C, Santa Maria.

*In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this hearing, please contact the Hearing Support Staff (805) 568-2000. Notification at least 48 hours prior to the hearing will enable the Hearing Support Staff to make reasonable arrangements.*

*The public has the opportunity to comment on any item on today's agenda. Speaker slips are available by the door and should be filled in and handed to the Secretary before the hearing begins. Please indicate which item you would like to address on the speaker slip and, in your testimony, which portion of the project you will be addressing in your comments. The Agricultural Preserve Advisory Committee Chair will announce when public testimony can be given.*

*Writings that are a public record under Government Code § 54957.5(a) and that relate to an agenda item for an open session of a regular meeting of the Agricultural Preserve Advisory Committee and that are distributed to a majority of all of the members of the Agricultural Preserve Advisory Committee prior to the a meeting but less than 72 hours prior to that meeting shall be available for public inspection at Santa Barbara County Planning and Development, 123 E. Anapamu Street, Santa Barbara, CA. Writings that are a public record under Government Code § 54957.5(a) and that relate to an agenda item for an open session of a regular meeting of the County Planning Commission and that are distributed to a majority of all of the members of the Agricultural Preserve Advisory Committee during the meeting shall be available for public inspection at the back of the hearing room, at 123 E. Anapamu Street, 3<sup>rd</sup> Floor, Santa Barbara, CA.*

### ADMINISTRATIVE AGENDA:

- I. **MEETING CALLED TO ORDER:** by Chair, Guy Tingos.
- II. **PUBLIC COMMENTS:** Public Comment time is set aside in order to allow public testimony on items *not being heard* on today's agenda. Each speaker allocated 5 minutes. Total time allocated for public comments is 15 minutes.
- III. **MINUTES:** The Minutes of January 6, 2014 & March 7, 2014 will be considered.
- VI. **NEW ITEMS:**

1. **AG-II-100** **Hamilton New Ag. Preserve Contract** **Cuyama**  
 Florence Trotter, Planner (805) 934-6253

Consider the request of Kurt Hamilton owner, of Case No. 13AGP-00000-00005 regarding a new agricultural preserve contract and its consistency with the Uniform Rules. The property is 360 acres identified as Assessor's Parcel Number 131-030-024,131-030-025 zoned AG-II-100 with an A-II-100 Comprehensive Plan designation located at 2 ½ miles southeast of Highway 166 in the Cuyama area, 5<sup>th</sup> Supervisorial District.

**V. DISCUSSION ITEMS:**

<b>10.</b>	<b>Hilltop Ranch New Contract</b>	<b>Lompoc</b>
		No Planner

Consider the request of Scott D. Page agent for the owner Hilltop Ranch, LLC for information regarding a new agricultural preserve contract. The property is 55.00 acres identified as Assessor's Parcel Number 099-230-026, currently zoned 100-AG with an A-II Comprehensive Plan designation. The property is located at 7601 Santos Road in the Lompoc area, Third Supervisorial District.

**VII. REPORTS OF COMMITTEE MEMBERS:** *Committee members may make reports to Committee regarding individual contracts requiring placement on a future agenda or on general procedural matters. No official action shall be taken on any individual matter.*

*The next Agricultural Preserve Committee Meeting is scheduled for May 2, 2014. Agenda requests should be submitted no later than April 17, 2014, to the South County Zoning Information Counter located at 123 East Anapamu Street, Santa Barbara, California 93101 or at the North County Zoning Information Counter located at 624 West Foster Road, Santa Maria, California 93455.*

2. **70-AP-159** **Reagan Ranch New Water Storage Tank** **Goleta**  
14LUP-00000-00093 Kim Probert, Planner (805) 934-6291

Consider the request of Wallace Group agent for the owner, Young America's Foundation, of Case No.14LUP-00000-00093 regarding a 68,000 gallon water storage tank, for fire suppression and for supplementing agriculture water and its consistency with the Uniform Rules. The property is 459.04 acres identified as Assessor's Parcel Number 081-040-042, zoned AG-II-100 with an AG-II Comprehensive Plan designation located at Rancho Del Cielo 3383 Refugio Road in the Goleta area, Third Supervisorial District.

3. **70-AP-159** **Reagan Ranch** **Goleta**  
No Planner

Consider the current buildings and activities at the Reagan Ranch, Agricultural Preserve Contract No. 70-AP-159, and their consistency with the Uniform Rules. The property is 459.04 acres identified as Assessor's Parcel Number 081-040-042, zoned AG-II-100 with an AG-II Comprehensive Plan designation located at Rancho Del Cielo 3383 Refugio Road in the Goleta area, Third Supervisorial District.

4. **71-AP-37** **Camp 4 Letter**

Consider the letter of December 2, 2013 from the committee to the Santa Ynez Band of Chumash Indians regarding their failure to assume a Williamson Act contract, determine if the violation of Uniform Rule 6-2A still exists, and make a determination of how to proceed. The property is 1,418 acres identified as Assessor's Parcel Number 141-121-051, 141-140-010, 141-230-023, 141-240-002, zoned AG-II-100 with an AC Comprehensive Plan designation located at Southeast and Southwest corner of Baseline and Mora Avenues and State Highway 154 in the Santa Ynez Area, Third Supervisorial District.

5. **Cuyama Solar Report to the Board of Supervisor's**

Discuss and approve the Agricultural Preserve Advisory Committee's report to the Board of Supervisor's dated February 7, 2014 and its consistency with the Committee's action taken on February 7, 2014. This report is in regard to the Cuyama Solar's contract cancellation request. The Solar Array is proposed to be located on 167-acre portion of property identified as Assessor's Parcel Number 149-140-076, zoned AG-II-100, with an AC Comprehensive Plan designation located at 596 Kirschenmann Road in the Cuyama Area, First Supervisorial District. The Gen Tie-Line is proposed to be located on properties identified as Assessor's Parcel Numbers 149-140-041, 149-010-049, 149-330-001, 149-150-039, 149-010-049, zoned AG-II-100, with an AC Comprehensive Plan designation along the east side of Kirschenmann Road, extending 1.5 miles along the south and north sides of Washington Street ending at the Cuyama substation and proposed Switchyard in the Cuyama area, First Supervisorial District.

**The Representatives of the following items should be in attendance at this APAC Meeting by 10:00 A.M.**

- |           |                                 |  |                        |
|-----------|---------------------------------|--|------------------------|
| <b>6.</b> | <b><u>13APG-00000-00002</u></b> | <b><u>Novatt Main Residence<br/>&amp; Principle Horse Boarding Operation</u></b> | <b><u>Buellton</u></b> |
|           | 13LUP-00000-00521               | Joyce Gerber, Planner (805) 934-6265   |                        |

Consider the request of Brett Jones, for Lisa & Gary Novatt, of Case No. 13LUP-00000-00521 regarding the approval of a main residence and garage, guest house and principal horse boarding operation and associated farm employee dwelling, hay barn, stalls, tack barn & riding arena and its consistency with the Uniform Rules. The property is 102.59 acres identified as Assessor's Parcel Number 137-270-034, zoned AG-II-100 with an AC Comprehensive Plan designation located at East Highway 246- Parcel #2, in the Buellton area, Third Supervisorial District.

- |           |  |   |                          |
|-----------|--|---|--------------------------|
| <b>7.</b> | <b><u>86-AP-017</u></b>                | <b><u>Happy Canyon LLC Riding Arena</u></b> | <b><u>Santa Ynez</u></b> |
|           | 14LUP-00000-00090<br>14GRD-00000-00025 | Joyce Gerber, Planner (805) 934-6265        |                          |

Consider the request of Brett Jones agent for the owner, Happy Canyon, LLC, of Case No. 14LUP-00000-00090, 14GRD-00000-00025 regarding the request for a riding arena as part of an approved Principal Boarding & Breeding Operation and its consistency with the Uniform Rules. The property is 117.48 acres identified as Assessor's Parcel Number 141-240-028, zoned AG-II-100 with an AC Comprehensive Plan designation located at 5125 Happy Canyon Road in the Santa Ynez area, Third Supervisorial District.

- |           |                         |   |  |
|-----------|-------------------------|---|--|
| <b>8.</b> | <b><u>72-AP-132</u></b> | <b><u>Hughes New Single Family Dwelling</u></b> | <b><u>Hollister Ranch- Lot 126</u></b> |
|           |                         |   | No Planner                             |

Consider the request of Bob Curtis agent for the owner, Kim Hughes, of Agricultural Preserve Contract No. 72-AP-132 regarding a new single family dwelling and its consistency with the Uniform Rules. The property is 111.25 acres identified as Assessor's Parcel Number 083-700-022, zoned AG-II-320 with an A-II-320 Comprehensive Plan designation located at Hollister Ranch Lot 126 (Gaviota) area, Third Supervisorial District.

- |           |                         |                                    |                           |
|-----------|-------------------------|------------------------------------|---------------------------|
| <b>9.</b> | <b><u>02-AP-036</u></b> | <b><u>Flannery Guest House</u></b> | <b><u>Carpinteria</u></b> |
|           |                         |                                    | No Planner                |

Consider the request of Jennifer Siemens agent for the owner, Terrance Flannery of Agricultural Preserve Contract No. 02-AP-036 regarding the request of a remodel and a new detached carport and a new detached guest house and its consistency with the Uniform Rules. The property is 26.98 acres identified as Assessor's Parcel Number 155-180-072, zoned AG-I-10 with an A-I-10 Comprehensive Plan designation located at 5160 Foothill Road in the Carpinteria area, First Supervisorial District.



# COUNTY OF SANTA BARBARA

## AGRICULTURAL PRESERVE ADVISORY COMMITTEE

### APPROVED MINUTES

MEETING OF APRIL 4, 2013

9:00 A.M.

The regular meeting of the Agricultural Preserve Advisory Committee was called to order by Guy Tingos at 9:00 A.M. in the Santa Barbara County Planning and Development, Third Floor Conference Room, 123 E. Anapamu Street, Santa Barbara, CA 93101.

#### COMMITTEE MEMBERS

Guy Tingos, Agricultural Commissioner  
Vida McIsaac, Assessor's Office  
Brian Tetley, Planning and Development  
Alex Jevremovic, County Surveyor  
Royce Larsen, San Luis Obispo Cooperative Ext.

#### PRESENT:

x  
x  
x  
x  
x

#### STAFF MEMBERS

Jenna Richardson, Deputy County Counsel  
Sharon Foster, Planning & Development

#### PRESENT

x  
x

NUMBER OF INTERESTED PERSONS: 15

#### ADMINISTRATIVE AGENDA:

#### I. MEETING CALLED TO ORDER: *by Chair, Guy Tingos*

**PUBLIC COMMENTS:** Susan Petrovich, from Brownstein Hyatt Farber Schreck, spoke to the approved minutes of February 7, 2014 item #8- Bolthouse Properties/Cuyama Solar Array Project Partial Contract Cancellation, stating that two spaces were left blank on page 3, item 8 of the project description. County Counsel, Jenna Richardson stated that the property was identified by other means so the minutes do not need to be changed. Guy Tingos agreed and no change was made to the minutes.

#### II. MINUTES: The Minutes of March 7, 2014 and January were considered as follows:

**ACTION:** McIsaac moved, seconded by Larson, and carried by a vote of 5-0 to approve the Minutes of March 7, 2014, amended.

**ACTION:** Tetely moved, seconded by Tingos, and carried by a vote of 3-0-2 (Jevremovic & Larsen abstained) to approve the Minutes of January 3, 2014.

#### III. NEW ITEMS:

1. AG-II-100 Hamilton New Ag.PreserveContract Cuyama  
Florence Trotter, Planner (805) 934-6253

Consider the request of Kurt Hamilton owner, of Case No. 13AGP-00000-00005 regarding a new agricultural preserve contract and its consistency with the Uniform Rules. The property

is 360 acres identified as Assessor's Parcel Number 131-030-024, 131-030-025 zoned AG-II-100 with an A-II-100 Comprehensive Plan designation located at 2 ½ miles southeast of Highway 166 in the Cuyama area, Fifth Supervisorial District.

**McIsaac moved, seconded by Larson and carried by a vote of 5-0 to find the project consistent with the Uniform Rules pending planner verification of a new cattle lease.**

- |    |                   |  |               |
|----|-------------------|--|---------------|
| 2. | <b>70-AP-159</b>  | <b>Reagan Ranch New Water Storage Tank</b> | <b>Goleta</b> |
|    | 14LUP-00000-00093 | Kim Probert, Planner (805) 934-6291        |               |

Consider the request of Wallace Group agent for the owner, Young America's Foundation, of Case No. 14LUP-00000-00093 regarding a 68,000 gallon water storage tank, for fire suppression and for supplementing agriculture water and its consistency with the Uniform Rules. The property is 459.04 acres identified as Assessor's Parcel Number 081-040-042, zoned AG-II-100 with an AG-II Comprehensive Plan designation located at Rancho Del Cielo 3383 Refugio Road in the Goleta area, Third Supervisorial District.

**McIsaac moved, seconded by Jevremovic, and carried by a vote of 5-0 to continue the project to the May 2, 2014 APAC meeting.**

- |    |                  |                     |               |
|----|------------------|---------------------|---------------|
| 3. | <b>70-AP-159</b> | <b>Reagan Ranch</b> | <b>Goleta</b> |
|    |                  |                     | No Planner    |

Consider the current buildings and activities at the Reagan Ranch, Agricultural Preserve Contract No. 70-AP-159, and their consistency with the Uniform Rules. The property is 459.04 acres identified as Assessor's Parcel Number 081-040-042, zoned AG-II-100 with an AG-II Comprehensive Plan designation located at Rancho Del Cielo 3383 Refugio Road in the Goleta area, Third Supervisorial District.

**McIsaac moved, seconded by Jevremovic, and carried by a vote of 5-0 to continue the project to the May 2, 2014 APAC meeting.**

- |    |                 |                      |
|----|-----------------|----------------------|
| 4. | <b>71-AP-37</b> | <b>Camp 4 Letter</b> |
|----|-----------------|----------------------|

Consider the letter of December 2, 2013 from the committee to the Santa Ynez Band of Chumash Indians regarding their failure to assume a Williamson Act contract, determine if the violation of Uniform Rule 6-2A still exists, and make a determination of how to proceed. The property is 1,418 acres identified as Assessor's Parcel Number 141-121-051, 141-140-010, 141-230-023, 141-240-002, zoned AG-II-100 with an AC Comprehensive Plan designation located at Southeast and Southwest corner of Baseline and Mora Avenues and State Highway 154 in the Santa Ynez Area, Third Supervisorial District.

**Tingos moved, seconded by Larsen and carried by a vote of 5-0 to determine that the violation is in the process of being corrected and no further action by APAC is necessary.**

APPROVED MAY 2 2014

- |    |   |
|----|---|
| 5. | <b>Cuyama Solar Report to the Board of Supervisor's</b> |
|----|---|

Discuss and approve the Agricultural Preserve Advisory Committee's report to the Board of Supervisor's dated February 7, 2014 and its consistency with the Committee's action taken on February 7, 2014. This report is in regard to the Cuyama Solar's contract

cancellation request. The Solar Array is proposed to be located on 167-acre portion or property identified as Assessor's Parcel Number 149-140-076, zoned AG-II-100, with an AC Comprehensive Plan designation located at 596 Kirschenmann Road in the Cuyama Area, First Supervisorial District. The Gen Tie-Line is proposed to be located on properties identified as Assessor's Parcel Numbers 149-140-041, 149-010-049, 149-330-001, 149-150-039, 149-010-049, zoned AG-II-100, with an AC Comprehensive Plan designation along the east side of Kirschenmann Road, extending 1.5 miles along the south and north sides of Washington Street ending at the Cuyama substation and proposed Switchyard in the Cuyama area, First Supervisorial District.

**Tetley moved, seconded by Jevremovic, and carried by a vote of 3-0-2 (Larsen & McIsaac abstained) the chair revised the draft memo to the cover letter containing the minutes of the meeting of April 4, 2014 which will be forwarded to the Santa Barbara County Board of Supervisors.**

- |    |  |                                      |
|----|--|--------------------------------------|
|    | <b>Novatt Main Residence</b>   |                                      |
| 6. | <b>13APG-00000-00002      &amp; Principle Horse Boarding Operation</b> | <b>Buellton</b>                      |
|    | 13LUP-00000-00521  | Joyce Gerber, Planner (805) 934-6265 |

Consider the request of Brett Jones, for Lisa & Gary Novatt, of Case No. 13LUP-00000-00521 regarding the approval of a main residence and garage, guest house and principal horse boarding operation and associated farm employee dwelling, hay barn, stalls, tack barn & riding arena and its consistency with the Uniform Rules. The property is 102.59 acres identified as Assessor's Parcel Number 137-270-034, zoned AG-II-100 with an AC Comprehensive Plan designation located at East Highway 246- Parcel #2, in the Buellton area, Third Supervisorial District.

**McIsaac moved, seconded by Tetley, and carried by a vote of 5-0 to find the project consistent with the Uniform Rules specifically 2-3.2 & 1-4 pending planner verification of the permanent pasture installation prior to occupancy of the farm employee dwelling.**

- |    |   |                                      |
|----|---|--------------------------------------|
| 7. | <b>86-AP-017      Happy Canyon LLC Riding Arena</b> | <b>Santa Ynez</b>                    |
|    | 14LUP-00000-00090                                   | Joyce Gerber, Planner (805) 934-6265 |
|    | 14GRD-00000-00025                                   |                                      |

Consider the request of Brett Jones agent for the owner, Happy Canyon, LLC, of Case No. 14LUP-00000-00090, 14GRD-00000-00025 regarding the request for a riding arena as part of an approved Principal Boarding & Breeding Operation and its consistency with the Uniform Rules. The property is 117.48 acres identified as Assessor's Parcel Number 141-240-028, zoned AG-II-100 with an AC Comprehensive Plan designation located at 5125 Happy Canyon Road in the Santa Ynez area, Third Supervisorial District.

**McIsaac moved, seconded by Larsen, and carried by a vote of 5-0 to find the project consistent to the Uniform Rules specifically 2-3.2 and pending planner verification of the principal boarding & breeding operation.**

- |    |   |                                 |
|----|---|---------------------------------|
| 8. | <b>72-AP-132      Hughes New Single Family Dwelling</b> | <b>Hollister Ranch- Lot 126</b> |
|    |   | No Planner                      |

Consider the request of Bob Curtis agent for the owner, Kim Hughes, of Agricultural Preserve Contract No. 72-AP-132 regarding a new single family dwelling and its consistency with the Uniform Rules. The property is 111.25 acres identified as Assessor's Parcel Number 083-700-022, zoned AG-II-320 with an A-II-320

**No action was taken. Tingos moved, McIsaac seconded, carried by a vote of 5-0 to continue to the May 2, 2024 as a discussion item. Issues that need to be addressed:**

- Meeting adjourned at 11:35 A.M.

AGRICULTURAL PRESERVE ADVISORY COMMITTEE APPROVED MINUTES  
Meeting of April 4, 2014  
Page 5

G:\GROUP\PC\_STAFF\WP\AG\_PRESERVE\MINUTES\2014\4-4-14.DOC

EXHIBIT 9



COUNTY OF SANTA BARBARA

Michael C. Ghizzoni  
County Counsel



105 E. Anapamu Street, Suite 201  
Santa Barbara, CA 93101  
Telephone: (805) 568-2950  
FAX: (805) 568-2982

COUNTY COUNSEL

April 15, 2014

Santa Ynez Band of Chumash Indians  
Attn: Sam Cohen  
P.O. Box 517  
Santa Ynez, CA 93460

Re: Your request for Assumption of Agricultural Preserve Contract  
Agricultural Preserve No. 71-AP-037.

I enclose the Notification form approved for purchasers of contracted Agricultural Preserve land who desire to assume the contract in the place of the previous owner. The form is filled in with the information provided by you to the Planning and Development Department. However, it is your responsibility to verify that all information is correctly stated in the document. Please note **John Vickers Crawford and Thomas H. Crawford** has been identified as the previous owner from whom you are assuming the contract; they are the last signatories to the contract.

Notifications of Assumption of an Agricultural Preserve are required under Santa Barbara Uniform Rule 6-2A. This rule requires you, as transferee, to record the assumption with the County Recorder's office.

Please send your completed documents and fees to:

COUNTY RECORDER  
Courthouse--1100 Anacapa Street  
Santa Barbara, California 93101

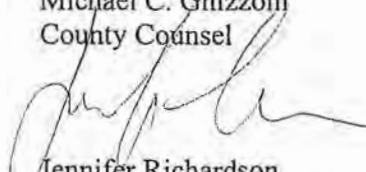
Mr. Sam Cohen  
April 11, 2014  
Page 2

The originals will be stamped and recorded by the recorder and returned to you. Retain them with your other records. Enclose a \$15.00 fee for recording the first page, plus \$3.00 for each additional page, including any separate acknowledgment(s) by a Notary Public.

Please call me if you have any questions or comments or if I can be of any further assistance.

Very truly yours,

Michael C. Ghizzoni  
County Counsel



Jennifer Richardson  
Deputy County Counsel

encl.

cc: Florence Trotter-Cadena, P&D

Recording Requested by and  
When Recorded Return to:

Santa Ynez Band of Chumash Indians  
Attn: Sam Cohen  
P.O. Box 517  
Santa Ynez, CA 93460

**NOTIFICATION OF ASSUMPTION OF  
AGRICULTURAL PRESERVE (WILLIAMSON ACT) CONTRACT**

The Agricultural Preserve Contract which controls the permitted uses on Assessor's Parcel No.s 141-140-010, 141-121-051, 141-230-023, and 141-240-002 is being assumed and hereby is assumed by the undersigned grantee(s). The property controlled by the contract is more particularly described therein, and that description is incorporated by this reference.

The name of the previous owner(s) of the property from whom the undersigned assumes the Contract are **John Vickers Crawford and Thomas H. Crawford**, who heretofore entered into an Agricultural Preserve Contract with the County of Santa Barbara, **effective January 1, 1972**, pursuant to California Government Code Sections 51200 *et seq.*

The Contract designates the above-described real property as **Agricultural Preserve Number 71-AP-037** and restricts the uses permitted on the above-described real property. The Contract is a matter of public record, **recorded on February 3, 1972, as Instrument No. 3889, Book 2385, Page 431.**

The undersigned Grantee(s) of the above-described real property hereby acknowledge the existence of the Contract pertaining to such real property and further acknowledge an awareness of its terms, of the restrictions and conditions that it imposes upon such real property, and of the advantageous property tax assessment procedures which accrue to its owner. The undersigned consents to the restrictions, conditions and obligations imposed by the Contract and agrees that the Contract shall be binding upon the undersigned as though originally executed by the undersigned, with all restrictions and benefits attached thereto pursuant to the Uniform Rules for Agricultural Preserves, as periodically amended, of Santa Barbara County.

Santa Ynez Band of Chumash Indians

Dated: \_\_\_\_\_

By \_\_\_\_\_  
**Vincent Armenta, Tribal Chairman**

[Signatures must be acknowledged by a Notary Public]

831 STATE STREET, SANTA BARBARA, CALIFORNIA 93101-3227

FROM (NAME)

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**CAPPELLO  
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TRIAL LAWYERS

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July 11, 2014

File No. 11012.005  
235692.3

*Via Facsimile, E-mail, and U.S. Mail*  
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Re: Comments on the Final Environmental Assessment (EA) for the  
Santa Ynez Band of Chumash Mission Indians (Band) Camp 4 Fee-To-Trust  
Application  
Santa Barbara County, California

Dear Director Dutschke:

The below comments on the above-cited EA are submitted on behalf of Ms. Nancy (Anne) Crawford-Hall, acting in various capacities, and as representative of various entities, which hold, manage, and operate real property and businesses, including properties and facilities adjacent to the Camp 4 property. Ms. Crawford-Hall and her family have lived and ranched in the Santa Ynez Valley for close to a century. She has managed ranch operations on Camp 4, which formed part of her family's San Lucas Ranch holdings, and has an intimate knowledge of that property. She presently manages agricultural properties directly south, and southwest, of Camp 4. Ms. Crawford-Hall has an acute interest in the impacts of the contemplated development of Camp 4 by the Band, as set forth in the EA.

We previously responded to the August 2013 Environmental Assessment (prior EA) and the Band's original fee-to-trust (original FTT) and revised fee-to trust (revised FTT) applications. We now provide these comments to the May 2014 Final Environmental Assessment (EA).

As set forth below, the proposed Federal action to transfer the Camp 4 property from fee to trust and the proposed development of the property will cause significant adverse environmental impacts which are inadequately examined in the EA, and must be thoroughly evaluated in an Environmental Impact Statement (EIS).

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**1. Incorporation of Prior and New Comments**

As a preliminary matter, Ms. Crawford-Hall incorporates all of her previous comments, as well as all other comments objecting to (a) the prior EA, (b) this EA, (3) the original and revised FTT, and (4) all other assessments or applications relating to Camp 4 or the Band, as continuing comments to the this EA. Ms. Crawford-Hall's previous comments include, but are not limited to: (1) Comment Letter P194; (2) Comment Letter P283; (3) Comment Letter P311; (4) Comment Letter P994; (5) her letter dated October 4, 2013 on the prior EA; (6) her letter dated October 16, 2013 on the applicant's original FTT application; and (7) her letter dated December 28, 2013 on the revised FTT application.

Prior comments and objections by others include, but are not limited to: Comment Letters L1 and L3 by Santa Barbara County Executive Officer Chandra L. Wallar; Comment Letter P262 by Brian Kramer; Comment Letter P289 by David and Andriette Culbertson; Comment Letters P308 and P332 by Stand Up for California Director Cheryl Schmit; Comment Letter P319 by Kelly McConnell; Comment Letter P327 by Santa Ynez Valley Concerned Citizens Chairman Greg Simon; Comment Letter P328 by Susan Petrovich for Charles Grimm; Comment Letter P329 by Klaus Brown; Comment Letter P998 by Santa Ynez Valley Alliance President Mark Oliver; Comment Letters P88 and P1014-P1016 by Preservation of Los Olivos (P.O.L.O.) Board President Kathy Cleary; Comment Letter P1019 by William R. Devine, Attorney for Save the Valley Plan; Comment Letters P1021-P1022 by James E. Marino, Attorney for No More Slots, and the comments on the Tribal Consolidation Area submitted by P.O.L.O. to the BIA. All of these prior comments which raised issues on the prior EA, and all comments submitted which raise issues on this EA, are expressly incorporated herein by reference.

The comments provided herein do not include every impact, and they are not intended to limit comments on any future documents regarding Camp 4, including future EAs, EISs, and/or Findings of No Significant Impact (FONSI), if any.

**2. An EIS is required for a Project of this magnitude, and which involves admitted adverse impacts.**

As a general foundational comment, the proposed Camp 4 acquisition and development require a more thorough analysis of impacts on the environment and community than is provided in the EA. At over 1,400 acres, Camp 4 is the size of a small town. It is completely included within a Community Plan area, in a rigorously zoned component of a larger cumulative natural resource management plan, served by state and local roads, encompassed within local school districts, and supported by local police, fire, and flood control agencies.

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P9-04

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The Bureau of Indian Affairs (BIA or the "Bureau") should prepare a substantive and thorough EIS. This is a massive project, whose likely impacts are potentially devastating to the surrounding property owners, to the County, and to the State. The fact that the EA requires approximately 2,000 pages of analyses and comments speaks volumes. An EA of this length typically indicates that an EIS is necessary. (See, e.g., Indian Affairs National Environmental Policy Act (NEPA) Guidebook, 59 1AM 3-H (August 2012) ("NEPA Guidebook"), at Appendix 17, p. 26.) In short, this is not an EA on which a FONSI can issue; rather, an EIS is needed for this major project.

P9-04  
(Cont.)

The EA is also insufficient in several general respects. One is its focus, which is almost exclusively on the interior of the project, rather than on the impacts on Camp 4's neighbors and the community at large. The purpose of an EA is to study not only the environmental impacts produced by the project on the affected property, but also the impacts on the surrounding environment. The failure to reflect that dual purpose renders the EA fundamentally flawed.

In addition, the EA fails to consider recent announcements regarding future development which require a comprehensive re-evaluation of the cumulative impacts. The Band has announced a significant expansion of the gaming floor at the Band's casino complex on its reservation, near doubling the Band's hotel complex on the reservation, and significant expansion of the parking facilities on the reservation. The casino, hotel, reservation, and Camp 4 are all served by the same roads and utilities as the neighboring communities, requiring more consideration of the crucial cumulative impacts of these anticipated projects.

P9-05

The EA also fails to consider the Band's plans to initiate development on its 6.9-acre parcel, which is separate from the casino, hotel, reservation, and Camp 4 properties but is served by the same roads and public services.

We understand that that the previously approved Tribal Consolidation and Acquisition Plan (Plan) and the Tribal Consolidation Area (TCA) are no longer being considered factors for purposes of the EA's analysis. (EA § 3.1.2 Tribal Consolidation Area, p. 3-2.) However, the Plan and TCA were withdrawn without prejudice by the Band. It follows that there is a high likelihood that the Plan and the TCA will be resubmitted. The cumulative effects of the Plan and the TCA, have not been addressed in the EA, and these significant impacts require consideration in an EIS.

P9-06

Moreover, not only are there failures by the omission of relevant analyses, the EA affirmatively admits that there will be significant impacts. As an example, it states: "Impacts to biological resources would be greater under Alternative A due to the size of the assignments. Under Alternative A, approximately 330.11 acres of critical habitat for protected species would be removed from designation. Under Alternative B, approximately 65.28 acres of the critical habitat would be removed from designation. Both alternatives would adversely impact water of the U.S., special-status species, protected oak trees, and migratory birds." (EA, Vol. I, p. 2-17, emphasis added.)

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The State of California also concludes that there will be significant impacts. The Comment Letter from the California Department of Fish and Wildlife, dated October 4, 2013 (see Comment Letter S4, incorporated herein) states: "The proposed project site is located adjacent to large expanses of oak: savannah and annual grassland wildlife habitats. The proposed site and surrounding habitats support a variety of wildlife species (e.g., deer, mountain lion, hawks, etc.). The current proposed residential development configuration will modify the urban-wildlife interface and create edge effects to surrounding habitats on and off-site. [¶] Examples of adverse edge effects include invasion by non-native plants and animals, chemical drift, displacement of wildlife by lighting and noise, nuisance water from summer irrigation, vehicle traffic, domestic pets, and other factors. Adverse edge effects can degrade natural habitats where they abut development and extend for many hundreds of feet beyond the development footprint."

P9-08

Under NEPA, an EA "effects analysis must demonstrate BIA took a 'hard look' at the impacts of the action." (NEPA Guidebook, at § 6.4.5.) This analysis must include such factors as the degree to which effects are likely to be controversial, highly uncertain, or involve unknown risks; to be potentially precedent setting; to be development objectives via appropriate land use avenues (see, e.g., County comment letter dated December 17, 2013, incorporated herein); to be cumulatively significant in relation to other actions; to threaten adverse impacts to an endangered species or habitat; and other issues. (*Id.* at § 7.5.)

If the action is expected to have significant impacts, or if the analysis in the EA identifies significant impacts, then an EIS must be prepared. (*Id.* at § 8.1; see also 40 C.F.R. § 1508.27.) It is only where no effect on the environment is possible that an Environmental Assessment is appropriate. (See, e.g., *Natural Resources Def. Council v. Duvall*, 777 F.Supp. 1533, 1538 (E.D. Cal. 1991). The proposed Camp 4 developments do not fall into that category. To the contrary, this is a major project that removes at least 1,400 acres from local and State regulation. It contains reasonably likely future impacts, unique risks, and the potential of setting precedent (40 C.F.R. § 1508.27(a), (b).) NEPA requires the Bureau to prepare an EIS under these circumstances.

P9-09

### **3. The EA does not accurately or adequately address water resources.**

The EA's analysis of water resources and impacts is flawed and incomplete. (See, EA § 4.0 Environmental Consequences, p. 4-1; § 4.1.2 Water Resources, p. 4-3; § 4.2.2. Water Resources, p. 4-35; § 4.3.2 Water Resources, p. 4-54; § 3.1.9 Water Resources, p. 3-11; § 3.2.4 Private Citizen/Commercial Entities Comment Letters (P), Response P311-09, p. 3-137.)

The communities surrounding Camp 4 are presently experiencing the worst drought in recorded history. The local Santa Ynez River Water Conservation District No. 1 has declared a "stage one" water supply shortage. This drought is coupled with a recently-announced statewide requirement for water sources to adopt rigorous and potentially expensive water treatment requirements. The significant environmental impacts raised by this situation have not, but must be, reevaluated to address the potential Camp 4 development and its impact on neighboring wells, especially in light of the uncertainty on the extent of the actual development.

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The EA states: "Increased well production above existing conditions at the site may adversely impact neighboring wells depending on where the onsite wells are located and the amount of pumping that occurs." (EA, Vol. II, p. 2-10.) The EA then inadequately and inaccurately evaluates the likelihood of adverse impacts and the amount of pumping involved.

The EA proposes three different groundwater uses. Proposal A calls for two wells providing approximately 200 gallons per minute (gpm), and using 384 acre feet per year. Of this draw, 142 acre feet per year would be for residential use and 206 acre feet for grapes. Proposal B calls for 54 acre feet per year for residential use, and 206 acre feet per year for grapes. Proposal C calls for 300 acre feet per year for grapes. There is also mention of two wells, each at 700 gpm, which would lead to a demand of 2,258 acre feet per year.<sup>1</sup>

P9-10  
(Cont.)

The proposed wells would be located in the Uplands Basin, which is reported to have some 10 million acre feet of storage. More importantly, however, the safe yield has been estimated at 11,500 acre feet per year. Current or existing users are already taking 13,500 acre feet per year. This results in an overdraft of 2,000 acre feet per year. The proposed uses set forth in the EA would increase the overdraft substantially.

Groundwater recharge is typically 5% to 10% of precipitation. The EA indicates that Santa Ynez receives 20 inches of precipitation per year. Most reports indicate that average precipitation is 14 inches, however. Actual annual precipitation ranges from 5 inches or less in drought years to 40 inches in El Nino years. Using a generous amount of 1 inch per year of recharge, a safe yield of 120 acre feet per year would be expected from the 1,400 acres. Because the proposed use would require far more than the safe yield, it will result in cones of depression from the wells expanding beyond the boundaries of the 1,400 acres. In short, there are significant impacts implicated by the likelihood that the Band will be taking other peoples' groundwater.

P9-11

Most Californians have seen the results of massive water use associated with the growing of grapes. Grapes use approximately 2 acre feet per acre per year. The applicable calculations result in a projected deficit of more than 20 inches per year, i.e., the difference between recharge and pumping. Even in Napa Valley there is a shortage of groundwater, and water has to be trucked in at the end of each growing season. We now have wells going dry from Santa Ynez to Paso Robles.

P9-12

The EA provides no clear analysis of the basin or the aquifer, and does not acknowledge the existence of the ongoing and historic drought in the area. The EA has not modeled the aquifer in any appropriate manner so as to obtain substantive or accurate estimates, or properly

<sup>1</sup> These comments on water resources are provided by Philip Hall. Mr. Hall has an honors degree in Geology and a Masters degree in Hydrogeology from the University of London (1967). He has consulted to a variety of organizations, including the U.S.E.P.A.; U.B.L.M; Corps of Engineers; United Nations, S.W.R.B.; R.W.Q.C.B; and numerous other organizations. He has also given courses on groundwater management and computer modeling across the country and at the universities of Cambridge and London. He has published numerous papers and reports and is the author of a text book on water wells.

P9-13

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analyzed the likely recharge deficit. Yet substantial pumping will impact the aquifer system, and result in significant impacts beyond Camp 4. In addition, because there are unexplained potential future impacts involving additional housing (1300 lineal descendents), and unknown commercial enterprises, the potential additional impacts to ground water resources are significant.

P9-13  
(Cont.)

Whether there will be sufficient ground water resources, and whether there will be significant negative impacts on neighboring wells, are not sufficiently analyzed in the EA. These issues should be addressed in an EIS.

The EA also fails to address the impacts resulting from the proposed use of reclaimed water for irrigation. This water will drain onto and pollute adjacent parcels to the south (including Ms. Crawford Hall's properties), which are dedicated in perpetuity to agricultural uses via conservation easements. These properties include grazing property for cows and calves, and a world class horse breeding facility. It is critical to ensure that the ground and forage are clean and healthy for such uses. While the EA fails adequately to address these issues, the proposed development would generate significant adverse impacts on these adjacent parcels.

P9-14

In sum, the EA does not adequately assess the impacts to groundwater resources. The EA uses unreliable data; greatly underestimates the amount of additional acre-feet of water per year which would be withdrawn; misstates the defined amount of withdrawal of water which would constitute a significant impact; provides insufficient information on where additional wells would be located; and lacks adequate and current information about groundwater contamination. As a result, the EA fails to set forth sufficient data from which to conclude that there will be no significant impacts to groundwater. An EIS should be prepared which addresses these water issues and properly analyzes these likely impacts.

P9-15

**4. The EA is inconsistent and incomplete in its analysis of the proposed development.**

The inconsistencies between the prior EA and the current Final EA further support the need for an EIS. For example, there is no clear explanation of what actual development will take place on the Camp 4 property and when it will occur. The prior EA discussed residential development commencing in 2014 and phased in over 4-9 years; however, the current EA discusses residential development commencing in 2023, after expiration of the Band's Williamson Act contract.<sup>2</sup> Moreover, the Final EA now references a 50-acre reduction of the vineyard. These inconsistencies raise questions as to the reliability of the analyses.

P9-16

The EA also fails to adequately consider other alternatives, including how the Camp 4 property might be developed under the existing County land use procedure, and thereby meet the stated needs of the Band, without the need to transfer the land into trust. (EA § 2.0 Project

P9-17

<sup>2</sup> Indeed, the prior EA failed to acknowledge that the proposed residential development was in violation of the Band's Williamson Act contract.

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Alternatives, p. 2-1; § 2.2.10 Protective Measures and Best Management Practices, p. 2-9; § 3.1.13 Alternatives, p. 3-22.) The EA also does not adequately analyze the stated need for the project. (EA § 1.3 Purpose and Need, p. 1-6; § 3.1.5 Purpose and Need, p. 3-5.) The Band owns the Camp 4 property in fee. It may work through the available land use structure, as any other landowner may do, to obtain approval for reasonable uses, including housing development.

P9-17  
(Cont.)

The EA also fails to adequately examine cumulative or future impacts, including foreseeable impacts from future development. (EA § 4.4 Cumulative Effects, p. 4-57; § 3.1.12 Development of Proposed Alternatives, p. 3-20; § 3.2.3 Local Comment Letters (L), Response L3-41, p. 3-51; § 3.2.4 Private Citizen/Commercial Entities Comment Letters (P), Response P308-15, p. 3-135.) There are reasonably likely future impacts, including those that will result from the housing or land desires of the Band's 1300 lineal descendants and future "commercial enterprises." There is no suggestion of how the property will accommodate or build for 1300 descendants, or what further development will entail. Yet these future plans will undoubtedly result in substantial additional impacts to infrastructure (including, inter alia, roads, sewage, waste treatment, pollutants), and municipal services. (EA § 4.4.2 Water Resources, p. 4-58; § 4.4.5 Cultural Resources, p. 4-63; § 4.4.7 Transportation and Circulation, p. 4-64; § 4.4.8 Land Use, p. 4-68; § 4.4.10 Public Services and Utilities, p. 4-72.)

P9-18

The EA fails to adequately consider the substantial impacts resulting from the incompatibility of the proposed development to local property use plans, including the County's General Plan, the Santa Ynez Valley Community Plan, and the County's zoning and land use regulations. These impacts include, but are not limited to, problems involving the lack of agricultural buffers, increased pest risk, and increased weed and disease spread to agricultural fields. (See, EA § 4.1.8 Land Use, p. 4-21; § 4.2.8 Land Use, p. 4-46; § 4.3.8 Land Use, p. 4-55; § 3.1.10 Land Use, p. 3-15; § 3.2.3 Local Comment Letters (L), Response L3-09, p. 3-35.)

P9-19

Indeed, the EA does not address the basic incompatibility of use given that the Camp 4 property is zoned AG-11 and was enrolled under the Williamson Act. The Williamson Act is a state law that was expressly designed to protect agricultural lands, allowing such committed agricultural uses to obtain tax assessments at lower than fair market value. The Act's purpose was to endorse the critical importance of agricultural uses in the state. Camp 4 was one of the first properties to enroll in the Williamson Act plan. To remove this protection and additionally permit over-development of Camp 4 will have significant impacts on the rest of the surrounding agricultural community. The EA states, at page 571: "Alternate A or B would not contribute to conversion of agricultural land." This is simply untrue both for Camp 4 itself and for agriculture in the valley. This issue must be addressed in detail, as the valley has already lost many of the local businesses that support agriculture.

P9-20

A massive transfer out of County planning, as contemplated, will effectively vitiate critical portions of the County and Community Plans. Nor are the one-acre parcels set forth in Alternative B either consistent or compatible with the properties contiguous to Camp 4. That is, a one-acre parcel is not substantially similar to a five- or ten-acre parcel.

P9-21

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The project will remove substantial land from the County's jurisdiction, reduce tax revenues essential for providing public services, and put additional demands on the local infrastructure. All of the above will have a negative financial impact on land values.<sup>3</sup> The EA does not consider impacts the Camp 4 development will have on the local communities and land values. Real Estate professionals are reporting a negative financial impact from the Camp 4 FTT application. The Camp 4 development will have a negative financial impact on the surrounding community as the development is inconsistent with current land use regulations, including the County Comprehensive Plan, Santa Ynez Valley Community Plan, Williamson Act, and County zoning ordinances, among others.

P9-22

Critically, the EA does not adequately explain the housing project, making it impossible to assess many critical components. The EA does not adequately describe the tribal community Banquet Hall/Exhibition Facility, or its likely impacts on traffic, noise, waste, and other features, and the effects of this on neighboring agricultural uses. At best it downplays the likely impacts of traffic, noise, and waste, among others.

The EA leaves unclear what actually will be constructed on the project. There is no statement on the maximum number of homes in future, or the size of the dwelling structures. This lack of clarity is heightened since the proposed construction is now contemplated to begin many years from now. It is difficult to fully respond to the EA as it is not clear what will be constructed. Indeed, no private developer would be allowed to commence such a project without an EIS. A private developer would be required to provide detailed plans and drawings that specifically set forth what was going to be built rather than setting forth potential alternatives that may or not be actually constructed once the land is transferred from fee to trust. What appears clear, however, is that both Alternative A and Alternative B will have significant adverse impacts on the environment, landscape, and scenic nature of the land.

P9-23

The prolonged and ongoing construction will have a major environmental impact on the surrounding community, most particularly on the residents downwind of the project. An increase in noise and negative air quality will result from the construction activities. The EA does not provide adequate mitigating measures for the negative impact noise and construction activity will have on nearby residents, including their livestock, pets, and the local wildlife. The construction impact on local residents and the community requires further study.

P9-24

The EA's alternatives for residential construction show residential construction immediately adjacent to the present private homes located immediately east of Camp 4. Alternative B proposes 143 one-acre lots which is not consistent with the surrounding neighborhood. The lack of setbacks, local zoning, or local oversight will cause a major impact on the properties adjacent to the Camp 4 project, including potential for excessive noise, pollution, nuisances, view impairment, etc. These impacts require further study in an EIS.

P9-25

<sup>3</sup> Federal action that has a direct negative environmental impact and negative financial impact on local residents without due process of law constitutes an impermissible taking without just compensation to those harmed by the Federal action. Federal action that directly leads to a financial loss to the surrounding communities needs to be fully evaluated in an EIS in light of the Fifth Amendment to the United States Constitution.

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The EA also fails to adequately address the impacts of a residential development of this density on the neighboring agricultural uses in an ongoing fashion, including but not limited to significant adverse impacts resulting from the attendant traffic, noise, trespass, lights, pollution, air quality, and other potential nuisances in this environmentally sensitive area. (See, EA § 4.1.7 Transportation and Circulation, p. 4-18; § 4.1.10 Noise, p. 4-28; § 4.2.7 Transportation and Circulation, p. 4-44.)

P9-25  
(Cont.)

Camp 4 is bordered on the north and south by rural scenic country roads, i.e., Baseline Avenue to the north and Armour Ranch Road to the south. No view corridor is provided along Baseline Avenue or Armour Ranch Road such as the "view shed protection zone" provided along SR-154. Despite Baseline Avenue and Armour Ranch Road being scenic roads, the proposed residential development is contiguous to the roadways thereby impacting the scenic aspect of the roadways. The lack of adequate setbacks is not addressed in the EA, and further study is therefore required.

P9-26

As previously noted, Ms. Crawford's Armour Hill property is primarily a grazing property for cows and calves and is a critical part of the grazing rotation program Ms. Crawford-Hall's family established generations ago. It is covered by an in-perpetuity conservation easement that forbids any development. It is critically important that the ground and forage be kept clean and healthy. Drainage from Camp 4 will flow across Armour Hill, carrying with it reclaimed water for irrigation as well as other expulsions from the high-density residential project presented in the EA, damaging the adjacent use. Additionally, cows will not freely graze if confronted with human activity like cars and lights at night which, according to the EA, will be greatly increased. The Windmill Field area also involves grazing and requires the same clean, quiet and dark conditions as Armour Hill. Ms. Crawford Hall's uses are not the only critically affected adjacent uses; other agricultural uses will be equally, significantly adversely affected.

P9-27

Finally, the EA does not adequately address the impact of this high density proposed project on law enforcement and fire protection resources. The EA is thus inadequate, and compels the conclusion that an EIS should be prepared.

P9-28

#### **5. The Mitigation Measures set forth in the EA are not adequately analyzed.**

The EA also fails to provide specific mitigation measures for identified impacts and lacks the requisite detail on mitigation to ensure that the environmental consequences were fully or fairly evaluated. (EA § 5.2 Water Resources, p. 5-2.)<sup>4</sup>

P9-29

As set forth in previous comment letters, the suggested proposed remedial and/or mitigation efforts require additional analysis. It is undisputed the alternatives presented will adversely impact the environment by causing the removal of at least 50 to 70 protected mature and majestic oak trees (70 trees under Alternative A and 50 trees under Alternative B). The

<sup>4</sup> Although included in our prior general incorporation of comment letters, we additionally note and incorporate by reference herein the EA Comment letter submitted by the Environmental Defense Center dated July 10, 2014.

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proposed remedial measures and/or mitigation efforts for the removal of these protected oak trees and/or savannah are inadequate as these mature oak trees cannot be adequately replaced under the proposals.

P9-29  
(Cont.)

The proposed project will adversely affect jurisdictional waters of the United States, as defined by Section 404 of the Clean Water Act, through the discharge or fill of at least 2.28 acres of ephemeral drainages, seasonal wetlands, and seasonal wetland swales on the property. The proposed project will also change the contour and drainage of the property. The proposed remedial measures are inadequately analyzed, and further study is therefore required.

P9-30

The proposed project and its construction activities will result in the disturbance of nests for migratory birds and birds of prey through increased ambient noise and increased human activity that will result in abandonment of active nests. The noise and human activity on the proposed project will also have a harmful effect on nest sites on adjoining property and the surrounding community. The proposed remedial measures are inadequately analyzed, and further study is required.

P9-31

The EA fails to adequately identify and quantify the extent of impact to critical habitat for the endangered Vernal Pool Fairy Shrimp, even though Camp 4 includes a core area of the Vernal Pool Recovery Plan. Implementation of Alternative A will impact at least 330.11 acres of designated critical habitat for the shrimp which will adversely impact the shrimp. The remedial measures proposed therefore require further analysis.

P9-32

The EA also fails accurately to address wetlands issues. There is an approximately five-acre wetland on Camp 4, over the first rise after accessing the property from Armour Ranch Road. These natural wetlands are held by the yellow clay pan soil permeating Camp 4, and usually retain water all spring. Though the wetlands not have been observed recently, as a result of drought, the wetlands would be visible in normal rain years. The wetlands are a critical resource for wildlife, and affect migratory patterns. Yet the EA fails to consider the adverse impacts to this wetland.<sup>5</sup>

P9-33

#### **6. Traffic Impacts are not sufficiently analyzed.**

Both alternatives for residential development show access off of Baseline Avenue and Armour Ranch Road. These rural county roads are narrow and lack a paved shoulder or any significant shoulder. These roads are commonly used by bicycle riders, joggers, and horseback riders as well; in fact, Armour Ranch Road is a designated bicycle route.

P9-34

The EA references a 140-vehicle (Alternative A) or 229-vehicle (Alternative B) increase per day to Armour Ranch Road. This figure is significant under any analysis. (EA § 4.1.10 Noise, p. 4-28, Armour Ranch Road, p. 4-31; § 4.2.10 Noise, p. 4-51, Armour Ranch Road, p. 4-52.) Moreover, the EA fails entirely to mention the impacts to a driveway from Camp 4 on

<sup>5</sup> Indeed, the entirety of Camp 4 could arguably be considered potential wetland, given the clay substrate which retains rainfall.

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Armour Ranch Road, a tiny rural two-lane road fraught with no sight distance, over rolling hills, around blind corners, and with no shoulders.

P9-34  
(Cont.)

The EA also fails to adequately evaluate the traffic impacts resulting from connecting roads to Armour Ranch Road and other County roads, including traffic impacts resulting from the Banquet Hall/Exhibition Hall events, and a dense residential development.

The traffic impacts studied were primarily in the direction of Highway 154 and Highway 246, which lead to the Band's existing hotel and casino. The roundabout placed at the intersection of Highways 154/246 and Armour Ranch Road implicates safety issues related to the difficulty of large trucks carrying hay, cattle, racehorses, or grapes, in maneuvering around the circle. Those with driveways near the roundabout, including the fire station, will have additional difficulty getting out with the increased stream of traffic

P9-35

The EA indicates construction will involve grading and excavation for building pads and roadways, and "cut and fill" and "structural grade fill" may be imported to meet engineering requirements. The cut and fill requirements will be huge, since Camp 4 is largely comprised of yellow clay substrate.<sup>6</sup> The trucks bringing building supplies and land fill will create traffic, noise, and safety hazards along Baseline Avenue and Armour Ranch Road. Moreover, the delivery times for construction materials and arrival and departure of project workers will correspond to the morning and afternoon peak traffic volumes for local residents. These local roads will therefore be subject to additional traffic noise, delays, and accidents if construction begins. The adverse impacts of construction-related traffic thus require further study.

P9-36

The EA's traffic assessment needs further study most particularly in light of the Comment Letter from the California Department of Transportation, dated September 18, 2013 (Comment Letter S1), which states the prior 2013 EA sets forth an incorrect State Level-of-Service threshold. Caltrans's Comment letter states the EA misapplied the *Caltrans Transportation Concept Report* despite the consultant (ATE) of the EA being advised of this misapplication on other projects. Caltrans stated: "... we regret to see this misapplication again." Caltrans's Comment Letter also references the EA's improper calculations and procedures that resulted in inaccurate rates with respect to the capacity analysis. The Comment Letter also addresses the EA's lack of a mitigation analysis for the project's impacts on certain intersections, and concludes, "Caltrans requests a reanalysis of all intersections to determine appropriate mitigation."

P9-37

The increase in traffic from the creation of a new 143-resident community, along with its anticipated activities, will most likely lead to signalization or roundabouts at SR-154's intersections with Edison Street, Roblar Avenue, and Grand Avenue, among others. This increase in traffic will have a significant negative impact on the surrounding area and the Santa Ynez Valley, including but not limited to potential condemnation proceedings by CalTrans for

P9-38

<sup>6</sup> Prior Camp 4 owners had to abandon the access road from Camp 4 to Highway 154, since the yellow clay pan substrate covering Camp 4 rendered the road impassible and jello-like in rain. The clay substrate is the primary reason that Camp 4 was historically used for grazing.

Amy Dutschke  
July 11, 2014  
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purposes of signalization. Although the Band offers to pay a "fair share" contribution for the cost of signalization and road modification to SR-154, the increase in traffic effectuating signalization and/or road modification is solely caused by the Camp 4 project. Increases in traffic and signalization will adversely impact the area and further study is required.

P9-38  
(Cont.)

**7. The EA incorrectly recites that the parcels should be restored to tribal sovereignty.**

The EA inaccurately refers to restoration of the parcels to tribal sovereignty (EA § 4-19) and to an incorrect historical and ethnographic connection of the purported Band to Camp 4. (EA § 3.5 Cultural Resources, p. 3-43; § 4.1.5 Cultural Resources, p. 4-14; § 4.2.5 Cultural Resources, p. 4-42; § 4.3.5 Cultural Resources, p. 4-55; § 3.1.8 Cultural Resources, p. 3-10.) This analysis and these references are fundamentally flawed. There is no historical basis for a finding that there was a specific Santa Ynez Chumash tribe, or that such a tribe had any rights in or to the property known as Camp 4. To the contrary, historical data confirm that the Catholic Church quieted title to the land as against any group, and subsequently deeded Camp 4 to non-Native Americans. The Band later obtained its reservation land, which is not adjacent to Camp 4, and only in the 1960's executed and filed articles of organization with the Bureau. Sovereign rights are not in issue.

P9-39

**8. Conclusion**

The above deficiencies are illustrative examples, not an exhaustive listing. What they reveal, however, is that the EA does not take the required "hard look" at the potential impacts, and therefore cannot support a Finding of No Significant Impact. (EA § 3.1.3 Need for an Environmental Assessment (EA)/Finding of No Significant Impact (FONSI) Versus an Environmental Impact Statement (EIS), p. 3-3.)

To say that this proposed project or any major development on Camp 4 will not have any significant impact on neighboring properties and agriculture is to ignore reality. An EIS must be prepared where the impact is highly uncertain, there are unique risks, and the action has the potential of setting precedent. (40 C.F.R. § 1508.27(a), (b).) That is the case here. The Bureau cannot make any decisions relating to Camp 4 without an EIS that corrects the erroneous and insufficient analyses of the EA, accurately evaluates the environmental impacts, and rigorously and objectively explores and evaluates all reasonable alternatives.

P9-40

An EIS will allow a full and complete assessment and analysis of all components of any potential development of the Camp 4 property. The environmental impacts on land use, water resources, agriculture, wildlife, habitat, biology, air quality, public services (including fire and law enforcement), traffic, and safety must be fully evaluated. An EIS is a prerequisite to a full understanding of the significant environmental impacts of the Camp 4 development.

An EIS is warranted. Ms. Crawford-Hall joins all other interested parties (and incorporates such parties' comments) who have requested the Bureau to prepare a complete EIS

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in connection with the proposed Federal Action related to Camp 4. As no development is planned before 2023, there is adequate time to prepare the required comprehensive EIS.

For the foregoing reasons, an EIS should be prepared. If you have any questions concerning this matter, please do not hesitate to contact us.

Thank you for your courtesy and cooperation in this matter, and for your consideration of these comments.

Very truly yours,

CAPPELLO & NOËL LLP



A. Barry Cappello  
Attorneys for Nancy (Anne) Crawford Hall, and  
related interested entities

cc:

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(Cont.)

Amy Dutschke  
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BIA BRIAN KRAMER  
Santa Ynez, California 93460

JUN 27 11:55

June 24, 2014

SENT VIA FACSIMILE & U.S. MAIL  
FACSIMILE NO. (916) 978-6099

Amy Dutschke  
Regional Director  
Bureau of Indian Affairs  
Pacific Regional Office  
2800 Cottage Way, Room W-2820  
Sacramento, California 95825-1846

Re: Public Comment on Environmental Assessment for Camp 4 Property  
Santa Ynez Band of Chumash Indians  
Santa Barbara County, California

Dear Ms. Dutschke:

My wife and I reside in Santa Ynez, California. I am an attorney of over 30 years and I have a degree in Urban and Regional Planning from the University of Southern California. I have read the Environmental Assessments of August 2013 and May 2014 for the proposed trust acquisition of the approximately 1,433 acres known as Camp 4. I previously responded to the August 2013 Environmental Assessment and my prior letter (Comment Letter P262) is incorporated herein.

The proposed Federal action to transfer the Camp 4 property from fee to trust and the proposed development will cause significant negative environmental impact that must be thoroughly evaluated in an Environmental Impact Statement (EIS). The May 2014 Environmental Assessment (EA), Vol. I, page 2-17, states:

"Impacts to biological resources would be greater under Alternative A due to the size of the assignments. Under Alternative A, approximately 330.11 acres of critical habitat for protected species would be removed from designation. Under Alternative B, approximately 65.28 acres of the critical habitat would be removed from designation. Both alternatives would **adversely impact** water of the U.S., special-status species, protected oak trees, and migratory birds." (Emphasis added)

The Comment Letter from the California Department of Fish and Wildlife, dated October 4, 2013 (see Comment Letter S4) states the following with respect to the proposed project's "Urban-Wildlife Interface":

"The proposed project site is located adjacent to large expanses of oak savannah and annual grassland wildlife habitats. The proposed site and surrounding habitats support a variety of wildlife species (e.g., deer, mountain lion, hawks, etc.). The current proposed residential development configuration will modify the urban-wildlife interface and create edge effects to surrounding habitats on and off-site.

Examples of adverse edge effects include invasion by non-native plants and animals, chemical drift, displacement of wildlife by lighting and noise, nuisance water from summer irrigation, vehicle traffic, domestic pets, and other factors. Adverse edge effects can degrade natural habitats where they abut development and extend for may hundreds of feet beyond the development footprint."

Reg Dir	<u>                    </u>	<u>                    </u>
Dep Reg Dir	<u>                    </u>	<u>                    </u>
Reg Adm Ofcr	<u>                    </u>	<u>                    </u>
Route	<u>DECRns</u>	<u>                    </u>
Response Required	<u>                    </u>	<u>                    </u>
Due Date	<u>                    </u>	<u>                    </u>
Memo	<u>                    </u>	Ltr <u>                    </u>
Tele	<u>                    </u>	Other <u>                    </u>
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P10-02

Amy Dutschke

June 24, 2014

Page 2

The National Environmental Policy Act ("NEPA") requires the Bureau of Indian Affairs (BIA) to initiate the preparation of an Environmental Impact Statement (EIS) under the circumstances of the proposed Camp 4 development. An Environmental Assessment (EA) is appropriate only "where no effect on the environment is possible." The proposed developments are definitely going to have a major effect on the environment.

P10-02  
(Cont.)

California, especially Santa Barbara County, is experiencing a severe drought and water has become very scarce. The potential Camp 4 development requires more exhaustive studies regarding water needs and the impact on neighboring wells, especially in light of the uncertainty of what actual development will take place. The May 2014 EA, Vol. II, page 2-10, states:

"Increased well production above existing conditions at the site may adversely impact neighboring wells depending on where the onsite wells are located and the amount of pumping that occurs."

P10-03

One cannot leave up to chance there will be sufficient water or that there will not be significant negative impact on neighboring wells. Proper studies, planning and review is required to address all of the environmental concerns over the potential Camp 4 development. That is the proper and responsible way to proceed with any development of the size and scope referenced in the EA.

Due to the existence of substantial questions as to the significant negative environmental impacts of the Camp 4 project, the August 2013 and May 2014 Environmental Assessments are inadequate and a complete Environmental Impact Statement (EIS) is required. That is the law and we are a nation of laws.

The issues involved are of paramount importance to all parties involved and the failure to initiate the preparation of an Environmental Impact Statement as required by "NEPA" will have harmful long term and irreversible consequences for the Santa Ynez Valley and Santa Barbara County. The Camp 4 development is a "Pandora's Box" full of significant environmental consequences awaiting any development that is not preceded by an Environmental Impact Statement. Since no development is scheduled prior to 2023, there is plenty of time for the preparation of an exhaustive Environmental Impact Statement. Any doubt as to the environmental impacts of the Camp 4 development must be resolved in favor of the environment and the preparation of an Environmental Impact Statement. This "Pandora's Box" must not be opened without an Environmental Impact Statement.

P10-04

An Environmental Impact Statement will allow a full and complete assessment and analysis of all components of any potential development of the Camp 4 property. The environmental impacts on land use, agriculture, wildlife, habitat, water resources, biology, air quality, public services (including fire and law enforcement), traffic and safety must be fully evaluated. An Environmental Impact Statement is a prerequisite to a full and complete understanding of the significant environmental impacts of the Camp 4 development. Based on the potential development and construction activities, it would be irresponsible to not initiate the preparation of an EIS prior to any consideration of any transfer from fee to trust.

No private developer would be allowed to commence such a project without an EIS. Moreover, any private developer would be required to provide detailed plans and drawings that specifically set forth what was going to be built rather than setting forth potential alternatives that may or may not be actually constructed once the land is transferred from fee to trust.

Amy Dutschke

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The inconsistencies between the August 2013 and May 2014 Environmental Assessments further support the need for a complete and thorough Environmental Impact Statement. There does not appear to be adequate transparency as to what actual development will take place on the Camp 4 property and when. The 2013 EA discusses residential development commencing in 2014 and phased in over 4-9 years; however, the 2014 EA discusses residential development commencing in 2023 after expiration of the Tribe's Williamson Act contract. Moreover, the May 2014 EA now references a 50 acre reduction of the vineyard. The inconsistencies also raise issues about the credibility and accuracy of the environmental assessments, i.e., the 2013 EA failed to address the proposed residential development was in violation of the Tribe's Williamson Act contract which allowed the Tribe to received property tax assessments based on lower than fair market value.

P10-05

The financial impacts of a development that causes significant negative environmental impacts must also be evaluated. The EA does not adequately address what financial impacts the Camp 4 development will have on the local communities and land values. Real Estate professionals are already seeing and reporting a negative financial impact from the Camp 4 fee to trust issue. The Camp 4 development will have a negative financial impact on the surrounding community as the development is inconsistent with current land use regulations, including the County Comprehensive Plan, Santa Ynez Valley Community Plan, Williamson Act, County zoning ordinances, among others. Moreover, the one acre parcels set forth in Alternative B are in no way consistent or compatible with the properties contiguous to Camp 4, i.e., a one acre parcel is not substantially similar to a 5 or 10 acre parcel. In addition, the project will remove substantial land from the County's jurisdiction, reduce tax revenues essential for providing public services and put additional demands on the local infrastructure. All of the above will have a negative financial impact on land values.

P10-06

Federal action that has a direct negative environmental impact and negative financial impact on local residents without due process of law constitutes an impermissible taking without just compensation to those harmed by the Federal action. Federal action that directly leads to a financial loss to the surrounding communities needs to be fully evaluated in an Environmental Impact Statement in light of the Fifth Amendment to the United States Constitution.

As set forth in my previous letter in response to the August 2013 Environmental Assessment (Comment Letter P-262), the suggested proposed remedial and/or mitigation efforts need to be thoroughly evaluated and studied and not accepted as true and uncontroverted. It is undisputed the alternatives presented will adversely impact the environment by causing the removal of at least 50 to 70 protected mature and majestic oak trees (70 trees under Alternative "A" and 50 trees under Alternative "B"). The proposed remedial measures and/or mitigation efforts for the removal of these protected oak trees are inadequate as these mature oak trees cannot be adequately replaced. The Oak Tree is the national tree of the United States of America and to destroy 50 to 70 of these majestic trees is an assault on and affront to the environment and nature. Proper planning and further studies can readily prevent the destruction of these majestic oak trees.

P10-07

The proposed project will adversely affect jurisdictional waters of the United States, as defined by Section 404 of the Clean Water Act, through the discharge or fill of at least 2.28 acres of ephemeral drainages, seasonal wetlands and seasonal wetland swales on the property. The proposed project will forever change the contour and drainage of the property. The proposed remedial measures are inadequate and further study is required.

P10-08

Amy Dutschke  
June 24, 2014  
Page 4

The proposed project and its construction activities will result in the disturbance of nest sites for migratory birds and birds of prey through increased ambient noise and increased human activity that will result in abandonment of active nests. The noise and human activity on the proposed project will also have a harmful affect on nest sites on adjoining property and the surrounding community. The proposed remedial measures are inadequate and further study is required.

P10-09

The proposed project will adversely impact Vernal Pool Fairy Shrimp (VPFS) habitat which is federally protected. Implementation of Alternative "A" will impact at least 330.11 acres of designated critical habitat for VPFS which will adversely impact VPFS. The remedial measures proposed are inadequate and further study is required.

P10-10

The prolonged and ongoing construction will have a major environmental impact on the surrounding community, especially on the residents east and downwind of the project. An increase in noise and negative air quality will result from the construction activities. The EA does not provide adequate mitigating measures for the negative impact noise and construction activity will have on nearby residents, including their livestock, pets and wildlife. The construction impact on local residents and the community requires further study.

P10-11

The EA's alternatives for residential construction reveal residential construction immediately adjacent to the present private homes located immediately to the east of the Camp 4 property. Alternative "B" proposes 143 one-acre lots which is not consistent with the surrounding neighborhood. The lack of setbacks, local zoning or local oversight will cause a major impact on the properties adjacent to the Camp 4 project, including potential for excessive noise, pollution, nuisances, view impairment, etc. Further study is required.

P10-12

The Camp 4 property is bordered on the north and south by rural scenic country roads, i.e., Baseline Avenue to the north and Armour Ranch Road to the south which are considered scenic rural roads. No view corridor is provided along Baseline Road or Armour Ranch Road such as the "view shed protection zone" provided along SR-154. Despite Baseline Avenue and Armour Ranch Road being scenic roads, the proposed residential development is contiguous to the roadways thereby impacting the scenic aspect of the roadways. The lack of adequate setbacks is not addressed in the EA. Further study is required.

P10-13

Both alternatives for residential development show access off of Baseline Avenue and Armour Ranch Road. These rural county roads are narrow and lack a paved shoulder or any significant shoulder. These roads are commonly used by bicycle riders, joggers and horseback riders as well. The EA indicates construction will involve grading and excavation for building pads and roadways and "cut and fill" and "structural grade fill" may be imported to meet engineering requirements. The trucks bringing building supplies and land fill will create traffic, noise and safety hazards along Baseline Avenue and Armour Ranch Road. Moreover, the delivery times for construction materials and arrival and departure of project workers will correspond to the morning and afternoon peak traffic volumes for local residents. These local roads will become a breeding ground for traffic noise, delays and accidents if construction begins. The adverse impact of construction related traffic requires further study.

P10-14

The EA's assessment of the traffic issues needs further study especially in light of the Comment Letter from the California Department of Transportation, dated September 18, 2013 (Comment Letter S1), which states the August 2013 EA sets forth an incorrect State Level-of-Service (LOS) threshold. The State's Comment letter states the EA misapplied the *Caltrans Transportation Concept Report* (TCR) despite the consultant (ATE) of the EA being advised of this misapplication on other projects. The State's letter states: "... we regret to see this

P10-15

## Comment Letter P10 (Cont.)

Amy Dutschke

June 24, 2014

Page 5

misapplication again." The State's Comment Letter also references the EA's improper calculations and procedures that resulted in inaccurate rates with respect to the capacity analysis. The State's Comment Letter also addresses the EA's lack of mitigation analysis for the project's impacts on certain intersections. The State's letter states: "Caltrans requests an reanalysis of all intersections to determine appropriate mitigation."

P10-15  
(Cont.)

The increase in traffic from the creation of a new 143 resident community, along with its anticipated activities, will most likely lead to signalization or roundabouts at SR-154's intersections with Edison Street, Roblar Avenue and Grand Avenue, among others. This increase in traffic will have a negative impact on the surrounding area and the Santa Ynez Valley. Although the Tribe offers to pay a "fair share" contribution for the cost of signalization and road modification to SR-154, the increase in traffic effectuating signalization and/or road modification is solely caused by the Camp 4 project and/or the Tribe's activities. Increases in traffic and signalization will adversely impact the area and further study is required.

P10-16

Then there is the issue of what actually will be constructed on the project in the event the current private land owner of Camp 4 is not subject to local land use requirements or procedures by which the rest of the community is governed. It is difficult to fully respond to the EA as it is not clear what actually will be constructed. Is it Alternative A? Alternative B? Or something else in the future? As mentioned above, Alternative "B" offers 143 one-acre lots abutting the rural roads and/or the adjacent residential community which is not consistent with the surrounding area. No matter what Alternative is considered, it will have an adverse environmental impact and it will forever change the environment, landscape and scenic nature of the land.

P10-17

An Environmental Impact Statement is warranted and required to address the issues raised in the August 2013 and May 2014 Environmental Assessments. The Comment Letter from Santa Barbara County (Comment Letter L3), dated October 7, 2013, is incorporated herein by reference as it also requests the United States Department of Interior, Bureau of Indian Affairs, prepare a complete Environmental Impact Statement in connection with the proposed Federal Action related to Camp 4 (see Comment Letter L3 and its attachments). No development is planned before 2023 so there is adequate time to prepare the required comprehensive Environmental Impact Statement.

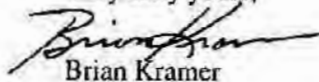
P10-18

If you have any questions concerning this matter, please do not hesitate to contact me at my office located at 1230 Rosecrans Avenue, Suite 410, Manhattan Beach, California 90266, Tel. (310) 536-9501.

P10-19

Thank you for your courtesy and cooperation in this matter.

Very truly yours,



Brian Kramer

cc:

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Amy Dutschke, Regional Director  
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2800 Cottage Way, Room W-2820  
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Re: Santa Ynez Band of Chumash Indians' May 2014 Final Environmental Assessment-  
Camp 4 Property

Dear Mr. Broussard and Ms. Dutschke:

My comments regarding the Santa Ynez Band of Chumash Indians' May 2014 Final Environmental Assessment for Camp 4 development alternatives ("the EA") are as follows:

1. It is stated in 1.3 of the EA that there currently are 136 tribal members and 1,300 lineal descendants. It also is stated that the primary objective of developing Camp 4 is to provide housing for current Tribal members and future generations.

The Tribe showed plans prior to acquiring the property demonstrating a desire to develop Camp 4 to include the following:

- \* a multi-100 room hotel;
- \* two (2) golf courses
- \* an equestrian center
- \* 175 condominiums

The EA does not address the impacts any one of the above-listed reasonably foreseeable expectations for construction at Camp 4.

The fact that the Tribe has publically announced its desire to build all of the foregoing at Camp 4 requires that the environmental impact of each of these improvements to be evaluated. The fact that not one of these improvements was studied renders the EA deficient. Given the magnitude of the aggregate foreseeable improvements the Tribe has represented it will make at Camp 4, an Environmental Assessment is insufficient. A comprehensive Environmental Impact Statement is mandatory.

P11-01

Mr. Broussard

Ms. Dutschke

June 25, 2014 Public Comment to Camp 4 May 2014 EA

2. There is no mention in the EA under either Alternative A or Alternative B as to where housing for the future generations would be built. My comments are:

A. The EA provides identification of where 143 houses would be built, commencing in 2023. The EA provides **no information** as to when construction of additional housing will commence for the existing 1,300 lineal descendants or any future generations, let alone identify where such additional housing will be located.

B. The EA does not state the anticipated maximum number of homes that would be built at Camp 4.

C. Under Alternative A, there does not appear to be any space set aside for additional housing; thus, if Alternative A is implemented, it appears that the Tribe does not intend to provide additional housing for future generations at Camp 4.

D. Under Alternative B, there is no information as to **where** the Tribe anticipates constructing new homes for future generations.

Because of the foregoing, the EA is deficient for failing to consider the environmental impact of the reasonably foreseeable construction of a significant number of additional homes at Camp 4 based upon the Tribe's representation of its intention to provide housing for future generations. The disclosure of the Tribe's current plans for future home construction is mandatory. An Environmental Assessment is insufficient for a project of this magnitude. A comprehensive Environmental Impact Statement is mandatory.

3. Section 3.2.3 provides, in part, that "The federal antidegradation policy (40 CFR Part 131.6) is designed to protect water quality and water resources. The policy directs states to adopt a statewide policy....". My comment are:

A. On June 17, 2014, the Santa Ynez River Water Conservation District No. 1 (ID1) announced its unanimous declaration of a "stage one" **water supply shortage** and asked customers to voluntarily cut their water usage by 20 percent "effective immediately". The need for the 20 percent water cut-back was attributed, in part, to the finding that "a new California Public Health Department (CDPH) drinking water standard that begins July 1 (2014) ... will limit the district's ability to utilize groundwater supplies." *ID1 declares water shortage - Santa Ynez Valley Extra, Tuesday, June 24, 2014, page 1, Section 1.*

B. With respect to groundwater use, an overlying landowner can do whatever she wants as long as she can make the case that the use is "beneficial". Although not mentioned in the EA, the Tribe has stated it intends to build a golf course at

P11-02

P11-03

P11-04

Mr. Broussard

Ms. Dutschke

June 25, 2014 Public Comment to Camp 4 May 2014 EA

Camp 4. It is reasonable to anticipate that the Tribe will contend that maintaining landscaping, with or without fairways and greens, is "beneficial" to their enjoyment of Camp 4. It also is reasonably foreseeable, if not certain, that water shortages will remain a major concern of the Santa Ynez Valley.

Because of the foregoing, the EA is deficient. In order for required consideration to be given to the Tribe's stated intention of 143 new homes at Camp 4 and Santa Ynez River Water Conservation District No. 1's finding that the impact of the state's new legislation will further limit the ability to utilize groundwater supplies, an Environmental Assessment is insufficient. A comprehensive Environmental Impact Statement is mandatory.

4. Section 3-29 provides that "the EPA issues General Construction NPDES permits that require all projects **over** one acre in size comply with the terms and conditions described within the NPDES permit." (Emphasis added)

Alternative B represents houses being built on one (1) acre lots. My comment is:

A. The Tribe needs to confirm that NPDES permits **shall be obtained** for each individual one (1) acre lot if Alternative B is implemented, and **not** interpret the phrase "projects **over** one acre in size" to exclude lots that are one (1) acre.

Because of the foregoing, the EA is deficient. In order to determine if NPDES permits will be required, the Tribe must be on the record regarding their position as to whether or not NPDES permit requirements apply to their proposed one (1) acre lots. Even with this information provided, an Environmental Assessment is insufficient. A comprehensive Environmental Impact Statement is mandatory.

5. Section 3-68 regarding the draft contract between the Tribe and the Santa Barbara Sheriff's Department (SBCSD) is irrelevant. My comment is:

The Santa Barbara County Board of Supervisors rejected the proposed contract between the Tribe and SBCSD. Among other concerns, the proposed contract contained language that was vague and ambiguous, and failed to provide for a waiver of sovereign immunity.

It is unknown whether or not the County will, or can even afford to, provide law enforcement, fire, ambulance and other emergency services to Camp 4 should Camp 4 be taken into Trust and developed as proposed by the Tribe in the EA or, alternatively, as represented by the Tribe to the community (hotel, golf course, equestrian center, 175 condominiums). The fact that such services currently are being supplied to the existing land held in Trust does not in any way ensure the ability of the County to provide even more emergency services to 1,400 acres of populated land that is removed from the State and County tax rolls. Even if this information is provided, an Environmental Assessment is insufficient. A comprehensive Environmental Impact Statement is mandatory.

P11-04  
(Cont.)

P11-05

P11-06

Mr. Broussard

Ms. Dutschke

June 25, 2014 Public Comment to Camp 4 May 2014 EA

6. Section 3-74 includes a conclusion that "if the project doubles the traffic volume there would be a barely audible increase in the ambient noise level." My comment is:

Alternative B provides for the building of a Tribal Facility and states that "the proposed Tribal Facility will host 100 annual special events, **each of which is expected to draw 400 attendees and vendors**". The EA does not state the traffic volume attributable to each of the 100 individual events was evaluated on an **individual event basis**, taking into consideration the audible increase in the ambient noise level due to the ingress and egress of the automobiles for each individual event.

P11-07

The extent to which the 100 individual special events will impact the ambient noise level is unknown at this time. Even if this information is provided, an Environmental Assessment is insufficient. A comprehensive Environmental Impact Statement is mandatory.

7. Section 4-19 contains an incorrect statement which must be rectified so as to avoid the potential that it might be used to serve as a source of authority in a future repetition of the statement. The incorrect statement is:

"Restoration of tribal sovereignty to the project parcels would be a benefit to the Tribe."

My comment is:

At no time has the Tribe had sovereign rights over the projected parcels (Camp 4). The Spaniards, the first to govern the area, did not recognize any tribes in California. Mexico also did not recognize any tribes in California when it took control of the region. Thus, there are **no sovereign rights to restore**. The Tribe's reference to the 1893 Quiet Title action brought by the Church against the local tribes fails to include the Church prevailed. A Federal judge found that the Tribe had **no** sovereign rights. It was not until the late 1940's that any land went into Trust for the Chumash, and it was not until the early 1960's that the Tribe executed and filed articles of organization with the Bureau of Indian Affairs.

P11-08

8. Section 4.5.2 provides that "the new housing development proposed under Alternatives A and B would be capable of relieving current overcrowding on the Tribe's Reservation and accommodating future growth of the Tribe." My comments are the same as stated in Item 2, above, namely:

A. The EA provides identification of where 143 houses would be built, commencing in 2023. The EA provides **no information** as to when construction of additional housing will commence for the existing 1,300 lineal descendants or any future generations, let alone identify where such additional housing will be located.

P11-09

Mr. Broussard

Ms. Dutschke

June 25, 2014 Public Comment to Camp 4 May 2014 EA

B. The EA does not state the anticipated maximum number of homes that would be built at Camp 4.

C. Under Alternative A, there does not appear to be any space set aside for additional housing anywhere except for the 206 acres identified as "agricultural"; thus it appears that, if Alternative A is implemented, there is no intention of providing additional housing for future generations or, alternatively, the vineyards will be replaced with housing.

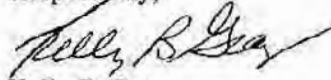
D. Under Alternative B, there is no information as to when and where the Tribe anticipates constructing new homes for future generations.

8. Alternative C is the only alternative that will not cause significant negative environmental impact at Camp 4 and to the surrounding area. The EA confirms that both alternatives A and B would **adversely and significantly impact** water - both for Camp 4 and for neighboring properties dependent upon well water - as well as special-status species, protected oak trees and migratory birds. My comment is:

**An Environmental Assessment is categorically insufficient to comply with the National Environmental Policy Act with respect to a project of this size. Federal Law requires the BIA to prepare a comprehensive Environmental Impact Statement.**

Thank you for your consideration of my public comments regarding the document entitled May 2014 Final Environmental Assessment.

Respectfully,



Kelly B. Gray

cc: Congresswoman Lois Capps  
2231 Rayburn House Office Building  
Washington, DC 20515

Senator Diane Feinstein  
331 Hart Senate Office Building  
Washington, DC 20510

Senator Barbara Boxer  
112 Hart Senate Office Building  
Washington, D.C. 20510

Supervisor Doreen Farr  
Santa Barbara County Board of Supervisors  
1745 Mission Drive  
Solvang, California 93463

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(Cont.)

P11-10

## Santa Ynez Valley Concerned Citizens

Board of Directors

EMAILED & FAXED

Gregory Simon

*Chair & Vice President*

July 13, 2014

Nancy Eklund Hunsicker

*Secretary*

Ms. Amy Dutschke, Regional Director

Pacific Regional Office

Bureau of Indian Affairs

2800 Cottage Way

Sacramento, CA 95825

Gerry Shepherd

*Treasurer*

"CJ" Jackson

*Director*

**RE: Final Environmental Assessment dated May 2014**

**Proposed Fee-to-Trust (FTT) acquisition of 5 parcels of approximately 1,433 acres known as "Camp 4" for the Santa Ynez Band of Chumash Indians (Tribe)**

Carol Herrera

*Director*

Dear Ms. Dutschke:

The following comments are submitted on behalf of the Santa Ynez Valley Concerned Citizens (SYVCC).

Thank you for your willingness to extend the comment deadline to July 14, 2014, in response to the County of Santa Barbara's letter requesting an extension. The magnitude of the subject FTT application and the concomitant Environmental Assessment constitute a significant undertaking to comment within such a prohibitively short window of time. While the Tribe and their consultant, AES had several months - even years - to prepare the environmental document, the 30 day window and subsequent 15 day extension preclude the contracting of professional services to effectively and properly review and critique the document.

It is for this reason among many others that Santa Ynez Valley Concerned Citizens formally requests 1) an Environmental Impact Survey (EIS) be undertaken; and, 2) this FTT application and review be stayed until its completion and thorough review. To this end, SYVCC hereby re-submits, adopts and incorporates by reference herein its critique and comments set forth to the Regional Director on October 4, 2013 on the Draft Environmental Assessment and our subsequent letter of October 17, 2013 regarding comments on the Chumash Application for Trust Acquisition.

SYVCC reserves the right to submit additional comments on the proposed trust acquisition.

Founded in 2000, the mission of the Santa Ynez Valley Concerned Citizens is to inform, mobilize and articulate the concerns of the 22,000+ citizens of the greater Santa Ynez Valley on issues of land use, private property and stewardship of community resources. Where appropriate, we promote constructive dialogue on issues of civic concern and request accountability from governmental entities and officials.

P.O. Box 244, Santa Ynez, CA 93460

[www.syvconcernedcitizens.com](http://www.syvconcernedcitizens.com)

A 501(c)(4) Nonprofit Organization

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P12-02

P12-03

July 13, 2014

Page 2

**Preliminary Issues: TRIBAL CONSOLIDATION AREA (TCA)**

SYVCC asserts that the FTT acquisition process employed in this transaction has diverged from the established procedures established under 25 CFR 151 and created substantive confusion.

On June 17, 2013, the Pacific Regional Office approved a "***Tribal Consolidation Area***" concurrent with the Santa Ynez Band of Chumash Indians' (tribe) application for FTT acquisition of the property known as Camp 4 in Santa Ynez, California. The TCA served as a foundational document for both the tribe's Application for Trust Acquisition (FTT) and for the Draft Environmental Assessment subsequently released for comment, dated August 2013. Based upon the TCA, the tribe asserted and the Draft EA depended upon a conclusion that the proposed acquisition would be evaluated under section 25 CFR 151.10 (*on-reservation acquisition*) as opposed to section 25 CFR 151.11 (*off-reservation acquisition*). Camp 4 is located 1.75 miles from the tribe's reservation and does not have any shared boundaries with the reservation, thus analysis as an off-reservation acquisition is required.

Further complicating the issue, and after the Director's action was appealed by numerous local entities (including SYVCC, the County of Santa Barbara, and POLO), the tribe requested from the Pacific Regional Director, that the Tribal Consolidation Area be withdrawn ***without prejudice*** (thereby allowing that the TCA could be resubmitted). On October 28, the appellants received word that the IBIA dismissed their appeals based upon the tribe's withdrawal declaring the decision by BIA to be moot and therefore without any legal effect.

Several parties, including the County of Santa Barbara, Senator Diane Feinstein, Representative Lois Capps and several appellants, questioned the status and propriety of the initial BIA decision to approve with as of yet no answer to these queries. Failure to clarify these issues has created confusion with negative consequences and the potential for harm and injury for buyers and sellers of property within the TCA boundaries. The Chumash tribe now refers to the TCA as a "***Guidance and Planning Document***."

As a planning document for the tribe, properties acquired within the TCA and held presently in fee including but not limited to:

- 6.9 acre site across Hwy 246 from the reservation
- 5.8 acre site abutting Hwy 246 containing the tribe's newly constructed Gas Station Car Wash complex
- Remediated former gas station at the corner of SR 246 and Edison Street
- Former Mowry Farm property along Meadowvale & Hwy 246
- Former Cabrillo development parcels along Meadowvale

All of the above are in the Santa Ynez Township and are targeted for FTT acquisition by the tribe.

Under NEPA, "***Cumulative impacts of past, present and reasonably foreseeable actions are evaluated...reasonable, appropriate, scientific methods are used to evaluate each impact the significance of each impact is explained and well documented...***" None of the above listed parcels are evaluated within the May 2014 Environmental Assessment. Additionally, the applicant publicly announced concurrent with the period of analysis, a planned expansion of the current casino, hotel and resort property and parking structures...all presenting significant potential burden and impacts upon the environment and all unevaluated within the May 2014 Environmental Assessment.

P12-04  
(Cont.)

July 13, 2014  
Page 3

SYVCC asserts that failure to analyze and address the above within the environmental document amounts to piecemeal development which could produce harm and injury to surrounding residents, businesses and governmental agencies. Clearly, the BIA has an obligation to consider the impact of the various trust acquisitions the tribe has pursued on a collective rather than piecemeal basis. *An Environmental Impact Survey is necessary and required.*

P12-04  
(Cont.)

**Inappropriate Assertions and Findings of Fact by the Environmental Consultant:**

The Environmental Assessment makes two unsubstantiated assertions which exceed the scope and by their nature are the purview of the BIA Regional Director and not the applicant and /or environmental consultant. On page 1.6 of the EA, the report presents the applicant's argument that the property in question (Camp 4) is part of the tribe's ancestral lands held for the tribe by the Catholic Church. This assertion is unsubstantiated and contrary to the historical record and legal history of the property. Once again, no substantiation or evidence to support this claim is provided by the environmental consultant or the applicant. *The mere assertion of a legal theory is not a finding of fact.*

A more plausible historical record is easily obtainable. Santa Barbara County Counsel succinctly articulated the historical record in the County of Santa Barbara's Appeal of the Regional Director's decision to approve the Tribal Consolidation Area:

*"This purpose is founded on a flawed and totally erroneous factual assertion, to wit, the purpose for the Catholic Church's ownership of the land. The true facts are that the Spanish Land Grant to the Roman Catholic Church were given for the purposes of funding a college in California by the Church, hence the original name for the land Grant, "College Rancho," in a process remarkably similar to the USA Land Grant College program. But by making the bald assertion that the entire 11,000+ acres was given for the use of the Indian Tribe, the Tribe (Applicant SYVCC) attempts to usurp preferential treatment of claims over a huge area for which it has no cognizable land title claims. In reality, the only land designated or used for tribal or reservation purposes was the original 99 acre which the federal Indian Agent for the Mission Indians accepted in quit claim from the Catholic Bishop. There is no factual basis for assertions such as "[A]ll these lands [11,000 acres] were considered to have been the property of the Santa Ynez Band of Mission Indians....."*

P12-05

SYVCC asserts that the above citing represents a factually superior assessment of the land claim for Camp 4. The environmental assessment and the trust acquisition application provide no evidentiary basis to refute our assertion or substantiate the applicant's assertion. Unsupported and unsubstantiated claims have no place in an environmental document for decision making purposes. A Finding of Fact by the BIA is required, along with evidence for public scrutiny.

The second assertion improperly rendered comprises the restatement of the applicant's purpose and need statement. The tribe asserts that they possess a "critical" shortage of housing and are unable to provide housing for their 136 enrolled members and 1300 lineal descendants. The report contains no documentation to validate or substantiate the claim of urgency or criticality of the postulated need. The applicant proposes to remove significant portions of land from state and local jurisdiction on the basis of a claim it chooses not to substantiate, while at the same time asserting that the proposed project will not result in an increase in the local population based upon the EA's baseline assertion.

P12-06

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Page 4

Additionally, no inventory of current tribal residential holdings is provided or analyzed. In addition to residential property located on the present reservation, purportedly as many as 40 residential properties throughout the greater Santa Ynez Valley are owned and occupied by members of the tribe. According to the applicant, Camp 4 property to be developed for residential purposes will not be available for 10 years. How will this time interval address a "critical" housing shortage? How will the recently announced expansion of casino facilities impact the residential housing inventory on the current reservation? Once again, a substantiated finding by the BIA Regional Director is necessary with availability for public scrutiny...not a mere assertion by an environmental consultant. ***Once again, an Environmental Impact Survey coupled with substantiated Findings of Fact by the Director is required and necessary to properly assess the needs assessment called for in the federal statute.***

P12-06  
(Cont.)

It is confusing to assess how the proposed project addresses the postulated "critical housing shortage." The tribe asserts the need to address housing for 136 enrolled members and 1300 linear descendants. The present inventory on the existing reservation accounts for 17% of the need. Unless the tribe proposes to house 1300 lineal descendants within the 143 proposed homes resulting in a minimum of 9-10 residents per home then the project fails to address the need and thus must be understated. If this is not the case than one might presume that the project is undersized to meet the objective or that the actual objective is to develop substantially more homes on the site than included within the project description. ***The project description is incomplete, contradictory, and clearly demands a thorough Environmental Impact Survey.***

#### **Drought And Water Supply Considerations:**

Concurrent with the tribe's acquisition of Camp 4 and initiation of the FTT acquisition process has been perhaps the most significant drought event in recorded history to impact the State of California and the Santa Ynez Valley. Coincidental to the extreme impacts of the drought, the State of California has acknowledged a risk from Chromium 6 levels within the groundwater and has mandated complex and costly mitigation requirements.

As a customer of the local water purveyor, the Santa Ynez River Conservation District Improvement District #1, the tribe has been apprised for months of the approaching concerns and the potential supply implications. However, the tribe's Environmental Assessment is silent on the implications of the drought.

P12-07

We adopt and incorporate by reference two EA comment letters to the Regional Director by the Santa Ynez Rancho Estates Mutual Water Company, Inc. (SYRE) dated October 4, 2013 and June 26, 2014. SYRE is well positioned to evaluate the hydrology elements of the Environmental Assessment as they manage resources for a comparably sized acreage and rely similarly on groundwater wells to meet their needs. Based upon real time performance for their mutual water company, SYRE correctly identified significant weaknesses in the projected water demand provided within the Camp 4 Environmental Assessment. Based upon the SYRE analysis, the Environmental Assessment significantly under-reports the water utilization for both of the listed alternatives provided within the Tribe's EA.

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Page 5

**Water Quality And Chromium 6 Considerations:**

The Tribe may argue that land held in FTT would not be subject to State of California water quality regulations. However, groundwater is acquired from aquifers that don't respect property lines. The recently announced Chromium 6 regulations coupled with the drought have forced the local water purveyor, ID #1, to significantly reduce and perhaps curtail deliveries to agricultural customers within the Santa Ynez Valley. The concomitant response of the agricultural community has been to expand groundwater pumping through the creation of new wells expanding the competition for ground water supplies. Argument continues to be made that the aquifers of the Santa Ynez Valley are in deficit and expanded pumping for the proposed residential development and tribal hall complex could exacerbate this deficit to the detriment of all in the community.

Couple these concerns with the recently announced expansion plans by the tribe for the current reservation and their multiple properties in various stages of FTT acquisition within the area described within the Tribal Consolidation Area, meaningful and thorough analysis of water supply considerations is paramount to avoid injury and harm to residents neighboring the Camp 4 property and the community as a whole. ***The Environmental Assessment needs to be replaced with a thorough Environmental Impact Survey inclusive of a cumulative hydrology analysis and cumulative impact assessment.***

**Cumulative Issue Considerations:**

In October 2013, SYVCC provided comments on the Draft Environmental Assessment and the FTT application by the tribe for the Camp 4 property. We have noted the responses provided by the environmental consultant AES. While some AES answers were helpful and provided some clarity, the preponderance of replies were insufficient and largely unanswered. As stated earlier, we formally re-assert all of our previous comments from our October 4, 2013 and October 17, 2013 comment letters and adopt and incorporate by reference these documents and all supporting documents incorporated within those responses to be made of our comments to the Final Environmental Assessment dated May 2014.

The SYVCC draws its membership primarily from the greater Santa Ynez Valley and Santa Barbara County as a whole. We have been provided by our members with additional responses and comments regarding the Environmental Assessment which, when added to the analysis, provide a global and cumulative analysis and response on behalf of the impacted communities. Due to the time constraints, no one participant could be expected to completely address the sheer magnitude of the environmental document. We therefore adopt and incorporate by reference herein the following documents in an effort to provide as complete an administrative record of the significant inadequacy of the Environmental Assessment:

1. **The County of Santa Barbara's Comments on the May 2014 Final Environmental Assessment for the Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust, dated July 11, 2014**
2. **Comments on Final Assessment for Santa Ynez Band of Chumash Indians Camp 4 Fee-to-Trust dated July 10, 2014 by the Environmental Defense Center and the Santa Ynez Valley Alliance**

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3. **Additional Comments to the Chumash Environmental Assessment dated July 10, 2014 by Preservation of Los Olivos (POLO)**
4. **Comments of Kelly B. Gray Re: The Santa Ynez Band of Chumash Indian's May 2014 Final Environmental Assessment, Camp 4 Property dated June 25, 2014**
5. **Two (2) letters submitted by the Santa Ynez Rancho Estates Mutual Water Company to the BIA dated October 4, 2013 and June 26, 2014 providing comments on the August 2013 Draft Environmental Assessment and the May 2014 Final Environmental Assessment**
6. **The Statement of Reasons for Appeal to the June 17, 2013 decision by the Regional Director to Approve the Land Consolidation and Acquisition plan of the Chumash Indians to the United States Department of the Interior: Interior Board of Indian Appeals dated September 11, 2013 by Dennis Marshall County Counsel for the County of Santa Barbara.**
7. **Comments on Environmental Assessment, Santa Ynez Band of Chumash Indians, Camp 4 Fee-to-Trust by C. David and Andriette Culbertson dated September 27, 2013**
8. **Re: Re-submission of the Santa Ynez Band of Mission Indians of the Santa Ynez Reservation Fee to Trust Land Acquisition Application for 1,427.781 Acres: Comment letter dated December 9, 2013 by *Stand Up for California***
9. **Comment on Environmental Assessment (EA) of Proposed Trust Acquisition of Five Parcels known as the Camp 4 Property dated October 1, 2013 by *Stand Up For California***

P12-10  
(Cont.)

In conclusion, SYVCC asserts that based upon a thorough review of the preceding, a clear, unambiguous and thoroughly substantiated argument has been presented herein that the proposed Trust Acquisition provides potentially significant impacts to the surrounding environment, inclusive of but not limited to biological resources, loss of agricultural land, land use conflicts, impacts to water quality and supply, wastewater management, air quality, visual resources, traffic burden and cumulative impacts.

The National Environmental Policy Act is equally clear and unambiguous that an Environmental Assessment is appropriate only "where no effect on the environment is possible".

P12-11

July 13, 2014  
Page 7

Therefore SYVCC asserts and demands that the BIA Regional Director require that a thorough and rigorous Environmental Impact Survey be undertaken before any action is contemplated regarding the FTT acquisition of Camp 4 by the Santa Ynez Band of Chumash Indians.

P12-11  
(Cont.)

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. M. Simon".

Gregory M. Simon, Chairman  
SANTA YNEZ VALLEY CONCERNED CITIZENS

cc: T. Gede, Bingham McCutchen



**CALIFORNIA COASTAL PROTECTION NETWORK**  
2920 Ventura Drive, Santa Barbara, CA 93105 • 805-637-3037  
WWW.COASTALADVOCATES.COM

July 14, 2014

Amy Dutschke, Regional Director  
Bureau of Indian Affairs  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825  
amy.dutschke@bia.gov

*VIA EMAIL AND U.S.MAIL*

**SUBJECT: Comments on Final Environmental Assessment, Camp 4, Santa Ynez  
Band of Chumash Indians (Band)**

Dear Ms. Dutschke:

On behalf of California Coastal Protection Network, I submit these comments on the Final Environmental Assessment (EA) for the Camp 4 Fee-to-Trust proposal.

We endorse and incorporate by reference the comment letters of the County of Santa Barbara, the Santa Ynez Valley Alliance, POLO/POSY and M. Andriette Culbertson that have been filed with respect to this Final Environmental Assessment (FEA)

At the outset, CCPN believes that the objections and inaccuracies pointed out in the 1100+ letters should alone be enough to cause the Bureau of Indian Affairs (BIA) to require an Environmental Impact Statement (EIS) at this point. We urge the BIA to do so, in that many representatives of the BIA have previously assured the community that rigorous NEPA assessment would be conducted and would protect the regulatory oversight otherwise lost through the fee to trust process. If the BIA had elected to complete an EIS at the outset, we believe far less time, effort and expense would have been expended.

P13-01

P13-02

P13-03

One of the most egregious deficiencies in this document concerns the availability of water. In a time of severe drought in California, and limited water in this region, we are appalled that the FEA would be so dismissive of impacts to the water supply. Clearly, with as many times as the Band has altered its intended uses of the Camp 4 property, the question of exactly how much water could be used if the property went into trust is directly relevant. However, because the BIA chooses to evaluate these potential impacts on the basis of an inappropriately limited project description, it is able to wrongly conclude that no adverse impacts to future water supply will occur.

P13-04

P13-05

Even a cursory examination of the prior statements of the Band show the broad scope of prior ideas they have had on this property – hotel, golf course, casino, vineyard expansion, conference/banquet facilities, etc. The FEA, itself, predicts 1300 descendants, but fails to account for them in the water supply analysis. An illustration of this statement is revealing, and it is notable that this defect carries through to all of the technical studies purportedly supporting the analysis in the FEA.

P13-06

P13-07

Pages 4-5 of Volume I of the FEA declare that Alternative A produces a water demand of 348 acre-feet per year, inclusive of proposed residential and based on the analysis in Appendix C of Volume II. Pages 4-6 of the FEA go on to state that the safe yield is approximately 513 acre-feet per year. But an examination of Appendix C shows that the consultant did not consider the entire proposal, and in fact this flaw is also found in the air quality analysis and other studies. Specifically, and in spite of the fact that the Project Description includes as one of the intended uses of Camp 4 the housing for 1300 descendants, only the 143 homes, agricultural uses, and tribal facilities are actually included in the calculation. Therefore, not only is the analysis inaccurate, but the conclusions regarding cumulative impacts are similarly incorrect.

P13-08

This is a critical flaw and has been brought to the attention of the BIA before. Water supply is only one example of this flaw, and it is not the public's duty to meticulously point out each flaw of this kind. But even in this case, the fact that there is only 513 acre-feet of safe yield now means that if housing for 1300 descendants is placed on this property the water demand will outstrip the basin, and result in severe impacts and overdraft conditions. The BIA cannot ignore this possible outcome, especially since the BIA acknowledges that it will have no control over the property or its subsequent uses after trust transfer.

The BIA should immediately announce its intent to prepare an EIS. The BIA cannot now decide that 1300 descendants are not part of the Project Description either as a means of resolving this controversy. The very fact that there is no control over the land at all once it goes not trust imposes on the BIA an affirmative duty to explore and reconcile all stated (and reasonably predictable) claims for use, and not simply

P13-09

P13-10

## Comment Letter P13 (Cont.)

selectively pick the aspects that will not produce impacts in an effort to diminish the environmental importance of this action.

P13-10  
(Cont.)

CCPN reiterates its request that the BIA require a full Environmental Impact Statement on the Camp 4 property.

P13-11

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Jordan", with a stylized flourish at the end.

Susan Jordan, Director

W.E. WATCH, INC.

P. O. BOX 830  
SOLVANG, CA 93464  
WWW.WE-WATCH.ORG

July 11, 2014

Amy Dutschke, Regional Director  
Bureau of Indian Affairs  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825

Email: amy.dutschke@bia.gov

Re: Application for Fee to Trust Transfer of Title submitted by the Santa Ynez Band of Mission Indians

Dear Ms. Dutschke:

W.E. Watch, Inc., is a 501(c)(3) which was organized in 1992. We strive to work with others to sustain the beauty and environment of the Santa Ynez Valley. We support careful analysis of proposed land development adhering to a long-term vision for growth that maintains the quality of life for all.

We are writing to submit our comments on the above referenced Fee to Trust Application

**Comment 1:** When first submitted a Tribal Consolidation Plan (TCA) is included in the EA. The TCA has been withdrawn and vacated. Consequently, this application must be evaluated as an "off reservation acquisition". The property in question is 1.75 miles from the Tribe's reservation and has no shared boundaries with the reservation. The current application uses the much lower standard for "on-reservation acquisitions".

**Comment 2:** The justification for the FTT based on the need for tribal housing is unsubstantiated and not legitimately analyzed in the EA in terms of the full effect and meaningful use of the existing reservation. The EA concludes based on no apparent evidence that approximately 50 acres of the existing reservation are available but unsuited for development. Fifty acres is more than adequate for 143 homes. This leads us to the more troubling issue. The Tribe has a population of 136 members and roughly 1300 descendants. There is no explanation of why the Tribe with a population of 136 and 1300 descendants is planning 143 home sites. Indeed there is no mention or analysis of the prospective future development to accommodate all of them. The presented alternatives do not even mention the possibility of this development. There must be another plan which would of necessity produce

P14-01

P14-02

P14-03

P14-04

P14-05

## Comment Letter P14 (Cont.)

cumulative impacts which have not been analyzed. The EA fails to state the ultimate total development of the land.

P14-05  
(Cont.)

**Comment 3:** The Tribe can meet its goals by seeking entitlement through the County of Santa Barbara and does not need to take the land Fee-to-Trust. The EA should have considered the alternatives of development under the existing County Santa Ynez Community Plan and via an amendment to the Santa Ynez Community Plan. Both of these alternatives are feasible, especially when only 17% of the tribal membership lives on the current reservation. There is no showing that tribal members who live off-reservation in the community, and many do, would sell their fee simple interests in their homes and move to the Camp 4 property. Given the small number of tribal members who live on the current reservation, it is likely that a redevelopment alternative is feasible.

P14-06

**Comment 4:** The analysis of the impact on ground water is completely insufficient. The EA discusses the Tribes uses, but not a plan that includes the off trust lands community. The acquisition of Camp 4 means a loss of local control of the aquifer to the valley. Major decisions regarding usage will be made without consideration of local impacts. Local water companies do not necessarily own the land on which infrastructure is located. Easement supports the use of these properties for infrastructure. Would these easements survive an FTT? Many small water companies and private residences could potentially lose their water source. This impact demands thorough analysis.

P14-07

**Comment 5:** The Secretary of Interior must ensure and stipulate that easements remain enforce on trust parcels. The Regional Director must require the elimination of all liens, encumbrances or infirmities prior to taking final approval of the FTT. Transferring this land into trust without directly contacting easement owners represents a "taking or inverse condemnation" without due process.

P14-08

**Comment 6:** FTT would result in what amounts to an unfunded mandate for the County of Santa Barbara. The county would be faced with the loss of substantial tax revenue while simultaneously being required to provide supporting infrastructure and services. Based on stated development plans of the Tribe the county would incur lost tax revenues in the hundreds of millions of dollars.

P14-09

We believe a full environmental impact study, E.I.S., is required and that the Amended Fee to Trust Application as submitted be denied. The proposed project currently described conflicts with the County's General Plan; an Environmental Impact Statement is called for; the Tribe has not demonstrated the necessary justification for placing Camp 4 into trust.

P14-10

These comments do not include every impact and are not intended to limit any future documents regarding "Camp 4" including future environmental impact studies.

P14-11

Sincerely,

Cathie McHenry  
President

**Santa Ynez Rancho Estates Mutual Water Company, Inc.**  
**Post Office Box 297 -- Santa Ynez, CA 93460**

June 26, 2014

Ms. Amy Dutschke, Regional Director  
Dept. of the Interior, Bureau of Indian Affairs  
Pacific Regional Office, Suite 2820  
2800 Cottage Way  
Sacramento, CA 95825

**SUBJECT: Comments on the Final Environmental Assessment for "Camp 4"**

Dear Ms. Dutschke,

In the surprising absence of receiving any response from the BIA with regard to our request (and numerous others) for extension of the comment period on this nearly 2,000 page document, the Santa Ynez Rancho Estates Mutual Water Company, Inc. is filing these comments under protest that we were given so little time to formulate a robust response.

P15-01

The Santa Ynez Rancho Estates Mutual Water Company, Inc. is a Mutual Water Company with a service area contiguous with the property known as Camp 4. One of our production water wells is located within 700 feet of the eastern boundary of that property. Our entire service area, all of our wells, and all of our water storage facilities are located within the previously declared "Tribal Consolidation Area".

P15-02

We request that all of our previous comments on the Draft EA and the "TCA" submitted to the BIA be included as comments to this Final EA. They are incorporated herein by this reference.

P15-03

We add the following to our previous comments:

1) Re: the analysis of the water situation is fatally flawed

- > The State of California, and the Central Coast in particular, is experiencing the greatest drought in recorded history. The Santa Ynez Valley is in a state of "Severe Drought".
- > Average temperatures forecast for this area for the Summer are "Much Above Normal".
- > The forecast for rainfall for the coming rain season is a 71% chance for Below Average.
- > Every water major water purveyor in the County has moved to water rationing.
- > Groundwater levels are falling at rates not seen in the past, and are at recorded lows -- the local public water company has reported that water levels in their production wells have fallen 60' in the past few years, and our wells have fallen 10' in just the past six months.

P15-04

The Final EA's failure to take any of these facts into account dooms this document to failure.

2) Re: Continuing failure to evaluate reasonably foreseeable development

> The Tribe has repeatedly said that they plan to build housing for 1,300 tribal descendants, yet this Final EA ignores this foreseeable development and makes no analysis of the impacts

> The Tribe very publicly announced its desire to build on Camp 4 a multi-hundred room hotel, two golf courses, an equestrian center, and 175 condominiums yet this Final EA ignores this foreseeable development and makes no analysis of the impacts

3) Re: Continued reliance on an EA when an EIS is clearly required under NEPA

> There is no question that NEPA requires an EIS for projects of this magnitude and for projects that present significant environmental impacts as this one does.

Therefore, on behalf of our shareholders and home-owning customers, we respectfully request that the BIA restart the environmental analysis of this massive development project and prepare an EIS based on an accurate baseline, accurate forecasts of reasonably foreseeable development, and come to a more reasonable set of conclusions about impacts.

Respectfully,



Robert B. Field, President  
on behalf of Board Of Directors  
Santa Ynez Rancho Estates Mutual Water Company, Inc

CC: Chad Broussard, Environmental Protection Specialist  
Frank G. Blundo, Esq.

P15-05

P15-06

P15-07

# Comment Letter P16

REC  
14 JUL 16  
7/15/2014  
FIC REGIONAL OFFICE

**Lyn Dee Rankin**  
**Ross J Rankin**  
**3030 Samantha Dr.**  
**Santa Ynez, CA 93460**  
**805-688-1439 Fax:805-688-9305**

Reg Dir	apl	✓
Dep Reg Dir	✓	
Dep Adm Ofc		
Route	misc	
Response Required		
Due Date		
File		
Ltr		
Other		

Ms. Amy Dutschke  
Regional Director , Pacific Regional Office  
Bureau of Indian Affairs  
2800 Cottage Way  
Sacramento, CA 95825

Dear Ms Dutschke,

As a resident of the Santa Ynez Valley, I oppose action by the BIA to annex the Camp 4 property and adopt and incorporate by reference all comments made in the July 11, 2014 Final EA Comment Letter from the County of Santa Barbara.

<input type="checkbox"/>	P16-01
<input type="checkbox"/>	P16-02

Sincerely,

Ross J Rankin

10 JUL 14 PM 14:04

Reg. Adm. Otr. ☒ *agil*  
 Route *Discrim*  
 Response Required ☐  
 Due Date ☐  
 Memo ☐ Ltr ☐  
 Tele ☐ Other ☐

James E. Marino  
 Attorney at Law  
 1026 Camino del Rio  
 Santa Barbara, CA 93110  
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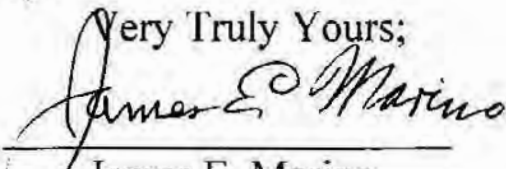
Amy Dutschke  
 Pacific Regional Director  
 United States  
 Department of Interior  
 Bureau of Indian Affairs  
 2800 Cottage Way  
 Sacramento, California 95825

July 11, 2014  
 Re: comments  
 concerning the  
 proposed fee to  
 trust transfer

Dear Director Dutschke;

Please find enclosed comments concerning the proposed fee to trust transfer of land situated in the Santa Ynez Valley, California and by which the Santa Ynez community of Indians proposes to transfer over 1,400 acres of fee land they own into federal Indian trust status ostensibly under the provisions of the Indian Reorganization Act of 1934, (25 USC 465 – 478).

P17-01

Very Truly Yours;  
  
 James E. Marino  
 Attorney for No More Slots and  
 Neighborhood Defense League, CA

**REGARDING THE APPLICATION OF  
THE SANTA YNEZ BAND OF MISSION  
INDIANS (aka) THE (CHUMASH) TO  
TRANSFER INTO TRUST THE  
APROXIMATLEY 1,400 ACRES OF  
RURAL AGRICULTURAL LAND  
COMMONLY CALLED CAMP 4**

**THESE COMMENTS ARE SUBMITTED BY “NO MORE SLOTS,  
AN UNINCORPORATED NEIGHBORHOOD ASSOCIATION IN  
THE SANTA YNEZ VALLEY FORMED TO PROTECT THE  
CHARACVTER, SAFETY AND INTEGRITY OF THE SANTA YNEZ  
VALLEY COMMUNITY AND BY THE NEIGHBORHOOD  
DEFENSE LEAGUE OF CALIFORNIA, A NON-PROFIT TAX  
EXEMPT CORPORATION WHO’S MISSION IS TO PRESERVE  
AND PROTECT COMMUNITIES FROM IMPROPER, EXCESSIVE  
AND INAPPROPRIATE PROPOSED DEVELOPMENTS OF LAND  
AND PROPOSED LAND USES.**

**THESE COMMENTS ARE MADE IN RESPONSE TO THE LATEST  
APPLICATION, OR AMENDED APPLICATION, OF THE SANTA  
YNEZ BAND OF MISSION INDIANS (AKA“CHUMASH”) AND  
THE INADEQUATE ENVIRONMENTAL ASSESSMENT UPON  
WHICH THE ANALYSIS UNDER SECTION 25 CODE OF  
FEDERAL REGULATIONS PART 151. 10 et. seq. WAS  
CONDUCTED AND PREPARED FOR THE TRIBE BY THE  
COMPANY THE BUREAU OF INDIAN AFFAIRS OF THE U.S.  
DEPARTMENT OF INTERIOR (BIA) SELECTED AND WHICH  
THEN NAMED THE PACIFIC REGION OFFICES OF THE BIA AS  
“LEAD AGENCY” WHO THEN ACCEPTED AND APPROVED THE  
INDADEQUATE ASSESSMENT WITHOUT REQUIRING AN EIS.**

P17-02

## HISTORY

The Santa Ynez Band of Mission Indians was originally referred to by the United States as simply the Indians at Santa Ynez and consisted of a group or community of mixed blood Indian descendants and Mexican-American nationals occupying land near the Mission at Santa Ynez, California.

The United States in its efforts to deal with the impoverished Indians of California commissioned representatives to tour California and assess the situation of California Indians, many of who were not members of any organized tribe or homogeneous community of Indians.

In Southern California that Commission, consisting of three members, was known and referred to as the Smiley Commission. They toured Southern California and inventoried and assessed several communities of Indians to make recommendations to the United States Government. Their report and recommendations formed the basis for the Mission Indian Relief Act of 1891 as amended in 1892.

Several communities of Indians, many who were officially landless and tribe-less, had parcels of land set aside for them by Presidential or Executive

P17-03

Actions which later came to be called (perhaps incorrectly) “executive reservations”. The communities or groups of Indians were specifically named in the presidential and executive decrees and many still exist today in Southern California.

The Smiley Commission visited the Indians living at Santa Ynez and found that they had been living on land belonging to the Catholic Church and the commission opined that they might have had an arguable claim to adverse possession of the land but for the fact that they had been living on that land belonging to the Catholic Church with the permission of the Church. In other words, their use and occupation was not hostile and adverse to the Church.

P17-03  
(Cont.)

The Commission found that the condition of the Indians was good, that the Church had assisted with housing and irrigation and that there was no need to set aside any land for this community because there situation was better than what the federal government could provide to them.

Apparently following the Commissions discussions with the Indian occupants consisting of some 5 identifiable families living on these church lands, some Indians began asserting claims and right to the land. Ultimately in 1899 the Catholic Archdiocese

filed an action to quiet title to their lands which consisted of a large land grant the church owned, commonly called the College Tract or Rancho de Jonata.

No effort was made to eject or evict the Indian occupants and considerable time and effort was made to individually name each Indian resident and occupant as potential claimants and as defendants as required by the law for a Quiet Title lawsuit. No tribe or other collective entity was named, because there was no tribe or other recognizable political entity acting for or speaking for this community of 5 identifiable families. The United States was not a party to this lawsuit either.

While that case was pending negotiations took place to reach an agreement whereby, once the issue of ownership and title to the entire land grant was resolved, the Indian occupants could continue to reside upon, use and occupy that parcel of the original land grant where they had been situated for many years. On or about 1905 and 1906 a formal agreement was entered into and made a judgment of the Court which quieted title to the entire land grant in the Church exclusively as prayed for in the complaint.

P17-03  
(Cont.)

The written agreement provided for the continued use and occupation of that parcel as long as it was not abandoned by the five families residing there and as long as there were surviving members of those original five families. If the land was abandoned or there were no longer any survivors of those five families then the use and occupancy of that parcel of land was to revert back to the Church and to The Santa Barbara Land Company who also had an interest in the land and participated in this agreement.

For several years, the mixed group or community of Indians of the 5 families given that land license, resided upon, used and occupied that parcel of land. The ancestry of these Indians was not clearly known but they were referred to by Bureau of Indian Affairs representatives as being primarily Shoshone and Mexican.

The land owned by the Catholic Church was not available for either Indian homesteading or for any allotment as it was neither public domain land nor tribal land of any recognized Indian tribe. In 1934, following the passage of the Indian Reorganization Act, all previously identified families or groups of Indians in California, regardless of size and status, were offered the right to vote for or against the Indian Reorganization Act (25 USC 465 et. seq.).

P17-03  
(Cont.)

An election was held in which some 20 of the 49 members of these five families at Santa Ynez, voted in favor of organizing an Indian tribe. No further steps were taken to seek organization as a tribe pursuant to the IRA. No application was filed, no base enrollment submitted, no Constitution or corporation documents or tribal governing documents of any kind submitted to the Department of Interior (DOI) or Bureau of Indian Affairs (BIA).

Attempts were made between 1934 and 1941 to convey the parcel of land owned by the Church and covered by the 1905-1906 licensing agreement, to the United States in trust, for what was then being called, The Santa Ynez Band of Mission Indians.

These efforts were not successful because the DOI would not approve and accept the trust lands due to problems created by the 1905-1906 licensing agreement which not only contained a reversionary interest but was also exclusive to the existing individual members of the five original families and their descendants.

Finally in 1964 the community of the Santa Ynez Band of Mission Indians sought to organize as a tribe

P17-03  
(Cont.)

by submitting a Constitution which was eventually approved by the Secretary of Interior.

P17-03  
(Cont.)

It is unclear whether or not the process and criteria required to exist to become acknowledged as a bona fide Indian Tribe, as set out in 25 CFR parts 83 and 83.7, were ever applied in the acknowledgment analysis, however in 1979 their name along with all the other known communities of Indians, was placed upon the 1979 list of Indian "tribes" entitled to benefits and services provided by the federal government to Indians and to Indian tribes.

P17-04

Apparently the land, being called a "reservation" is not and never was a reservation created by law either by Congress following the 1864 California 4 reservation Act" (13 Stat, 39) or by treaty following the 1871 Indian Appropriations Act (25 USC 71) nor was any land set aside by Presidential Directive pursuant to the Mission Indian Relief Act (26 Stat. 712) as that law was established by the Smiley Commission recommendations describe above. Nor was that land ever "reserved" by the federal government at the time California became a state and it has been in private ownership since California became a state.

P17-05

That land was never accepted into trust nor subject to any federal restrictions and is, in effect, fee owned land belonging to the Santa Ynez community of Indians based on various deeds from the former owners. Notwithstanding this fact the National Indian Gaming Commission authorized class III gaming there and the State of California entered into a tribal-state compact pursuant to Article 4 section 19 of the California Constitution and 25 USC 2703 and 25 USC 2710 b (3) of the Indian Gaming and Regulatory Act as well as the apparent violation of 25 CFR 573.4 (a) (13).

P17-05  
(Cont.)

## DISCUSSION

**The application and accompanying Environmental Assessment is inadequate and replete with false and inaccurate statements.**

The application and assessment assert the Santa Ynez community “reorganized” its government in 1934. As set out above there was no organized tribe or tribal government in 1934 and no organization effort under the Indian Reorganization effort was made until 1964. The tribe asserts this “Camp-4 land” is their aboriginal land which is false and inaccurate. The tribe asserts that there are significant tribal and aboriginal sites on this property when their own

P17-06

Assessment concludes to the contrary and that there is a paucity of any historical relics or sites on this land.

P17-06  
(Cont.)

The Application and assessment asserts that the land is needed for housing when that is only an excuse to curry favor under nation policies favoring housing as a means to bring land into trust. The 135 member tribe has a gambling casino and large Hotel generating over \$200,000,000 million dollars a year, owns the largest “Corque” hotel and conference center in Solvang worth millions, owns the second largest hotel, the Hadley House n Solvang also worth millions, gas stations mini-marts and other million dollar properties all of which make the handful of tribal members millionaires receiving over \$50,000 a month each in quarterly per capita profit distributions. Many tribal members have large expensive homes even second homes and there is clearly no *bona fide* “need” for additional housing.

P17-07

P17-08

The tribal government has conceded privately that they want to bring all their properties into trust to avoid any state and local regulation and control and evade the millions in taxes that would be due to fund the public services and infrastructure they use daily at the non-Indian community’s expense.

P17-09

The have also made false statements about their intended developments for the “Camp 4” property completely inconsistent with their publicly stated intentions for the land. Apparently this is because under current BIA practices and rules, no legally binding promises and even written agreements concerning intended uses made before land is taken into trust are not binding and will not be enforced by the BIA and DOI.

P17-10

In addition, because they are treated by the federal government as a *bona fide* Indian tribe they are entitled to utilize the court created doctrine of Indian tribal immunity from un-consented lawsuits and any “plans” for intended uses announced to facilitate a fee to trust transfer cannot be raised in any legal action against them.

P17-11

The analysis by the BIA and the Environmental Assessment prepared for this fee to trust transfer was based on the erroneous application and statements made which inferred that the land being transferred into trust was “contiguous to” a reservation (or Indian trust land) when it is not as set out above.

P17-12

**The Santa Ynez Band of Mission Indians in not qualified to bring any land into trust under the**

P17-13

**Indian Reorganization Act of 1934 (25 USC 465 – 478 or the Indian Land Consolidation Act.**

The Santa Ynez Band of Mission Indians was not an Indian Tribe under federal jurisdiction, superintendence and control on or before 18 June 1934. It was an unorganized community of Indian descendants with no tribal government and no government to government relationship with the federal government and was comprised of the original 5 families and their descendants who held a license to use and occupy the land owned by the Catholic Church, pursuant to the 1905-1906 license agreement. The Santa Ynez band had none of the requisite tribal characteristics for federal acknowledgment. [Muwekma Ohlone Indian Tribe v Salazar, (D.C. Circuit 2013), 708 F. 3d 209].

P17-13  
(Cont.)

As a result of the fact they did not exist as a tribe with any tribal government or any government to government relationship with the federal government on or before 18 June 1934, the Santa Ynez Band of Mission Indians is not eligible to transfer land into trust under the provisions of the Indian Reorganization Act. [Carcieri v. Salazar (2009) 555 U.S. 379].

P17-14

Even if the land currently occupied by the Santa Ynez Band of Mission Indians were deemed to be “Indian Lands”, it is not “contiguous” to the several parcels, totaling approximately, 1,400 acres that are proposed to be transferred into trust. Assuming the putative tribe is eligible to transfer land into trust at all, which it is not as set out *supra*. The applicable standards to analyze and review criteria for trust transfer are set out in 25 CFR part 151.11 not those that were used in the current and inadequate Environmental Assessment using the 25 CFR part 151.10 criteria.

P17-14  
(Cont.)

As a result the Environmental Assessment is deficient in several particulars such as providing a specific detailed business plan for the commercial and business uses being proposed on the various parcels sought to be placed in trust. The proposed plan and assessment provides nothing to satisfy that requirement. Nor does it provide the required impacts its’ business and commercial uses will have on the community, the jurisdiction and conflicts between local regulation and trust administration, taxes, public services and infrastructure as well as numerous governmental jurisdictional conflicts.

P17-15

The proposed fee to trust transfer does not assess the possibility that the land could be used for gaming

P17-16

purposes in the event the land is taken into trust because there is no binding agreement or currently any regulation that prohibits the lands from being used for gaming purpose once it is transferred into trust, and assertions as to future or intended uses by the Santa Ynez Band are unenforceable, gratuitous and inherently changeable without further environmental assessment.

P17-16  
(Cont.)

The assertions made in the Environmental Assessment made by the same company selected by the BIA for all such fee to trust transfers and which always names the BIA as the “lead agency”, are woefully inadequate to satisfy the required analysis under NEPA and are a product of advocacy rather than a fair and impartial evaluation of the complex environmental factors and impacts as required by law.

P17-17

Gaming operations at the current casino and hotel already generate and inordinate amount of crime, traffic, noise, water use and air and light pollution. Any environmental assessment for this 1,400 acre fee to trust application ostensibly for housing for the 135 tribal members requires a Complete Environmental Impact Statement (EIS) including the cumulative impacts of all of the “tribe’s” commercial and current business activities throughout the area and not the

P17-18

P17-19

perfunctory Environmental Assessment upon which the Pacific Regional BIA erroneously concluded, and then reached the Finding Of No Significant Impact (FONSI).

P17-19  
(Cont.)

The analysis of these many environmental impacts to traffic, crime, community services and infrastructure, transportation, air quality, water availability, taxes or loss thereof, both present and future, and many other unaddressed issues, is woefully inadequate in the existing Environmental Assessment (EA) in support of this application. Moreover any suggestion that land can be taken into trust for speculation or for “banking” for future use and profit, is not permitted under the Indian Reorganization Act, created for the relief of and immediate needs of Indians and Indian tribes existing in 1934.

P17-20

P17-21

Lastly, the process by which the analysis of fee to trust applications by the Pacific Regional Offices is corrupted, biased and amounts to an automatic “rubber stamp” of such fee to trust applications without the analysis, fair, objective and unbiased evaluation required to protect the rights of the citizens, communities, state and local governments by the provisions of 25 CFR parts 151.10 and 15 CFR 151.11.

P17-22

The current process therefore violates the rights of the non-Indian Community to due process of law.

P17-22  
(Cont.)

## CONCLUSION

The environmental assessment is deficient, does not comply with NEPA or with CEQA as required by the tribal-state gaming compact and is replete with false and inaccurate statements. The land sought to be transferred to trust is not contiguous and the Environmental Assessment improperly applies the standards of 25 CFR 151.10 and fails to apply the comprehensive analysis required by 25 CFR 151.11.

P17-23

The tribe unsuccessfully attempted to evade these fee to trust regulations by falsely proposing a "Tribal Land Consolidation Plan" which was originally approved by the Pacific Regional Director BIA without verifying any of the asserted facts and without giving any notice to the hundreds of affected non-Indian property owners and the community..

P17-24

The Santa Ynez community of Indian descendants is not eligible to take any land into trust because it was not a lawful existing "tribe" of Indians on or before 1934 and was not federally acknowledged (if it ever lawfully was) any earlier than 1964.

P17-25

There is no *bona fide* need to bring this land into trust and as set out in Assistant BIA Secretary Carl Artman's directive to all regional BIA Directors in 2008, there is no need to transfer any land into trust unless gaming is intended and that all Indian tribal governments can develop land they own in the same manner as any other non-Indian land owner and that is completely in accordance with the letter and intention of the Indian Reorganization Act. [see also *Oneida Indian Tribe of New York v. City of Sherrill* New York (2005) 544 U.S. 197. [A copy of that directive with highlighted comments is attached as **Exhibit "A"** hereto and incorporated herein by that reference.

P17-26

The entire system of evaluating fee to trust transfers as implemented by the Pacific Regional Offices of the Department of Interior, Bureau of Indian Affairs, is biased and fails to properly, fairly and impartially evaluate the standards required in the fee to trust process for the protection of the community, the citizens and residents in the area, local and state governments and therefore constitutes a violation of due process of law and the requirements of the Indian Reorganization Act.

P17-27

This fee to trust process is being used and abused to evade taxes and to obtain public services and use infrastructure without paying for it which must then be paid for by the non-Indian community. In addition the Indian fee to trust processes under the Indian Reorganization Act are being used here used to dominate or seek to dominate and monopolize business and commercial activities unfairly and to the detriment and exclusion of other non-Indian businesses, and commercial enterprises throughout the area. That is why there is an incomplete analysis of the purposes for which the current fee to trust transfer is sought.

P17-28

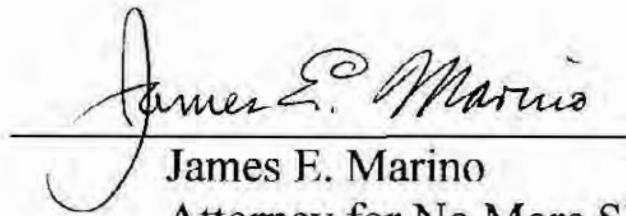
P17-29

At the very least a comprehensive Environmental Impact Statement (EIS), is required thoroughly addressing all these issues before any consideration should be given to this proposed massive land transfer of some 1,433 acres of rural ranch land into trust.

P17-30

The "camp 4" property is also currently encumbered by the provisions of the Williamson Act and is ineligible for transfer into trust under the provisions of 25 CFR 151.110 or 25 CFR 151.111.

P17-31



James E. Marino  
Attorney for No More Slots &  
Neighborhood Defense League

**NOTE**

[comments were submitted previously on 7 October 2013 following the erroneous approval of a Tribal Land Consolidation Plan (now withdrawn) which included this land under the guise of being former aboriginal or “tribal land” of the Santa Ynez Band, and further claimed this ranch land was therefore part of a prior “reservation” in an erroneous effort to apply the provisions of that Act as set out in 25 USC 2201 to 2221 and to utilize the lesser standards for fee to trust analysis contained in 25 CFR 151.10 instead of the required analysis set out in 25 CFR 151.11.

The comments submitted by all others pointing out the deficiencies in this current fee to trust application and applicable Environmental Assessment including those submitted by the County of Santa Barbara are joined in by No More Slots and also by The Neighborhood Defense League of California including the fact that a full, complete and impartial Environmental Impact Statement is required by law].

P17-32

## EXHIBIT “ A “

Memorandum and directive from Assistant Secretary of the U.S. Department of Interior Carl Artman to all Regional Directors of the Bureau of Indian Affairs and to George Skibine (then head of Indian gaming for the U.S. Department of Interior) Relevant directives to this fee to trust application on page 5 of the Artman memorandum are highlighted with yellow highlighter.



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240



### Memorandum

**To:** Regional Directors, Bureau of Indian Affairs  
George Skibine, Office of Indian Gaming

**From:** Assistant Secretary Carl Artman

**Date:** January 3, 2008

**Subject:** Guidance on taking off-reservation land into trust for gaming purposes

The Department currently has pending 30 applications from Indian tribes to take off-reservation land into trust for gaming purposes as part of the 25 U.S.C. § 2719(b)(1)(A) two-part determination. Many of the applications involve land that is a considerable distance from the reservation of the applicant tribe; for example, one involves land that is 1400 miles from the tribe's reservation. Processing these applications is time-consuming and resource-intensive in an area that is constrained by a large backlog and limited human resources.

The decision whether to take land into trust, either on-reservation or off-reservation, is discretionary with the Secretary. Section 151.11 of 25 C.F.R. Part 151 sets forth the factors the Department will consider when exercising this discretionary authority with respect to "tribal requests for the acquisition of lands in trust status, when the land is located outside of and noncontiguous to the tribe's reservation." Section 151.11(b) contains two provisions of particular relevance to applications that involve land that is a considerable distance from the reservation. It states that, as the distance between the tribe's reservation and the land to be acquired increases, the Secretary shall give:

- 1) greater scrutiny to the tribe's justification of anticipated benefits from the acquisition; and
- 2) greater weight to concerns raised by state and local governments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.

Part 151, however, does not further elaborate on how or why the Department is to give "greater scrutiny" and "greater weight" to these factors as the distance increases. The purpose of this guidance is to clarify how those terms are to be interpreted and applied,

P17-33  
(Cont.)

particularly when considering the taking of off-reservation land into trust status for gaming purposes.

### Core Principles

As background to the specific guidance that follows, it is important to restate the core principles that underlie the Part 151 regulations and that should inform the Department's interpretation of, and decisions under, those regulations. The Part 151 regulations implement the trust land acquisition authority given to the Secretary by the Indian Reorganization Act of 1934 (IRA), 25 U.S.C. § 465. The IRA was primarily intended to redress the effects of the discredited policy of allotment, which had sought to divide up the tribal land base among individual Indians and non-Indians, and to destroy tribal governments and tribal identity. To assist in restoring the tribal land base, the IRA gives the Secretary the authority to: 1) return "to tribal ownership the remaining surplus lands of any Indian reservation" that had been opened to sale or disposal under the public land laws; 2) consolidate Indian ownership of land holdings within reservations by acquiring and exchanging interests of both Indians and non-Indians; and 3) acquire, in his discretion, interests in lands "within or without existing reservations". The IRA contains also provisions strengthening tribal governments and facilitating their operation. The policy of the IRA, which was just the opposite of allotment, is to provide a tribal land base on which tribal communities, governed by tribal governments, could exist and flourish. Consistent with the policy, the Secretary has typically exercised discretion regarding trust land acquisition authority to take lands into trust that are within, or in close proximity to, existing reservations.

The IRA has nothing directly to do with Indian gaming. The Indian Gaming Regulatory Act of 1988 (IGRA), 25 U.S.C. § 2701 et seq., adopted more than 50 years after the IRA, sets the parameters of Indian gaming. One requirement is that if gaming is to occur on off-reservation lands those lands must be trust lands "over which an Indian tribe exercises governmental power." The authority to acquire trust lands, however, is derived from the IRA; no trust land acquisition authority is granted to the Secretary by IGRA. The Department has taken the position that although IGRA was intended to promote the economic development of tribes by facilitating Indian gaming operations, it was not intended to encourage the establishment of Indian gaming facilities far from existing reservations. Whether land should be taken into trust far from existing reservations for gaming purposes is a decision that must be made pursuant to the Secretary's IRA authority.

### Implementation of Guidance

This guidance should be implemented as follows:

1. All pending applications or those received in the future should be initially reviewed in accordance with this guidance. The initial review should precede any effort (if it is not already underway) to comply with the NEPA requirements of section 151.10(h).

P17-33  
(Cont.)

2. If the initial review reveals that the application fails to address, or does not adequately address, the issues identified in this guidance, the application should be denied and the tribe promptly informed. This denial does not preclude the tribe from applying for future off-reservation acquisitions for gaming or other purposes. However, those future applications will be subject to these same guidelines.
3. A greater scrutiny of the justification of the anticipated benefits and the giving greater weight to the local concerns must still be given to all off-reservation land into trust applications, as required in 25 C.F.R. § 151.11(b). This memorandum does not diminish that responsibility, but only provides guidance for those applications that exceed a daily commutable distance from the reservation.

#### Greater Scrutiny of Anticipated Benefits

The guidance in this section applies to all applications, pending or yet to be received, that involve requests to take land into trust that is off-reservation. Reviewers must, in accordance with the regulations at 25 C.F.R. 151.11(b), "give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition" as the distance between the acquisition and the tribe's reservation increases. The reviewer should apply this greater scrutiny as long as the requested acquisition is off-reservation regardless of the mileage between the tribe's reservation and proposed acquisition. If the proposed acquisition exceeds a commutable distance from the reservation the reviewer, at a minimum, should answer the questions listed below to help determine the benefits to the tribe. A commutable distance is considered to be the distance a reservation resident could reasonably commute on a regular basis to work at a tribal gaming facility located off-reservation.

As noted above, section 151.11(b) requires the Secretary to "give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition" of trust land "as the distance between the tribe's reservation and the land to be acquired increases." The reason for this requirement is that, as a general principle, the farther the economic enterprise - in this case, a gaming facility - is from the reservation, the greater the potential for significant negative consequences on reservation life.

Tribes typically view off-reservation gaming facilities as providing two economic benefits to the tribe. The first is the income stream from the gaming facility, which can be used to fund tribal services, develop tribal infrastructure, and provide per capita payments to tribal members, and thus can have a positive effect on reservation life. Obviously, the income stream from a gaming facility is not likely to decrease as the distance from the reservation increases. In fact, off-reservation sites are often selected for gaming facilities because they provide better markets for gaming and potentially greater income streams than sites on or close to the reservation.

The second benefit of off-reservation gaming facilities is the opportunity for job training and employment of tribal members. With respect to this benefit, the location of the

P17-33  
(Cont.)

gaming facility can have significant negative effects on reservation life that potentially worsen as the distance increases. If the gaming facility is not within a commutable distance of the reservation, tribal members who are residents of the reservation will either: a) not be able to take advantage of the job opportunities if they desire to remain on the reservation; or b) be forced to move away from the reservation to take advantage of the job opportunity.

In either case, the negative impacts on reservation life could be considerable. In the first case, the operation of the gaming facility would not directly improve the employment rate of tribal members living on the reservation. High on-reservation unemployment rates, with their attendant social ills, are already a serious problem on many reservations. A gaming operation on or close to the reservation allows the tribe to alleviate this situation by using their gaming facility as a conduit for job training and employment programs for tribal members. Provision of employment opportunities to reservation residents promotes a strong tribal government and tribal community. Employment of tribal members is an important benefit of tribal economic enterprises.

In the second case, the existence of the off-reservation facility would require or encourage reservation residents to leave the reservation for an extended period to take advantage of the job opportunities created by the tribal gaming facility. The departure of a significant number of reservation residents and their families could have serious and far-reaching implications for the remaining tribal community and its continuity as a community. While the financial benefits of the proposed gaming facility might create revenues for the applicant tribe and may mitigate some potential negative impacts, no application to take land into trust beyond a commutable distance from the reservation should be granted unless it carefully and comprehensively analyzes the potential negative impacts on reservation life and clearly demonstrates why these are outweighed by the financial benefits of tribal ownership in a distant gaming facility.

As stated above, some of the issues that need to be addressed in the application if the land is to be taken into trust is off-reservation and for economic development are:

What is the unemployment rate on the reservation? How will it be affected by the operation of the gaming facility?

How many tribal members (with their dependents) are likely to leave the reservation to seek employment at the gaming facility? How will their departure affect the quality of reservation life?

How will the relocation of reservation residents affect their long-term identification with the tribe and the eligibility of their children and descendants for tribal membership?

What are the specifically identified on-reservation benefits from the proposed gaming facility? Will any of the revenue be used to create on-reservation job opportunities?

P17-33  
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As long as it remains the policy of the Federal government to support and encourage growth of reservations governed by tribal governments, these are important questions that must be addressed before decisions about off-reservation trust land acquisitions are made. The Department should not use its IRA authority to acquire land in trust in such a way as to defeat or hinder the purpose of the IRA. It should be noted that tribes are free to pursue a wide variety of off-reservation business enterprises and initiatives without the approval or supervision of the Department. It is only when the enterprises involve the taking of land into trust, as is required for off-reservation Indian gaming facilities, that the Department must exercise its IRA authority.

#### Greater Weight

Section 151.11(b) also requires the Secretary to give "greater weight" than he might otherwise to the concerns of state and local governments. Under the regulations, state and local governments are to be immediately notified of a tribe's application to take land into trust, and are to file their comments in writing no later than 30 days after receiving notice. The reviewer must give a greater weight to the concerns of the state and local governments no matter what the distance is between the tribe's reservation and the proposed off-reservation acquisition. This is the second part of the two part review required by section 151.11(b).

The regulations identify two sets of state and local concerns that need to be given "greater weight:" 1) jurisdictional problems and potential conflicts of land use; and 2) the removal of the land from the tax rolls. The reason for this requirement of giving "greater weight" is two-fold. First, the farther from the reservation the proposed trust acquisition is, the more the transfer of Indian jurisdiction to that parcel of land is likely to disrupt established governmental patterns. The Department has considerable experience with the problems posed by checkerboard patterns of jurisdiction. Distant local governments are less likely to have experience dealing with and accommodating tribal governments with their unique governmental and regulatory authorities. Second, the farther from the reservation the land acquisition is, the more difficult it will be for the tribal government to efficiently project and exercise its governmental and regulatory powers.

With respect to jurisdictional issues, the application should include copies of any intergovernmental agreements negotiated between the tribe and the state and local governments, or an explanation as to why no such agreements exist. Failure to achieve such agreements should weigh heavily against the approval of the application.

With respect to land use issues, the application should include a comprehensive analysis as to whether the proposed gaming facility is compatible with the current zoning and land use requirements of the state and local governments, and with the uses being made of adjacent or contiguous land, and whether such uses would be negatively impacted by the traffic, noise, and development associated with or generated by the proposed gaming facility. Incompatible uses might consist of adjacent or contiguous land zoned or used for: National Parks, National Monuments, Federally designated conservation areas,

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National Fish and Wildlife Refuges, day care centers, schools, churches, or residential developments. If the application does not contain such an analysis, it should be denied.

Conclusion

The Office of Indian Gaming will review the current applications. If an application is denied subsequent to this review, the applicant tribe will be notified immediately. Tribes receiving a denial subsequent to this review may resubmit the application with information that will satisfy the regulations. Regional directors shall use this clarification to guide their recommendations or determinations on future applications to take off-reservation land into trust.

P17-33  
(Cont.)

C. David and M. Andriette Culbertson

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July 14, 2014

Amy Dutschke, Regional Director  
Bureau of Indian Affairs  
Pacific Regional Office  
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amy.dutschke@bia.gov

*VIA EMAIL AND U.S.MAIL*

SUBJECT: Comments on Final Environmental Assessment, Camp 4, Santa  
Ynez Band of Chumash Indians (Band)

Dear Ms. Dutschke:

On behalf of my husband and me, I submit these comments on the Final Environmental Assessment (EA) for the Camp 4 Fee-to-Trust proposal.

We hereby incorporate our September 27, 2013 letter by reference, as if set forth in full herein. We take this step because, as will be seen by our comments here, most of the legitimate objections we made were ignored, mischaracterized or obscured.

We also endorse and incorporate by reference the comment letters of the County of Santa Barbara, the Santa Ynez Valley Alliance and POLO/POSY that have been filed with respect to this Final Environmental Assessment (FEA)

At the outset, we believe that the objections and inaccuracies pointed out in the 1100+ letters should alone be enough to cause the BIA to require an Environmental Impact Statement (EIS). We urge the BIA to do so, in that many representatives of the BIA have previously assured the community that rigorous NEPA assessment would be conducted and would protect the regulatory oversight otherwise lost through the fee to trust process. If the BIA had elected to complete an EIS at the outset, we believe far less time, effort and expense would have occurred.

**The Project Description is flawed, does not represent the complete project and is inconsistent with the prior statements of the applicant**

We begin where we left off in 2013. No adequate environmental document can be prepared to inform the BIA or the public absent a stable and accurate project description.

In response to our original letter, the Response to Comments (RTC) document simply states that the Band has changed the project, or alternatively, that the BIA need not include certain

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information because it is not the EA that is required to scrutinize off reservation fee to trust proposals. Both assertions are incorrect.

The BIA takes the position that there is no need to consider the potential development that has previously been announced by the Band for the property and merely accepts the Band's new characterization of its intended use, including the assertions made regarding the Tribal Consolidation Area (TCA) [Response 289-05]. The BIA is completely wrong that the environmental analysis can ignore the very data that the Band will use to justify its off reservation fee to trust application, as the requirements of the FTT Handbook clearly indicate that the impact of the off reservation FTT must include consideration of the specific concerns, such as a business or economic plan and the effect on local regulations.

Were this the first time the project had been proposed, this might be acceptable. However, the Band made clear their commercial intentions in the first EA, especially with respect to the expansion of vineyards and the establishment of banquet and convention facilities. As I noted in our 2013 letter, these types of development demand a business plan and justification as to why trust status is necessary to develop these facilities. However, in an obvious attempt to avoid this requirement, the Band has simply decided not to propose such facilities. Ironically, in the July 11, 2014 edition of a local paper, the Santa Barbara News press, Chairman Armenta made the claim that because the Band's existing portfolio of businesses is well-maintained, the public can be sure that development on Camp 4 will be high quality even if it acquires trust status. What Mr. Armenta does not say, and what is true, is that NONE of the commercial enterprises operated by the Band is located on trust property except casino. With respect to the convenience store/gas station, the Band applied for and received prompt approvals from the County of Santa Barbara. The project – adjacent to the reservation – is being successfully operated without being taken into trust.

The BIA cannot turn a blind eye to these facts. Trust status, among other things, is a vehicle for achieving income production for tribal benefit that could not otherwise be achieved without the trust status. The Chairman's own statements and past conduct with respect to the gas station are a virtual admission that the Band certainly can achieve economic development goals without trust status. Yet, these facts – which are directly related to environmental impacts – are ignored in the FEA.

The reader is constantly referred to Section 3.1.2 for the BIA's global response to these complaints. However, this material does not provide an explanation. These materials simply reassert BIA's position that it does not have to disclose any of this information in the FEA, and that it has in fact taken a "hard look". Merely saying this does not make it so.

**The BIA's acceptance of project description modifications by the Band to avoid full compliance with NEPA is naive**

The BIA accepts, on an article of faith, the Band's assertions that it is not going to conduct any new business endeavors on Camp 4. The BIA fails to ascertain whether the Band's denial that they are going to pursue economic development and land banking is simply disingenuous.

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Now, here is the problem. In a normal federal setting, where changes to the plan must be approved by the federal government, a FTT creates unfettered discretion on the part of the Band to place whatever in its sole judgment is desired on the property. While the BIA is not expected to see the unforeseeable, here the Band has actually announced on several occasions its business intentions. There is at least the potential for more development than is being admitted in the Project Description. Therefore, the FEA – under these very unusual circumstances – is required to analyze all proposals previously proposed by the Band.

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This will involve several important components beyond the vineyard expansion and the conference/banquet facilities. For example, it was just a few years ago that the Band jointly proposed a gold course, hotel, residential uses and a casino on about 745 acres of Camp 4. The EA claims that a casino would not be economically viable on the Camp 4 property because it would be too close to the existing casino. However, at the time of the 745-acre proposal, the existing casino was in operation. Clearly, what was contemplated is another casino, perhaps along different lines than the current casino, the “high roller” models which are frequently built in Las Vegas. Despite the proximity, the Band did not think that the two casinos were too close at that time. Why is the BIA ignoring this potential?

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Simply stated, it appears that the BIA is allowing the Band to adjust its project description and tailor it in a way that deliberately obscures impacts. While usually the project proponent is the “master” of its project description, this does not mean that the BIA must turn a blind eye to prior statements regarding the ultimate use of the property, nor does it mean that the Band can so easily “un-ring the bell”. The EA is deficient for failing to analyze the above project components, so recently announced as the intended use of the property. The BIA cannot simply ignore these facts when it is ready to surrender plenary land use authority to the Band.

P18-10

Moreover, even to the extent that the BIA attempts to reflect the current intentions of the Band in the Project Description, the description still falls well short of what is necessary to provide adequate analytical context for an environmental document. For example, the EA describes the establishment of 143 homes, but simultaneously claims that the Camp 4 property is to be used for housing for 1300 descendants. Not only is this descendant figure never corroborated, the area for these residences is not shown on the plan. Figure 2-1, representing Alternative A and five acre allotments, shows residential area of over 790 acres, which would be approximately the area to accommodate 143 residences at five acre parcel size. No other area of the property is shown for residential. It is impossible to see how residences for almost 10 times the number of people can be accommodated on Camp 4 under this plan. Figure 2-2 suffers from the same defect. So what is represented in the EA is a false plan that does not attempt to match the words of the project description.

P18-11

**The alternative of redevelopment of the existing reservation is improperly dismissed out of hand**

The alternative of redevelopment on the existing reservation is also dismissed out of hand. Redevelopment of the existing reservation is dismissed “because it is already developed”. Well, that is the definition of redevelopment! There is absolutely no showing that the tribal housing cannot be accommodated by razing and redeveloping the existing reservation. The FEA only

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makes a miserly assessment of what is left in terms of acreage, rather than what could be done. After all, by the FEA's own admission, only 17% of the tribal members live on the reservation. This means that the residences are primarily used by persons who are not members of the Band. In a very real sense, the Band is not using its existing reservation effectively for its members. The required "hard look" would have revealed this fault, but the BIA refuses to do so.

The BIA argues that rearrangement of the assignments would be difficult. But that is exactly what the Band is proposing for Camp 4. It is impossible that the existing assignments are not already held by those band members who wish to live on Camp 4, even if they themselves do not live there. The question remains as to what is to be done with the housing on the existing reservation – still rent it to non-members of the Band? This approach stands the tribal housing aspect of the 1934 IRA on its head! The assignments made on the existing reservation would likely be traded for the new residences on Camp 4. This is not an impossible obstacle. The FEA itself admits that only 17% of the Band living on the reservation (and an unknown number of Band members living in "multi-family" housing on the reservation that is not identified on any exhibit). The goal statement that the Band wants to accommodate 143 members in housing on Camp 4, as well as 1300 descendants, is not accurately reflected in the plan. Setting aside for the moment that the FEA does not in any way depict where these 1300 descendants will live on Camp 4, the only logical conclusion is that NO Band members or descendants will live on the reservation. Therefore, the redevelopment of the reservation is both a logical outcome of building on Camp 4, or is an alternative site for an adequate development plan as desired by the Band. However, the public cannot assess this possibility because the FEA refuses to analyze it.

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**The Project Description does not evaluate the existence of duplicate tribal facilities.**

The FEA admits that the Band intends to build identical tribal facilities on Camp 4 as now exist on the reservation. The FEA does not explain what will happen with the existing facilities of the Band. The Project Description fails to account for the cumulative impact of this feature.

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Moreover, the only logical conclusion stemming from duplicate Band facilities is that the reservation WILL be redeveloped, and that the claim that it is already developed and redevelopment need not be considered is false.

**Conclusion**

The BIA seems to be influenced by the fact that if the Camp 4 property is taken into trust that the Band can do anything that it desires. This is, of course, true, and that is why it is so important to take a hard look at the prior statements of the Band and what it intends to develop - really. The BIA is not excused under NEPA from conducting these types of rigorous investigations. The BIA is not taking careful steps to reconcile prior statements of the Band, or make any effort to properly, fully and comprehensively meet its obligations under NEPA.

P18-14

Because of these defects in the Project Description, it follows that the FEA analysis is inadequate and incomplete. The environmental analysis falls well short of alerting the BIA and the public as to the potential environmental impacts, and therefore is not the "hard look" that NEPA requires. Moreover, because the BIA has mischaracterized the development potential of both Camp 4 and

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the reservation, it has both understated the impacts, and ignored meaningful alternatives to the development of Camp 4. The BIA should withdraw this Final Environmental Assessment and prepare a full Environmental Impact Statement.

But first the BIA, must seriously consider whether it is conducting an objective assessment at all. Clearly, the statements of the BIA in responses and in the FEA strongly suggest bias in favor of the Band. Thus, even if an EIS is prepared it, too, could suffer from a lack of independent judgment. Therefore, any environmental document in the future should be prepared under the control of a federal entity other than the BIA, the decision-making entity.

As Assistant Secretary Carl Artman once stated<sup>1</sup>, not every property purchased by an Indian Tribe need be taken into trust. If the Band had no reservation and – was landless in effect – the situation might be different. But that is not the case. The Band has land provided to it by the federal government, and has either chosen to develop it with casino uses instead of its needs (and continues to propose enlargements of that use), or has overlooked opportunities to meet those needs on its current reservation, or has chosen to build a portfolio of income producing properties not on trust land. In terms of tribal self-determination, there is no showing that the Band cannot establish housing on the existing reservation. There is certainly no economic need, except for the oft-repeated statement of the Chairman of the Band that he desires to be a “developer”. There is nothing in the 1934 Act that requires the BIA to slavishly endorse every fee to trust request no matter whether it meets the definition of necessity or not.

Sincerely,

  
M. Andriette Culbertson

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<sup>1</sup> Memo from assistant secretary Carl Artman to Regional Directors, Bureau of Indian Affairs, January 3, 2008

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Allen Matkins

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**Via FedEx**

July 11, 2014

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**Re: Comments on Final Environmental Assessment for Santa Ynez  
Band of Chumash Indians Camp 4 Fee-to-Trust**

Dear Ms. Dutschke and Mr. Broussard:

These comments are being submitted on behalf of Save The Valley Plan ("STVP") which is an unincorporated association including landowners in the Santa Ynez Valley who will be significantly impacted by the proposed fee-to-trust ("FTT") application. A prior comment letter, dated October 3, 2013, was submitted on behalf of STVP raising a number of significant issues in the Draft Environmental Assessment ("DEA"). Chapter 3 of your Final Environmental Assessment ("FEA") responds to the numerous comments that were received including those submitted on behalf of STVP. Those responses are contained on pages 3-210 through 3-212 of the FEA. Unfortunately, the responses to comments were less than satisfactory and failed to provide any support for many of the conclusory statements made in the DEA. In addition, they show a complete lack of appreciation and understanding regarding the real impacts that approval of the FTT will have on thousands of individual lives, families and communities within the Santa Ynez Valley. Thus, many of those same comments still apply today and still raise the same issues. Hopefully, your responses this time will be more thorough and better acknowledge the legitimate concerns of so many residents in this valley.

As noted previously, the implications of having 1,400 acres transferred from local and state jurisdictions and taxation to tribal control are well beyond significant. If the FTT proposal is approved, land use control over 1,400 acres in the middle of the Santa Ynez Valley will be completely outside the control of the local and state government. The oak-studded Santa Ynez Valley, which is nestled between two towering mountain ranges in central Santa Barbara County, is a unique and spectacular place to live. It still contains many small towns with unique individual character, all of which are linked by the scenic rural roads featuring serene views of farms, ranches and pristine natural areas. The local economy is very strong and is anchored by the thriving

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agriculture and tourism industries. The present day character of the valley has been shaped by its rich and varied history. The peacefulness and rural nature of the valley have attracted many people to settle, raise families, and see their children stay and raise families in the valley. A strong sense of community exists here and a significant part of the lives of the individuals living in the valley have been spent in regular and ongoing efforts to maintain its current character.

Development in the valley has been strongly and carefully controlled by Santa Barbara County's land use rules and policies. Beginning in 2000, a diverse group of local residents came together with the goal of preserving the special qualities of the valley and in painting a picture of its future. They produced a visionary document entitled "The Valley Blueprint" which outlined consensus-based goals for development, public services, agriculture and infrastructure. The Santa Ynez Valley Community Plan ("Valley Plan") picks up where The Valley Blueprint left off and translated the vision of blueprint into formal policy with the goal of preserving the character of the valley while enhancing its unique qualities. The Valley Plan was developed over the course of 50+ community meetings with the involvement of hundreds of valley citizens. This Valley Plan was finally adopted in 2009 and was intended to govern the short- and long-term future of development in the valley.

Now, following the lengthy and collaborative development and implementation of the Valley Plan described above, comes the Chumash Tribe's FTT proposal. That proposal would establish trust status over 1400 acres in the heart of the Santa Ynez Valley. If development on this 1400 acres was still to be governed by the Valley Plan, then there would really be no significant issues. However, as you clearly note in the FEA, if the property is moved into trust, it is no longer subject to local land use control. The Tribe could decide to develop in whatever manner they chose which has the strong likelihood of being entirely inconsistent with the Valley Plan that was developed over years of time and effort. The FEA that you have developed completely ignores: (1) the unique nature and character of the valley; (2) the significant efforts that have been made over the years to preserve this character, which is implemented through the Valley Plan, ; and (3) the rights, cares and concerns of individuals that have lived in the valley for generations, but then concludes that whatever the Tribe develops on the 1400 acres, now or in the future, will have no significant impact on the local residents. Your failure to even acknowledge how this will affect the current residents is a real slap in the face and demonstrates your failure to balance the needs of the local resident with those of the Chumash Tribal members.

The REA and your responses to comments acknowledge that the Tribe's proposed uses for the property are inconsistent with the Valley Plan and that the Tribe will have sole control of land use decisions if the property goes into trust. The unrestricted development potential and the impacts this will have on the lives of those that call the valley their home, are so clear and obvious but appear to be completely ignored and unacknowledged by you.

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To be more specific, the proposed project will have significant negative impacts on, among other things, public health, safety and welfare, land use planning, aesthetics, water supply, biological resources, noise, population growth and housing, and transportation and traffic. The FEA, like the DEA, falls woefully short in identifying and addressing all of these likely impacts. For this and all the other specific reasons noted above and below, STVP requests that, in light of the significant issues and deficiencies noted, the BIA prepare a detailed Environmental Impact Statement ("EIS") which adequately and thoroughly addresses all potential impacts of this proposed action.

P19-04

#### **Detailed Comments**

As mentioned in our previous comments, The National Environmental Policy Act ("NEPA") establishes a process by which federal agencies must study and understand the environmental effects of any of their proposed actions. One of the specific purposes of NEPA is to promote efforts that will prevent or eliminate damage to the environment and protect human health and welfare. In order for NEPA's goal of full environmental disclosure and problem-solving to be achieved, there must be full public disclosure and open decision-making on the part of federal agencies prior to taking action on a proposed project or approval. Thus, in order for NEPA to fulfill its intended purpose, federal agencies must make diligent efforts to involve the public and to consider the concerns of the public. As was noted in the FEA, you will be called upon to determine whether to make a Finding of No Significant Impact, or to prepare further environmental analysis. As I am sure you are aware, pursuant to numerous federal appellate and U.S. Supreme Court decisions, a federal agency must provide "convincing reasons" why an EIS is not necessary. Essentially, reviewing courts need to take a hard look at an agency's decision not to prepare an EIS to ensure that the agency took a hard look pursuant to the requirements of federal law. Assumptions must be spelled out, inconsistencies explained, methodology disclosed, contradictory evidence rebutted, record references solidly grounded, guesswork eliminated, and conclusions supported in a manner capable of judicial understanding.

P19-05

With these standards in mind, please note all the comments below which failed to meet even the minimal standards just described. Some of these were included in our original comment letter, and others are new.

1. In discussing purpose and need, the FEA states that the proposed FTT property constitutes the area historically held for the tribe by the Roman Catholic Church and sets forth a series of conclusory statements regarding this with absolutely no supporting evidence. The FEA then states that the purpose of the FTT proposal is to provide housing to the current members and anticipated growth. However, the suggested development proposal, 143 five-acre residential lots, is inherently inconsistent with the notion of housing 136 tribal members and approximately 1,300 lineal descendants. This inherent conflict is never addressed in the FEA. For both of these reasons, the FEA is inadequate and unsupported.

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2. According to the regulations for implementing NEPA, lead agencies are required to evaluate a reasonable range of alternatives. In this case, the FEA only considered one real alternative. The other alternative is the proposed project. Clearly, the use of only one alternative fails to meet the minimal NEPA requirements. This is especially important in light of the fact that once the land is placed in trust, the tribe would then have the authority to implement its own land use decision-making process and develop anything on the property. Given this significant issue, a reasonable range of alternatives should include a much larger variety of alternatives.

P19-07

3. In discussing current proposal, Alternative A, the FEA acknowledges that the FTT action would shift civil regulatory jurisdiction over the 1,433 acres from the State of California and Santa Barbara County to the tribe and the BIA. However, it fails to acknowledge the implications of this and simply assumes that the property will be developed as currently proposed by the tribe. As a result, the discussion in the FEA of each of the potential environmental consequences of the project is fatally defective in that it fails to consider any development on the 1,400 acres other than the currently proposed five-acre lots. This is a fatal flaw because it fails to address the very foreseeable likelihood that the tribe, once the land has been secured in trust, will alter their land development plans for the property. The only way to legally rely on the proposed development plan for establishing a legally defensible environmental analysis, is to preclude the tribe from engaging in any other development plans other than that proposed as Alternative A. As everyone knows, that will never happen. Thus, it is reasonably foreseeable that the land uses on the 1,400 acres will be considerably more intense than that proposed. Unless a worst case analysis is prepared along with environmental consequences of that, the analysis contained in the FEA is utterly lacking in evidentiary support and is making assumptions and presumptions that are unsupportable. This is especially critical in light of the existent of the Valley Plan and the years of effort that went in to developing and approving that plan (See detailed discussion in the opening paragraphs of this letter).

P19-08

4. The FEA states that the development of Alternative A with the referenced mitigation measures will not result in significant adverse impacts to ground water resources. The mitigation measures do nothing to limit the use of ground water. In addition, it is reasonably foreseeable that the tribes will develop more intensely on the site and will seek to establish reserved ground water rights for the site which would have significant detrimental impacts on the surrounding community.

P19-09

5. The FEA discusses the concept of federal reserved water rights and, as an example, notes that if all 99 acres of the "initial 99 acre Santa Ynez Reservation" were placed into a water intensive form of agriculture, the reserved water rights for this 99 acres would be about 494 acre feet per year. The FEA goes on to note that such rights can be enforced by direct withdrawal or by prohibiting upstream withdrawals by negative injunction. However, rather than noting the potential impacts of this or of additional water demand from the proposed 1,400 acre addition to the reservation, the FEA says nothing. Clearly, the potential for the establishment of reserved water

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rights on lands added to trust, is a potentially significant issue which should have been addressed and was not.

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(Cont.)

6. The FEA notes the importance of surface water quality and ground water quality and notes that the Santa Ynez River, located approximately 2 miles south of the project site, is on California's 2010 list for impaired water bodies and also notes that portions of the ground water basin in the area have severe septic water problems which have lead to instances of septic system failure and the contamination of surface and near surface waters by septic system effluent. Unfortunately, after noting these issues, the FEA fails to even consider how the proposed project could exacerbate these already challenging water quality issues. A much more detailed analysis of water quality impacts of the proposed project needs to be prepared as well as a discussion of how regulatory authority will be handled between the regional water quality control board and the tribe.

P19-11

7. The FEA notes the various federal, state and local programs that have been implemented to ensure acceptable air quality in the region. The FEA also notes the numerous efforts to address climate change, most of which are mandated by state and local provisions. After describing all of the various programs that have been implemented, the FEA notes that although the project site is currently under the jurisdiction of the Santa Barbara County Air Pollution Control District that will no longer be the case if the project site is taken into trust. In that case, jurisdiction shifts to the federal Environmental Protection Agency ("EPA"). This means that numerous state and local programs to reduce greenhouse gas emissions and reduce other air pollutants will not necessarily apply to the tribal property but there is no discussion regarding the differences in regulatory authority between the EPA and state and local control. As a result of the change in regulatory authority, it is very possible that development on the 1,400 acres could significantly impact the air quality of the surrounding vicinity.

P19-12

8. The impacts to biological resources, especially oak trees, are clearly significant. The various proposed mitigation measures identified are completely inadequate to address these significant impacts. These impacts will be much more significant with more intense development which is not even addressed in the FEA.

P19-13

9. The proposed project will create significant socioeconomic impacts to the residents of the Santa Ynez Valley including displacement, decreased property values, and a variety of related matters that are not even addressed in the FEA.

P19-14

10. The FEA concludes that impacts to land use will be less than significant with no necessary mitigation. This conclusion is reached with absolutely no support and is completely contradictory to the reality. As the FEA acknowledges, if approved, the FTT would remove over 1,400 acres from the land use control of the state and the county right in the middle of the Santa Ynez Valley. Once that happens, the tribe will be able to implement whatever land uses they desire on the site without regard to the uses neighboring the 1,400 acres. To suggest that the removal of

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1,400 acres from local land use control does not create a significant impact demonstrates, perhaps more than anything else in the FEA, the arbitrary and capricious manner in which the BIA is acting with regard to this proposal.

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11. The FEA suggests that development would be compatible with existing local conditions and visual impacts would be at a minimum. The reality is that development of any kind, even assuming such development is consistent with Alternative A, would have a significant impact on the visual character of the Santa Ynez Valley and all the areas surrounding the proposed project. Clearly, there will be a significant impact.

P19-16

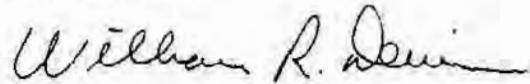
12. The FEA goes on to make similar unsupportable conclusions with regard to land resources, air quality, transportation and circulation, public services, and noise. In addition, the FEA fails to even address health and safety concerns.

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For all of the reasons noted above, including the many unstated assumptions, inconsistencies, undisclosed methodologies, and unsupported conclusions, based on the minimal standards established by NEPA and its implementing guidelines, the FEA is legally inadequate under NEPA to allow for a Finding of No Significant Impact. Thus, preparation of an EIS is required and the failure of BIA to so determine will result in a clear violation of NEPA. Based on all of the above, we request that the BIA prepare a detailed EIS regarding this proposed action. In addition, we request that the BIA acknowledge that any FTT proposal regarding this property be handled in a manner consistent with 25 C.F.R. Section 151.11 for off-reservation discretionary trust acquisitions.

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Very truly yours,



William R. Devine

WRD:pmc

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Santa Ynez, CA 93460

CHAD BROUSSARD  
BUREAU OF INDIAN AFFAIRS, PACIFIC REGIONAL  
2800 COTTAGE WAY, ROOM W-2820  
SACRAMENTO, CA 95825

## Comment Letter P20 (Cont.)

Amy Dutschke  
Regional Director  
Bureau of Indian Affairs, Pacific Region  
2800 Cottage Way, Room W-2820  
Sacramento, CA 95825

July 10, 2014

Subject: Public Comments on Final Environment Assessment  
Santa Ynez Band of Chumash Indians  
Camp 4 Fee to Trust, dated May 2014  
Santa Barbara County, California

Sent via US Mail

Dear Ms. Dutschke,

My name is Klaus M. Brown. My wife Lois and I reside at 5465 Baseline Ave, Santa Ynez, CA, 93460, in Rancho Estates in Santa Barbara County. Our home is in a rural residential area located within about one mile of the 1433 acre Camp 4 fee to trust area, the subject of the Final Environmental Assessment, dated May 2014. We previously responded to the August 2013 Environment Assessment and that response (Comment Letter 85) is hereby incorporated. This letter serves to augment our previous letter as well as to provide additional comments in this current public comment period for the Santa Ynez Band of Chumash Indians' May 2014 Final Environmental Assessment for Camp 4.

We have read the May 2014 Final Environmental Assessment (EA), as well as the draft EA dated August 2013, and believe the current EA is inadequate and unsuitable for the intended purpose of understanding and evaluating the current and future environmental impacts of the Camp 4 development project. We believe there will be significant negative direct, cumulative and indirect impacts to this rural area and on adjacent and other area stakeholders based on the proposed trust acquisition for the Camp 4 area. We have significant concerns, comments and questions regarding the subject Final Environment Assessment that require further review, analysis, and correction that can only be answered with an Environmental Impact Statement (EIS), not the EA. The EA for the Camp 4 development project raises many environmental concerns regarding the construction of 143 single family residences ranging between 3000 to 5000 sf over an estimated 4 to 9 years as well as other future potential housing and economic development that is reasonably foreseeable, but not identified or evaluated therein.

The points made below apply to both Alt A and Alt B, as described in the EA.

**Cumulative and Indirect Impacts:** Section 1.4, Overview of the Environmental Process, states this EA was prepared in accordance with three specific paragraphs for the EA process. In addition to these direct impacts for the proposed action described in the EA, paragraphs in Section 40 CFR 1508.7, 1508.8, and 1508.27, respectively below, require the BIA to consider cumulative, indirect, and significant impacts:

P20-01

P20-02

1/6

- a. "cumulative impacts can result from the individually minor but collectively significant actions taking place over a period of time". Cumulative impacts of the action when added to the other past, present, and reasonably foreseeable future actions of whatever agency or person which undertakes such action.
- b. "indirect impacts which are caused by the action and are later in time or farther removed in distance, but still are reasonable foreseeable...". These indirect effects may include growth inducing effects, changes in the pattern of land use, population density and related effects on air, water, and other natural systems.
- c. "significantly" as used in NEPA requires consideration of both "context and intensity" by the agency regarding the impacts of the action.

P20-02

This EA as written does NOT address the cumulative, indirect, and significant impacts of the proposed action.

For example, Section 1.3 of the EA states there are 136 tribal members and 1300 lineal descendants. It is a stated primary objective for developing Camp 4 "to provide housing for existing tribal members and to continue to provide housing for descendants as they come of age". The EA only addresses where the initial 143 homes would be built beginning in 2023. Since the Tribe has counted 1300 individuals, the Tribe should be able to reasonably foresee the timing in which these 1300 individuals "come of age" and might chose to live on Camp 4. Neither Alternative A nor B in the EA address, identify, or evaluate the environmental impacts of the timing, scope, type, size, number, density, and location of future housing units for these 1300 descendants and for future generations thereafter. In fact, Alternative A completely ignores the future because no space is set aside for more housing at Camp 4. Alternative B sets aside several hundred acres for open space and other facilities, but not a single acre for future housing.

Therefore, the EA is deficient because it fails does not address the cumulative, indirect, or significant environmental impacts of the reasonable foreseeable future housing development that the Tribe states it intends to develop. The identification and analysis of the housing and infrastructure which is many times larger than the initial 143 home is necessary and the EA is insufficient for this substantial growth in development. Only a comprehensive Environment Impact Statement can address this issue.

P20-03

In addition, the Tribe as publicly shown plans, prior to acquiring Camp 4, that demonstrates the Tribe's possibility to develop businesses for the following:

- Two golf courses
- an equestrian center
- 175 condominiums
- a multi-hundred room hotel and ancillary facilities

The EA does not address the direct, cumulative, and indirect impacts of any of the above listed reasonably foreseeable potential business developments at Camp 4. Also, the EA does not address potential return to production of 50 acres of vineyard for which all the infrastructure,

including groundwater based irrigation, is now in place, despite the EA contention that this will not be farmed. California as a whole, and Santa Barbara County in particular, are experiencing an on-going drought causing state, regional, and local water agencies and elected officials to respond to these scarce water situations. The reasonable foreseeable development described above requires more an extensive and wide-ranging study regarding water availability and needs, as well as the impact on the aquifer and neighboring wells. Page 2-10 notes the possibility of more pumping "may adversely impact neighboring wells." Only a comprehensive Environment Impact Statement can address this issue.

P20-03  
(Cont.)

Since the Tribe has made public presentations regarding the construction of the above commercial/business facilities at the off-reservation location at Camp 4, 25 CFR 151.11, requires the Tribe to "provide a plan" for such development and its benefits. And despite a statement in the EA that there will be "no gaming" on Camp 4, this issue remains a major concern given the Tribe has an unused permit of such a facility. The fact that none of these potential developments was studied causes this EA to be deficient. A comprehensive Environmental Impact Statement is necessary to address this issue.

P20-04

Next, the project will place an unreasonable burden on local public safety, services and infrastructure, remove the land from County and State rules regarding land use, and reduce tax revenue for all levels of government, yet be a significant demand on services provided by those governments. This demand can only increase over time as additional housing and commercial development is added to Camp 4. The statement on page 3-69 regarding a pending draft contract between the Tribe and the Santa Barbara Sheriffs' Dept is out of date and not relevant. In fact, the Santa Barbara County Board of Supervisors in June 2014 rejected the proposed contract with the Tribe. Among the concerns regarding the potential contract is that it contained language vague and ambiguous and failed to provide a waiver of Tribal immunity. It is presently unknown if the County will or can afford to provide public safety and other services for the proposed action or the reasonable foreseeable residential and commercial development on Camp 4. Therefore, the EA is deficient, and a comprehensive Environmental Impact Statement is necessary.

P20-05

**Traffic, Roads, Grading and Drainage** – The EA does NOT adequately address the significant direct, indirect and cumulative impacts of the additional traffic on Baseline Ave, Armour Ranch Road, SR 154 and SR 246 that would result from the stated proposed development of Camp 4. Further, the EA does NOT the direct, indirect, and cumulative impacts from the potential development that is reasonably foreseeable to fulfill the housing and commercial opportunities the Chumash have stated will be provided to allow "the Tribe to continue to build economic self-sufficiency through diversified tribally-governed commercial enterprises." (Page 1-7). The Level of Service on the impacted roads and intersections will be worse than indicated in the EA because the traffic study underestimates the volume of traffic caused by construction, increased population, and 100 tribal events annually at its new facilities. Also, the proposed mitigation measures at the impacted intersections on SR 246 rely on the construction of traffic roundabouts by Caltrans at some unspecified future time, if ever, and therefore an unknown.

P20-06

Therefore, the EA is deficient, and a comprehensive Environmental Impact Statement is necessary.

P20-06  
(Cont.)

The construction of 143 residences, tribal facilities, wastewater treatment plant and 40,000 lf of sewer system, 400 parking spaces, drinking water system, and between 5 and 6 miles of new roadways will require grading and moving some 180,000 cy of cut and 190,000 cy of fill with cut and fill depths up to 90 feet deep and fill footprints up to 200 feet wide within the site (see Table 2-1 in the Grading and Drainage Study). All the roads are designed as basic straight lines with little, if any, consideration of the natural drainage, oak tree destruction, wildlife impact, or hillside contours of the site. This means Best Management Practices have not been used to mitigate what the EA identifies on page 2-17: "Both alternatives would adversely impact the waters of the U.S., special-status species, protected oaks, and migratory birds."

P20-07

The existing county roads are not suited to the substantial increase in traffic during construction and later from the added residents and other facilities that are intended to be built on Camp 4 (80,000 sf of tribal facilities, for example). There will be importation of significant quantities of construction materials to the site on the existing roads. The EA indicates up 100 events annually with up to 1000 visitors each at the tribal facilities. These trips are not counted in the number of trips on the local state and county roads regarding impact on Level of Service on those roads or at the various intersections as well as the impact on the surrounding properties.

P20-08

Therefore, this EA is deficient and a comprehensive Environmental Impact Statement is required.

**Tribal Facilities** -- On page 2-12, the following is stated: "The tribal facilities would include development of a banquet/exhibition hall designed with an agriculture/equestrian theme, associated administrative spaces, a tribal office complex, and a tribal community space including ceremony room and gymnasium...Approximately 400 parking spaces would be provided for the facilities." EA does not address the environmental impact, let alone the broader community impact, of the use of a facility on Camp 4 that necessitates 400 parking spaces. The proposed "community event facilities are stated to encompass nearly 80,000 square feet. (page 2-14). Santa Ynez Valley residents already are significantly concerned about and pursuing laws to regulate and restrict the number of special events that may be hosted at wineries and other privately owned facilities due to the traffic, light and sound pollution, and other negative impacts caused by these events. Therefore, this EA is deficient and a comprehensive Environmental Impact Statement is required.

P20-09

**Mitigation Measures** -- On the page (4-69) the following is stated: "No significant, unmitigated impacts have been identified that would result from the implementation of Alternative A or Alternative B." Please exercise due diligence on the part of the BIA and do not merely adopt these conclusions. The term "significant" is a defined term in 40CFR 1508.27, see above, and it is extremely important to non-Chumash members of this community that any development of Camp 4 have minimal detrimental impacts on our use and enjoyment of our homes.

P20-10

4/6

**Alternative Evaluation and Process** – From Section 2 of the EA, Section 1502.14 for the Council on Environmental Quality states the BIA “must evaluate all reasonable alternatives.” Lacking any documentation or demonstrated analysis to support its conclusion, the EA states “other alternative such as reduction in number of parcels into trust or alternative locations do not meet the definition of ‘reasonable’ under CEQ regulations.” The justification of the weak conclusion that alternate locations for the trust action were not evaluated is “because the purpose and need not met” or “no other available comparable land.” The Tribe was and is in a position to evaluate off-reservation sites and should this be a requirement of any environmental permitting process by the BIA. The BIA has the obligation to evaluate all reasonable alternatives and discuss its reasoning in depth and with appropriate documentation. Alt A and Alt B in the EA do not facilitate this review and evaluation process. Environmental alternatives must also consider if the stated purpose and need goals in the EA could be accomplished at another location outside Camp 4 or on a more limited site within Camp 4, or the “no build” outcome. A comprehensive Environmental Impact Statement is Mandatory.

P20-11

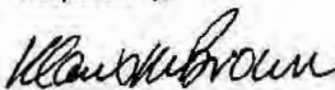
Lastly, Section 1.3 contains incorrect statements which cannot be left standing as unchallenged. If left standing as-is, it could serve as a justification and source of authority for future repetition and in other FTT actions by this Tribe. The EA state “lands were considered property of the Mission Indians by the Spanish and Mexican governments”. Actually, the opposite is the case. At no time has the Tribe had sovereign rights over the land in the proposed action in the EA. Neither the Spanish or Mexican governments recognized any tribes in California. Further, the statement that the land was “held in trust for the Tribe by the Roman Catholic Church” is erroneous. The EA reference to the 1893 Quiet Title action brought by the Church fails to include that a federal judge found the case for the Church that the Tribe had no sovereign rights.

P20-12

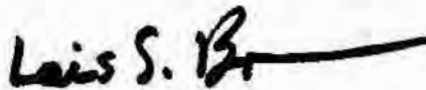
Before any consideration is given to the application for Camp 4 to be placed into federal trust, all the environmental impacts must be addressed in an Environmental Impact Statement, not an EA. The focus of such a vast square footage of new housing, roads, tribal facilities, and other future housing and commercial facilities in a 1433 acre area that has been and still is agricultural and rural will have significant direct, indirect, and cumulative impacts on the proposed site as well as the surrounding area, neighbors, and wildlife. An EA is insufficient for the purpose of determining all of these impacts.

P20-13

Respectfully,



Klaus M. Brown



Lois S. Brown

CC: U.S Congresswoman Lois Capps  
2231 Rayburn House Office Building  
Washington, DC 20515

Continued on next page:

U.S. Senator Dianne Feinstein  
331 Hart Senate Office Building  
Washington, DC 20510

U.S. Senator Barbara Boxer  
112 Hart Senate Office Building  
Washington, DC 20510

Honorable Doc Hastings  
Natural Resources Committee Chair  
1203 Longworth House Office Building  
Washington, DC 20515

California Governor Jerry Brown  
State Capital Building, Suite 1173  
Sacramento, CA 95814

Santa Barbara County Supervisor Doreen Farr  
1745 Mission Drive  
Santa Ynez, CA 93463

✓ Chad Broussard  
Environmental Protection Specialist  
Bureau of Indian Affairs, Pacific Region  
2800 Cottage Way, Room W-2820  
Sacramento, CA 95825-1846

**Santa Ynez Rancho Estates Mutual Water Company, Inc.**  
**Post Office Box 297 -- Santa Ynez, CA 93460**

June 12, 2014

Chad Broussard, Environmental Protection Specialist  
Dept. of the Interior, Bureau of Indian Affairs  
Pacific Regional Office, Suite 2820  
2800 Cottage Way  
Sacramento, CA 95825

**SUBJECT: Request for an Extension of Comment Period -- Final EA for Santa Ynez  
Band of Chumash Indians**

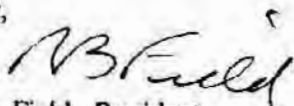
Dear Mr. Broussard,

The Santa Ynez Rancho Estates Mutual Water Company, Inc. is a Mutual Water Company with a service area contiguous with the property known as Camp 4. One of our production water wells is located within 700 feet of the eastern boundary of that property. Our entire service area, all of our wells, and all of our water storage facilities are located within the previously declared "Tribal Consolidation Area".

We have begun to review the Final Environmental Assessment for the fee-to-trust request from the Tribe. The subject document is just short of 2,000 pages in length, covers significant subjects of land and water resources, and may still include implications from the withdrawn "Tribal Consolidation Plan Area". These complex --- and to some degree unprecedented --- subject areas require comprehensive reading, consultation with advisors, and thoughtful analysis in order to submit the informed comment that we have a fiduciary responsibility to provide on behalf of our shareholders and water customers.

Clearly, the Tribe and the Bureau of Indian Affairs have expended considerable time and effort to prepare and present this document. We request an extension of at least 45 days beyond the June 30th deadline so that we have a fair chance to provide meaningful comment for your review and consideration on this nearly 2,000 page document.

Sincerely,

  
Robert B. Field, President  
on behalf of Board Of Directors  
Santa Ynez Rancho Estates Mutual Water Company, Inc

CC: Amy Dutschke, BIA Regional Director  
Frank G. Blundo, Esq.

OFFICE  
PACIFIC REGIONAL  
JUN 17 AM 9:00  
RECEIVED

P21-01

P21-02

6/18/2014

DEPARTMENT OF THE INTERIOR Mail - FW: Comment period for Chumash Camp 4 EA



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**FW: Comment period for Chumash Camp 4 EA**

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**Amy Dutschke** <amy.dutschke@bia.gov>  
**To:** Chad Broussard <chad.broussard@bia.gov>

Wed, Jun 18, 2014 at 2:50 PM

**From:** Mark Oliver [mailto:mark@markoliverinc.com]  
**Sent:** Friday, June 13, 2014 4:15 PM  
**To:** amy.dutschke@bia.gov  
**Subject:** Comment period for Chumash Camp 4 EA

Dear Ms. Dutschke,

The Santa Ynez Valley Alliance would like to request a 60 day extension period in which to respond to the final EA for the proposed trust acquisition of Camp 4 by the Santa Ynez Band of the Chumash Indians.

The Valley Alliance did comment on the draft EIR, and more than 40 responses to questions and issues we raised were addressed in the EA. We have noted that many of the responses require new responses; and other aspects of the EA bring forth new areas for review. The EA will require time to thoroughly study and respond.

Please allow us more time. Thank you for your consideration.

Sincerely,

Mark Oliver

President

Santa Ynez Valley Alliance

t 805 686 5166 xt 16

f 805 686 5224

P22-01

## Comment Letter P23

June 14, 2014

Amy Deutschke, Regional Director  
Bureau of Indian Affairs, Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825

Reg Dir \_\_\_\_\_  
Dep RD Trust \_\_\_\_\_  
Dep RD IS \_\_\_\_\_  
Route DECRAP  
Response Required \_\_\_\_\_  
Due Date \_\_\_\_\_  
Memo Ltr  
Fax \_\_\_\_\_

Subject: Environmental Assessment (EA) Camp 4 Parcels Santa Ynez, California  
Santa Ynez Band of Chumash Indians

RE: Request for 60 day extension of Public Comment Period ending June 30, 2014

Dear Director Deutschke:

My neighbors and I must formally request an extension of the public comment period for the above referenced environmental assessment document to provide adequate and reasonable time to review and prepare comments on an acquisition of the size and scope proposed by the Santa Ynez Band of Chumash Indians. We find numerous compelling reasons why additional time is absolutely necessary, as follows:

1. The sheer magnitude of the proposed acquisition, over 1400 acres, completely included within a community Plan area, a rigorously zoned, component of a larger cumulative natural resource management plan, served by state and local roads, encompassed within local school districts and supported by local police, fire and flood control agencies.
2. Recent announcements by the Santa Ynez Band regarding significant expansion of the gaming floor of the tribe's casino complex, near doubling of the tribe's hotel complex and significant expansion of parking facilities on the tribe's current reservation served by the same roads and utilities as neighboring communities
3. The recently announced plans to initiate development of the tribe's 6.9 acre parcel also served by the same roads and public services.
4. The size and complexity of the Environmental Assessment itself comprising nearly 2000 pages where additional time is necessary to retain and consult with professionals to sufficiently evaluate and critique the work of the tribe's consultant. It should be noted that this Environmental Assessment was nearly 4 years in the making and to reduce the time necessary to adequately review to 30 days is patently absurd.
5. The surrounding communities are presently experiencing purportedly the worst drought in recorded history coupled with a recently announced statewide requirement for water sources to adopt rigorous and potentially expensive water treatment requirements potentially adding significant environmental impacts to be reviewed.

P23-01

P23-02

P23-03

P23-04

P23-05

Impacts

RECEIVED  
BUREAU OF INDIAN AFFAIRS  
JUN 17 2014  
SACRAMENTO, CA

Based upon the above five added considerations we respectfully request an extension of not less than 60 days.

P23-06

Respectfully,

Ed Bladen Bohner  
Jack Bohner

Cc: The Hon. Governor Edmund G. Brown  
The Hon. Senator Diane Feinstein  
The Hon. Representative Lois Capps  
The Hon. Supervisor Doreen Far

**BRIAN KRAMER**  
Santa Ynez, California 93460

June 18, 2014

**SENT VIA FACSIMILE & U.S. MAIL**  
**FACSIMILE NO. (916) 978-6099**

Amy Dutschke  
Regional Director  
Bureau of Indian Affairs  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, California 95825

Reg Dir. ALB  
Dep RD Trust 1/2  
Dep RD IS 1/2  
Route DELMAS  
Response Required 1/2  
Due Date 1/2  
Memo Ltr  
Fax 1/2

**Re: Request for 60 Day Extension of Public Comment Period**  
**Environmental Assessment for Camp 4 Property**  
**Santa Ynez Band of Chumash Indians**  
**Santa Barbara County, California**

Dear Ms. Dutschke:

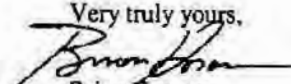
My wife and I reside in Santa Ynez, California. I understand the review period for the Final Environmental Assessment for the Camp 4 Fee to Trust Acquisition ends on June 30, 2014. The substantial negative environmental and financial impacts that will result from the potential transfer of the 1,433 acre Camp 4 property justifies an extension of at least 60 days. An extension of the public comment period is necessary to allow sufficient time to adequately address the many issues contained in the almost 2,000 pages of the May 2014 Environmental Assessment (Vol. I contains 572 pages and Vol. II 1394 pages).

Therefore, we respectfully request a 60 day extension of the public comment period for the May 2014 Environmental Assessment (EA). I am an attorney and I have a degree in Urban and Regional Planning and it is unreasonable to expect a complete and thorough analysis and response to the EA in the limited time initially provided, i.e., on or before June 30, 2014. In addition to addressing issues raised in the pending EA, a comparison of the previous EA must be performed to address inconsistencies. Fair play and substantial justice dictate additional time be provided to the many residents who will be adversely impacted by the potential transfer of the 1,433 acres from fee to trust so their voices and comments can be heard.

The fair, right and just thing to do is to grant an additional 60 days for public comment on the many environmental and financial issues raised by the potential transfer of the Camp 4 property from fee to trust.

If you have any questions concerning this matter, please do not hesitate to contact me at my office located at 1230 Rosecrans Avenue, Suite 410, Manhattan Beach, California 90266, Tel. (310) 536-9501.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,  
  
Brian Kramer

cc:

U.S. Congresswoman Lois Capps  
United States House of Representatives  
2231 Rayburn House Office Building  
Washington, D.C. 20515

**FACSIMILE NO. (805) 730-9153**  
**FACSIMILE NO. (202) 225-3601**  
**FACSIMILE NO. (805) 546-8368**

P24-01

Amy Dutschke  
Regional Director  
June 18, 2014  
Page 2

Governor Jerry Brown  
State Capital Building, Suite 1173  
Sacramento, California 95814

**FACSIMILE NO. (916) 558-3160**

U.S. Senator Diane Feinstein  
Office of U.S. Senator Diane Feinstein  
331 Hart Senate Office Building  
Washington, D.C. 20510

**FACSIMILE NO. (202) 228-3954**  
**FACSIMILE NO. (310) 914-7318**  
**FACSIMILE NO. (415) 393-0710**  
**FACSIMILE NO. (559) 485-9689**

U.S. Senator Barbara Boxer  
Office of U.S. Senator Barbara Boxer  
112 Hart Senate Office Building  
Washington, D.C. 20510

**FACSIMILE NO. (202) 224-0454**  
**FACSIMILE NO. (202) 224-0357**  
**FACSIMILE NO. (202) 228-3865**

Santa Barbara County Board of Supervisors:  
Supervisor Dorren Farr  
Supervisor Salud Carbajal  
Supervisor Janet Wolf  
Supervisor Peter Adams  
Supervisor Steve Lavagnino

**FACSIMILE NO. (805) 568-2883**  
**FACSIMILE NO. (805) 568-2534**  
**FACSIMILE NO. (805) 568-2283**  
**FACSIMILE NO. (805) 737-7703**  
**FACSIMILE NO. (805) 346-8404**

Chad Broussard  
Environmental Protection Specialist  
Bureau of Indian Affairs  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, California 95825

**FACSIMILE NO. (916) 978-6099**

**SHEPHERD FARM**

June 18, 2014

Reg Dir \_\_\_\_\_  
 Dep RD Trust \_\_\_\_\_  
 Dep RD IS \_\_\_\_\_  
 Route DCREAS  
 Response Required \_\_\_\_\_  
 Due Date \_\_\_\_\_  
 Memo Ltr  
 Fax \_\_\_\_\_

Ms. Amy Dutschke, Regional Director  
 Pacific Regional Office  
 Bureau of Indian Affairs  
 2800 Cottage Way  
 Sacramento, CA 95825

**Re Camp 4 Environmental Assessment –  
 Request for Extension of Comment Period**

Dear Ms. Dutschke:

I herein request an extension of 60 days for the Santa Ynez Band of Chumash Indians Camp 4 Environmental Assessment comment period with the following justifications for my request:

1. The 'just-announced' June 17 BIA proposed revisions to 25 CFR Part 169 re rights-of-way on Indian land was not incorporated into the Camp 4 Environmental Assessment.  
 This proposed amendment to 25 CFR Part 169 would impact my easement on Camp 4 property.
2. The 2000+pages of the Environmental Assessment require more than the allotted 30 day review period to adequately review the document.

Respectfully submitted,

Gerry B. Shepherd

PACIFIC REGIONAL  
 OFFICE

JUN 23 4:10 PM '14

P25-01

P25-02

P25-03

----- Forwarded message -----

From: **Rydzik, John** <[john.rydzik@bia.gov](mailto:john.rydzik@bia.gov)>

Date: Thu, Jun 26, 2014 at 6:14 AM

Subject: Re: Request for Comment period extension on Chumash EA

To: Cheryl Schmit <[cherylschmit@att.net](mailto:cherylschmit@att.net)>

Cc: Amy Dutschke <[amyv.dutschke@bia.gov](mailto:amyv.dutschke@bia.gov)>, Chad Broussard <[chad.broussard@bia.gov](mailto:chad.broussard@bia.gov)>

Good Morning,

I understand the Regional Director granted a two week extension. A newspaper notice is being processed to advise the public.

John Rydzik

Chief, Division of Environmental, Cultural Resources Management & Safety

Bureau of Indian Affairs

2800 Cottage Way

Sacramento, CA 95825

(916) 978-6051

On Wed, Jun 25, 2014 at 8:02 PM, Cheryl Schmit <[cherylschmit@att.net](mailto:cherylschmit@att.net)> wrote:

Good evening

I am requesting a two week extension to complete my comments. Please advise.

Cheryl Schmit

Stand Up For California

916 663 3207

# Comment Letter P27

To: Page 1 of 2

2014-08-27 12:20:08 (GMT)

18056978100 From: Greg Schipper

Reg Dir \_\_\_\_\_  
 Dep Reg Dir \_\_\_\_\_  
 Reg Adm Ofcr \_\_\_\_\_  
 Route DECRAR  
 Response Required \_\_\_\_\_  
 Due Date \_\_\_\_\_  
 Memo \_\_\_\_\_ Ltr \_\_\_\_\_  
 Tele \_\_\_\_\_

Dear Chairman Hastings,

I hope this letter finds you well and having a great day.

My family recently moved to the Santa Ynez Valley and we have been very concerned about the future ramifications of H.R. 3313, which relates to proposed legislation for the Camp 4 property.

We chose to move to this rural area because it offers a quality of life fast disappearing in America. We want to make sure it doesn't become extinct on our watch, and it is preserved for generations to come.

We understand you have been contacted by Tom Cole and Betty McCollum urging you to conduct a hearing regarding H.R. 3313 and I want to make sure you understand there is no urgency in this matter and instead not only should you take your time to look at the matter, but also have all the facts.

As you are probably aware H.R. 3313 is opposed by our local Congresswoman, Lois Capps.

Wouldn't you imagine she is better versed in the wants and needs of our community, instead of others who perhaps have never even been to the Santa Ynez Valley and maybe haven't even seen the property at the center of the matter?????

We have no issues with the Chumash tribe going through the existing processes for development that everyone else does. The current system is transparent and fair to all who apply work through the process necessary to protect our environment.

We live in an area that is extremely sensitive from an environmental perspective and with the current drought letting anyone have uninhibited ability to develop anything they want is just bad news and nothing else.

We also feel they should pay taxes and fees that support our schools, roads and emergency services like everyone else does.

The tribe contends that anyone opposed to their efforts is a racist and I want to assure you that is anything but the case. Because of the awful way Native Americans were treated in our country's beginning everyone here is very sensitive to their needs and are even more likely to side with them because of the past.

With that said, the existing casino in our area has already impacted the valley in a negative way with more traffic, crime and pressure on our limited resources.

The very good news for the Chumash tribe is it is creating a massive financial windfall for their members.

Reports have stated each member is seeing over \$600,000 in annual income plus equal sums being set aside as investments for them, that will eventually pay out in the future.

The last time I checked this was way above the poverty line and one has to ask, "How much is enough?"

We can't right past wrongs and is it right to destroy our environment and a way of life for the other tens of thousands of people living in this valley in a misguided attempt to do so?

P27-01

P27-02

P27-03

P27-04

P27-05

P27-06

P27-07

P27-08

P27-09

P27-10

## Comment Letter P27

TU  
1 Page 2 of 2

2014-06-27 12:20:08 (GMT)

10056976100 From: Greg Schipper

Our family and the people of the Santa Ynez Valley are requesting not to just extend the hearing date but to not set a date for hearing at all.

Please consider this matter carefully with respect to the environment and our future and should you like to call me to discuss it in greater details I can be reached at 310-589-9056

P27-10  
(Cont.)

Respectfully,

Gregory A. Schipper  
Concerned Santa Ynez Valley citizen  
485 Meadowlark Road  
Santa Ynez, CA 93460

cc:

Lois Capps  
Jerry Brown  
Diane Feinstein  
Barbara Boxer  
Doreen Farr  
Salud Carbajal  
Janet Wolf  
Peter Adams  
Steve Lavagnino  
Chad Broussard

## Comment Letter P28

June 24, 2014

Amy Dutschke  
Regional Director  
Bureau of Indian Affairs  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA. 95825

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Reg Dir \_\_\_\_\_  
Dep Reg Dir \_\_\_\_\_  
Reg Adm Ofcr \_\_\_\_\_  
Route \_\_\_\_\_ DEC 11 1965  
Personnel Required \_\_\_\_\_  
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Dear Ms Dutschke,

The following hopefully expresses to you and the BIA the inherent problem with the Fee to Trust request by the Chumash Tribe as it relates to Education of young people in the Santa Ynez Valley. (SYV)


SYUHS and SY Elementary Schools are Basic Aid School Districts. Most Schools in CA are Revenue Sharing Districts. What's the difference? Basic aid schools are **DEPENDENT** on local property taxes. Revenue sharing schools receive monthly payments from the state of California.

Twice a year when property taxes are collected, Santa Barbara County pays a % of that tax money to the SYUHS and SY Elementary Schools. This is the money that pays the bills, payroll and maintenance.

If Camp 4 is allowed to become part of the Chumash Reservation, property taxes, developers fees, and increased taxes revenue for all improvements on Camp 4 are lost to the SY township schools. That is a huge loss of revenue, forever. That means SYV High School that serves students from the ENTIRE Valley along with Chumash students and the SY elementary schools which serves SY township students along with Chumash students will lose hundreds of thousands of dollars in perpetuity.

The Chumash have been very generous to our community and schools. This generosity is appreciated but it is sporadic and not dependable like a continuous revenue stream that is realized by community members paying taxes. The Chumash are members of the SY community and should be responsible citizens that support our local students by paying property taxes on their newly acquired properties.

Respectfully

Christine Burtiness - speaking/writing as an individual   
Retired Santa Ynez Valley Union High School teacher  
Current Santa Ynez Valley Union High School District Board member  
POB 359 Santa Ynez, CA. 93460

P28-01

## Comment Letter P29

Kastner Ranch  
6945 Happy Canyon Rd  
Santa Ynez, CA 93460

Amy Dutschke, Regional Director  
Bureau of Indian Affairs (BIA)  
Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825

June 25<sup>th</sup>, 2014

Dear Ms. Dutschke,

We, Sid and Linda Kastner, are residents of the Santa Ynez Valley in Santa Barbara County.

This letter addresses our comments on the final Environmental Assessment of the Santa Ynez Band of Chumash Mission Indians Camp 4 fee to the trust application. Although we would like to see an extension of the comment period, we being fearful you will not extend the comment period wish you to acknowledge these along with our previous comments.

P29-01

We have written letters in the past regarding our concerns and they still stand as voiced. The final EA is not sufficient in dealing with the environmental issues facing the community.

One of our concerns was the large tribal facility. We see the footprint has changed from an 80,000 square foot building to a 12,042 square foot building with 240 parking spaces. This building, along with offices, will have events totaling 100 a year with 400 people plus vendors in attendance. This is not acceptable. The traffic generated from this activity is not addresses in the EA nor does the EA address the housing for the 1,436 descendants that supposedly will eventually live on this land. We live on Happy Canyon Road and the only access we have to our street is Armour Ranch Road or Baseline Avenue. These roads are two-lane roads, significantly below published standards for Santa Barbara County rural roads, with limited sight and Baseline has signage to that effect. This issue has not been fully addressed.

P29-02

With the population mentioned in the preceding paragraph, the issue of water is not addressed properly. We are in a drought. The water supply for the Valley is dwindling. Just take into consideration the new homes, guests at events and take into consideration that our water supply feeds not only our residents of the Valley but also goes downstream to Lompoc.

P29-03

This final Environmental Assessment does not even begin to address all the issues regarding this fee to trust request.

P29-04

As a point of fact, the TCA mentioned in the first draft was withdrawn by the Tribe, without prejudice, which means that tomorrow they could reinstate their request and you, as you did in the past, will approve this without the input of the community or Santa Barbara County elected officials.

P29-05

The law for projects of this magnitude requires a complete Environmental Impact Statement. We are asking you to do so.

P29-06

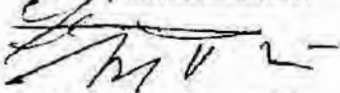
## Comment Letter P29 (Cont.)

There are many issues we have not addressed because of the length and complexity of the final EA but, as stated before, we want to go on record with at least some of our concerns.

P29-07

Thank you for your time and consideration,

Sidney and Linda Kastner



6945 Happy Canyon Rd  
Santa Ynez, CA 93460  
Lkast6945@aol.com

CC

Chad Broussard

Bureau of Indian Affairs  
2800 Cottage Way  
Sacramento, CA 95825

**From:** Broussard, Chad [<mailto:chad.broussard@bia.gov>]  
**Sent:** Wednesday, July 16, 2014 11:17 AM  
**To:** [s88songs@aol.com](mailto:s88songs@aol.com)  
**Cc:** Amy Dutschke; John Rydzik; Trenton Wilson  
**Subject:** Re: FW: comment on Camp 4

Mr. Soles,

The 30-day review period for the Camp 4 Final EA closed on June 30, 2014. A two-week extension was granted until Monday, July 14, 2014. We received your request for an additional 60-day extension on the afternoon of Friday, July 11, 2014. We do not believe that an additional extension is warranted and will not grant any further extensions for this review period. Given that we did not respond to your request prior to the close of the review period, you may have an additional two days to submit your comments, if any (until close of business on Friday, July 18, 2014).

Thank you for your interest in this matter. Please feel free to contact me if you have any questions or would like to discuss further.

Chad A. Broussard  
Environmental Protection Specialist  
U.S. Department of Interior, Bureau of Indian Affairs, Pacific Region  
Division of Environmental and Cultural Resources Management, and Safety  
Office Phone: (916) 978-6165  
Cell Phone: (916) 261-6160

On Wed, Jul 16, 2014 at 10:58 AM, Amy Dutschke <[amy.dutschke@bia.gov](mailto:amy.dutschke@bia.gov)> wrote:  
I think this is what your are looking for?

-----Original Message-----

From: john soles [<mailto:s88songs@aol.com>]  
Sent: Friday, July 11, 2014 4:08 PM  
To: [amy.dutschke@bia.gov](mailto:amy.dutschke@bia.gov)  
Subject: comment on Camp 4

Request of extension of comment period with comment include

Thank you,

Respectfully,

John Soles

Santa ynez, Ca

## Comment Letters P31 through P173

### Comment Letters P31 through P81

These comment letters are included in **Table A-1** as they are part of the administrative record but copies were not included herein as the letters only contain comments that were either expressions of opinion/non-substantive comments or repetitions/reiterations of the comments received on the 2013 EA.

### Comment Letters P82 through P104

These comment letters are included in **Table A-1** as they are part of the administrative record but copies were not included herein as the letters are duplicates of correspondence provided in another comment letter.

### Comment Letters P105 through P107

These comment letters are included in **Table A-1** as they are part of the administrative record but copies were not included herein as the letters do not specifically provide comments on the EA, Proposed Action, project alternatives, and/or decision to be made by the Lead Agency (U.S. Bureau of Indian Affairs or BIA).

### Comment Letters P108 through P152

These comment letters are included in **Table A-1** as they are part of the administrative record but copies were not included herein as the content of the letters is nearly identical to that of Comment Letter P1.

### Comment Letters P153 through P158

These comment letters are included in **Table A-1** as they are part of the administrative record but copies were not included herein as the content of the letters is nearly identical to that of Comment Letter P16.

### Comment Letters P159 through P165

These comment letters are included in **Table A-1** as they are part of the administrative record but copies were not included herein as the content of the letters is nearly identical to that of Comment Letter P3.

### Comment Letters P166 through P169

These comment letters are included in **Table A-1** as they are part of the administrative record but copies were not included herein as the content of the letters is nearly identical to that of Comment Letter P4.

## Comment Letters P174 and P175

### Comment Letters P170 through P173

These comment letters are included in **Table A-1** as they are part of the administrative record but copies were not included herein as the content of the letters is nearly identical to that of Comment Letter P2.

### Comment Letters P174 and P175

These comment letters are included in **Table A-1** as they are part of the administrative record but copies were not provided herein as the letters were received by the BIA after the comment period deadline of July 14, 2014. The comments contained within these comment letters do not present any new topics or issues that are not already presented in the comment letters received within the comment period.

## ***EXHIBIT B***

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### *RESPONSES TO COMMENTS*

# EXHIBIT B

## RESPONSES TO COMMENTS

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Responses to comments are organized below in three sections. General comments regarding the project and issues that were raised by multiple commenters are addressed first in **Section 1.0**. **Section 2.0** provides individual responses to each unique comment. All comment letters were reviewed; similar and identical letters and/or comments were grouped together and responded to in a single response. All of the comments, which have been bracketed and numbered in the margin for ease of reference, are provided in **Exhibit A**. Refer to Table A-1 which provides an index of all of the comments received on the Final Environmental Assessment. Once an issue is addressed, either in the General Responses (**Section 1.0**) or in an individual response to a comment (**Section 2.0**), subsequent responses to similar comments reference the initial response. Identical letters reference the initial letter and associated response. This format eliminates redundancy where multiple comments have been submitted on the same issue. Comment letters received past the comment period deadline of July 14, 2014 were reviewed for new, substantial comments; responses to new, substantial comments received past the deadline are provided in **Section 3.0**.

### 1.0 GENERAL RESPONSES

#### *1.1 Expressions of Opinion/Non-Substantive Comments*

##### **Summary of Comments**

Many of the comments received were expressions of gratitude for the opportunity to comment and expressions of opinion against the Proposed Action and project alternatives. Many other comments did not raise a substantive environmental issue or were statements of information related to the commenter, such as the number of years the commenter has resided in the Santa Ynez Valley.

##### **Response**

To warrant a detailed response in the Findings of No Significant Impact (FONSI), comments must fulfill two minimum requirements: 1) the comments must raise a new substantive environmental issue not previously addressed in the Final EA and associated appendices, and 2) they must be related to either the decisions to be made by the Lead Agency (the Bureau of Indian Affairs or BIA) based on the 2013 EA and Final EA (collectively, the EA) or to the expected result of these decisions. Responses have not been provided to comments failing to raise substantive environmental issues; however, all comments are in the administrative record for the project and will be considered by the BIA when making its decision.

**General Response 1.3** addresses the repetitive comments that were addressed in Appendix O of the Final EA.

## ***1.2 Extension of the Comment Period***

### **Summary of Comments**

Several commenters requested an extension of the comment period presented in the Notice of Availability released May 29, 2014.

### **Response**

The 30-day public comment period for the EA, established consistent with Section 6.2 of the Bureau of Indian Affairs National Environmental Policy Act (NEPA) Guidebook (59 IAM 3-H) (BIA NEPA Guidebook), began on May 29, 2014 and was noticed to end on June 30, 2014 (an extra 2 days were provided as 30 days would have ended on a non-business day). In response to requests received, the public comment period was extended to July 14, 2014, providing an extension of 14 days. Overall, the Final EA was released for public review and comment for 46 days.

## ***1.3 Repetitive/Reiterative Comments***

### **Summary of Comments**

Many of the comments received on the Final EA were expressions or reiterations of similar concerns expressed in comments submitted on the 2013 EA. Commenters brought up various topics and issues related to the Proposed Action, project alternatives, and environmental review process, but did not provide any new or additional information regarding the revisions and additional information provided within the Final EA, including the responses to the comments that were received on the 2013 EA (contained in Appendix O of the Final EA). Numerous other commenters requested that comments submitted on the 2013 EA, the original and revised fee-to-trust applications, and/or the Tribal Consolidation and Acquisition Plan (Plan) and corresponding Tribal Consolidation Area (TCA) be included as comments received on the Final EA.

### **Response**

The 2013 EA was released for public review on August 20, 2013; comments on the 2013 EA were received through November 18, 2013 (refer to General Response 3.1.1 in Appendix O of the Final EA for further discussion). The Final EA was prepared to update the project baseline and project components (refer to **General Response 1.4** for further discussion) as well as to respond to and incorporate updates in response to comments received on the 2013 EA. Responses to comments received on the 2013 EA are provided in Section 3.0 of Appendix O of the Final EA. Accordingly, no additional responses are required as the comments that are addressed under this General Response either reiterate or repeat comments received on the 2013 EA and are correspondingly addressed in Appendix O; do not provide new information that requires a revision to the Final EA; and/or do not address the revised text presented in the Final EA or the responses to comments received on the 2013 EA. For example, several commenters stated that an Environmental Impact Statement (EIS) should be prepared for the Proposed

Action but do not provide any substantive new or different supportive justification for this request beyond the comments received on the 2013 EA.

Comments on the original and revised fee-to-trust applications associated with the Final EA are noted. Pursuant to the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA and the BIA NEPA Guidebook, a response in the FONSI is not required.

The Tribe withdrew without prejudice the approved Plan and corresponding TCA (refer to General Response 3.1.2 in Appendix O of the Final EA for further discussion). This was addressed in Section 1.1 on page 1-5 of the Final EA, which clearly states that the TCA was rescinded without prejudice by the Tribe. Therefore, comments related to the TCA are no longer relevant to the Proposed Action and project alternatives.

#### ***1.4 Inconsistencies between the 2013 EA and the Final EA***

##### **Summary of Comments**

A few comments state that the inconsistencies between the 2013 EA and the Final EA are reason to prepare an EIS. Examples of inconsistencies include the development start date and length of construction, reduction in vineyard acreage, and evaluation of the project alternatives in the context of the Williamson Act.

##### **Response**

The Final EA has been prepared to address the impacts associated with the Tribe's revised application to have the project site taken into trust given the withdrawal of the Plan and associated TCA. The Final EA was prepared in accordance with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook and addresses the potential impacts of the Proposed Action and development on all required resources. Accordingly, the Final EA incorporated changes to the project baseline (e.g. the withdrawal by the Tribe without prejudice of the approved Plan and corresponding TCA or proposed hotel expansion project), changes to the components of the project alternatives (e.g. the reduction of vineyard acreage under Alternatives A and B), updates to the associated analysis of the environmental impacts given the changes to the project alternatives and/or comments received on the 2013 EA (e.g. the analysis of water usage given the reduction in vineyard acreage under Alternatives A and B), and responds to comments received on the 2013 EA. The Final EA was released for public review on May 29, 2014 and a 46 day comment period was provided to allow the public an opportunity to review and comment on the Final EA, including the revisions to the proposed alternatives and responses to comments on the 2013 EA. The Final EA was developed and released in accordance with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook.

Commenters expressed concern over the start date of the selected project alternative given the Williamson Act Contract restrictions and the associated environmental baseline evaluated in EA; refer to **General Responses 1.5** and **1.7** for a discussion.

Commenters stated that confusion surrounds the size of the proposed vineyard. As discussed in General Response 3.1.9 of Appendix O the Final EA, the Tribe revised the vineyard development plans under Alternatives A and B to reduce vineyard production by 50 acres in response to current economic conditions in the Santa Ynez Valley. Additionally, since the release of the 2013 EA and in response to comment received regarding the No Action Alternative (Alternative C), the Tribe reevaluated its options and decided that, if the Proposed Action is not approved, the Tribe would likely increase vineyard production by approximately 44 acres to maximize the profitability of the project site to fund on-going tax payments as the property would continue to be held in fee title and governed by the Tribe under Santa Barbara County (County) land use restrictions. The reduction and addition of vineyard acreage correlates to a reduction and addition of water demands, which required that impacts to groundwater supply be re-evaluated for each alternative. Accordingly, Sections 2.0, 4.1.2, 4.2.2, 4.3.2, 4.4.2, and 5.2 of the Final EA and the Water and Wastewater Feasibility Analysis (Appendix C of the Final EA) were updated.

## ***1.5 Baseline and Project Timeline***

### **Summary of Comments**

Several comments received stated that, given development cannot occur on the project site until the Williamson Act Contract expires in 2023, the environmental baseline for the Proposed Action and project alternatives should be 2022, and use of a present-day baseline is inappropriate. Commenters further stated that because development cannot occur until 2023, the trust acquisition is not necessary at this time and could be postponed until an appropriate baseline can be assessed.

### **Response**

The proposed trust acquisition is necessary at this time because the Tribe wishes to exercise its right of Tribal self-governance over its existing commercial enterprises on the project site (the existing approximately 250 acres of vineyard) as stated in Section 1.4 of the 2013 EA and Final EA. Refer to General Response 3.1.5 of Section 3.0 of Appendix O of the Final EA for further discussion as to the purpose of the trust acquisition process. The federal action under consideration in this EA can be taken as soon as is practical and feasible (e.g. appropriate environmental review is completed, etc.). Accordingly, use of present-day as the baseline for the Proposed Action is appropriate.

Consistent with CEQ Regulations for Implementing NEPA Section 150.14, the project alternatives considered within the EA include the ultimate development plans proposed by the Tribe for the project site, which facilitates an accurate and complete evaluation of impacts to environmental resources. The BIA defined the environmental baseline and existing setting using the planning documents and information available at this time. The Proposed Action and project alternatives were then analyzed

within the context of the existing setting to determine potential environmental impacts. In addition, in accordance with CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook, the potential for future adverse impacts associated with the implementation of the project alternatives and other future foreseeable projects are addressed in Section 4.4 of the Final EA. The cumulative analysis within the Final EA was established using available information including the 20-year build out forecasts for the region presented in the Santa Ynez Valley Community Plan (SYVCP). However, there is inadequate information available to accurately determine the environmental setting in 2022, and use of an inaccurate existing setting would result in an inaccurate or, at best, a limited assessment of impacts to resources. For example, the environmental setting related to groundwater supply included in Section 3.2.2 of the Final EA was determined using a technical report of groundwater availability in the vicinity of the project site (Tetra Tech, 2010), the California Department of Water Resources (DWR) bulletin on the groundwater basin (DWR, 2004), the SYVCP (SBC, 2009a), the Environmental Impact Report (EIR) prepared for the SYVCP (SBC, 2009b), and the County's groundwater report (SBC, 2012f). Although information and models are available that may speculate on future groundwater conditions, such speculations allow for only speculation on future impacts, which produces a weaker evaluation in comparison to an evaluation based on measurable and readily quantifiable data.

## ***1.6 General Statements of Impact***

### **Summary of Comments**

Many of the comments received were statements that the Proposed Action and/or project alternatives would result in adverse impacts to several resources. The resources and associated issues of concern included in such comments consist of the following: land resources, water resources, air quality and greenhouse gases (GHGs), biological resources, cultural resources, socioeconomic conditions / environmental justice, transportation and circulation, land use, public services, noise, hazardous materials, and visual resources. The commenters did not elaborate as to how these resources would be affected by the Proposed Action and/or project alternatives, nor did the commenters provide additional details as to how the analysis presented in the Final EA failed to evaluate impacts to these resources; the commenters simply stated that these resources would be adversely impacted.

### **Response**

Potential impacts are evaluated in Section 4.0 of the Final EA, and if necessary, mitigation measures are included in Section 5.0 to reduce potential impacts to a minimal level. Potential impacts to land resources are addressed in Sections 4.1.1, 4.2.1, 4.3.1, and 4.4.1 of the Final EA, and adverse impacts would be reduced or avoided with implementation of the mitigation measures identified in Section 5.1 of the Final EA. Potential impacts to water resources are addressed in Sections 4.1.2, 4.2.2, 4.3.2, and 4.4.2 of the Final EA, and adverse impacts would be reduced or avoided with implementation of the mitigation measures identified in Section 5.2 of the Final EA. Potential impacts related to air quality and GHG emissions are addressed in Sections 4.1.3, 4.2.3, 4.3.3, and 4.4.3 of the Final EA, and adverse impacts would be reduced or avoided with implementation of the mitigation measures identified in Section 5.3 of

the Final EA. Potential impacts to biological resources are addressed in Sections 4.1.4, 4.2.4, 4.3.4, and 4.4.4 of the Final EA, and adverse impacts would be reduced or avoided with implementation of the mitigation measures identified in Section 5.4 of the Final EA. Potential impacts to cultural resources are addressed in Sections 4.1.5, 4.2.5, 4.3.5, and 4.4.5 of the Final EA, and adverse impacts would be reduced or avoided with implementation of the mitigation measures identified in Section 5.5 of the Final EA. Potential impacts associated with socioeconomic conditions/ environmental justice are addressed in Sections 4.1.6, 4.2.6, 4.3.6, and 4.4.6 of the Final EA; as discussed therein, no adverse impacts related to socioeconomic conditions/ environmental justice would occur. Potential impacts related to transportation and circulation are addressed in Sections 4.1.7, 4.2.7, 4.3.7, and 4.4.7 of the Final EA, and adverse impacts would be reduced or avoided with implementation of the mitigation measures identified in Section 5.7 of the Final EA. Potential impacts related to land use are addressed in Sections 4.1.8, 4.2.8, 4.3.8, and 4.4.8 of the Final EA; as discussed therein, no adverse impacts related to land use would occur. Potential impacts related to public services are addressed in Sections 4.1.9, 4.2.9, 4.3.9, and 4.4.10 of the Final EA, and adverse impacts would be reduced or avoided with implementation of the mitigation measures identified in Section 5.9 of the Final EA. Potential impacts related to noise are addressed in Sections 4.1.10, 4.2.10, 4.3.10, and 4.4.9 of the Final EA; as discussed therein, no adverse impacts related to noise would occur. Potential impacts related to hazardous materials are addressed in Sections 4.1.11, 4.2.11, 4.3.11, and 4.4.11 of the Final EA, and adverse impacts would be reduced or avoided with implementation of the mitigation measures identified in Section 5.11 of the Final EA. Potential impacts to visual resources are addressed in Sections 4.1.12, 4.2.12, 4.3.12, and 4.4.12 of the Final EA; as discussed therein, no adverse impacts to visual resources would occur.

## ***1.7 Williamson Act***

### **Summary of Comments**

A few of the comments received expressed concern that the Proposed Action and project alternatives would violate the existing Williamson Act Contract for the project site. One commenter stated that the Tribe failed to sign a “Notification of Assumption of Williamson Act Contract” and failed to include an “Acknowledgement of Restrictive Covenants” form in the associated trust application.

### **Response**

A “Notification of Assumption of Williamson Act Contract Pursuant to Government Code (“Gov. Code”) Section 51243(b)” was signed by the Tribal Chairman on July 21, 2014 and recorded in the Official Records of Santa Barbara County as Instrument No. 2014-0032894 on July 21, 2014. Santa Barbara County Counsel approved such Notification of Assumption on July 31, 2014, and a copy is included as **Exhibit G**. Inclusion of the “Acknowledgement of Restrictive Covenants” form with the trust application is unrelated to the environmental analysis presented in the EA and release of a FONSI.

Further comments and concerns regarding the Williamson Act Contract as it relates to the Proposed Action and project alternatives were previously addressed in Section 3.0 of Appendix O of the Final EA (in particular, General Response 3.1.18 and Responses to Comments L3-09 and L3-16).

## **1.8 Groundwater Supply**

### **Summary of Comments**

Many of the comments received were concerned with the impacts of the project alternatives to groundwater resources, in particular related to overdraft of the Santa Ynez Uplands Groundwater Basin (Uplands Basin).

### **Response**

Refer to General Response 3.1.9 in Appendix O of the Final EA for discussion of the data and information considered and utilized to develop the analysis of impacts to groundwater resources included in the Final EA. Under existing conditions, approximately 256 acre-feet per year (AFY) of groundwater is utilized on the project site for irrigation of the existing 256-acre vineyard. The net water demand for potable water for Alternative B is 256 AFY. Section 4.2.2 of the Final EA mistakenly stated that the net water demand for potable water for Alternative B is 260 AFY. This statement included a miscalculation related to the recycled water use reduction (90 percent of indoor use would be used as treated wastewater for irrigation) shown in Table 2-5 of Appendix C of the Final EA. With incorporation of the accurate recycled water reduction credit in to the water demand calculation for Alternative B, implementation of Alternative B would therefore result in no net change in water demand over existing water use rates (as opposed to a 4 AFY increase erroneously reported in Section 4.2.2 the Final EA) and a decrease in water use rates compared to Alternative A (92 AFY less) and Alternative C (44 AFY less). Therefore, selection of Alternative B and associated 1-acre residential plots, even with the government center, would have no effect on the groundwater supply of the Uplands Basin compared to existing conditions.

As discussed in Sections 2.5 and 4.1.2 of the Final EA, implementation of Alternative A would result in 348 AFY net water demand, an increase of 92 AFY over existing conditions. As discussed in Sections 2.5 and 4.3.2 of the Final EA, implementation of Alternative C (No Action Alternative) would result in 300 AFY of water use on the project site, an increase of 44 AFY over existing conditions.

Implementation of Alternative A or C would not contribute to overdraft of the Uplands Basin and therefore would not adversely impact groundwater resources because, as stated in Section 3.2 of the Final EA, the SYVCP states that at least several hundred acre feet of new long-term demand on the Uplands Basin could be accommodated without substantial effects (SBC, 2009a). Further, the mitigation measures included in Section 5.2 of the Final EA would reduce impacts of Alternatives A and B to neighboring wells and would ensure water usage is reduced during drought conditions, thereby reducing impacts to groundwater resources. Accordingly, with implementation of the mitigation measures identified in Section 5.2 of the Final EA, none of the project alternatives would result in an adverse impact on groundwater resources.

Of note, although not applicable if the trust acquisition is approved, the Santa Barbara County Environmental Thresholds and Guidelines Manual defines the withdrawal of 61 AFY of water or more as significantly adverse. Alternatives B and C do not exceed the County's thresholds (no change and increase of 44 AFY over existing, respectively).

## ***1.9 Impacts to Vernal Pool Fairy Shrimp and California Red-Legged Frog***

### **Summary of Comments**

Commenters expressed concerns related to the adequacy of the mitigation measures proposed to reduce direct and indirect impacts to vernal pool fairy shrimp (VPFS) and California red-legged frog (CRLF).

### **Response**

Through Endangered Species Act (ESA) Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS), the BIA received comments from USFWS regarding direct and indirect impacts to seasonal wetlands and swales that may adversely affect the Primary Constituent Elements of VPFS habitat. Specifically, USFWS was concerned with the alteration of existing hydrology supporting the wetland features, and the necessity of pre-determined buffer zones around the avoided wetlands and swales to provide a more conclusive analysis of the potential impacts to the seasonally inundated features on the project site. Further, USFWS recommended that an additional protective measure for CRLF be incorporated to avoid ground clearing and construction activities during periods of wet weather when CRLF is most likely to be dispersing between breeding ponds.

To address these concerns, the following mitigation measures have been included in the revised Biological Assessment (BA) that was resubmitted to USFWS.

**BIO MM-1:** Prior to the final site determination of the residential units, utility corridors, roadways, and any other project component that would result in ground disturbance, a 250 foot wetland habitat buffer zone will be established around seasonal wetland habitat within the project site to assure avoidance of direct or indirect impact to VPFS.

**BIO MM-2:** If the National Weather Service forecast predicts a rain event of ½ inch or more over a 48-hour period for the worksite area, construction activities will be halted 24 hours before the rain event is anticipated to begin. Construction activities, for the purposes of this protective measure, consist of all activities which pose a risk of crushing dispersing amphibians including driving construction vehicles and equipment, and activities that alter the natural contours of the existing property including digging trenches, modifying drainages, vegetation clearing and grubbing, land grading, and pouring of building pads for new structures. After a rain event, a qualified biologist will conduct a pre-construction survey for amphibians dispersing through the project site. Construction will resume only after the site has sufficiently dried and the qualified

biologist determines that amphibians are unlikely to be dispersing through the project site.

The implementation of BIO MM-1 in conjunction with the avoidance measures, best management practices (BMPs), and drainage design features discussed in Sections 5.4.3 and 4.1.2 of the EA will eliminate any direct or indirect effects to VPFS. The measures ensure the avoidance of all seasonal wetlands and swales that provide flowing water to the wetland features. Additionally, with the implementation of the stormwater drainage improvements, the stormwater flows on the project site post-development would equal existing runoff rates. Therefore, construction within the associated upland areas will not impact the amount of overland flow reaching the avoided wetland features.

Additionally, although there is a relatively low potential for the CRLF to occur onsite during dispersal events, the inclusion of BIO MM-2 will ensure adverse effects to the CRLF are reduced.

The USFWS issued a letter on October 8, 2014 (included as **Exhibit D**) that concurred with the BIA's determination that the Proposed Action may affect but is not likely to adversely affect VPFS and CRLF with incorporation of the mitigation in the revised BA. The Tribe issued Resolution 930B that incorporated the above mitigation measures into the Proposed Action. With the implementation of BIO MM-1 and MM-2 above (in addition to the mitigation measures presented in Section 5.4.3 of the Final EA), potential direct and indirect effects to VPFS and CRLF are further reduced to a minimal level.

## ***1.10 Adverse Impacts to Biological Resources Require an EIS***

### **Summary of Comments**

A few comments received state that an EIS is required if a proposed action would result in an adverse impact to the environment. The commenters go on to state that, because the Final EA concedes that an adverse impact would occur to biological resources, an EIS is therefore required. A few commenters cite text from page 2-17 of the Final EA that reads, "Both alternatives [A and B] would adversely impact water of the U.S., special-status species, protected oak trees, and migratory birds."

### **Response**

The commenters are correct that, per the BIA NEPA Guidebook, if an action is expected to have significant impacts or if the analysis in an EA identifies significant impacts, then an EIS must be prepared. However, as stated on page 2-17 of the Final EA, yet not included in letters from commenters, "Both alternatives [A and B] would adversely impact water of the U.S., special-status species, protected oak trees, and migratory birds without the implementation of mitigation. However, with the incorporation of mitigation measures, implementation of the project alternatives would not result in jeopardy to and would facilitate the recovery of special status species and sensitive habitats." The mitigation measures included in Section 5.4 of the Final EA would reduce impacts of Alternatives A and B to a minimal level and therefore would not result in a significant impact. In addition, in accordance with ESA Section 7, the

BIA requested and received (refer to **Exhibit D**) concurrence from USFWS that the project would not significantly impact protected species. Refer to **General Response 1.9** for further discussion. Accordingly, an EIS is not required.

### ***1.11 Public Services***

#### **Summary of Comments**

Several commenters expressed concerns that removal of the project site from County jurisdiction and associated taxation would result in an adverse impact to public services as new residents of the proposed development would utilize County public services funded by County property taxes. Commenters are primarily concerned about impacts to public schools, law enforcement, and fire protection services.

#### **Response**

Although many of the comments regarding public services were repetitive of those received on the 2013 EA (refer to the responses provided in Section 3.0 of Appendix O of the Final EA), the Tribe has committed to further reducing impacts through several initiatives completed since the public release of the Final EA. The Tribe passed Resolution 948 (included as **Exhibit F**) since the release of the Final EA to establish the Santa Ynez Tribal Police Department (SYTPD) as a new Tribal department to have jurisdiction over all land annexed to the Reservation by the fee-to-trust process after June 3, 2014. Accordingly, the new SYTPD will provide law enforcement services to the project site should the Proposed Action be approved, thereby further reducing the impact to local law enforcement agencies. Secondly, since the release of the Final EA, the Tribe passed Resolution 949 (included as **Exhibit F**) to establish a dedicated fund for local school districts that include the project site, which are College Elementary School District-General, SYVHD-General, Allan Hancock CC Dist-General, County school services, and education revenue augmentation. Tribal Resolution 949 sets aside \$51,429 annually, which is equivalent to the amount paid by the Tribe in property taxes to the County in 2013 through 2014, for grants to be paid to the school districts from the Chumash Foundation. Tribal Resolution 949 therefore eliminates any significant impact to public school services as the funding provided by property taxes on the project site will still be provided if the Proposed Action is approved.

### ***1.12 Cumulative Projects***

#### **Summary of Comments**

Several comments expressed concern that the analysis of cumulative impacts was inadequate in the Final EA because cumulative conditions were inappropriately defined and therefore cumulative impacts cannot be adequately assessed. Commenters contend that the cumulative condition does not include the Tribe's approved trust acquisition of 6.9 acres just north of the existing Chumash Casino Resort across SR-246 for a Tribal cultural center and commercial retail facility ("Tribal Cultural Center Project") and the Tribe's proposed expansion of the existing Chumash Casino Resort ("Hotel Expansion Project"). Additionally, commenters are concerned with the Tribe's plans for the 5.8 acre property abutting SR-246,

for property at the corner of Edison Street and SR-246, for the property along Meadowvale Road and SR-246 commonly referred to as Mowry Farm, and for the property along Meadowvale Road commonly referred to as the Cabrillo property.

## **Response**

Potential cumulative impacts for each environmental issue area under Alternatives A and B are evaluated in Section 4.4 of the Final EA. As stated therein, implementation of Alternative C, the No Action Alternative, would not result in cumulative effects and therefore is not discussed. Near-term cumulative conditions were established by reviewing the cumulative project database maintained by the County for projects within the Santa Ynez Valley, and Table 4-17 in Section 4.4 of the Final EA presents a summary of the approved and pending near-term cumulative development. Additionally, pending and/or approved Tribal projects were considered in the near-term cumulative condition.

The Tribal Cultural Center Project includes the development of a 42,000-square foot Tribal museum and cultural center and commercial retail facility, a 3.5-acre commemorative park, and associated parking on 6.9 acres of trust land located north of SR-246, across from the Chumash Casino Resort. The Tribal Cultural Center Project was incorporated into the cumulative scenario as appropriate for analysis of cumulative impacts of the Proposed Action. Additionally, since the release of the 2013 EA, the Tribe has proposed a hotel expansion project that includes the development of approximately 215 new hotel rooms, expansion of the hotel and casino area by approximately 285,000 square feet, renovation of approximately 150,000 square feet of the existing casino and hotel, and development of a new parking structure. As discussed throughout the responses contained in Appendix O of the Final EA, Section 4.4 of the Final EA was updated to include the cumulative impacts associated with the Tribe's proposed hotel expansion project. For example, traffic counts associated with the Tribal Cultural Center Project were included in the Traffic Impact Study (Appendix I) of the 2013 EA, and the Traffic Impact Study included as Appendix I of the Final EA was revised to include the traffic counts associated with the proposed hotel expansion project.

The Tribe owns in fee a 5.8 acre property abutting SR-246, a property at the corner of Edison Street and SR-246, a remediated former gas station at the corner of SR-246 and Edison Street, and the properties referenced by commenters as Mowry Farm and Cabrillo. However, the Tribe has no future development plans for these properties at this time. These properties were therefore considered in the existing environmental setting as there are no foreseeable future changes in land use.

Since the release of the Final EA in May 2014, the Tribe has reinitiated a request that the BIA to take two parcels into trust on behalf of the Tribe: County Assessor Parcel Numbers (APNs) 143-242-001, 143-242-002, 143-252-001, and 143-252-002 known to the Tribe as the Mooney and Escobar properties, respectively ("Mooney and Escobar Trust Acquisition"). The Mooney and Escobar properties are located south of State Highway 246, west of Edison Avenue, and northeast of the Tribe's Reservation in Santa Barbara County. The Mooney property is comprised of one  $\pm$ 1.38-acre parcel, and the Escobar property

is comprised of one  $\pm 0.73$ -acre parcel. The Tribe submitted a trust acquisition application and Property Overview (PO) in 2006 for the 2.11 acres, but the fee-to-trust acquisition process was not completed. The two properties include shielding and ornamental landscaping, storage sheds used for trash collection and landscaping materials and maintenance, portions of Sanja Cota Avenue that provides access and egress to the Chumash Casino Resort, and adjacent riparian habitat of Zanja de Cota Creek. The purpose of the proposed Mooney and Escobar Trust Acquisition is to provide a means for the Tribe to utilize recycled water generated at the Tribe's wastewater reclamation facility (WRF) for irrigation of the properties instead of potable water, which is the current irrigation source. Thereby, the Tribe would continue its commitment to resource preservation by reducing current potable water demands through maximizing recycled water use on Tribal property. Utilization of recycled water would not alter the land use of the properties as both currently include shielding and ornamental landscaping. As there is no change in land use, the Mooney and Escobar Trust Acquisition is categorically excluded from review under NEPA. The Tribe submitted to the BIA an updated PO in September 2014 for the two parcels and a revised application is being prepared.

Considering that neither a change in land use nor any new development would occur on the Mooney and Escobar properties, the potential for cumulative impacts resulting from approval of the Proposed Action and the Mooney and Escobar Trust Acquisition is minimal. The Mooney and Escobar Trust Acquisition would have extremely minimal, if any, impact related to land resources, air quality, biological resources, cultural resources, transportation and circulation, land use, public services, noise, hazardous materials, and visual resources. Approval of the Mooney and Escobar Trust Acquisition would reduce demands on potable water, which would reduce the Tribe's overall demand on potable water and therefore be a beneficial impact when considered in the cumulative condition of the Proposed Action. Approval of the Mooney and Escobar Trust Acquisition would remove approximately \$24,050 from the County's property tax rolls (based on the 2013 through 2014 tax year), which could be a cumulatively significant impact to socioeconomic conditions and environmental justice when considered with the Proposed Action, which would remove approximately \$78,300 from the County's property tax rolls (based on the 2011 through 2012 tax year). However, as stated in Section 4.1.6 of the Final EA, the County Tax Collector was projected to collect approximately \$625 million in property taxes for the entire County during the 2011 through 2012 tax year. The tax on the project site was approximately 0.01 percent of the County's total property tax revenue, which is de minimis, would not lead to any adverse physical effect, and is not a significant direct or indirect impact under NEPA. Cumulatively, the Proposed Action and Mooney and Escobar Trust Acquisition would remove \$102,350 from the County's property tax rolls, which equates to approximately 0.016 percent of the County's total property tax revenue. In determining impacts to the County's tax base, 0.016 percent is also de minimis, would not lead to any adverse physical effect, and is not cumulatively significant under NEPA. Additionally, the mitigation measure in Section 5.9 would reduce the impact of the Proposed Action to fire protection services and the Tribe has recently passed resolutions to further reduce impacts the Proposed Action to law enforcement services and public schools (refer to **General Response 1.11**). Therefore, no adverse cumulative impacts related to

socioeconomic conditions and environmental justice would occur with implementation of the Proposed Action, including with consideration of the Mooney and Escobar Trust Acquisition.

## 2.0 INDIVIDUAL RESPONSES

### *Federal Agency Comment Letters (F)*

#### **Response to Comment Letter F1 – Congresswoman Lois Capps**

F1-01 Refer to **General Response 1.2** regarding requests to extend the comment period.

### *State Agency Comment Letters (S)*

#### **Response to Comment Letter S1 – David Innis, Environmental Scientist, Central Coast Regional Water Quality Control Board**

S1-01 through S1-03

Comments and recommendations to consider the Central Coast Low Impact Development Initiative (LIDI), to cluster development, and to locate development away from areas with naturally good infiltrating soils are noted.

#### **Response to Comment Letter S2 – David Innis, Environmental Scientist, Central Coast Regional Water Quality Control Board**

This comment letter is included in Table A-1 in **Exhibit A** as it is part of the administrative record but requires no response as it is a duplicate of Comment Letter S1. Refer to response to **Comment Letter S1**.

#### **Response to Comment Letter S3 – Scott Morgan, Director, State Clearinghouse**

This comment letter is included in Table A-1 in **Exhibit A** as it is part of the administrative record but requires no response as the letter is solely correspondence from the commenter regarding comment letters received at the State Clearinghouse during the comment period on the Final EA.

### *Local Agency Comment Letters (L)*

#### **Response to Comment Letter L1 – Mona Miyasato, County Executive Officer, County of Santa Barbara**

L1-01 Comment noted.

L1-02 Refer to **General Response 1.5** regarding the environmental baseline and project timeline.

L1-03 Refer to **General Response 1.3** regarding the requirements for an EIS.

L1-04 and L1-05

Comments noted.

L1-06 Refer to **General Response 1.5** regarding the environmental baseline and project timeline.

L1-07 Refer to **General Response 1.3** regarding the requirements for an EIS, including the relevance of *Natural Resources Defense Council v. Duvall* (777 F. Supp. 1533, 1537 [E.D. Cal. 1991]).

L1-08 Refer to the responses to the following comments regarding the conclusions stated in this comment related to the analyses, misstatements and assumptions, and inadequacy of cumulative impacts and project alternatives discussions included in the Final EA. Refer to **General Response 1.5** regarding the environmental baseline and project timeline. Refer to **General Response 1.3** regarding the requirements for an EIS.

L1-09 Comment noted. Refer to **General Response 1.3** regarding the TCA. Refer to **General Response 1.7** regarding the Williamson Act contract for the project site. To clarify regarding project alternatives, the Final EA identifies nine proposed site plans for the project site in Appendix N. Two of the nine site plans were selected for detailed evaluation and analysis in the Final EA and are identified as Alternative A and B.

L1-10 Refer to **General Response 1.5** regarding the environmental baseline and project timeline. The commenter's reference to *Half Moon Bay Fishermans' Marketing Ass'n v. Carlucci*, 857 F.2d 505, 510 (9th Cir. 1988) as evidence that NEPA requires an agency to set forth the baseline conditions that exist before proposed agency action is noted.

L1-11 Refer to **General Response 1.5** regarding the environmental baseline and project timeline.

L1-12 Refer to **General Response 1.5** regarding the environmental baseline and project timeline. The project alternatives and impacts to resources, including water and public services, were considered within the context of the current drought; for example, mitigation in Section 5.2 of the Final EA requires special conservation measures be implemented when the County declares a local drought. Refer to **General Response 1.11** regarding public services.

L1-13 Refer to **General Response 1.5** regarding the environmental baseline and project timeline. Refer to **General Response 1.3** regarding the requirements for an EIS.

L1-14 Refer to **General Response 1.3** regarding the requirements for an EIS, including the relevance of *Natural Resources Defense Council v. Duvall* (777 F. Supp. 1533, 1537 [E.D. Cal. 1991]).

- The commenter also cites *Anderson v. Evans* (371 F.3d 475, 494 [9th Cir. 2004]) regarding the requirements for an EIS. In *Anderson*, the Ninth Circuit held that the government was required to prepare an EIS before approving a Gray Whale hunt. The Ninth Circuit held that the EA was insufficient because there was no data to quantify the impact to the particular population to be hunted (*Anderson*, 371 F.3d at 494). Here, the EA provides the BIA with all the data and other information needed to conclude that approval of the fee-to-trust application would not result in significant environmental impacts.
- L1-15 Comment noted. The Tribe recognizes the importance of agriculture in this region, as demonstrated by the fact that all project alternatives include agricultural land uses on the project site. Refer to **General Response 1.6** regarding analysis of impacts to agricultural resources.
- L1-16 Gazing operations would continue under Alternatives A and B in the designated open space/recreational areas. As stated on page 4-1 of Section 4.1.1 of the Final EA, under Alternative A, “current agricultural and grazing land uses would be maintained on these parcels [Parcels 1 and 5] with the exception of 53 acres on Parcel 1, of which 3 acres would be developed into a wastewater treatment plant (WWTP) and the vineyard would be reduced by approximately 50 acres to add additional open space.” As further explained on page 4-22 in Section 4.1.8 of the Final EA, “Parcel 1, Parcel 5, a portion of Parcel 2, and a portion of Parcel 3 would remain open space and would not be developed, which would make the areas available for grazing operations” under Alternative A. Under Alternative B, “approximately 569 additional acres of grazing land would remain undeveloped under this reduced intensity alternative,” as stated on page 4-47 of section 4.2.8 of the Final EA. To that end, the Tribe recently finalized pasture agreements that lease portions of the project site to grazing operators through December 2016.
- L1-17 Comment noted. As discussed in Section 4.1.8 of the EA, implementation of Alternative A would impact approximately 3 acres of unique farmland, 76 acres of farmland of local importance, and 704 acres of grazing land on the project site. There are approximately 105,060 acres of irrigated farmland, including prime farmland, farmland of statewide importance, and unique farmland, and roughly 1,330,280 acres of grazing land in the County (SBC, 2011a). Implementation of the Proposed Action would remove approximately 0.08 percent of unique farmland and farmland of local importance ( $\pm 79$  acres of 105,060 acres) and would remove approximately 0.05 percent ( $\pm 704$  acres of 1,330,280 acres) of grazing land from the jurisdiction of the County. The total agricultural acreage that would be converted by implementation of the Proposed Action would be 783 acres. However, in the context of the total existing agricultural land in the County and region, the acreage that would be converted is minimal. The fact that the converted acreage is low compared to the total agricultural lands in the County supports the conclusion that the amount of agricultural land

- that would be converted is unsubstantial. Conversely, a substantial conversion would occur if a small area of prime farmland of farmland of State or regional significance were converted in a region with limited agricultural resources (e.g. less than 10,000 acres). As discussed in Section 4.2.8 of the EA, Alternative B would convert the same acreage of unique farmland and would convert fewer acres of farmland of local importance and grazing land; therefore, based on the discussion above, Alternative B would also not constitute an adverse impact. Further, the commenter's assertion that the Proposed Action's impact to agricultural lands is akin to an impact to forest land is unsupported as forest land is an interconnected ecosystem whereas agricultural land is artificially managed to produce a limited variety of plants and/or animals and, from an ecosystem or habitat standpoint, is generally independent of surrounding land uses.
- L1-18 The commenter argues that the Proposed Action would impact the environment, citing *Sierra Club v. U.S. Forest Service* (843 F.2d 1190 [9th Cir. 1988]), a case which involved the U.S. Forest Service's decision not to require an EIS for nine timber sales in the Sequoia National Forest. The Ninth Circuit held that this decision was invalid relying on the expert, biological affidavits submitted by the Sierra Club demonstrating significant and irreparable long-term harm to the groves of Sequoias and cumulative impacts if the logging was allowed. In addition, the Ninth Circuit concluded that the logging plans failed to comply with State law (*Sierra Club v. U.S. Forest Service* 843 F.2d 1190 at 1193–1195). Here, the commenter has offered no comparable evidence on the effects of the Proposed Action, only conclusory allegations of potential harm. Nor can the commenter accurately claim that the Proposed Action would be in violation of local law, since by definition land taken into trust by the federal government is not subject to most County-issued regulations (refer to **General Response 1.6** for further discussion).
- L1-19 Refer to the response to **Comment L1-17** regarding the significance of the amount and percentage of agricultural land that would be converted by implementation of the Proposed Action. The Tribe would continue to use open space, including resource management zones, for grazing operations (refer to the response to **Comment L1-16**), thereby reducing the acreage referenced by the commenter as well as ensuring agricultural uses would continue on the project site.
- L1-20 Refer to **General Response 1.3** for concerns related to an increased potential for trespassing and associated issues, vandalism, nuisance complaints, decreased farming potential or loss of crop productivity, special agricultural management practices, theft, grass fires, traffic, and noise, as related to use of the Tribal facilities proposed under Alternative B and development of residential housing under Alternatives A and B.
- L1-21 Refer to **General Response 1.3** regarding the removal of the project site from County jurisdiction and the subsequent implications for implementation of County land use policies.

L1-22 and L1-23

Refer to **General Response 1.3** regarding the incompatibility with existing State and local government plans, including the Comprehensive Plan and County agricultural ordinances.

L1-24

Refer to **General Response 1.3** regarding the incompatibility with existing agricultural land use surrounding the project site. The commenter is correct that the proposed site plans of Alternatives A and B (Figures 2-1 and 2-2 in the Final EA, respectively) depict residential lots adjacent to the northern, eastern, and southern boundaries of the project site and consequently adjacent to off-site agricultural operations. However, the site plans only depict residential lots and do not show the development footprint of houses and associated structures. Given the smallest lot proposed under the alternatives is one acre, there is more than adequate area available on each residential lot to site structures while maintaining an appropriate buffer of 100 to 300 feet.

L1-25

Refer to **General Response 1.3** regarding impacts associated with light and glare.

L1-26

Refer to **General Response 1.7** regarding the Williamson Act Contract for the project site. Refer to **General Response 1.3** regarding the applicability of County policies to the Proposed Action.

L1-27

Comment noted; refer to **General Response 1.1** regarding non-substantive comments and/or opinions. Refer to **General Response 1.3** regarding project induced population growth.

L1-28

Refer to **General Response 1.11** regarding impacts related to law enforcement services. With the establishment of the SYTPD, a minimal increase in the needs for law enforcement services would result from the implementation of Alternative A or B. The Tribe acknowledges that negotiations are ongoing between the Tribe and the Santa Barbara County Sheriff Department for service on Tribal lands; however, with the creation of the SYTPD, any agreement would supplement law enforcement services in the region with the potential to increase service levels compared to existing conditions.

L1-29

Refer to **General Response 1.3** regarding impacts to fire protection services and the mitigation proposed to ensure the SBCFD would have jurisdiction and authority on the project site.

L1-30

As it is also in the best interest of the Tribe, structures on the project site would be constructed with fire safety concerns in mind and BMPs included in Sections 2.2.10 and 2.3.1 of the EA related to fire structural safety would be implemented. Refer to **General Response 1.3** regarding the applicability of State and local codes and ordinances if the Proposed Action is approved.

- L1-31 The commenter uses the SYVCP methodology to estimate projected student growth associated with the proposed 143 new residences as 22.78 elementary students, 15.73 middle school students, and 25.74 high school students. The commenter goes on to state that, per the Santa Barbara Environmental Thresholds and Guidelines Manual, school impact are considered significant when a project generates sufficient students to require an additional classroom (assuming 29 students per classroom for elementary/junior high students and 28 students per classroom for high school students). Accordingly, the proposed 143 residences do not exceed the County threshold for school impacts. Regardless, the Tribe is committed to further reducing the impacts of the project alternatives; refer to **General Response 1.11** regarding impacts related to public school services.
- L1-32 Refer to **General Response 1.8** regarding impacts to water resources. Comments regarding the Santa Barbara County Environmental Thresholds and Guidelines Manual (SBC Thresholds Manual) threshold and other data on the Uplands Basin are noted. If the Proposed Action is approved, the Tribe would enforce water quality standards consistent with federal guidelines and standards. As stated in Section 11.A.1 of the SBC Thresholds Manual “(t)he groundwater Thresholds of Significance apply to all projects subject to discretionary review by the County of Santa Barbara.” The Proposed Action and project alternatives are federal and Tribal actions and therefore are not subject to discretionary review by the County. Accordingly, the thresholds within the SBC Thresholds Manual are not applicable to the Proposed Action and project alternatives. Furthermore, the availability of groundwater within the Uplands Basin presented in the Final EA was referenced from several documents including the SYVCP and the SYVCP Environmental Impact Report (EIR). The commenter states that the Uplands Basin is currently in a state of overdraft; however, the commenter does not provide references to support this conclusion beyond “(PW).” The reference is not recognized by the BIA and does not supersede the references of the SYVCP presented in the Final EA.
- L1-33 The commenter assumed that special events at the Tribal facility would have 1,000 attendees per event and would result in approximately 2,440 pounds of solid waste generated, equating to 122 tons per year. However, as stated in Section 2.3 of the Final EA, special events at the Tribal facility would accommodate up to approximately 400 attendees. Therefore, the use of a maximum of 400 attendees per special event to evaluate the impacts related to solid waste services is appropriate, as analyzed in Section 4.2.9 of the Final EA. Accordingly, Alternative B would generate 223 tons of solid waste per year (173 tons for Tribal facilities, housing, and related support facilities and 50 tons for special events at the Tribal facilities). Of note, this analysis represents the worst-case-scenario as there will not be a substantial increase in population of the region associated with Alternatives A and B as the majority of potential residents already reside in the Santa Ynez Valley and surrounding areas, as discussed in Section 4.1.6 of the EA.

L1-34 The County Public Works Department, Resource Recovery and Waste Management Division proposes to modify the operation of the Tajiguas Landfill to add a Materials Recovery Facility (MRF), which would recover recyclables and organics from municipal solid waste and process commingled source separated recyclables, and a Dry Fermentation Anaerobic Digestions (AD) Facility, which would generate bio-gas and compost and/or soil amendments (Tajiguas Resource Recovery Project). The proposed MRF and AD Facility would reduce the amount of materials entering the landfill and would extend the landfill life by approximately 10 years to 2036. A Draft Subsequent Environmental Impact Report was prepared for the Tajiguas Resource Recovery Project and was available for public review and comment through September 24, 2014 (SBC, 2014). If the proposed Tajiguas Resource Recovery Project is ultimately not approved, informal conversations with Tajiguas Landfill staff indicate that another diversion or waste reduction project will be developed to extend the landfill life and accommodate existing and future demands in the region. Therefore, the conclusions within the Final EA accurately conclude that implementation of the Proposed Action and future housing development by the Tribe would not adversely impact solid waste facilities.

Furthermore, although not discussed in the Final EA, the Tribe could pursue expanding the solid waste services at the existing Chumash Casino Resort to the project site. The municipal solid waste is transported from the Chumash Casino Resort to either the Chicago Grade or the Kettleman Hills Municipal Waste Facility (also known as CWMI and KHF) (Beatty, 2014).

The Chicago Grade Landfill is a Class III landfill located in the City of Templeton, California. The Landfill accepts municipal solid waste and other wastes. The maximum permitted throughput is 500 tons per day, and the landfill currently handles an average throughput of 350 tons per day. As of May 1, 2007, the landfill had over 8.3 million cubic yards of remaining capacity, and it is estimated that the landfill had a remaining capacity of 4.26 million cubic yards at the end of 2013. The Chicago Grade Landfill is permitted to a maximum capacity of 8.95 million cubic yards. The estimated closure date is December 31, 2042 (CalRecycle, 2014a; Fieguth, 2014; USEPA, FEECO, CalRecycle, 2006).

The Kettleman Hills Municipal Waste Facility is a Class II and III landfill located in Kettleman City of Kings County, California that accepts municipal solid waste and other wastes. The maximum permitted throughput is 2,000 tons per day, and the landfill currently handles an average throughput of 850 tons per day (Class II and III combined) (CalRecycle, 2014b; Sook, 2014). The landfill has approximately 16 million cubic yards of remaining capacity of its maximum permitted capacity of 17.8 million cubic yards (Sook, 2014). Based on project waste streams, the closure date for the landfill is estimated to be 2051 (Sook, 2014).

Alternative A would generate approximately 157 tons of solid waste per year, an average of 0.4 tons per day. Alternative B would generate approximately 223 tons of solid waste per year, an average of 0.6 tons per day. Either landfill would have the capacity to accommodate the project alternatives.

- L1-35 Refer to **General Response 1.3** regarding the responses to comments received by the California Department of Transportation (Caltrans) on the 2013 EA.
- L1-36 Refer to **General Response 1.3** regarding jurisdiction over installation of signals at County or State controlled intersections
- L1-37 Refer to **General Response 1.3** regarding impacts associated with oak trees.
- L1-38 The Final EA, including proposed mitigation, was prepared in accordance with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook. Refer to **General Response 1.3** regarding the effectiveness of the oak tree mitigation measures.
- L1-39 Refer to **General Response 1.9** regarding impacts to VPFS.
- L1-40 The commenter cites *Sierra Club v. Babbitt* (69 F. Supp. 2d 1202 [E.D. Cal. 1999]), arguing that it stands for the proposition that an EIS is required simply because the Proposed Action is controversial. But the *Sierra Club* decision does not support that proposition. To the contrary, the *Sierra Club* court concluded that an EIS was required for the reconstruction proposed for a highway from Yosemite National Park's western boarder to the Pohono Bridge because it concluded plaintiffs had raised significant concerns about the impacts of the project under NEPA and the Wild and Scenic Rivers Act. Whether the reconstruction project was controversial did not enter into the court's analysis. Additionally, the Sierra Club submitted expert evidence from agency specialists to support its contention that the highway reconstruction project would have a significant impact on the environment (*Sierra Club v. Babbitt*, 69 F. Supp. 2d at 1219). Here, the commenter has no such support for its conclusory assertions, instead simply arguing that the Proposed Action is controversial because the County uses a different policy to evaluate impacts to agricultural land than the federal government uses and because the commenter states, without further explanation, that it "disputes evidence of impacts." Refer to **General Response 1.3** for further discussion regarding the use of the Farmland Conversion Impact Rating (FCIR) system and applicability of County policies to the Proposed Action.
- L1-41 Comment noted. Refer to **General Response 1.3** regarding the applicability of County policies to the Proposed Action and the requirements to prepare an EIS. Refer to **General Response 1.3** regarding the responses to comments received by the Caltrans on the 2013 EA; as Caltrans did not submit additional comments on the Final EA, it can be concluded that any

confusion or question has been addressed. Refer to **General Response 1.8** regarding impacts to water resources.

- L1-42 Refer to **General Response 1.6** regarding impacts to agricultural resources, water, waste, traffic, schools, fire, emergency and sheriff services, and parks and recreation.
- L1-43 Refer to **General Response 1.3** regarding the analysis of impacts to visual resources and rural character of the area. The analysis of impacts to visual resources provided in the Final EA was prepared in accordance with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook and concluded that no adverse impacts would occur with implementation of the project alternatives given the project design and incorporated BMPs. Further analysis, such as preparation of a visual rendering of the proposed development, is not necessary.
- L1-44 Refer to **General Response 1.3** regarding the requirements to prepare an EIS.
- L1-45 The commenter cites *Bark v. Northrop* (2014 WL 1414310 [D. Or. April 11, 2014]), *O'Reilly v. U.S. Army Corps of Engineers* (477 F.3d 225, 231[5th Cir. 2007], and *National Parks & Conservation Association v. Babbitt* (241 F.3d 722, 734 [9th Cir. 2001] in support of its argument that the mitigation measures in the EA are inadequately detailed. None of these cases support the commenter's argument, nor do the cases turn on whether the mitigation proposed in the EA was adequate.

In *Bark*, which involved a challenge to an EA for a tree thinning project in the Mt. Hood National Forest, a federal district court in Oregon found an EA was sufficient despite plaintiffs' unsupported contention that the BMPs discussed in the EA would not be fully implemented (2014 WL 1414310 at \*12–13). The *Bark* court disagreed that the measures would not be effectively implemented, and further noted that “[a]n agency’s decision to forego issuing an EIS may be justified by the presence of mitigating measures” (*Bark*, 2014 WL 1414310 at \*12, quoting *Wetlands Action Network v. United States Army Corps of Eng’rs*, 222 F.3d 1105, 1121 [9th Cir. 2000]). Finally, the *Bark* court also rejected the plaintiff’s argument that an EIS should be prepared because the project was highly controversial, stating: “A disagreement in opinion does not undermine the validity of the EA” (*Bark*, 2014 WL 1414310 at \*16). These findings from *Bark* support the EA.

In *O'Reilly*, the Fifth Circuit, held that the Army Corps of Engineers erred in issuing a FONSI because the EA failed to articulate how mitigation measures would render adverse environmental impacts insignificant, among other reasons. Here, the EA does discuss and contain an analysis of mitigation measures, along with a description of how the mitigation measures will render the adverse environmental impacts insignificant, which is contained through Sections 4.0 and 5.0 of the EA.

*National Parks & Conservation Association* involved a challenge to the National Park Service’s failure to prepare an EIS before increasing the number of cruise ships that could enter into Glacier Bay. The Ninth Circuit criticized the Park Service for issuing a FONSI for the EA, stating that the agency ignored its own data “revealing very definite environmental effects” of the increased cruise ship traffic effects on humpback whales and other protected species. In addition, the EA admitted that the intensity or practical consequences of the increased cruise ship traffic on the protected species was “unknown” (*Nat’l Parks & Conservation Ass’n*, 241 F.3d at 729). Here, in sharp contrast, the EA identifies the potential environmental impacts and analyzes the effects and proposed mitigation for all known impacts throughout Section 4.0 of the EA.

Refer to **General Response 1.9** regarding impacts to VPFS and CRLF. Refer to **General Response 1.3** regarding the sufficiency of proposed mitigation measures and requirements to prepare an EIS. Refer to **General Response 1.5** regarding the environmental baseline and project timeline.

- L1-46 The commenter is correct that the mitigation measures included in Section 5.0 of the Final EA often refer to the BMPs and/or protective measures outlined in Section 2.0 of the Final EA. However, the commenter fails to acknowledge that the mitigation measures included in Section 5.0 of the Final EA often refer to the BMPs and/or protective measures outlined in Section 2.0 of the Final EA only as part of the project design and go on to present actual mitigation measures to reduce potential impacts to a minimal level where necessary. For example, as stated in Section 5.1 of the Final EA, “Implementation of the protective measures and Best Management Practices (BMPs) described in Section 2.0 [of the Final EA], along with the mitigation measures below, shall minimize potential impacts related to soils.” Refer to **General Response 1.3** regarding requirements to prepare an EIS.

The commenter cites *Wilderness Society v. Bosworth* (118 F. Supp. 2d 1082 [D. Mont. 2000]) for the argument that the EA is insufficient because it does not adequately discuss the required BMPs. In that case, a federal district court in Montana concluded that an EIS’s discussion of the action’s BMPs was insufficient because the description of those practices failed to address, or even mention, the risk posed by landslides to stream quality. Since the BMPs did not address risks posed by landslides, they could not serve as grounds for the EIS’s conclusion that there would be no effect on water quality (*Wilderness Soc’y*, 118 F. Supp. 2d at 1106–1107). However, in this EA, the mitigation measures combined with the protective measures and BMPs address all potential impacts of the Proposed Action, as discussed throughout Section 4.0 of the EA.

The County also cites *Blue Mountains Biodiversity Project v. Blackwood* (161 F.3d 1208 [9th Cir. 1998]) for the same argument. In *Blue Mountains*, the Ninth Circuit held that an EA was insufficient because the EA’s conclusion that a logging project would not have significant

environmental impacts based on an analysis of BMPs applicable to forest conditions that no longer existed:

The Forest Service's reliance on these BMPs, however, is based on "past observations of logging on unburned areas" with similar soil types where BMPs have prevented "large increases" in erosion. We find nothing in the EA to support the Forest Service's conclusion that the proposed BMPs will be adequate in a severely burned area where increased levels of erosion have already occurred (*Blue Mountains*, 161 F.3d 1208 at 1214).

In this EA, the analysis of BMPs applies to current conditions of the project site and surrounding environment.

The commenter states that "With respect to visual resources, the Final EA only refers to BMPs in Section 2.0 as mitigation" when, in fact, the mitigation discussion in Section 5.12 of the Final EA does not refer to mitigation but instead to BMPs and/or protective measures outlined in Section 2.0 of the Final EA. Section 5.12 of the Final EA does not include additional mitigation to reduce the impacts to visual resources because further mitigation is not necessary for Alternatives A and B, as discussed in Sections 4.1.12 and 4.2.12 of the Final EA. Finally, the argument that the EA is insufficient because it relies solely on BMPs to reduce the Proposed Action's impact on visual resources is flawed because, as another case cited by the commenter shows, it is entirely permissible for an EA to rely solely on BMPs to support a finding of no impact:

Here, Plaintiff argues that the Forest Service lacks an adequate monitoring program and suggests that the mitigation measures will not be effective. Pl.'s MSJ 30. The legal authorities cited by Plaintiff focus on the sufficiency of mitigation measures to determine whether an EIS is required. Plaintiff does not explain how the BMPs or project design criteria are insufficient, undeveloped, or not supported by data (*Bark v. Northrop*, 2014 WL 1414310 at \*13).

L1-47 The effectiveness and implementation plan for mitigation measures are discussed throughout Section 4.0 of the EA. For example, as stated in Section 4.1.9 of the Final EA:

Construction-related impacts include the potential for fire threat associated with equipment and vehicles coming into contact with wildland areas. Construction vehicles and equipment such as welders, torches, and grinders may accidentally spark and ignite vegetation or building materials. The increased risk of fire during the construction of the proposed facilities would be similar to that found at other construction sites. Since the project site is in

an area classified as a High Fire Hazard Zone (CAL FIRE, 2012), construction activities may result in adverse impacts related to fire and medical responses services. With the implementation of the BMPS described in Section 2.2.10 [of the Final EA] and the mitigation measures described in Section 5.9 [of the Final EA] construction-related adverse impacts would be minimal.

Further, it is reiterated in Section 5.9 of the Final EA, in the text immediately preceding a list of fire protection mitigation measures, including a requirement that fire extinguishers shall be maintained onsite and inspected regularly, that “Implementation of the protective measures and BMPs described in Section 2.0 [of the Final EA] along with the mitigation measures below would ensure that the construction and operation of Alternatives A or B would not have significant adverse impacts on fire and emergency services.”

- L1-48 Refer to **General Response 1.8** regarding impacts to groundwater supply.
- L1-49 Refer to **General Response 1.3** regarding the effectiveness of the oak tree mitigation measures, including as the mitigation relates to habitat fragmentation, removal of understory, alternation of drainage patterns, disruption of the canopy, and disruption of animal movement.
- L1-50 The commenter is correct that the Special Distribution Fund (SDF) is intended to offset the impacts related to casinos, and the Proposed Action does not include a casino component. However, the mitigation measure that requires fire service agreements does not require the SDF be used to offset impacts of the Proposed Action. As stated in the mitigation measure in Section 5.9 of the Final EA:

Prior to development of the project site, the Tribe will either:

- Grant permission to the Santa Barbara County Fire Protection Department (SBCFD) to enter the project site after it has been taken into trust while maintaining the Tribe’s existing funding of the SBCFD via the Special Distribution Funding and/or other grant programs; or
- Enter into a new agreement with the SBCFD to provide fire protection and emergency response services on the project site after it has been taken into trust. As part of this agreement, the SBCFD will ensure it has either revised its existing or entered into a new Cooperative Wildland Fire Management and Stafford Act Response Agreement (Cooperative Agreement), as necessary, with the California Department of Forestry and Fire Protection (CAL FIRE)

such that the SBCFD is authorized to provide fire protection and emergency response services on the project site after it has been taken into trust.

The SDF is simply one piece of funding that the SBCFD receives to reduce impacts related to serving trust land, and the purpose of the first option for mitigation is to ensure all funding would continue in its current state. Alternatively, the Tribe can fulfill the mitigation measure by establishing a new agreement with SBCFD. The commenter states there is no indication a new agreement will be reached. This is noted; hence, the mitigation presents the two options to reduce impacts related to fire protection and emergency services. It should also be noted that the Chumash Wildland Fire Department will be able to provide fire protection services to the project site, especially during the period prior to the expiration of the term of the Williamson Act Contract.

The commenter is correct that no mitigation was proposed to reduce the impacts of the project alternatives related to law enforcement services. This is because impacts of the project alternatives to law enforcement services would be less than significant and no mitigation is required, as discussed in Sections 4.1.9 and 4.2.9 of the Final EA.

- L1-51 The Mitigation Monitoring and Enforcement Program (MMEP) included with the FONSI (**Attachment C**) specifies the timing and responsible party for ensuring mitigation is implemented. Refer to **General Response 1.11** regarding public services, including law enforcement.
- L1-52 Refer to the responses to **Comments L1-46** through **L1-51** regarding mitigation measures for water resources, biological resources, transportation and circulation, public services, and visual resources. Refer to **General Response 1.3** regarding the requirements to prepare an EIS.
- L1-53 Refer to the response to **Comment L1-14** regarding the relevancy of *Anderson v. Evans* (371 F.3d 475, 494 [9th Cir. 2004]), *Native Ecosystems Council v. U.S. Forest Service* (418 F.3d 953, 964 [9th Cir. 2005]) and *Sierra Nev. Forest Protection Campaign v. Weingardt* (376 F. Supp. 2d 984, 990–992 [E.D. Cal. 2005]) do not contain facts comparable to the Proposed Action in the context of the comment. The EA was prepared in accordance with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook; refer to **General Response 1.3** for further discussion as to how the EA presents the BIA with a “hard look” at the Proposed Action.
- L1-54 Refer to the response to **Comment L1-53** regarding *Sierra Nev. Forest Protection Campaign v. Weingardt* (376 F. Supp. 2d 984, 990–992 [E.D. Cal. 2005]). The project alternatives assume an average household size of 2.61 persons (U.S. Census, 2010a) regardless of

accessory structures. Refer to **General Response 1.3** regarding the adequacy of the project description provided in the Final EA.

- L1-55 The Final EA contains adequate detail to analyze the impact of the proposed Tribal facilities. As stated in Section 2.3 of the Final EA, “the tribal facilities would include development of a meeting hall...[that] would be open to tribal members and their guests for tribal events, functions, and ceremonies. The facilities would also be open to tribal residents of the site as a gathering place for socializing and recreation with capacity to accommodate up to approximately 400 attendees plus vendors...[and] It is anticipated that the tribal development would... result in up to 100 events per year being held at the facilities.” A breakdown of the components of the proposed tribal facilities, including square footage and proposed use, is displayed in Table 2-2 of Section 2.3 of the Final EA. The detailed descriptions provided allowed the BIA to take a “hard look” at the potential impacts, and the information was incorporated where appropriate into the analysis of impacts in Section 4.0. For example, Tribal facility trips were estimated using the trip generation rate for land use category 495 Recreational Community Center published in the ITE *Trip Generation* Manual for all 12,042 square feet of development, as discussed in Section 4.2.7 of the Final EA.
- L1-56 The Final EA analyzed impacts to agricultural resources in accordance with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook; refer to **General Response 1.6** for further discussion. Refer to **General Response 1.3** regarding the analysis of Proposed Action’s compatibility with and impact on adjacent land uses. Similar to the surrounding agricultural lands, the proposed open space and recreational area is and would remain private property, and trespassing laws are and would continue to be enforced; it is not anticipated that the proposed open space and recreational area would serve as a segway for public access to adjacent agricultural areas.
- L1-57 Refer to responses to **Comments L1-16, L1-17, and L1-19** regarding impacts to grazing land.
- L1-58 Refer to **General Response 1.3** regarding the use of FCIR system in analysis of impacts to agricultural resources.
- L1-59 Refer to **General Response 1.3** regarding analysis of the incompatibility of the project alternatives with the existing land use as well as the visual impacts of Alternative B.
- L1-60 Refer to **General Response 1.3** regarding the requirements to prepare an EIS. Refer to **General Response 1.6** regarding the impact to agricultural resources and public services.

- L1-61 Refer to **General Response 1.3** regarding SBCFD’s jurisdictional or response authority to the project site as well as the implications of the Cooperative Wildland Fire Management and Stafford Act Response Agreement if the Proposed Action were approved.
- L1-62 As stated in Section 4.1.9 and 4.2.9 of the Final EA, implementation of Alternative A or B would result in an increase demand for fire protection services. The proposed 3,000 to 5,000 square foot residences are consistent with existing residences in and around the community of Santa Ynez, and the existing fire equipment and staff that would respond to a house fire in the community of Santa Ynez would be available to respond to a house fire on the project site. Implementation of the mitigation measures included in Section 5.9 of the Final EA would ensure the potential increase in demands for fire protection services does not result in an adverse impact.
- L1-63 As discussed in Sections 4.1.2 and 4.2.2 of the Final EA, Alternatives A and B would require water storage for fire and emergencies. The location of these storage tanks would be dependent on site topography and the final location the Tribal residences. These water storage reservoirs would meet current standards for tank design and seismic requirements. The tanks would be sited at locations to allow advantageous gravity flow and would ensure adequate pressure to provide for fire protection, including of the proposed Tribal facility under Alternative B. Interior roads on the project site would accommodate fire suppression equipment under all project alternatives. Refer to **General Response 1.3** regarding the applicability of State and local codes and laws.
- L1-64 Refer to response to **Comment L1-50** regarding the SDF.
- L1-65 As stated in Section 4.1.9 of the Final EA, operation of Alternative A would not result in adverse impacts related to increased calls for services. However, it is noted that the existing agreement between the SBCFD and Tribe is limited to the existing Chumash Casino Resort; hence the mitigation in Section 5.9 of the Final EA includes a requirement that the Tribe “Grant permission to the Santa Barbara County Fire Protection Department (SBCFD) to enter the project site after it has been taken into trust while maintaining the Tribe’s existing funding of the SBCFD via the Special Distribution Funding and/or other grant programs.” The inclusion of the other funding mechanism (“other grant programs”) would ensure adequate funds are available to maintain current service levels. The second option of the mitigation measure to “Enter into a new agreement with the SBCFD to provide fire protection and emergency response services on the project site after it has been taken into trust” was included as an option should the Tribe desire to obtain a separate agreement for the project site.
- L1-66 Refer to **General Response 1.11** regarding impacts to law enforcement.

L1-67 through L1-69

Refer to **General Response 1.3** regarding the adequacy of analysis of the cumulative impacts of the Proposed Action, including as related to *Te-Moak Tribe of Western Shoshone of Nev. v. U.S. Dept. of Interior* (608 F.3d 592, 603 (9th Cir. 2010)). In *Te-Moak*, the Ninth Circuit held that an EA was insufficient because it failed to analyze the cumulative impacts of a mining project that was already being planned. Rather than identifying and analyzing the cumulative impacts of the planned project, the EA's section on cumulative or indirect effects simply stated these effects would be mitigated. In contrast, the Final EA incorporated planned projects as appropriate into the near term and cumulative analyses presented in Section 4.0, including the Tribal Cultural Center Project; refer to **General Response 1.12** for further discussion.

Refer to **General Response 1.5** regarding the environmental baseline and project timeline.

L1-70

Refer to **General Response 1.3** regarding analysis of the incremental impacts of past, present, and reasonably foreseeable future actions and compliance of other projects with even with codes, standards, and ordinances as related to reducing cumulative impacts.

The commenter is correct that “the combined need for public services may create a cumulative impact,” as stated in Section 4.4.10 of the Final EA. As further stated therein, “However, all approved and pending projects on fee land in the Santa Ynez Valley would be subject to review by local governments and would include provisions for public services. Implementation of the Tribe’s hotel expansion project would require mitigation for all off-reservation impacts, including those towards public services and utilities.” Here, detailed quantification of every single impact is not necessary given the fact that the environmental review process required for all reasonably foreseeable projects would reduce impacts to public services to less-than-significant levels.

Past, present, and future projects contribute to a region’s air quality conditions on a cumulative basis; therefore, by its very nature, air pollution is largely a cumulative impact. If a project’s individual emissions contribute toward exceedance of the National Ambient Air Quality Standards (NAAQS), then the project’s impact on air quality would be cumulatively considerable. In developing attainment designations for criteria air pollutants (CAPs), the U.S. Environmental Protection Agency (USEPA) considers the regions past, present, and future emission levels. As shown in Tables 4-1 and 4-2 in Section 4.1.3, Tables 4-10 and 4-11 in Section 4.2.3, and Table 4-18 in Section 4.4.3 of the Final EA, project-related emissions would not exceed the *de minimis* levels, which are developed by the USEPA taking into account a project’s individual contribution to the cumulative air quality environment. Therefore, the air quality analysis provided in the Final EA analyzes the project alternatives’ contribution to air quality when considering other past, present, and future projects.

L1-71 *Friends of Yosemite Valley v. Kempthorne* (520 F.3d 1024, 1038 [9th Cir. 2008]) does not contain facts comparable to the Proposed Action. Refer to **General Response 1.3** regarding the range of alternatives analyzed within the Final EA. The presence of existing zoning that allows for some residential development is not enough to assume development will occur in the future; the Tribe is the existing owner in fee of the project site and has no plans to develop additional housing if the Proposed Action is not approved.

L1-72 Refer to **General Response 1.3** regarding the range of alternatives analyzed within the Final EA, including development on alternative locations. The commenter cites *Ilio'ulaokalani Coalition v. Rumsfeld* (464 F.3d 1083 [2006]), a case which involved a challenge to the U.S. Army's failure to adequately consider alternatives to its plan to transform its combat teams, which involved significant changes to land use for facilities. In that case, the Army had conducted "no analysis of alternative sites" (464 F.3d 1083 at 1096). The commenter erroneously contends that this case supports its argument that the EA was required to consider alternative residential housing sites.

Here, the Proposed Action by definition is tied to a specific geographical area. The purpose of the project is to provide Reservation-based housing to Tribal members because the current Reservation areas are developed to capacity. As stated in Section 1.3 of the Final EA, part of the purpose and need of the Proposed Action is to "protect the Tribe's heritage and culture by ensuring existing and future generations are afforded the ability to live under tribal governance as a community." This requires land already owned by the Tribe, near the existing Reservation, with enough area to accommodate the required housing. In particular, lands in the immediate vicinity of the existing Reservation are necessary to promote a community and unity between residences of the existing Reservation and potential residents of the project site. The commenter does not offer any alternative site that falls within the scope of the purpose and need of the Proposed Action, because there is none.

L1-73 Refer to **General Response 1.3** regarding the range of alternatives analyzed within the Final EA, including taking fewer parcels into trust and the rationale for the proposed number of residential units. The commenter fails to acknowledge that the proposed housing development also requires area for utilities and other supportive infrastructure as well as the fact that the proposed trust acquisition includes the Tribe's existing economic operations on the project site (e.g. the vineyard).

L1-74 As stated in Section 1.3 of the Final EA, a rebuild of the existing Reservation to accommodate additional housing would be difficult because:

The current Reservation lands are highly constrained due to a variety of physical, social, and economic factors. A majority of the lands held in Trust for Santa Ynez are located in a flood plain. This land is not suitable for

much, if any, development because of flooding and drainage problems. The irregular topography and flood hazards are associated with the multiple creek corridors which run throughout the property resulting in severe limitations of efficient land utilization. The current reservation has a residential capability of approximately 26 acres or 18% of the Reservation and an economic development capability of approximately 16 acres or 11% of the Reservation. The remaining 99 acres or 71% of the Reservation is creek corridor and sloped areas which are difficult to impossible to develop. Therefore, the size of the usable portion of the Santa Ynez Reservation amounts to approximately 50 acres, much of which has already been developed...[Additionally,] it is difficult to cancel any existing land assignment on the Reservation.

If the Proposed Action is not approved, future development on the Reservation “would likely include the construction of several multi-level structures” to accommodate Tribal growth, as stated in Section 2.4 of the Final EA. However, these multi-level housing structures would not accommodate all future generations of Tribal members, would not achieve the stated purpose and need of the Proposed Action, and therefore do not constitute a reasonably foreseeable alternative at this time.

L1-75 Refer to **General Response 1.3** regarding the requirements to prepare an EIS.

L1-76 through L1-84

These comments are references and documentation included as attachments to the comment letter to support the discussion within **Comments L1-01** through **L1-75**. These attachments are noted, and the responses to **Comments L1-01** through **L1-75** respond to the information contained within these attachments.

## **Response to Comment Letter L2 – Mona Miyasato, County Executive Officer, County of Santa Barbara**

L2-01 Refer to **General Response 1.2** regarding requests to extend the comment period.

## ***Private Citizens/Commercial Entities Comment Letters (P)***

### **Response to Comment Letter P1 – The Board of Preservation of Los Olivos (P.O.L.O.)**

P1-01 Refer to **General Response 1.3** regarding comments on the 2013 EA.

### **Response to Comment Letter P2 – Kathy Cleary, Preservation of Los Olivos (P.O.L.O.)**

P2-01 Comment noted.

- P2-02 Refer to **General Response 1.3** regarding comments on the 2013 EA. It is noted that the commenter wishes to incorporate all comments on the 6.9 acre fee-to-trust appeal and on the 5.68 fee-to-trust application, including the 2005 Letters from the Office of the Governor, and comments on other documents related to the Tribe. As those comments are on other projects proposed prior to the release of the 2013 EA, those comments do not constitute substantive comments on the Proposed Action and project alternatives; refer to **General Response 1.1** regarding non-substantive comments.
- P2-03 Comment noted.
- P2-04 Refer to **General Response 1.3** regarding incompatibility with existing land use plans, regulation over future development, the purpose of the fee-to-trust process compared to the County process, and site plans and development being considered for the project site. Refer to **General Response 1.1** regarding expressions of opinion/non-substantive comments.
- P2-05 Refer to **General Response 1.3** regarding comments on the 2013 EA, other documents associated with the Proposed Action and project alternatives, the Tribe's legal status, the role of the BIA in fee-to-trust projects, regulation over future development, site plans and development being considered for the project site, the requirements to prepare an EIS, and the TCA. Refer to response to **Comment P2-02** regarding comments on other projects, applications, and documents related to the Tribe.
- P2-06 It is unclear what the commenter means by stating that "the EA fails to address 'commercial enterprises.'" The EA addresses commercial enterprises as appropriate throughout the document. For example, agricultural operations as a component of the project alternatives is discussed in Sections 2.2, 2.3, and 2.4 of the Final EA, and impacts to water resources associated with operation of the agricultural operations are evaluated in Sections 4.1.2, 4.2.2, 4.3.2, and 4.4.2 of the Final EA.
- P2-07 Impacts to water are discussed in Sections 4.1.2, 4.2.2, 4.3.2, and 4.4.2 of the Final EA. Refer to **General Response 1.8** regarding impacts of the Proposed Action and project alternatives to groundwater. The Tribe holds federally reserved water rights ("Winters Rights"), as discussed in Section 3.2 of the Final EA.
- P2-08 Refer to **General Response 1.3** regarding the TCA and the applicability of the Comprehensive Plan, SYVCP, and other local planning and land use documents to the Proposed Action and project alternatives. The Tribe is required to comply with State and local laws, where applicable; State and local laws generally do not apply on Tribal trust land. The commenter cites *Hawaii v. Office of Hawaiian Affairs* (129 S. Ct. 1436) to support their claim that applicable State and local laws apply regardless of whether lands are taken in to trust or not. In *Hawaii*, the question came from the applicability of Hawaiian State law given

- the Apology Resolution and its establishment of trust land. The U.S. Supreme Court ruled that the State of Hawaii had the right to transfer publicly held land for private development as the language of the Apology Resolution did not indicate the creation of new substantive rights that could limit the actions of Hawaii and therefore State law was applicable. Here, the law is clear and the federal government would hold the land in trust for the Tribe. Refer to **General Response 1.3** regarding the lack of authority of states and local agencies, including requirements outlined within the SYVCP, over tribal governments unless specifically authorized by the U.S. Congress.
- P2-09 Refer to **General Response 1.3** regarding analysis of impacts related to crime. Additionally, the Tribe has since planned to establish a Tribal Police Department to patrol the project site if the trust acquisition is approved; refer to **General Response 1.11** for further discussion.
- P2-10 Comment noted. Refer to **General Response 1.3** regarding the cultural significance of the project site to the Tribe.
- P2-11 Refer to **General Response 1.7** regarding the Williamson Act.
- P2-12 Refer to **General Response 1.3** regarding analysis of impacts related to a scenic highway and recorded easements.
- P2-13 Refer to **General Response 1.3** regarding BIA's involvement with the EA and NEPA environmental review process.
- P2-14 Refer to **General Response 1.3** regarding the requirements for an EIS and completeness of the EA.
- P2-15 and P2-16 Refer to **General Response 1.3** regarding comments on the 2013 EA and other documents related to the Proposed Action.

### **Response to Comment Letter P3 – Kristina Petersen**

- P3-01 Refer to **General Response 1.3** regarding impacts to oak trees and other plants, impacts to water supply, impacts to traffic, concerns related to the existing Chumash Casino Resort, the purpose of the fee-to-trust process compared to the County process, and regulation of future development including a casino on the project site. Refer to **General Response 1.11** regarding impacts to public schools. A golf course is not a component of any of the proposed site plans included in Appendix N of the Final EA.
- P3-02 Refer to **General Response 1.3** regarding comments on other documents related to the Proposed Action.

**Response to Comment Letter P4 – Klaus M. Brown**

- P4-01      Comment noted. Refer to **General Response 1.3** regarding the TCA.
- P4-02      Refer to **General Response 1.2** regarding requests for an extension of the comment period.

**Response to Comment Letter P5 – Lawrence E. Hunt, Hunt Associates Biological Consulting Services**

- P5-01      Comment noted.
- P5-02      Comment noted. Refer to **General Response 1.3** as to why an EIS is not required.
- P5-03      Refer to **General Response 1.3** regarding the potential impacts to habitat for migratory birds and raptors. The EA was prepared in accordance with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook to examine potential environmental impacts associated with the trust acquisition and proposed development by the Tribe. Under these guidelines and in accordance with the BIA's requirements under ESA, a discussion of federally-protected nesting migratory birds and raptors is sufficient for an EA.
- P5-04      Refer to **General Response 1.3** regarding the function of wildlife corridors. A significant ecological function of corridors is to allow movement between patches of suitable habitat. To be considered suitable, corridors should demonstrate a connection between habitats that would qualify as a specific destination and surpass the relative habitat value of surrounding areas. Non-habitat land uses surround the exterior of the project site; these land uses do not provide higher habitat value relative to other areas nearby, nor do they constitute "destinations" that would warrant directional migratory movement. VPFS are not known to directionally migrate, making the value of a corridor to this species relatively low. CRLF dispersal is already limited by existing development such as roads and residential communities. Protecting the riparian corridor identified on the project site serves to maintain the function of a wildlife corridor by providing the best feasible route for CRLF to traverse the property. No other special-status species that might exhibit migratory behavior were identified to have the potential to use upland habitat within or in the immediate vicinity of the project site. Therefore, designating a riparian wildlife corridor as discussed in Sections 4.1.4 and 4.2.4 of the Final EA is sufficient to reduce impacts of the project alternatives.
- Regarding the commenter's suggestion that tracking cameras be utilized on the project site; the visual monitoring of wildlife movement could not be feasibly implemented, would not be practical, and would not provide useful data.
- P5-05      As discussed in Section 3.4.2 of the Final EA, biological and botanical surveys were completed on September 12-14, 2011, focused botanical surveys were conducted on March 7

through 9, 2012 and April 23 through 25, 2012, and follow-up biological and botanical surveys were completed on July 16 through 17, 2013. Because no federally listed special status plants were determined to have the potential to occur on the project site, these surveys (including the visual identification of all plants observed on site during September 2011 and July 2013) constitute a reasonable effort and are consistent with the requirements of NEPA.

- P5-06 Refer to **General Response 1.3** regarding the Tribal Oak Tree Ordinance and oak tree mitigation program.
- P5-07 Refer to **General Response 1.3** regarding vegetation mapping and habitat classification within the project site.
- P5-08 Refer to **General Response 1.3** regarding the oak mitigation program and how “no net loss” of oaks would be achieved. The planting and monitoring of survivorship as well as the indirect effects to wildlife species, such as resident-hole nesting species, would be included in the arborist report required as mitigation. As the Tribe would be the governing agency if the project site is taken into trust, the Tribe and associated environmental protection specialists would determine the limitations and feasibility of work within the dripline of oak trees. All actions would be conducted in accordance with the Tribe’s Tribal Ordinance Regarding Oak Tree Preservation for the Santa Ynez Band of Chumash Indians (Tribal Oak Tree Ordinance) (Santa Ynez Band of Chumash Indians General Council, 2000).
- P5-09 It is within the Tribe’s rights to select a qualified arborist; the Tribe may determine what constitutes the appropriate qualifications. The Tribe considers a qualified arborist as being accredited by the International Society of Arboriculture. The mitigation measure for oak trees under biological resources in the FONSI has been updated to state that an arborist with an accreditation by the International Society of Arboriculture will be selected.
- P5-10 Refer to **General Response 1.9** regarding additional mitigation proposed to reduce direct and indirect impacts to VPFS habitat, including pre-determined buffer zones and concurrence with the USFWS. Refer to **General Response 1.9** regarding USFWS’s concurrence letter issued on October 8, 2014 (**Exhibit D**).
- P5-11 The Final EA was prepared in accordance with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook to examine potential environmental impacts associated with the trust acquisition and proposed development by the Tribe. Under these guidelines, and in accordance with BIA’s requirements under the ESA, a discussion of federally-listed bat species is provided in Section 3.4 of the Final EA. No federally-listed bats were determined to have the potential to occur on the project site. The general wildlife surveys conducted for the project site did not identify any signs of bats, such as guano, present on the project site.

- P5-12 As stated in Section 2.0 of the Final EA, lighting would include emergency and nighttime security lighting at public facilities including parking lots, street intersections, and residential areas, and would be downcast and shielded in accordance with “dark sky” principles. The described lighting is the minimum amount necessary for public safety. The fixtures include shielding and down-directed lighting as recommended by the commenter. No lighting will be directed toward any stream channel.
- P5-13 Because the impact assessment in Sections 4.1.4 and 4.2.4 of the Final EA assumes presence, protocol-level VPFS surveys are not required. Mitigation measures developed in consultation with the USFWS would ensure impacts are reduced to minimal levels; refer to **General Response 1.9** for further discussion.
- P5-14 Refer to **General Response 1.9** regarding additional mitigation measures proposed to reduce potential impacts to CRLF. Surveys were performed for CRLF on the project site in September 2011, March and April 2012, and July 2013. Potential CRLF ponds located on adjacent properties were not surveyed because adjacent properties are privately owned lands. Because surveys are designed to focus on presence or absence of a federally-listed species such as CRLF on the project site, omitting surveys of off-site ponds due to restricted private property access is a reasonable action.
- P5-15 Comment noted. Concurrence was received from the USFWS that the BIA’s findings that the “proposed residential development of the 1,433-acre project site may affect, but is not likely to adversely affect the California red-legged frog and vernal pool fairy shrimp and its designated critical habitat” (**Attachment D**). This finding was made, in part, by the USFWS because the site does not support suitable breeding habitat for the CRLF and the Tribe will implement the protective measures presented in the BA. These measures have been included in the FONSI and incorporated into the Mitigation Monitoring and Enforcement Program (MMEP) included as **Attachment C** of the FONSI. Accordingly, the mitigation measure to require development outside the VPFS designated habitat is no longer applicable and was not included in the MMEP.
- P5-16 Comment noted. Refer to **General Response 1.3** regarding the adequacy of the biological resources surveys and analyses as well as for an explanation as to why an EIS is not required.

**Response to Comment Letter P6 – Linda Krop, Chief Counsel, Environmental Defense Center (on behalf of the Santa Ynez Valley Alliance)**

- P6-01 Comment noted.
- P6-02 Refer to **General Response 1.3** regarding repetitive comments regarding lack of alternatives, the adequacy of the biological resources, land use, and cumulative impacts analyses, as well

as for an explanation as to why an EIS is not required. Refer to the response to **Comment P6-03** regarding the commenter's more substantive comment concerning alternatives addressed within the Final EA.

P6-03 Refer to **General Response 1.3** regarding the range of alternatives considered within the EA. The commenter cites *Klamath-Siskiyou Wildlands Center v. U.S. Forest Service* (373 F. Supp. 2d 1069 [E.D. Cal. 2004]) to support the argument that the EA is inadequate because it does not analyze a reasonable range of alternatives. This case did not involve a fee-to-trust decision and thus it does not provide any support at all for this argument. The case is also irrelevant to this EA. In *Klamath-Siskiyou Wildlands Center*, a federal district court in California held that the EA under review was deficient because the only two action alternatives were essentially identical, as evidenced by the fact that the Forest Service analyzed them both together:

The two alternatives analyzed by the Forest Service are nearly identical, as is evidenced by the fact that the Forest Service analyzes them together throughout most of the EA. Both proposals contain identical quantities of timber harvest fuels treatment, pre-commercial thinning, and underburning, the largest component of the project in terms of impact. Alternative 2 differs in that it would spread timber harvest in the Hungry Creek SW over two years instead of one; change from tractor piling of underbrush to hand piling on 155 acres to reduce the risk of compaction and erosion of hillsides; decommission an additional 3.5 miles of road and close one additional road segment (*Klamath-Siskiyou Wildlands Ctr. v. U.S. Forest Serv.*, 373 F. Supp. 2d 1069, 1088 [E.D. Cal. 2004]).

Here, the EA included analysis of a No Action Alternative, as Alternative C, in addition to the two action alternatives. Further, the two action alternatives are significantly different as the first calls for five acre lots and the second calls for one-acre lots, among the most obvious differences, and therefore have significantly different impacts, which are analyzed separately in the Final EA.

P6-04 and P6-05

Refer to the response to **Comment P6-03** regarding alternatives addressed within the Final EA.

P6-06 Refer to **General Response 1.3** for discussion regarding agricultural resources and land use policies. As discussed in Section 4.2.8 of the Final EA, Alternative B would convert the same acres of unique farmland as Alternative A, but would convert fewer acres of farmland of local importance and grazing land. This project site received a Farmland Conversion Impact Rating (FCIR) score of 137 points for Alternative B, which is less than the threshold

of 160 points and therefore does not warrant consideration of alternative project locations. The impact to agricultural resources would therefore be minimal.

P6-07 Refer to **General Response 1.3** regarding the range of alternatives considered within the EA, the purpose and need of the fee-to-trust transfer, and an explanation as to why an EIS is not required. The commenter cites *Western Watersheds Project v. Abbey*, 719 F.3d 1035 (9th Cir. 2013) to support its argument that the EA is inadequate because it does not analyze a reasonable range of alternatives. This case did not involve a fee-to-trust decision and thus it does not provide any support at all for this argument. The case is also irrelevant. In *Western Watersheds Project*, the Ninth Circuit held that the Bureau of Land Management (BLM) had violated NEPA for failing to adequately assess the impacts of the issuance of a livestock grazing permit in Upper Missouri River Breaks National Monument. In that case, all of the alternatives analyzed involved the same level of grazing, which caused the court to conclude that BLM had not taken a “hard look” at the impact of grazing on the Watersheds Project (*Western Watersheds Project v. Abbey*, 719 F.3d 1035, 1050 [9th Cir. 2013]). Here, in sharp contrast, the alternatives analyzed three different levels of density of housing and other development, which have significantly different impacts on a variety of environmental measures such as drainage, water use, environmental resources, and land use. The commenter ignores the land use impacts that the different development densities will have on land resources, for example as stated in Section 2.5 of the Final EA, “Impacts to land resources would be proportionally greatest under Alternative A, due to the larger project footprint needed for construction would require 180,000 cubic yards of cut and 190,000 cubic yards of fill.” Unlike the grazing permit analyzed in *Western Watersheds Project*, the EA also considered Alternative C, a No Action Alternative, in addition to Alternatives A and B. At least one federal court, for the District of Oregon, has held that where a no action alternative is considered then *Western Watersheds Project* does not apply (*Wild Wilderness v. Allen*, 2014 WL 1477398 [D. Or. April 14, 2014]).

P6-08 Refer to **General Response 1.3** regarding the adequacy of the analysis of biological resources, land use impacts, local policies and ordinances, and an explanation as to why an EIS is not required.

P6-09 Refer to responses to **Comment Letter P5** regarding comments therein.

P6-10 Refer to **General Response 1.3** regarding the methods used to assess the potential of listed species to occur on the project site, including state-listed species and Species of Special Concern, as well as for an explanation as to why an EIS is not required.

The commenter cites *Sierra Club v. U.S. Forest Service*, 843 F.2d 1190 (9th Cir. 1988) in support of their argument that the EA is deficient because it failed to address potential impacts to species listed under the California Endangered Species Act. The case accurately

quotes the CEQ regulation that mandates consideration of State law. But here the EA adequately considered species listed under the California Endangered Species Act by surveying the project site and reporting that none of the species discussed by the commenter in its comments were located on the project site. The EA identified one State-listed species with the potential to occur on the project site (western pond turtle, *Emys marmorata*), but further noted “the likelihood of occurrence within the project boundaries is minimal” (Section 3.4.2 of the Final EA). The western pond turtle was not observed on the project site during the September 2011, March 2012, and April 2012 surveys.

- P6-11 Refer to **General Response 1.3** regarding applicability of County and local ordinances and guidelines following trust acquisition and the purpose of the Tribal Oak Tree Ordinance, including its similarities to ordinances developed for non-tribal lands (e.g. the County’s Deciduous Oak Tree Protection and Regeneration Code). If the trust action were approved, jurisdiction over the project site would shift from the State and County to the Tribe with oversight from the BIA and USEPA. Accordingly, because the County would no longer have jurisdiction over the project site and associated oak woodland resources, the project would not threaten to result in a violation of State or local law or requirements imposed for the protection of the environment as defined under the CEQ regulation for the implementation of NEPA [40 CFR 1508.27(b)(10)].
- P6-12 Potentially jurisdictional waters of the U.S., other than wetlands, were determined using the U.S. Army Corps of Engineers (USACE) regulations (33 CFR Part 328). As discussed therein, “the term ‘wetlands’ means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.” The USACE wetland and waters of the U.S. definition is sufficient because USACE is responsible for jurisdictional determinations and enforcing Section 404 of the Clean Water Act (CWA).
- P6-13 Refer to **General Response 1.3** regarding impacts to wetlands. No development would occur within the seasonal wetlands and/or swales on the project site or within the buffer zones demarcating these features. Refer to **General Response 1.9** regarding additional mitigation proposed to reduce direct and indirect impacts to wetlands, including pre-determined buffer zones established prior to construction activities.
- P6-14 The statement from the EA referenced by the commenter is in regards to off-Reservation projects and cumulative impacts and is not discussing trust land. As stated in the Final EA, sensitive habitats in the project vicinity are protected from development by County mitigation requirements, ensuring that there are no cumulative impacts to sensitive habitat (please refer to page 4-63 of the Final EA). Refer to **General Response 1.3** for discussion on why an EIS is not required.

- P6-15 Refer to the response to **Comment P5-08** regarding oak tree mitigation and monitoring. Refer to **General Response 1.3** for discussion regarding the feasible avoidance of oak trees.
- P6-16 Refer to response to **Comment P6-12** for discussion regarding the classification of wetlands on the project site. Refer to **General Response 1.3** regarding the avoidance of impacts to wetlands as required by mitigation.
- P6-17 Native grassland species on the project site are not abundant enough to constitute designation as a habitat type. As stated in Section 3.4 of the Final EA, dominant grassland vegetation was observed to be soft chess (*Bromus hordeaceus*), ripgut brome (*Bromus diandrus*), Bermuda grass (*Cynodon dactylon*), barnyard grass (*Echinochloa crus-gali*), wild oat (*Avena fatua*), and English plantain (*Plantago lanceolata*). Therefore, listing the grassland present on the project site as non-native, brome-based is accurate.
- P6-18 Refer to response to **Comment P5-11** regarding bat species on the project site.
- P6-19 Refer to **General Response 1.3** regarding the potential impacts to habitat for migratory birds and raptors. The EA was prepared in accordance with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook to examine potential environmental impacts associated with the trust acquisition and proposed development by the Tribe. Under these guidelines and in accordance with BIA's requirements under the ESA, the discussion of federally-protected nesting migratory birds and raptors in Section 3.4 of the Final EA is sufficient.
- P6-20 and P6-21  
The commenter is correct that Responses to Comments P998-33, P998-34, and P998-35 provided in Section 3.0 of Appendix O of the Final EA are irrelevant to Comments P998-33, P998-34, and P998-35 contained in Comment Letter P998—Santa Ynez Valley Alliance President Mark Oliver (which contained, as an attachment, comments from Lawrence, E. Hunt of Hunt and Associates Biological Consulting Services) in Section 2.0 of Appendix O of the Final EA. The commenter is also correct that there are no numbered Responses to Comments P998-42 through P998-46 in Section 3.0. The responses contained in Section 3.0 provided responses to all comments contained in Comment Letter P998, including through Comment P998-46; however, the responses were erroneously mis-numbered and did not directly correspond to the bracketed comments in Comment Letter P998 in Section 2.0. Comments P998-01 through P998-29 in Section 2.0 correspond to Responses to Comments P998-01 through P998-29 in Section 3.0. The mis-numbering began at Comment and Response to Comment P998-30. The responses from Section 3.0 are provided below and are re-numbered to correctly associate the response with the bracketed comment in Section 2.0 of Appendix O of the Final EA (~~strikeout~~ text is deleted; underline text is new).

P998-30 through P998-32

Comment noted. Refer to the responses to Comments P998-04 and P998-28 [in Appendix O of the Final EA] for a discussion of wildlife corridor features and associated mitigation for identified impacts. Implementation of the avoidance measures described in the BA (included as Appendix E of the EA) and Section 5.4.3 of the Final EA would aid to reduce effects of parcel development. However, except with regard to these measures and other applicable regulations, the Tribe shall determine the optimum placement of development. The commenter's recommendation to cluster development as to provide a smaller environmental footprint is noted.

~~P998-34~~34 The Arborist Report would be prepared by a qualified arborist selected by the Tribe, who would assess the trees currently present on the project site and develop a suitable mitigation plan for those trees which are concluded to be unavoidable. The comment that the trees in the existing vineyard area may provide suitable acorns is noted. For additional discussion of tree surveys and reporting, refer to General Response 3.1.16 [in Appendix O of the Final EA].

~~P998-32~~33 Comment noted. Status of "Open Space" areas on the project site would be considered by the Tribe.

P998-33~~35~~ and P998-36

It is acknowledged that the commenter was able to sufficiently view approximately 75 percent of the project site using only public roadways and binoculars, with no walking survey conducted. This differs from the protocol used by AES biologists and botanists to survey the project site as discussed in the response to Comment P998-11 [in Appendix O of the Final EA].

The commenter's consultation of pre-existing data sources was similar to that conducted by AES. AES performed CNDDDB searches of the ten quads surrounding the two central quads covered by the project site. Included in the text of the EA were the documented occurrences within the two central quads covered by the project site: Santa Ynez and Los Olivos. The response to Comment P998-10 [in Appendix O of the Final EA]

details the parameters used to assess the potential for federally-listed special-status species to occur on the project site.

~~P998-3437~~ Comment noted. While the comment provides a history of the past uses of the project site in and of itself, there is no comment on either the Proposed Action or the EA. No response is required.

~~P998-3538~~ Comment noted. While the comment provides a geological background of the project site, including soils that could support vernal pools, the comment does not comment on either the Proposed Action or the EA. No response is required.

~~P998-3639~~ through ~~P998-4146~~

The commenter provides a summary report of the existing biological resources setting for the project site; however, a pedestrian survey of the project site was not conducted by the commenter. The attachment does not provide a comment on the Proposed Action or EA, and therefore no response is required. Refer to the response to Comment P998-11 [in Appendix O of the Final EA] for a description of protocols used by AES during biological and botanical surveys performed to survey biological communities on the project site.

P6-22 Refer to **General Response 1.3** regarding the adequacy of the analysis of impacts to land uses, including the incompatibilities of the project alternatives with existing land uses, and the applicability of State and local laws if the Proposed Action is approved. In response to comments received on the 2013 EA, the potential conflicts with existing land uses were acknowledged and described consistent with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook; refer to **General Response 1.3** regarding the potential land use conflicts with surrounding agricultural fields related to an increased potential for trespassing and associated issues on, vandalism, nuisance complaints, decreased farming potential or loss of crop productivity, special agricultural management practices, theft, grass fires, traffic, and noise.

P6-23 The commenter cites *North Plains Resource Council, Inc. v. Surface Transportation Board*, 668 F.3d 1067 (9th Cir. 2011), in support of its argument that the EA is deficient because it fails to address potential and actual conflicts with the County's land use policies. In *North Plains Resource Council*, the Ninth Circuit held that an EIS did not comply with NEPA because it failed to collect and analyze baseline information for several potentially affected species, instead stating that the baseline data would be collected and analyzed as part of post-

- approval mitigation measures. Since the agency could not determine the effects of the proposed action without knowing the baseline condition of the potentially affected species, the EIS did not satisfy NEPA. Here, a baseline survey for species was conducted and is analyzed in the EA. In addition, the EA considered the conflicts between Alternatives A and B and the County's land use policies, and found the conflicts were not significant. Approval of the Proposed Action would result in the change of land use designation; therefore, the EA is not relying on future mitigation measures to address potential impacts but instead is realistically evaluating the potential impacts of the Proposed Action and subsequent project alternatives.
- P6-24 If the Proposed Action were approved, local policies and ordinances would not apply to the project site but would apply to surrounding lands, and adverse impacts to biological resources would be considered significant if Alternative A or B would conflict with local policies or ordinances protecting biological resources. Alternatives A and B would not impede the County's ability to enforce SYCVP Policy BIO-SYV-1, SYCVP Policy BIO-SYV-2, SYCVP Policy BIO-SYV-3, SYCVP Policy BIO-SYV-4, SYCVP Policy BIO-SYV-5, SYCVP Policy BIO-SYV-8, or SYCVP Policy BIO-SYV-9, including the actions and development standards associated with these policies, on lands within the County's jurisdiction. Refer to **General Response 1.3** for further discussion regarding the adequacy of analysis of impacts to biological resources.
- P6-25 Refer to **General Response 1.3** regarding assessment of impacts to wildlife corridors. Although the SYVCP DevStd BIO-SYV-3.1 is not explicitly stated in the Final EA, the analysis presented in Sections 4.1.4, 4.2.4, 4.3.4, and 4.4.4 of the Final EA clearly takes into consideration the intent of the development standard, that is, to avoid interruption of major wildlife travel corridors. For example, as stated in Section 4.1.4 of the Final EA, "Alternative A was designed to avoid the ephemeral drainage that provides a migratory corridor between the northern and western portion of the project site."
- P6-26 The commenter cites *Native Ecosystems Council v. Dombeck*, 304 F.3d 886 (9th Cir. 2002), in support of their argument that the EA is deficient because it failed to consider all potential cumulative effects of the project. In *Native Ecosystems Council*, the Ninth Circuit held that the U.S. Forest Service was required to analyze the cumulative impacts of changes in road density regulations made as part of an ongoing series of timber sales. But unlike the pre-planned sales in *Native Ecosystems Council*, here the EA appropriately considered all County and Tribal approved and/or pending development projects; refer to **General Response 1.12** for further discussion.

The commenter also suggests that the conversion of agricultural land would be encouraged by approval of the Proposed Action. But contrary to the commenter's argument, Section 4.4.8 of the Final EA addresses this possible effect, concluding there will be no direct and indirect

effect. As discussed therein, the County's land use zoning and regulations would remain in place with or without approval of the Proposed Action. Accordingly, there would be no new avenues, aside from those already allowed for under County laws, for other land owners to pursue to converting their agricultural land to other uses. The commenter also cites *TOMAC v. Norton*, 240 F. Supp. 2d 45 (D.D.C. 2003), in support of its argument that the EA is deficient because it failed to consider the indirect effect of converting much of the project site from agricultural to non-agricultural land use. The commenter accurately cites the case for the requirement that an agency consider cumulative and indirect effects of an agency action: In *TOMAC*, the District Court for the District of Columbia held that an EA was inadequate because it failed to examine the indirect impacts of construction of a casino that would have created about 5,600 jobs in a community of 4,600. Plainly, the effects of the proposed action in *TOMAC* were of an entirely different order of magnitude than the effects analyzed by the EA here. Thus, *TOMAC* is distinguishable on that basis alone. But here, too, Section 4.4.8 of the Final EA considered the potential that the Proposed Action would result in surrounding agricultural land being converted and rejected it. Population growth-inducing effects were analyzed in Section 4.5.2 of the EA and were determined to be minimal given the relatively small number of jobs that would be created and the fact that new residents of the proposed housing would be Tribal members who currently reside in the region and members as they come of age.

The commenter also supposes that the Tribe will resubmit and obtain approval of the TCA and suggests that approval of the Proposed Action could create the potential for redevelopment of the existing housing on the Reservation. The Tribe has no plans to resubmit the TCA at this time. Additionally, the Tribe has no plans to redevelop the existing housing on its Reservation. Because that housing is already overcrowded, and the planned development at the project site is designed to alleviate that overcrowding, it is not reasonably foreseeable that the current housing will be abandoned and redeveloped. Further, NEPA does not require the government to analyze all possible future actions. Where an action "could conceivably" occur but "it is at least as likely that it will never" occur, the "future activity is not reasonably foreseeable" and need not be considered under NEPA (e.g., *Building a Better Bellevue v. U.S. Dept. of Transportation*, 2013 WL 865843 at \*6 [W.D. Wash. Mar. 7, 2013], quoting *Headwaters, Inc. v. Bureau of Land Mgmt.*, 914 F.2d 1174, 1182 [9th Cir. 1990]). The commenter cites *Te-Moak Tribe of W. Shoshone of Nevada v. U.S. Dept. of Interior*, 608 F.3d 592 (9th Cir. 2010), in support of its argument that the EA is deficient because it did not analyze the cumulative effects of the Tribe resubmitting its TCA or redeveloping the current housing. In *Te-Moak*, the Ninth Circuit held that an EA was insufficient because it failed to analyze the cumulative impacts of a mining project that was already being planned. Rather than identifying and analyzing the cumulative impacts of the planned project, the *Te-Moak* EA's section on cumulative or indirect effects simply stated these effects would be mitigated. However, in sharp contrast, this EA appropriately considered all County and Tribal approved

and/or pending development projects; refer to **General Response 1.12** for further discussion. It is sheer speculation to suggest that taking the project site into trust would cause conversion of more agricultural land or redevelopment of the Tribe's currently overcrowded housing on the Reservation.

P6-27 Refer to **General Response 1.3** regarding the applicability of *Neighbors of Cuddy Mountain v. U.S. Forest Service* (137 F.3d 1372 [9th Cir. 1998]).

The commenter also cites *Blue Mountains Biodiversity Project v. Blackwood* (161 F.3d 1208 [9th Cir. 1998]) in support of its argument that the EA is deficient because it failed to provide adequate mitigation measures. But in *Blue Mountains Biodiversity Project*, the Ninth Circuit held that the EA failed to satisfy NEPA in part because there were no mitigation measures discussed. Instead, the EA relied on proposed BMPs to avoid environmental impacts. The Ninth Circuit, however, concluded that the proposed BMPs to prevent erosion in forests with unburned trees were inadequate to prevent erosion in an area of severely burnt trees that had already suffered severe erosion (*Blue Mountains Biodiversity Project*, 161 F.3d at 1214). Here, the Tribe's EA not only discusses specific mitigation measures, but sets forth straightforward protective measures and BMPs, including building homes to the Leadership in Energy and Environmental Design (LEED) criteria and incorporating an active odor control system into the proposed WWTP. There is no suggestion, even by the commenter, that these protective measures and BMPs are inadequate. Refer to response to **Comment L1-46** for additional discussion of *Blue Mountains Biodiversity Project*.

Finally, the commenter cites *Western Land Exchange Project v. U.S. Bureau of Land Management*, 315 F. Supp. 2d 1068 (D. Nev. 2004), a case in which the district court held that the EA was inadequate because it contained no assurance that any of the mitigation measures would be enacted. The EA instead relied entirely on future permitting under the ESA and other hypothetical mitigation measures (*W. Land Exchange Project*, 315 F. Supp. 2d at 1091). The commenter contends that here, too, the EA is deficient because it does not identify mechanisms to require, implement, and enforce mitigation. Again, these allegations are inaccurate and the case is inapposite because this EA requires implementation of the mitigation measures, protective measures, and BMPs as they are "intrinsic to the project, required by federal law, required by agreements between the Tribe and local agencies, and/or subject to a Tribal resolution," as stated in Section 5.0 of the Final EA. Further, the MMEP included with the FONSI (**Exhibit C**) specifies the responsible party and timing of implementation of mitigation measures.

P6-28 Refer to responses to **Comments P6-01** through **P6-27** regarding the commenter's alleged deficiencies discussed throughout their comment letter.

The commenter's overall conclusion is that an EIS must be prepared because of the significant environmental impacts and alleged shortcomings of the EA, citing *High Sierra Hikers Association v. Blackwell* (390 F.3d 630 [9th Cir. 2004]) in support. But *High Sierra* is entirely off-point and not applicable as, in that case, the agency had failed to even prepare an EA (*High Sierra Hikers Ass'n*, 390 F.3d at 640).

Refer to the response to **Comment L1-14** regarding the relevancy of *Anderson v. Evans* (371 F.3d 475, 494 [9th Cir. 2004]) related to the commenter's assertion that an EIS must be prepared because there are substantial questions regarding the Proposed Action's impact on the environment.

The commenter further takes out of context the discussion in *Anderson* regarding the adequacy of EAs in general. The commenter implies that length of an EA alone can be a basis for requiring the preparation for an EIS. But *Anderson* states just the opposite, noting that "girth is not a measure of the analytical soundness of an environmental assessment" (*Anderson*, 371 F.3d at 494). What convinced the court in *Anderson* that an EIS was required was the world-wide precedential effect of the decision approval to whale hunting quotas:

The 1997 [International Whaling Convention] gray whale quota, as implemented domestically by the United States, could be used as a precedent for other countries to declare the subsistence need of their own aboriginal groups, thereby making it easier for such groups to gain approval for whaling. If such an increase in whaling occurs, there will obviously be a significant impact on the environment (*Anderson*, 371 F.3d at 493).

The commenter's reference to the CEQ's *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations* is noted. Here, the EA appropriately limits discussions to the information necessary to provide a discussion of the need for the proposal, alternatives to the proposal, and the environmental impacts of the Proposed Action and alternatives. Summaries of data and subsequent conclusions are included in the existing setting and analysis of environmental impacts contained throughout Sections 3.0 and 4.0, respectively, and long descriptions and detailed data are limited to the appendices of the Final EA. For example, Section 2.2.5 of the Final EA includes the overall increase in water demand that would result from implementation of Alternative A whereas Table 2-1 in Appendix C of the Final EA details the water demand required for each component of the Alternative A.

P6-29 Comment noted.

P6-30 The attachment is a copy of **Comment Letter P5—Lawrence E. Hunt, Hunt Associates Biological Consulting Services**; refer to the responses to **Comment Letter P5**.

P6-31 This comment lists documentation included as an attachment to the comment letter to support the discussion within **Comments P6-01** through **P6-29**. This attachment is noted, and the responses to **Comments P6-01** through **P6-29** respond to the information contained within these attachments. It is further noted that if the Proposed Action is approved, the local land use regulations and policies, including the SYVCP, would no longer be applicable to the project site.

### **Response to Comment Letter P7 – Stephen J. Ferry, Co-President, Santa Barbara Audubon**

P7-01 Comment noted. Refer to **General Response 1.3** regarding the adequacy of the analysis of biological resources.

P7-02 Refer to **General Response 1.3** regarding the adequacy of the biological surveys conducted on the project site.

P7-03 Refer to **General Response 1.3** regarding the potential impacts to habitat for bald and golden eagles, as discussed in Sections 4.1.4 and 4.2.4 of the Final EA. The Final EA was prepared in accordance with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook to examine potential environmental impacts associated with the trust acquisition and proposed development by the Tribe. Under these guidelines and in accordance with BIA's requirements under the Bald and Golden Eagle Protection Act, a discussion of federally-protected nesting migratory birds and raptors is sufficient for an EA.

P7-04 Comment noted. Refer to **General Response 1.3** regarding the adequacy of the analysis of biological resources and an explanation as to why further study is not required.

### **Response to Comment Letter P8 – Matthew M. Clarke, Christman Kelley & Clarke, PC**

P8-01 Comment noted.

P8-02 Refer to **General Response 1.7** regarding the Williamson Act Contract for the project site.

P8-03 through P8-11  
These comments are references and documentation included as attachments to the comment letter to support the discussions within Comment Letter P8. These attachments are noted, and the responses to **Comments P8-01** and **P8-02** respond to the information contained within these attachments.

### **Response to Comment Letter P9 – Barry Cappello, Cappello & Noel LLP (on behalf of Ms. Nancy [Anne] Crawford-Hall)**

P9-01 Refer to **General Response 1.1** regarding non-substantive comments or opinions.

- P9-02 Comment noted. Refer to **General Response 1.3** regarding the requirement to prepare an EIS.
- P9-03 Refer to **General Response 1.3** regarding comments on the 2013 EA and associated fee-to-trust application.
- P9-04 Refer to **General Response 1.3** regarding the requirement to prepare an EIS.
- P9-05 Refer to **General Response 1.12** regarding the cumulative environment considered in the Final EA. Given that the Tribe's proposed hotel expansion project and approved Tribal cultural center were considered in the Final EA, an EIS is not warranted to correct the cumulative analysis.
- P9-06 Given that the Tribe's approved TCA was withdrawn without prejudice and is therefore no longer a factor in the Proposed Action, consideration of the TCA in the Final EA is unnecessary and an EIS is not warranted to add this information.
- P9-07 Refer to **General Response 1.10** regarding adverse impacts to biological resources and the requirement for an EIS.
- P9-08 Refer to **General Response 1.3** regarding the responses to comment letter received on the 2013 EA, including a discussion of impacts related to modification of the urban-wildlife interface and edge effects.
- P9-09 Refer to **General Response 1.3** regarding the requirement to prepare an EIS and rationale as to why the referenced case of *Natural Resources Defense Council v. Duvall*, 777 F. Supp. 1533 (E.D. Cal. 1991) does not support the proposition that an EIS is required for the Proposed Action and project alternatives.
- P9-10 and P9-11  
Data and comments are noted; refer to **General Response 1.8** regarding impacts to groundwater supply.
- P9-12 Comment noted. Recent data from the Tribe's operation of the existing 256 acres of grapes on the project site indicate that one AFY would be required to irrigate one acre of grapes per year. Using the commenter's suggestion of two AFY per acre, water usage would increase by 206 AFY under both Alternatives A and B and would increase by 300 AFY under Alternative C (No Action Alternative), thereby further extending the reduction in water use that could be realized by implementing Alternative A or B.

- P9-13 Refer to **General Response 1.3** regarding the adequacy of the analysis of potential impacts to the Uplands Basin, analysis of the project alternatives in the context of the current drought, and future proposals for housing and commercial enterprises on the project site and the requirement for an EIS.
- P9-14 Refer to **General Response 1.3** regarding the analysis of impacts resulting from use of recycled water for irrigation under Alternatives A and B and associated off-site drainage.
- P9-15 As the commenter does not provide data or details to support their assertion that the EA uses unreliable groundwater data, a more detailed response cannot be provided. Refer to **General Response 1.3** regarding the adequacy of the estimation of water demands and the definition of a significant impact on groundwater resources.
- P9-16 Refer to **General Response 1.4** regarding inconsistencies between the 2013 EA and Final EA.
- P9-17 Refer to **General Response 1.3** regarding the preference of the fee-to-trust process compared to development per the County land use approval process and the purpose and need for the Proposed Action.
- P9-18 Refer to **General Response 1.3** regarding the regulation of future development on the project site.
- P9-19 Refer to **General Response 1.3** regarding inconsistency with local planning documents and existing land uses.
- P9-20 Refer to **General Response 1.7** regarding the Williamson Act. Refer to **General Response 1.3** regarding incompatibility with existing land uses and impacts to agriculture. Refer to the response to **Comment P6-26** for a discussion as to how approval of the Proposed Action would not encourage other land owners in the vicinity to convert their agricultural operations to other land uses.
- P9-21 Refer to **General Response 1.3** regarding incompatibility with local planning documents and existing land uses.
- P9-22 Refer to **General Response 1.3** regarding impacts associated with removal of the project site from County taxation and public services. Refer to **General Response 1.3** regarding impacts to property values as well as inconsistency with local planning documents and existing land uses.

- P9-23 Refer to **General Response 1.3** regarding the sufficiency and adequacy of the project description provided in Section 2.0 of the EA. Refer to **General Response 1.3** regarding regulation of future development on the project site. Refer to **General Response 1.3** regarding the requirement for an EIS and analysis of impacts related to traffic, noise, solid waste, the environmental, landscape and scenic nature of the land.
- P9-24 Refer to **General Response 1.6** regarding impact associated with noise and air quality during construction.
- P9-25 Refer to **General Response 1.3** regarding impacts to property values as well as inconsistency with existing land uses.
- P9-26 Refer to **General Response 1.3** regarding impacts to scenery and rural scenic county roads.
- P9-27 Refer to **General Response 1.3** regarding the analysis of impacts resulting from use of recycled water for irrigation under Alternatives A and B and associated off-site drainage. Refer to **General Response 1.3** regarding inconsistency with existing land uses. Refer to **General Response 1.3** regarding impacts associated with nighttime lighting and glare.
- P9-28 Refer to **General Response 1.11** regarding public services. Refer to **General Response 1.3** regarding the requirements to prepare an EIS.
- P9-29 Refer to **General Response 1.3** regarding the mitigation measures proposed to reduce impacts to oak trees.
- P9-30 Refer to **General Response 1.3** regarding the impact of the project alternatives to waters of the U.S., including as related to drainage. With implementation of the mitigation measures outlined in Section 5.4.2 of the Final EA, the potential impacts to waters of the U.S. would be reduced to a minimal level. The commenter does not provide any further detail or evidence to support the conclusion that the mitigation measures are inadequately analyzed; therefore a more detailed response cannot be provided.
- P9-31 Refer to **General Response 1.3** regarding impacts to nesting birds.
- P9-32 Refer to **General Response 1.3** regarding impacts to critical habitat of VPFS. Additional mitigation measures related to VPFS have been included as a result of consultation with USFWS; refer to **General Response 1.9** for further discussion.
- P9-33 Refer to **General Response 1.3** regarding impacts to wetlands.

- P9-34 Refer to **General Response 1.3** regarding analysis of impacts related to bicycle riders and pedestrians, the significance criteria used in the traffic analysis in accordance with CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook, the analysis of safety and road infrastructure, and impacts related to traffic from the proposed Tribal facilities under Alternative B.
- P9-35 Refer to **General Response 1.3** regarding analysis of safety and road infrastructure. Any roadway infrastructures (e.g. roundabouts) that would be funded in part by the Tribe pursuant to the fair-share funding specified in the mitigation included in Section 5.7 of the Final EA would be constructed in accordance with the appropriate State and local safety standards.
- P9-36 Refer to **General Response 1.3** regarding analysis of impacts, including timing, associated with construction delivery and haul trips.
- P9-37 Refer to **General Response 1.3** regarding the responses to comments received by the Caltrans on the 2013 EA; as Caltrans did not submit additional comments on the Final EA, it can be concluded that any confusion or question has been addressed.
- P9-38 As shown in Table 4-23 of Section 4.4.7 of the Final EA, the following intersections will operate below acceptable levels in the cumulative without project condition:
- SR-154/Grand Avenue
  - SR-154/Roblar Avenue
  - SR-154/Edison Street
  - SR-246/Alamo Pintado Road
  - SR-246/Refugio Road
  - SR-246/SR-154
- Accordingly, the increase in traffic is not solely caused by Alternative A or B.
- P9-39 Refer to **General Response 1.3** regarding the cultural significance of the project site to the Tribe.
- P9-40 Refer to **General Response 1.3** regarding the requirements to prepare an EIS and the “hard look” taken by the BIA. Regarding impacts to neighboring properties and agriculture, refer to the above responses to Comment Letter P9, such as the response to **Comment P9-14**. Refer to **General Response 1.3** regarding the adequate analysis of land use, water resources, agriculture, wildlife, habitat, biology, air quality, public services, traffic, and safety.
- P9-41 Comment noted. Please refer to Appendix O of the Final EA for responses to comments received on the 2013 EA and to this section, **Section 3.0** of the FONSI, for responses to

comments received on the Final EA. Comments and responses to comments on the associated fee-to-trust application are beyond the scope of the EA. Refer to **General Response 1.3** regarding the requirements to prepare an EIS.

### **Response to Comment Letter P10 – Brian Kramer**

- P10-01      Comment noted. Refer to **General Response 1.3** regarding comments on the 2013 EA and associated fee-to-trust application.
- P10-02      Refer to **General Response 1.10** regarding adverse impacts to biological resources and the requirement for an EIS.
- P10-03      Although the text referenced by the commenter is not included on page 2-10 of Volume II of the Final EA and it is unclear exactly where in the Final EA the commenter is referencing, the EA does state that both Alternative A (discussed on page 4-6) and Alternative B (discussed on page 4-36) could result in adverse impacts to neighboring wells if the proposed two new groundwater wells are located in close proximity to off-site, adjacent wells. However, with the implementation of the mitigation measure outlined in Section 5.2 of the Final EA, the new wells would be developed below the Baseline Fault at a distance that would prevent adverse impacts to neighboring wells.
- P10-04      Refer to **General Response 1.3** regarding the requirement to prepare an EIS as well as alternatives considered in the Final EA. Refer to **General Response 1.5** regarding the project timeline. Refer to **General Response 1.6** regarding the evaluation of impacts to land use, agriculture, wildlife, habitat, water resources, biology, air quality, public services, traffic, and safety.
- P10-05      Refer to **General Response 1.4** regarding inconsistencies between the 2013 EA and Final EA.
- P10-06      Refer to **General Response 1.3** regarding impacts to property values, inconsistency of Alternative B with existing surrounding land uses, and analysis of the impacts to public services associated with removing the project site from the County tax base.
- P10-07      Refer to **General Response 1.3** regarding comments on the 2013 EA and the adequacy of mitigation measures related to oak trees.
- P10-08      Refer to response to **Comment P9-30** regarding impacts to wetlands.
- P10-09      Re Refer to **General Response 1.3** regarding impacts to nesting birds.

- P10-10 Refer to **General Response 1.3** regarding impacts to critical habitat of VPFS. Additional mitigation measures related to VPFS have been included as a result of consultation with USFWS; refer to **General Response 1.9** for further discussion.
- P10-11 Refer to **General Response 1.6** regarding impacts to air quality and noise.
- P10-12 Refer to **General Response 1.3** regarding inconsistency with existing land use.
- P10-13 Refer to the response to **Comment P5-26** regarding impacts to visual resources.
- P10-14 Refer to the **Responses to Comments P5-34** and **P5-36** regarding impacts associated with transportation and circulation.
- P10-15 Refer to the response to **Comment P5-37** regarding the analysis of transportation and circulation in the context of the Caltrans letter received on the 2013 EA.
- P10-16 Refer to the response to **Comment P5-38** regarding impacts associated with transportation and circulation and proposed mitigation measures.
- P10-17 Refer to **General Response 1.3** regarding the regulation of future development on the project site. As stated in the Section 2.1 of the Final EA, the Tribe is considering nine concept plans for development on the project site (included in Appendix N of the Final EA) and selected two representative site plans to be evaluated in detail in the EA. Refer to **General Response 1.6** regarding analysis of impacts to the environment, landscape, and scenic nature of the land.
- P10-18 Refer to **General Response 1.3** regarding the requirements for an EIS and comments on the 2013 EA.
- P10-19 Refer to **General Response 1.1** regarding non-substantive comments or opinions.

#### **Response to Comment Letter P11 – Kelly B. Gray**

- P11-01 Refer to **General Response 1.3** regarding existing site plans and reasonably foreseeable alternatives evaluated within the Final EA.
- P11-02 Refer to **General Response 1.3** regarding the proposed number of residences compared to the Tribe's population, the evaluation of reasonably foreseeable alternatives in the Final EA, and the requirements for an EIS.
- P11-03 Comment noted.

- P11-04 Refer to **General Response 1.3** regarding the proposed number of residences compared to the Tribe's population, the evaluation of reasonably foreseeable alternatives in the Final EA, and the requirements for an EIS. Refer to **General Response 1.8** regarding impacts to water resources.
- P11-05 As both Alternative A and B would result in over one acre of soil disturbance, an NPDES General Construction Permit will be obtained and complied with under either alternative. Refer to **General Response 1.3** regarding the requirements for an EIS.
- P11-06 Refer to **General Response 1.11** regarding impacts to public services. Refer to **General Response 1.3** regarding the requirements for an EIS.
- P11-07 As stated in Section 4.2.7 of the Final EA, the Traffic Impact Study (TIS) (Appendix I of the Final EA) conservatively estimated that the Tribal facilities would add new trips to the study roadway network simultaneously during peak hours. The Tribal facility trips were estimated using the trip generation rate for land use category 495 Recreational Community Center published in the ITE *Trip Generation Manual*. The analysis of impacts related to operational traffic noise discussed in Section 4.2.10 of the Final EA analyzes traffic during the peak hour and therefore includes traffic noise associated with the Tribal facilities on an individual event basis.
- P11-08 Refer to **General Response 1.3** regarding the cultural significance of the project site to the Tribe.
- P11-09 Refer to **General Response 1.3** regarding the proposed number of residences compared to the Tribe's population, the evaluation of reasonably foreseeable alternatives in the Final EA, and the requirements for an EIS.
- P11-10 It should be noted that Alternative C would require 300 AFY, whereas Alternative B would only require 256 AFY, consistent with existing water use on the project site. Refer to **General Response 1.3** regarding the requirements for an EIS.

#### **Response to Comment Letter P12 – Gregory M. Simon, Chairman, Santa Ynez Valley Concerned Citizens**

- P12-01 Comment noted. Refer to **General Response 1.2** regarding requests to extend the comment period.
- P12-02 Refer to **General Response 1.3** regarding the requirements for an EIS, comments on the 2013 EA, and other documents related to the Proposed Action and project alternatives.
- P12-03 Comment noted.

- P12-04 Refer to the response to **Comment P6-26** regarding consideration of the TCA in the cumulative condition. Refer to **General Response 1.12** regarding other reasonable foreseeable projects considered in the cumulative condition. Refer to **General Response 1.3** regarding the requirements for an EIS.
- P12-05 Refer to **General Response 1.3** regarding the cultural significance of the project site to the Tribe.
- P12-06 Refer to **General Response 1.3** regarding the proposed number of residences compared to the Tribal population, project-induced population growth, and the requirement to prepare an EIS. The conditions of the Tribe's Reservation are described in Section 1.3 of the Final EA to the extent necessary to allow for complete and accurate analysis of the Proposed Action. The proposed Hotel Expansion Project would be located on and adjacent to the existing Chumash Casino Resort; no Tribal residences would be removed as a result of implementation of the Hotel Expansion Project. The Williamson Act Contract on the project site prohibits development until 2023; refer to **General Response 1.7** for further discussion.
- P12-07 Refer to the response to **Comment L1-12** regarding consideration of the drought in the Final EA. Refer to **General Response 1.3** regarding responses to the comment letter submitted by Robert B. Field, President, Santa Ynez Rancho Estates Mutual Water Company, Inc. dated October 4, 2013. The letter from Robert B. Field, President, Santa Ynez Rancho Estates Mutual Water Company, Inc. dated June 26, 2014 is included in **Exhibit A** as **Comment Letter P15**; refer to the responses to **Comment Letter P15**.
- P12-08 Comment noted. The Tribe is aware of Chromium 6 groundwater contamination issues and recently released State legislation. The commenter is correct that State water quality regulations would not apply to the project site if the Proposed Action is approved as tribal drinking water purveyors are required to meet the maximum contaminant levels provided within the Safe Drinking Water Act as established by the USEPA, as discussed in Section 3.2.3 of the Final EA. Refer to **General Response 1.8** regarding impacts of project alternative to the groundwater supply.
- P12-09 Refer to **General Response 1.3** regarding comments on the 2013 EA and other documents related to the Proposed Action and project alternatives.
- P12-10 The letter from Mona Miyasato, County Executive Officer, County of Santa Barbara dated July 11, 2014 is included in **Exhibit A** as **Comment Letter L1**; refer to the responses to **Comment Letter L1**. The letter from Linda Krop, Chief Counsel, Environmental Defense Center dated July 10, 2014 is included in **Exhibit A** as **Comment Letter P6**; refer to the responses to **Comment Letter P6**. The letter from Kathy Cleary, Preservation of Los Olivos (P.O.L.O.) dated July 10, 2014 is included in **Exhibit A** as **Comment Letter P2**; refer to the

responses to **Comment Letter P2**. The letter from Kelly B. Gray dated June 25, 2014 is included in **Exhibit A** as **Comment Letter P11**; refer to the responses to **Comment Letter P11**. The letter from Robert B. Field, President, Santa Ynez Rancho Estates Mutual Water Company, Inc. dated June 26, 2014 is included in **Exhibit A** as **Comment Letter P15**; refer to the responses to **Comment Letter P15**. Refer to **General Response 1.3** regarding responses to comment letters submitted on the 2013 EA, to comment letters submitted on the fee-to-trust application, and other documents related to the Proposed Action and project alternatives, including TCA-related filings.

- P12-11 Refer to responses to **Comments P12-01** through **P12-10** regarding the conclusion that the Proposed Action would have potentially significant impacts to the surrounding environment. Refer to **General Response 1.3** regarding the requirements for an EIS.

### **Response to Comment Letter P13 – Susan Jordan, Director, California Coastal Protection Network**

- P13-01 Comment noted.
- P13-02 The letter from Mona Miyasato, County Executive Officer, County of Santa Barbara dated July 11, 2014 is included in **Exhibit A** as **Comment Letter L1**; refer to the responses to **Comment Letter L1**. The letter from P.O.L.O. dated June 18, 2014 is included in **Exhibit A** as **Comment Letter P1**; refer to the responses to **Comment Letter P1**. The letter from Kathy Cleary, P.O.L.O. dated July 10, 2014 is included in **Exhibit A** as **Comment Letter P2**; refer to the responses to **Comment Letter P2**. The letter from C. David and M. Andriette Culbertson dated July 10, 2014 is included in **Exhibit A** as **Comment Letter P18**; refer to the responses to **Comment Letter P18**.
- P13-03 Refer to **General Response 1.3** regarding the responses to comments received on the 2013 EA and the requirement to prepare an EIS.
- P13-04 Water availability is discussed in Section 3.2 of the Final EA, and the impacts to water supply due to Alternative A, Alternative B, and Alternative C are discussed in Sections 4.1.2, 4.2.2, and 4.3.2, respectively. In addition, mitigation measures are provided in Section 5.2 to ensure that impacts to water supply are reduced to less-than-significant levels, including special provisions for drought years. Refer to **General Response 1.8** for further discussion regarding impacts to groundwater resources.
- P13-05 The project alternatives are discussed in Section 2.0 of the Final EA, and discussions of proposed water use for each alternative are provided therein. Refer to **General Response 1.3** regarding the adequacy of the description of project alternatives provided in the Final EA. Refer to **General Response 1.8** regarding impacts to water resources.

P13-06 Prior development proposals for the project site are not relevant to the currently proposed project alternatives. The project alternatives being considered by the Tribe are described in detail in Section 2.0 of the Final EA.

P13-07 and P13-08

Refer to **General Comment 1.3** regarding the justification of 143 home sites, the purpose of the Proposed Action (that being, to augment the current housing base on the Reservation) and the adequacy of the estimated water demand and associated impact analysis presented in the Final EA.

P13-09 Refer to **General Response 1.3** regarding the requirements for an EIS.

P13-10 Refer to **General Response 1.3** regarding the justification of 143 home sites, the purpose of the Proposed Action (that being, to augment the current housing base on the Reservation), the site plans considered for development on the project site, and the regulation of future development on the project site.

P13-11 Refer to **General Response 1.3** regarding the requirements for an EIS.

#### **Response to Comment Letter P14 – Cathie McHenry, President, W.E. Watch, Inc.**

P14-01 Comment noted. Although the commenter states the purpose of the letter is to submit comments on the Application for Fee to Trust Transfer of Title Submitted by the Santa Ynez Band of Mission Indians, it is assumed the commenter intended these comments to also be submitted regarding the Final EA. Accordingly, responses are provided to comments.

P14-02 Refer to **General Response 1.3** regarding the TCA and evaluation of the Proposed Action as “off-Reservation.” As stated in Section 1.2 of the Final EA, the project site is not contiguous to an existing reservation or Indian trust land. Refer to **General Response 1.3** regarding the applicable laws that govern off-Reservation acquisition requests.

P14-03 Refer to **General Response 1.3** regarding the acreage available for development on the Reservation and need for the Proposed Action.

P14-04 Refer to **General Comment 1.3** regarding the justification of 143 home sites.

P14-05 Refer to **General Response 1.3** regarding the site plans considered for development on the project site and the regulation of future development on the project site.

P14-06 Refer to **General Response 1.3** regarding the purpose of the trust acquisition process and preference over the County land use approval process. As stated in Section 1.3 of the Final EA, this trust land acquisition is an integral part of the Tribe's efforts to bring Tribal members

and lineal descendants back to the Tribe, accommodate future generations, and create a meaningful opportunity for those Tribal members and lineal descendants to be a part of a Tribal community revitalization effort that rebuilds Tribal culture, customs, and traditions. In order to meet these goals, the Tribe needs additional trust land to provide housing for Tribal members and lineal descendants who currently are not accommodated with Tribal housing. Refer to **General Response 1.3** regarding expanding and/or redeveloping existing housing on the Reservation to provide additional units.

- P14-07 Refer to **General Response 1.8** regarding impacts to water resources. Refer to **General Response 1.3** regarding recorded easements on the project site.
- P14-08 Refer to **General Response 1.3** regarding analysis of impacts related to recorded easements.
- P14-09 Refer to **General Response 1.11** regarding loss of tax revenue as related to public services.
- P14-10 Refer to **General Response 1.3** regarding the requirements for an EIS, inconsistency with local land use policies, and justification of the purpose and need of the Proposed Action.
- P14-11 Comment noted.

#### **Response to Comment Letter P15 – Robert Field, President, Santa Ynez Rancho Estates Mutual Water Company, Inc.**

- P15-01 Refer to **General Response 1.2** regarding requests to extend the comment period.
- P15-02 Comment noted.
- P15-03 Refer to **General Response 1.3** regarding comments on the 2013 EA and TCA.
- P15-04 Refer to **General Response 1.8** regarding impacts to water resources.
- P15-05 Refer to **General Comment 1.3** regarding the justification of 143 home sites.
- P15-06 Refer to **General Response 1.3** regarding the site plans considered for development on the project site and the regulation of future development on the project site.
- P15-07 Refer to **General Response 1.3** regarding the requirements for an EIS, the site plans considered for development on the project site, and the regulation of future development on the project site. Refer to **General Response 1.5** regarding the project baseline.

#### **Response to Comment Letter P16 – Ross Rankin**

- P16-01 Refer to **General Response 1.1** regarding expressions of opinion/non-substantive comments.

P16-02 Refer to **General Response 1.3** regarding comments on the 2013 EA.

**Response to Comment Letter P17 – James E. Marino (Attorney for No More Slots)**

P17-01 through P17-03

Comments noted. Refer to **General Response 1.3** regarding the requirement for an EIS.

P17-04 Refer to **General Response 1.3** regarding federal recognition of the Tribe.

P17-05 Refer to **General Response 1.3** regarding the status of the Tribe's Reservation.

P17-06 Refer to **General Response 1.3** regarding federal recognition of the Tribe and the cultural significance of the project site to the Tribe.

P17-07 Refer to **General Response 1.3** regarding the purpose and need of the Proposed Action.

P17-08 Refer to **General Response 1.3** regarding the relevance of the economic status of the Tribe.

P17-09 It is unclear what private conversations or information the commenter is referencing as no further detail is provided. Refer to **General Response 1.11** regarding proposed mitigation to reduce potential impacts to public services.

P17-10 Refer to **General Response 1.3** regarding the site plans considered for development on the project site and the regulation of future development on the project site.

P17-11 Refer to **General Response 1.3** regarding the authority of the Secretary of the Interior to place the project site into trust for the Tribe.

P17-12 As stated in Section 1.2 of the Final EA, the project site is not contiguous to an existing reservation or Indian trust land. Refer to **General Response 1.3** regarding the applicable laws that govern off-Reservation acquisition requests.

P17-13 Refer to **General Response 1.3** regarding federal recognition of the Tribe.

P17-14 Refer to **General Response 1.3** regarding the authority of the Secretary of the Interior to place the project site into trust for the Tribe. Refer to response to **Comment P17-12** regarding off-reservation trust acquisitions.

P17-15 Refer to **General Response 1.3** regarding the primary purpose of the Proposed Action; a business plan is not required.

- P17-16 Refer to **General Response 1.3** regarding the site plans considered for development on the project site, the regulation of future development on the project site, and the potential for future gaming on the project site.
- P17-17 Comment noted. Refer to **General Response 1.3** regarding the role of the BIA with the EA and associated NEPA environmental review process for the Proposed Action.
- P17-18 Refer to **General Response 1.3** regarding the environmental impacts of the existing Chumash Casino Resort.
- P17-19 Refer to **General Response 1.3** regarding the requirements for an EIS.
- P17-20 Refer to **General Response 1.6** regarding impacts to traffic, crime, community services and infrastructure, transportation, air quality, water availability, and taxes or loss thereof.
- P17-21 Comment noted. As discussed in Section 1.3 of the EA, the purpose of the Proposed Action is to place land into trust status for the development of Tribal housing; however, given the requirements of the Williamson Act Contract for the project site, development would not begin until 2023. Refer to **General Response 1.7** regarding the Williamson Act and **General Response 1.5** regarding the baseline and project timeline. Land banking or speculation is not discussed in the EA as it is not the intention or purpose of the Proposed Action.
- P17-22 Comment noted. Refer to **General Response 1.3** regarding the role of the BIA with the EA and associated NEPA environmental review process.
- P17-23 Refer to **General Response 1.3** regarding the authority of the Secretary of the Interior to place the project site into trust for the Tribe. Refer to response to **Comment P17-12** regarding off-reservation trust acquisitions.
- P17-24 Refer to **General Response 1.3** regarding the TCA.
- P17-25 Refer to **General Response 1.3** regarding federal recognition of the Tribe.
- P17-26 Refer to **General Response 1.3** regarding the purpose and need of the Proposed Action. The 2008 memorandum, issued by former Assistant Secretary Carl Artman on January 3, 2008, was rescinded on June 14, 2011 by his successor Assistant Secretary Larry Echo Hawk after thorough review and consultation with Native American Tribes. Therefore, the directive cited in this comment letter is not applicable.
- P17-27 Comment noted. Refer to **General Response 1.3** regarding the role of the BIA with the EA and associated NEPA environmental review process.

- P17-28 Refer to **General Response 1.1** regarding expressions of opinion/non-substantive comments.
- P17-29 Refer to **General Response 1.3** regarding the purpose of the Proposed Action.
- P17-30 Refer to **General Response 1.3** regarding the requirements for an EIS.
- P17-31 Refer to **General Response 1.7** regarding the Williamson Act Contract for the project site.
- P17-32 Comment noted. Refer to **General Response 1.3** regarding federal recognition of the Tribe and the cultural significance of the project site to the Tribe.
- P17-33 Comment noted. Refer to response to **Comment P17-26** regarding the 2008 memorandum issued by former Assistant Secretary Carl Artman.

### **Response to Comment Letter P18 – M. Andriette Culbertson**

- P18-01 Comment noted. Refer to **General Response 1.3** regarding responses to comments on the 2013 EA.
- P18-02 Comment noted. The letter from Mona Miyasato, County Executive Officer, County of Santa Barbara dated July 11, 2014 is included in **Exhibit A** as **Comment Letter L1**; refer to the responses to **Comment Letter L1**. The letter from P.O.L.O. dated June 18, 2014 is included in **Exhibit A** as **Comment Letter P1**; refer to the responses to **Comment Letter P1**. The letter from Kathy Cleary, P.O.L.O. dated July 10, 2014 is included in **Exhibit A** as **Comment Letter P2**; refer to the responses to **Comment Letter P2**. The letter from Mark Oliver, Santa Ynez Valley Alliance dated June 18, 2014 is included in **Exhibit A** as **Comment Letter P22**; refer to the responses to **Comment Letter P22**. The letter from Linda Krop, Chief Counsel, Environmental Defense Center (on behalf of the Santa Ynez Valley Alliance) dated July 10, 2014 is included in **Exhibit A** as **Comment Letter P6**; refer to the responses to **Comment Letter P6**.
- P18-03 Refer to **General Response 1.3** regarding responses to comments on the 2013 EA and the requirements for an EIS.
- P18-04 Refer to **General Response 1.3** regarding the sufficiency and adequacy of the project description provided in Section 2.0 of the EA, the TCA, site plans considered for development on the project site, and the regulation of future development on the project site. Refer to **General Response 1.3** regarding the primary purpose of the Proposed Action; a business plan is not required.
- P18-05 As discussed in Section 1.3 of the Final EA, income production is not the primary goal of the Proposed Project. As stated therein, “The trust transfer of the Camp 4 lands would provide

- necessary housing within the Tribe's ancestral and historic territory for its current members and future generations... Secondly, the trust acquisition of the proposed trust land would also allow full Tribal governance over its existing agricultural operations on the property; thereby allowing the Tribe to continue to build economic self sufficiency through diversified Tribally-governed commercial enterprises." The commenter incorrectly states that the goal of the Proposed Action is economic development.
- P18-06 It is unclear what the commenter is referring to by Section 3.1.2. Section 3.1.2 of Appendix O of the Final EA is the general response regarding the TCA, which was provided by the BIA to clarify the numerous comments received regarding the TCA and its subsequent withdrawal by the Tribe. Similar comments regarding the TCA received on the 2013 EA were referred to Section 3.1.2 of Appendix O of the Final EA to provide clarification regarding the TCA.
- P18-07 Refer to **General Response 1.3** regarding the site plans considered for development on the project site and the regulation of future development on the project site.
- P18-08 through P18-10 Refer to **General Response 1.3** regarding the site plans considered for development on the project site and the regulation of future development on the project site. The golf course, hotel, and casino mentioned in this comment are not a component of any of the proposed site plans included in Appendix N of the Final EA.
- P18-11 Refer to **General Comment 1.3** regarding the justification of 143 home sites. The site plans contained as Figures 2-1 and 2-2 in the Final EA accurately depict the 143 home sites proposed under Alternative A and B.
- P18-12 It is not economically feasible to demolish existing houses on the Reservation in order to rebuild higher-density housing such as apartments, and this would likely have additional significant environmental impacts to hazardous materials, air quality, and visual resources. Refer to **Response to Comment L1-74** regarding rebuilding the existing Reservation.
- This commenter inaccurately summarizes the Final EA, which states in Section 1.3 that "Currently, only about 17% of the tribal members and lineal descendants have housing on tribal lands." The purpose of this statement in the Final EA is to indicate that 83 percent of Tribal members and lineal descendants live off-Reservation; it is not stating, as the commenter maintains, that 83 percent of those living on the Reservation are not Tribal members.
- P18-13 Tribal facilities are proposed under Alternative B, as discussed in Section 2.3 of the Final EA; the cumulative impacts of the Tribal facilities are analyzed in Section 4.4. There are no plans to change the existing land uses or facilities on the existing Reservation.

- P18-14 The EA was prepared in accordance with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook; refer to **General Response 1.3** for further discussion as to how the EA presents the BIA with a “hard look” at the Proposed Action and regarding site plans considered for development on the project site and the regulation of future development on the project site.
- P18-15 Refer to **General Response 1.3** regarding the requirements for an EIS.
- P18-16 Refer to **General Response 1.3** regarding BIA’s involvement with the EA and NEPA environmental review process.
- P18-17 Refer to **Response to Comment P17-26** regarding the applicability of Assistant Secretary Carl Artman’s memorandum. Refer to **Response to Comment P18-05** for a discussion of the purpose of the Proposed Action, which is not for economic development as stated in this comment. Refer to **Response to Comment L1-74** regarding rebuilding the existing Reservation.

**Response to Comment Letter P19 – William R. Devine, Allen Matkins Leck Gamble Mallory & Natsis LLP (Attorney for Save The Valley Plan, “STVP”)**

- P19-01 Comment noted. The responses to comments provided in Section 3.0 of Appendix O of the Final EA were developed in accordance with CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook. As the commenter does not offer any evidence or details to support their statement that responses to comments provided in Section 3.0 of Appendix O of the Final EA are less than satisfactory, fail to provide support for the conclusionary statements made in the 2013 EA, and show a lack of understanding and appreciation, a more detailed response cannot be provided. It should be noted that conclusions within the EA are supported by the analysis of potential impacts presented within Section 4.0 of the Final EA as well as additional analysis and data presented in responses to comments.
- P19-02 Comment noted.
- P19-03 Refer to **General Response 1.3** regarding the site plans considered for development on the project site and the regulation of future development on the project site. Refer to **General Response 1.6** regarding analysis of environmental impacts, including as related to visual resources, socioeconomic conditions, and environmental justice.
- P19-04 Refer to **General Response 1.6** regarding the adequacy of analysis of impacts to public health, safety and welfare, land use planning, aesthetics, water supply, biological resources, noise, population growth and housing, and transportation and traffic. Refer to **General Response 1.3** regarding the requirements for an EIS.

- P19-05 Comment noted.
- P19-06 Refer to **General Comment 1.3** regarding the cultural significance of the project site to the Tribe and the justification of 143 home sites.
- P19-07 Refer to **General Response 1.3** regarding the range of alternatives analyzed within the Final EA and the regulation of future development on the project site.
- P19-08 Alternative A includes the development of five-acre residential lots; it only follows that the analysis of impacts related to Alternative A contained in Section 4.1 of the Final EA is limited to the components proposed under Alternative A, including the five-acre residential lots. Refer to **General Response 1.3** regarding the site plans considered for development on the project site and the regulation of future development on the project site.
- P19-09 The mitigation measures presented in Section 5.2 of the Final EA are designed to reduce the impact to groundwater resources, not necessarily reduce the amount of groundwater used. For example, one requirement of groundwater mitigation is that “New groundwater wells shall be located within the central portion of the project site, south of the Baseline fault within the permeable sands of the water-bearing Careaga Formation,” which would reduce the impact to neighboring wells but would not necessarily reduce the amount of groundwater used, as discussed in Section 4.1.2 of the Final EA. That being said, other groundwater mitigation measures in Section 5.2 of the Final EA do require the reduced use of groundwater: “During years when the County of Santa Barbara declares local drought conditions, there will be no turf grass irrigation allowed, thereby reducing residential lawn water demand to zero.” Refer to **General Response 1.3** regarding the site plans considered for development on the project site and the regulation of future development on the project site.
- P19-10 A discussion of the system of Indian water rights based on the Winters Doctrine (Winters v. U.S., 207 U.S. 564 [1908]) (known as “Winters rights”) is provided in Section 3.2 of the Final EA as part of the existing setting related to water resources. As discussed in Sections 2.2.5, 2.3, and 2.4 of the Final EA, groundwater would be the source for all project alternatives on the project site. Diversion of surface water or enactment of the Tribe’s Winters rights is not a component of the Proposed Action or project alternatives; therefore, there is no impact related to Winters rights to be analyzed within the Final EA.
- P19-11 Refer to **General Response 1.3** regarding analysis of impacts to surface water and groundwater quality. If the Proposed Action is approved, the Tribe and USEPA would have jurisdiction over water quality on the trust land; and, if necessary, the Tribe would work with State and local water quality regulators as appropriate given their jurisdiction over adjacent land.

- P19-12 Refer to **General Response 1.3** regarding analysis of impacts to air quality.
- P19-13 Refer to **General Response 1.3** regarding analysis of impacts to biological resources, including oak trees, and the adequacy of the mitigation measures proposed to reduce impacts to biological resources, including oak trees.
- P19-14 A single, unoccupied house is located on the project site, southeast of the existing vineyard near the horse stables; there are not other permanent residences on the project site. The Proposed Action and project alternatives would therefore not displace any residents of the Santa Ynez Valley. Refer to **General Response 1.3** regarding analysis of impacts related to property values and other socioeconomic conditions and environmental justice concerns.
- P19-15 Refer to **General Response 1.3** regarding the adequacy of the analysis of impacts to land use and the regulation of future development on the project site.
- P19-16 Refer to **General Response 1.3** regarding the adequacy of the analysis of impacts to visual resources.
- P19-17 Refer to **General Response 1.6** regarding impacts to land resources, air quality, transportation and circulation, public services, noise, and health and safety.
- P19-18 The Final EA was prepared in accordance with the CEQ Regulations for Implementing NEPA and the BIA NEPA Guidebook. Refer to the responses to **Comments P19-01** through **P19-17** as to why the “reasons noted above” referenced by the commenter do not support the conclusion that the Final EA is inadequate. As the commenter does not offer any evidence or details to support their statements regarding unstated assumptions, inconsistencies, undisclosed methodologies and unsupported conclusions, a more detailed response cannot be provided. Refer to **General Response 1.3** regarding the requirement for an EIS and the applicable laws that govern off-Reservation acquisition requests.

### **Response to Comment Letter P20 – Klaus M. & Lois S. Brown**

- P20-01 Comment noted. Refer to **General Response 1.3** regarding responses to comments received on the 2013 EA.
- P20-02 Comment noted. Refer to **General Response 1.3** regarding the requirements to prepare an EIS.
- P20-03 Refer to **General Response 1.3** regarding the justification of 143 home sites, the site plans considered for development on the project site, the regulation of future development on the project site, the adequacy of the cumulative impact analysis contained within the Final EA, the requirements to prepare an EIS, and the adequacy of the analysis of impacts to

groundwater resources, including the mitigation measures proposed in Section 5.2 of the Final EA that would reduce impacts to neighboring wells to a minimal level.

- P20-04 Refer to **General Response 1.3** regarding the site plans considered for development on the project site, the potential to develop a casino on the project site, the regulation of future development on the project site, and the requirements to prepare an EIS.
- P20-05 Refer to **General Response 1.11** regarding impacts to public services. Refer to **General Response 1.3** regarding the site plans considered for development on the project site, the regulation of future development on the project site, and the requirements to prepare an EIS.
- P20-06 Refer to **General Response 1.3** regarding the adequacy of the analysis of potential traffic direct, indirect, and cumulative impacts related to the project alternatives, including the appropriateness of the methodology used to determine traffic counts; the site plans considered for development on the project site; the regulation of future development on the project site; the adequacy of the traffic mitigation measures presented in Section 5.7 of the Final EA; and the requirements to prepare an EIS.
- P20-07 An EA is a planning level document, and the site plans for Alternatives A and B, contained as Figures 2-1 and 2-2 in Section 2.0 of the Final EA, depict the layout of the project alternatives at the planning level. Structural footprints, roadways, associated infrastructure, and other development features have not yet been finalized. If the Proposed Action is approved, a project alternative would be specified. The Tribe would then move forward with developing finalized construction plans for the approved development and would ensure the BMPs, protective measures, and mitigation measures are implemented, which would include developing a construction and development plan that minimizes impacts to waters of the U.S., special-status species, protected oaks, and migratory birds among other resources.
- P20-08 Refer to **General Response 1.3** regarding the analysis of potential impacts to County roadways during construction and operation of the project alternatives. As stated in Section 2.3 of the Final EA, up to approximately 400 attendees plus vendors would attend events at the Tribal facilities (refer to **General Response 1.3** regarding the revision to the proposed Tribal facilities component of Alternative B in the Final EA). Refer to the response to **Comment P11-07** regarding the inclusion of trips generated by the proposed Tribal facilities under the traffic impact analysis of Alternative B. Refer to **General Response 1.3** regarding the requirements to prepare an EIS.
- P20-09 Refer to **General Response 1.3** regarding the revision to the proposed Tribal facilities component of Alternative B in the Final EA and the requirements to prepare an EIS.

- P20-10 Comment noted. It is unclear what text the commenter is referring to as the quoted phrase does not appear on page 4-69 of either the 2013 EA or the Final EA; the quoted text does appear on page 4-70 of the 2013 EA and on page 4-74 of the Final EA. The quoted text is supported by the analysis presented in throughout Section 4.0 of the Final EA.
- P20-11 Refer to **General Response 1.3** regarding the range of alternatives analyzed within the Final EA.
- P20-12 Refer to **General Response 1.3** regarding the cultural significance of the project site to the Tribe and history of the land status of the project site.
- P20-13 Refer to **General Response 1.3** regarding the requirements to prepare an EIS. In response to the commenter's statement that the Proposed Action would have significant direct, indirect, and cumulative impacts on the project site, surrounding area, neighbors, and wildlife, refer to the responses to **Comments P20-01** through **P20-12**.

**Response to Comment Letter P21 – Robert B. Field, President, Santa Ynez Rancho Estates Mutual Water Company Inc.**

- P21-01 Comment noted. Refer to **General Response 1.3** regarding the TCA.
- P21-02 Refer to **General Response 1.2** regarding requests for an extension of the comment period.

**Response to Comment Letter P22 – Mark Oliver, Santa Ynez Valley Alliance**

- P22-01 Refer to **General Response 1.2** regarding requests for an extension of the comment period.

**Response to Comment Letter P23 – E. and Jack Bohnet**

- P23-01 Refer to **General Response 1.2** regarding requests for an extension of the comment period.
- P23-02 and P23-03  
Refer to **General Response 1.12** regarding the cumulative environment considered in the Final EA, which includes the approved Tribal Cultural Center Project and proposed Hotel Expansion Project.
- P23-04 Refer to **General Response 1.2** regarding requests for an extension of the comment period.
- P23-05 Comment noted. Refer to the response to **Comment L1-12** regarding consideration of the Proposed Action within the context of the current drought. Refer to the response to **Comment P12-08** regarding consideration of the Proposed Action within the context of the State's recently adopted Chromium 6 water quality standards for groundwater.

P23-06 Refer to **General Response 1.2** regarding requests for an extension of the comment period.

#### **Response to Comment Letter P24 – Brian Kramer**

P24-01 Refer to **General Response 1.2** regarding requests for an extension of the comment period.  
Refer to **General Response 1.1** regarding non-substantive comments and/or opinions.

#### **Response to Comment Letter P25 – Gerry B. Shepherd**

P25-01 Refer to **General Response 1.2** regarding requests for an extension of the comment period.

P25-02 The BIA proposed on June 17, 2014 to revise 25 CFR 169, Rights-of-Way on Indian Land. The proposed rule would comprehensively update and streamline the process for obtaining BIA grants of rights-of-way on Indian land. On August 13, 2014 it was announced the deadline for providing comments on the proposed rule was extended to October 2, 2014. Any analysis of the impacts of the proposed rule prior to a final decision by the BIA would be speculative.

P25-03 Refer to **General Response 1.2** regarding requests for an extension of the comment period.

#### **Response to Comment Letter P26 – Cheryl Schmit, Stand Up for California**

P26-01 Refer to **General Response 1.2** regarding requests for an extension of the comment period.

#### **Response to Comment Letter P27 – Gregory A. Schipper**

P27-01 Refer to **General Response 1.1** regarding non-substantive comments and/or opinions.

P27-02 Comment noted. House of Representatives (H.R.) 3313 Santa Ynez Band of Chumash Mission Indians Land Transfer Act of 2013 was introduced to the U.S. House of Representatives 113th Congress on October 23, 2013. The purpose of the bill was to authorize the Secretary of the Interior to take land into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians, and for other purposes. H.R. 3313 was referred to the House Natural Resources Committee on the same day, and no action on the bill has occurred since.

P27-03 Refer to **General Response 1.1** regarding non-substantive comments and/or opinions.

P27-04 Comment noted. Refer to the response to **Comment P27-02** regarding H.R. 3133.

P27-05 Refer to **General Response 1.3** regarding the preference of the fee-to-trust process compared to development per the County land use approval process.

- P27-06 Refer to Section 3.0 of the Final EA for a description of the existing environmental resources. Refer to the response to **Comment L1-12** regarding consideration of the Proposed Action within the context of the current drought.
- P27-07 Refer to **General Response 1.11** regarding impacts to public services.
- P27-08 Refer to **General Response 1.1** regarding non-substantive comments and/or opinions.
- P27-09 Refer to **General Response 1.3** regarding the impacts of the existing Chumash Casino Resort.
- P27-10 Refer to **General Response 1.3** regarding the relevance of the economic status of the Tribe. Refer to **General Response 1.1** regarding non-substantive comments and/or opinions. Refer to **General Response 1.2** regarding requests for an extension of the comment period.

#### **Response to Comment Letter P28 – Christine Burtness**

- P28-01 Refer to **General Response 1.11** regarding the commitment of funding by the Tribe to public schools.

#### **Response to Comment Letter P29 – Sidney and Linda Kastner**

- P29-01 Comment noted. Refer to **General Response 1.2** regarding requests for an extension of the comment period. Refer to **General Response 1.3** regarding responses to comments received on the 2013 EA.
- P29-02 Refer to **General Response 1.3** regarding responses to comments received on the 2013 EA. Refer to the response to **Comment P11-07** regarding the inclusion of trips generated by the proposed Tribal facilities under the traffic impact analysis of Alternative B. Refer to **General Comment 1.3** regarding the justification of 143 home sites and the purpose of the Proposed Action (that being, to augment the current housing base on the Reservation). Refer to **General Response 1.6** regarding impacts to County roads.
- P29-03 Refer to **General Comment 1.3** regarding the justification of 143 home sites, the purpose of the Proposed Action (that being, to augment the current housing base on the Reservation) and the adequacy of the estimated water demand and associated impact analysis presented in the Final EA.
- P29-04 Refer to **General Response 1.6** regarding the completeness of analysis to impacts contained within the Final EA.
- P29-05 Refer to the response to **Comment P6-26** regarding plans to resubmit the TCA.

P29-06 Refer to **General Response 1.3** regarding the requirements for an EIS.

P29-07 Comment noted.

### **Response to Comment Letter P30 – John Soles**

P30-01 Refer to **General Response 1.2** regarding requests for an extension of the comment period.

### **Responses to Comment Letters P31 through P81**

These comment letters are included in Table A-1 in **Exhibit A** as they are part of the administrative record. Individual responses for each of the comments are not provided for these comment letters as comments were either expressions of opinion/non-substantive comments or repetitions/reiterations of the comments received on the 2013 EA. Refer to **General Response 1.1** regarding non-substantive comments and/or opinions. Refer to **General Response 1.3** regarding responses to comments received on the 2013 EA.

### **Responses to Comment Letters P82 through P104**

These comment letters are included in Table A-1 in **Exhibit A** as they are part of the administrative record but require no response as the letters are a duplicate of correspondence presented in another comment letter for which responses have been provided. Refer to **General Responses 1.1 through 1.12** and **Responses to Comment Letters F1 through F6, S1 through S3, L1, L2, and P1 through P81**.

### **Responses to Comment Letters P105 through P107**

These comment letters are included in Table A-1 in **Exhibit A** as they are part of the administrative record but require no response as the letters do not specifically provide comments on the EA, Proposed Action, project alternatives, and/or decision to be made by the Lead Agency (BIA).

### **Responses to Comment Letters P108 through P152**

These comment letters are included in Table A-1 in **Exhibit A** as they are part of the administrative record but require no response as the content of the letters is nearly identical to that of Comment Letter P1. Refer to **Response to Comment Letter P1**.

### **Responses to Comment Letters P153 through P158**

These comment letters are included in Table A-1 in **Exhibit A** as they are part of the administrative record but require no response as the content of the letters is nearly identical to that of Comment Letter P16. Refer to **Response to Comment Letter P16**.

### **Responses to Comment Letters P159 through P165**

These comment letters are included in Table A-1 in **Exhibit A** as they are part of the administrative record but require no response as the content of the letters is nearly identical to that of Comment Letter P3. Refer to **Response to Comment Letter P3**.

### **Responses to Comment Letters P166 through P169**

These comment letters are included in Table A-1 in **Exhibit A** as they are part of the administrative record but require no response as the content of the letters is nearly identical to that of Comment Letter P4. Refer to **Response to Comment Letter P4**.

### **Responses to Comment Letters P170 through P173**

These comment letters are included in Table A-1 in **Exhibit A** as they are part of the administrative record but require no response as the content of the letters is nearly identical to that of Comment Letter P2. Refer to **Response to Comment Letter P2**.

## **3.0 COMMENT LETTERS RECEIVED PAST THE DEADLINE**

Comment Letters P174 and P175 were received by the BIA after the comment period deadline of July 14, 2014. These letters were reviewed and are included in the administrative record. The comments contained within these comment letters received after the deadline do not present any new topics or issues that are not already presented in the comment letters received within the comment period. Accordingly, the responses to Comment Letters F1 through F6, S1 through S3, L1, L2, and P1 through P81 address the comments presented in Comment Letters P174 and P175. Refer to **General Responses 1.1 through 1.12** and **Responses to Comment Letters F1 through F6, S1 through S3, L1, L2, and P1 through P81**

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## ***EXHIBIT C***

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### ***MITIGATION MONITORING AND ENFORCEMENT PROGRAM***

# EXHIBIT C

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## MITIGATION MONITORING AND ENFORCEMENT PROGRAM

### INTRODUCTION

Pursuant to 40 C.F.R. 1508.13, a Finding of No Significant Impact (FONSI) has been prepared. The Council of Environmental Quality (CEQ) recommends that a Mitigation Monitoring and Enforcement Program (MMEP) be adopted and summarized in certain FONSI documents. The Bureau of Indian Affairs (BIA) is the lead agency for National Environmental Policy Act (NEPA) compliance purposes. In order to minimize or avoid potentially significant impacts that could occur as a result of the Proposed Action, mitigation measures have been developed and incorporated into this MMEP.

### TRIBAL MITIGATION MONITORING OVERVIEW

This chapter has been created to guide mitigation compliance before, during, and after implementation of the selected alternative, as required by NEPA. The mitigation measures described below were created through the analysis of potential impacts within the Final EA and in response to comment received on the Final EA. As specified in the following table, the compliance monitoring and evaluation will be performed by the Tribe, and if warranted the United States Fish and Wildlife Service (USFWS), United States Army Corps of Engineers (USACE), California Department of Transportation (Caltrans), United States Environmental Protection Agency (USEPA), and Santa Barbara County as indicated in the description of each measure. The MMEP is included within the FONSI to provide:

- Requirements for compliance of the mitigation measures specifically created to mitigate impacts;
- List of responsible parties;
- Timing of mitigation measure implementation.

Mitigation measures included within the following table list the responsible party, the compliance standards, implementation timeline, and verification of completion. Where applicable, mitigation measures will be monitored and enforced pursuant to federal law, tribal ordinances, and agreements between the Tribe and appropriate governmental authorities, as well as the FONSI.

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
<b>Land Resources</b>				
<ul style="list-style-type: none"> <li>▪ The Tribe shall comply with the National Pollutant Discharge Elimination System Permit (NPDES Construction General Permit) from the United States Environmental Protection Agency (EPA) for construction site runoff during the construction phase in compliance with the Clean Water Act (CWA). A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared, implemented, and maintained throughout the construction phase of the development, consistent with Construction General Permit requirements. The SWPPP shall detail the BMPs to be implemented during construction and post-construction operation of the selected project alternative to reduce impacts related to soil erosion and water quality. The BMPs shall include, but are not limited to, the following: <ul style="list-style-type: none"> <li>○ Existing vegetation shall be retained where possible. To the extent feasible, grading activities shall be limited to the immediate area required for construction and remediation.</li> <li>○ Temporary erosion control measures (such as silt fences, fiber rolls, vegetated swales, a velocity dissipation structure, staked straw bales, temporary re-vegetation, rock bag dams, erosion control blankets, and sediment traps) shall be employed for disturbed areas during the wet season.</li> <li>○ No disturbed surfaces shall be left without erosion control measures in place during the winter and spring months.</li> <li>○ Construction activities shall be scheduled to minimize land disturbance during peak runoff periods. Soil conservation practices shall be completed during the fall or late winter to reduce erosion during spring runoff.</li> <li>○ Creating construction zones and grading only</li> </ul> </li> </ul>	Tribe General Contractor	<p>NPDES permit shall be obtained from USEPA</p> <p>SWPPPs shall be completed for all construction and excavation activities</p> <p>Measures identified on the SWPPP shall be included in construction plans</p> <p>A copy of the SWPPP shall be current and remain on-site</p> <p>SWPPP practices shall be implemented on-site during construction</p> <p>Geotechnical and soil laboratory testing performed in accordance with engineering industry practices</p> <p>Grading other plans to be reviewed and approved by appropriate licensed professionals</p> <p>Grading and foundation work related to expansive soils to be approved by a licensed engineer</p> <p>Design-level geotechnical specifications addressing the specific grading and development plans shall be developed and approved by a licensed engineer</p> <p>Measures shall be included in construction specifications</p>	Planning and Construction Phases	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
<p>one area or part of a construction zone at a time shall minimize exposed areas. If possible during the wet season, grading on a particular zone shall be delayed until protective cover is restored on the previously graded zone.</p> <ul style="list-style-type: none"> <li>○ Disturbed areas shall be re-vegetated following construction activities.</li> <li>○ Construction area entrances and exits shall be stabilized with crushed aggregate.</li> <li>○ Sediment shall be retained on-site by a system of sediment basins, traps, or other appropriate measures.</li> <li>○ A spill prevention and countermeasure plan shall be developed which identifies proper storage, collection, and disposal measures for potential pollutants (such as fuel, fertilizers, pesticides, etc.) used on-site.</li> <li>○ Petroleum products shall be stored, handled, used, and disposed of properly in accordance with provisions of the Clean Water Act [33 United States Code (U.S.C.) 1251 to 1387].</li> <li>○ During the wet season, construction materials, including topsoil and chemicals, shall be stored, covered, and isolated to prevent runoff losses and contamination of surface and groundwater.</li> <li>○ Fuel and vehicle maintenance areas shall be established away from all drainage courses and designed to control runoff.</li> <li>○ Sanitary facilities shall be provided for construction workers.</li> <li>○ Disposal facilities shall be provided for soil wastes, including excess asphalt during construction and demolition.</li> </ul>				
<ul style="list-style-type: none"> <li>▪ All workers shall be trained in the proper handling, use, cleanup, and disposal of all chemical materials used during construction activities and shall provide</li> </ul>	Tribe General Contractor	Measures shall be included in construction specifications	Construction	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
appropriate facilities to store and isolate contaminants.				
<ul style="list-style-type: none"> <li>All contractors involved in the project shall be trained on the potential environmental damages resulting from soil erosion prior to development by conducting a pre-construction conference. Copies of the project's erosion control plan shall be distributed at that time. All construction bid packages, contracts, plans, and specifications shall contain language that requires adherence to the plan.</li> </ul>				
<b>Water Resources</b>				
<ul style="list-style-type: none"> <li>Development and implementation of a SWPPP under <b>Section 5.1</b> will reduce impacts to stormwater quality.</li> </ul>	Tribe	NPDES permit shall be obtained from USEPA SWPPPs shall be completed for all construction and excavation activities Measures identified on the SWPPP shall be included in construction plans A copy of the SWPPP shall be current and remain on-site SWPPP practices shall be implemented on-site during construction Measures shall be included in construction specifications	Construction	
<ul style="list-style-type: none"> <li>Through contractual obligations, the Tribe shall ensure that construction of the wastewater treatment plant and roadways located adjacent to flood areas occur in the dry season.</li> </ul>	Tribe General Contractor	Measure shall be included in construction specifications	Construction	
<ul style="list-style-type: none"> <li>Recycled water application areas shall be monitored to ensure off-site runoff does not occur. Provisions included within monitoring requirements to reduce the potential for off-site flow shall include:</li> </ul>	Tribe	NPDES permit shall be obtained from USEPA Measure shall be included in construction specifications	Operation Phase	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
<ul style="list-style-type: none"> <li>Recycled water shall be applied to confined areas (such as landscaped areas) only during periods of dry weather. In accordance with the water balance and seasonal storage requirements presented in the Water and Wastewater Feasibility Analysis (<b>Appendix C</b>), a minimum of five acre-feet of storage shall be provided to account for storage during wet weather and winter months when irrigation rates are lowest. The Tribe shall not apply recycled water 24 hours prior to a forecasted rain event and shall wait 24 hours after the rain event to apply recycled water.</li> <li>Recycled water shall not be applied during periods of winds exceeding 30 miles per hour (mph).</li> <li>Recycled water shall not be applied within 100 feet of a water of the U.S.</li> </ul>				
<ul style="list-style-type: none"> <li>New groundwater wells shall be located within the central portion of the project site, south of the Baseline fault within the permeable sands of the water-bearing Careaga Formation.</li> </ul>	Tribe	Measure shall be included in construction specifications	Operation Phase	
<ul style="list-style-type: none"> <li>During years when the County of Santa Barbara declares local drought conditions, there will be no turf grass irrigation allowed, thereby reducing residential lawn water demand to zero.</li> </ul>	Tribe	Measures shall be included in construction specifications	Construction and Operation Phases	
<b>Air Quality</b>				
<ul style="list-style-type: none"> <li>Through contractual obligations, the Tribe shall ensure construction vehicles, delivery, and commercial vehicles do not idle for more than five minutes.</li> </ul>	Tribe General Contractor	Measures shall be included in construction specifications and implemented throughout construction.	Planning and Construction Phases	
<ul style="list-style-type: none"> <li>Through contractual obligations, the Tribe shall ensure heavy duty construction equipment is equipped with diesel particulate matter filters, which would reduce particulate matter from exhaust by 50</li> </ul>	Tribe General Contractor	Measures shall be included in construction specifications and implemented throughout construction.	Planning and Construction Phases	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
percent.				
<ul style="list-style-type: none"> <li>Through contractual obligations, the Tribe shall ensure that exposed surfaces and unpaved roads are water twice a day, which would reduce fugitive dust emissions by 55 percent.</li> </ul>	Tribe General Contractor	Measures shall be included in construction specifications and implemented throughout construction.	Planning and Construction Phases	
<ul style="list-style-type: none"> <li>Through contractual obligations, the Tribe shall ensure that construction equipment on unpaved roads would not exceed 15 miles per hour, which would reduce fugitive dust emissions by 44 percent.</li> </ul>	Tribe	Measures shall be included in construction specifications and implemented throughout construction.	Planning and Construction Phases	
<ul style="list-style-type: none"> <li>Residential architectural coating will be low ROG coatings, which would reduce ROG emissions by 10 percent.</li> </ul>	Tribe	Tribe shall comply with industry standards Measures shall be included in construction specifications	Planning, Construction, and Operation Phases	
<ul style="list-style-type: none"> <li>Through contractual obligations, the Tribe shall, to the extent possible and feasible, require the use of heavy duty construction equipment that meets CARB's most recent certification standards.</li> </ul>	Tribe	CARB standards and regulations	Planning and Construction Phases	
<b>Climate Change</b>				
<ul style="list-style-type: none"> <li>The Tribe shall adopt and comply with the California Green Building Code and exceed Title 24 standards by 25 percent.</li> </ul>	Tribe	California Green Building Code Title 24 standards	Planning, Construction, and Operation Phases	
<ul style="list-style-type: none"> <li>The Tribe shall recycle 75 percent of the solid waste generated on-site.</li> </ul>	Tribe		Construction and Operation Phases	
<ul style="list-style-type: none"> <li>The 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.</li> </ul>	Tribe	Measures shall be included in construction specifications	Planning and Operation Phases	
<b>Biological Resources</b>				
<b>Oak Trees</b> <ul style="list-style-type: none"> <li>Once the construction footprint is finalized, the contractor shall flag any oak trees slated for removal prior to groundbreaking. A qualified arborist shall</li> </ul>	Tribe	Measures shall be included in construction specifications	Planning and Construction Phases	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
survey trees anticipated for removal, identify any oak trees within the selected footprint, and prepare an Arborist Report. The Arborist Report shall identify all oak trees anticipated for removal and require a no net loss of oak trees. The Arborist Report shall provide a revegetation plan that includes proposed planting locations within the project site with a minimum spacing of 20 feet, protection within the dripline of newly planted trees, and a five-year monitoring plan to ensure that the revegetation effort is successful.				
<p><b><i>Waters of the U.S.</i></b></p> <ul style="list-style-type: none"> <li>Any proposed construction activities that would occur within the vicinity of potentially jurisdictional waters of the U.S. shall be conducted during the dry season (i.e., April 15 through October 15) to further reduce the quantity of potential sedimentation within the watershed.</li> <li>A Section 404 Clean Water Act permit shall be obtained from the U.S. Army Corps of Engineers (USACE) prior to any discharge of dredged or fill material into waters of the U.S. An Individual Permit may be required if the development of the selected alternative exceeds 0.5 acres of impacts to waters of the U.S. The Tribe shall comply with all the terms and conditions of the permit and compensatory mitigation shall be in place prior to any direct effects to waters of the U.S. At minimum, mitigation measures require the creation of waters of the U.S. at a 1:1 ratio for any affected waters of the U.S. The U.S. Environmental Protection Agency (USEPA) shall require a 401 Water Quality Certification permit prior to the USACE issuance of a 404 permit. Mitigation shall be implemented in compliance with any permits.</li> </ul>	Tribe	<p>Setbacks will be delineated and monitored by a qualified biologist during construction activities</p> <p>A CWA 404 permit shall be obtained from the USACE if avoidance is not possible</p> <p>A CWA Section 401 Water Quality Certification permit shall be obtained from USEPA if avoidance is not possible</p> <p>Measures shall be included in construction specifications</p>	Planning and Construction Phases	
<b><i>Federally Listed Wildlife</i></b>	Tribe	Section 7 of the Endangered	Planning and	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
<p><b>Vernal Pool Fairy Shrimp</b></p> <ul style="list-style-type: none"> <li>▪ Prior to the final site determination of the residential units, utility corridors, roadways, and any other project component that would result in ground disturbance, a 250 foot wetland habitat buffer zone will be established around seasonal wetland habitat within the project site to assure avoidance of direct or indirect impacts to VPFS.</li> <li>▪ Prior to construction within 500 feet of a wetland habitat buffer zone, a qualified biologist shall demarcate each buffer zone using appropriate materials such as high visibility construction fencing, which will not be removed until the completion of construction activities within 500 feet of the wetland habitat buffer zone.</li> <li>▪ Staging areas shall be located away from the wetland habitat buffer zones. Temporary stockpiling of excavated or imported material shall occur only in approved construction staging areas.</li> <li>▪ Prior to construction within 500 feet of a wetland buffer zone, a USFWS-approved biologist shall conduct a habitat sensitivity training related to VPFS for project contractors and personnel. Supporting materials containing training information shall be prepared and distributed. Upon completion of training, all construction personnel shall sign a form stating that they have attended the training and understand all the conservation measures. Training shall be conducted in languages other than English, as appropriate. Proof of this instruction will be kept on file with the Tribe. The Tribe will provide the USFWS with a copy of the training materials and copies of the signed forms by project staff indicating that training has been completed within 30 days of the completion of the first training session. Copies of signed forms will be submitted monthly as additional training occurs for new employees. The</li> </ul>		Species Act	Construction Phases	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
<p>crew foreman will be responsible for ensuring that construction personnel adhere to the guidelines and restrictions. If new construction personnel are hired following the habitat sensitivity training, the crew foreman will ensure that the personnel receive the mandatory training before starting work.</p> <p><b>California Red-Legged Frog</b></p> <ul style="list-style-type: none"> <li>• A qualified biologist shall conduct a habitat sensitivity training related to CRLF for project contractors and personnel, as identified under the mitigation measures for VPFS.</li> <li>• A qualified biologist shall conduct a preconstruction survey within 14 days prior to the onset of construction activities occurring within 1.6 kilometers of potential breeding habitat.</li> <li>• A qualified biologist shall monitor construction activities during initial grading activities within the project site. Should a CRLF be detected within the construction footprint, grading activities shall halt and the USFWS shall be consulted. No grading activities shall commence until the biologist determines that the CRLF has vacated the construction footprint on its own accord and the USFWS authorizes the re-initiation of grading activities.</li> <li>• If the National Weather Service forecast predicts a rain event of ½ inch or more over a 48-hour period for the worksite area, construction activities will be halted 24 hours before the rain event is anticipated to begin. Construction activities, for the purposes of this protective measure, consist of all activities which pose a risk of crushing dispersing amphibians including driving construction vehicles and equipment, and activities that alter the natural contours of the existing property including digging trenches, modifying drainages, vegetation clearing and grubbing, land grading, and pouring of building</li> </ul>				

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
pads for new structures. After a rain event, a qualified biologist will conduct a pre-construction survey for amphibians dispersing through the project site. Construction will resume only after the site has sufficiently dried and the qualified biologist determines that amphibians are unlikely to be dispersing through the project site.				
<p><b><i>Nesting Migratory Birds and Other Birds of Prey</i></b></p> <ul style="list-style-type: none"> <li>▪ If any construction activities (e.g., building, grading, ground disturbance, removal of vegetation) are scheduled to occur during the nesting season, pre-construction bird surveys shall be conducted. The nesting season generally extends from February 1 to September 15. Preconstruction surveys for any nesting bird species shall be conducted by a qualified wildlife biologist throughout all areas of suitable habitat that are within 500 feet of any proposed construction activity. The surveys shall occur no more than 14 days prior to the scheduled onset of construction activities. If construction is delayed or halted for more than 14 days, another preconstruction survey for nesting bird species shall be conducted. If no nesting birds are detected during the preconstruction surveys, no additional surveys or mitigation measures are required.</li> <li>▪ Any trees proposed for removal shall be removed outside of the nesting season. The nesting season generally extends from February 1 to September 15.</li> <li>▪ If nesting bird species are observed within 500 feet of construction areas during the surveys, appropriate avoidance setbacks shall be established. The size and scale of nesting bird avoidance setbacks shall be determined by a qualified wildlife biologist and shall be dependent upon the species observed and the location of the nest. Avoidance setbacks shall be established around all active nest locations via stakes and high visibility fencing. The nesting bird setbacks shall be completely avoided during</li> </ul>	Tribe	<p>Surveys shall be conducted by a qualified biologist</p> <p>Appropriate avoidance setbacks will be established and monitored by a qualified biologist</p> <p>If avoidance is unavoidable, consultation with USFWS shall be initiated</p> <p>Measures shall be included in construction specifications</p>	Planning and Construction Phases	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
<p>construction activities and the fencing must remain intact. The qualified wildlife biologist shall also determine an appropriate monitoring plan and decide if construction monitoring is necessary during construction activities. The setback fencing may be removed when the qualified wildlife biologist confirms that the nest is no longer occupied and all birds have fledged.</p> <ul style="list-style-type: none"> <li>If impacts (i.e., take) to migratory nesting bird species are unavoidable, consultation with the USFWS shall be initiated. Through consultation, an appropriate and acceptable course of action shall be established.</li> </ul>				
<b>Cultural Resources</b>				
<ul style="list-style-type: none"> <li>Prior to the final siting of the residential units, utility corridors, roadways, and any other project component that would result in ground disturbance, a qualified archaeologist shall identify appropriate buffer zones around each cultural resource to assure avoidance during construction.</li> </ul>	Tribe General Contractor	Measures shall be included in construction specifications	Planning and Construction Phase	
<ul style="list-style-type: none"> <li>Prior to construction within 500 feet of a cultural resource buffer zone, a qualified Tribal Cultural Resource Monitor shall demarcate each buffer zone using appropriate materials such as high visibility construction fencing, which will not be removed until the completion of construction activities within 500 feet of the cultural resource buffer zone.</li> </ul>	Tribe General Contractor	<p>If archeological resources are discovered, a professional archeologist shall assess their significance and an appropriate course of action shall be decided</p> <p>A treatment plan shall be developed in accordance with standard industry practices</p> <p>Measures shall be included in construction specifications</p>	Construction Phase (if warranted)	
<ul style="list-style-type: none"> <li>A qualified Tribal Cultural Resource Monitor shall monitor construction activities occurring within 500 feet of the buffer zone.</li> </ul>	Tribe General Contractor	<p>Any fossils discovered during construction shall be collected and catalogued by an approved paleontologist/geologist</p> <p>Procedures for the discovery</p>	Construction Phase (if warranted)	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
		and recovery of fossils shall be included in construction specifications		
<ul style="list-style-type: none"> <li>In the event that any prehistoric or historic cultural resources, or paleontological resources, are discovered during ground-disturbing activities, all work within 50 feet of the resources shall be halted and the Tribe and the Bureau of Indian Affairs (BIA) archaeologist shall be consulted to assess the significance of the find. If any find is determined to be significant by the qualified professionals, then appropriate agency and tribal representatives shall meet to determine the appropriate course of action.</li> </ul>	Tribe General Contractor	Any fossils discovered during construction shall be collected and catalogued by an approved paleontologist/geologist Procedures for the discovery and recovery of fossils shall be included in construction specifications	Construction Phase (if warranted)	
<ul style="list-style-type: none"> <li>If human remains are encountered, work shall halt in the vicinity of the find and the Santa Barbara County Coroner shall be notified immediately. Pursuant to 36 Code of Federal Regulations (C.F.R.) Part 800.13 of the National Historic Preservation Act (NHPA): <i>Post-Review Discoveries</i>, and 43 C.F.R. § 10.4 (2006) of the Native American Graves Protection and Repatriation Act (NAGPRA): <i>Inadvertent Discoveries</i>, the State Historic Preservation Office (SHPO) and the BIA archaeologist will also be contacted immediately. No further ground disturbance shall occur in the vicinity of the find until the County Coroner, SHPO, and BIA archaeologist have examined the find and agreed on an appropriate course of action. If the remains are determined to be of Native American origin, the BIA representative shall notify a Most Likely Descendant (MLD). The MLD is responsible for recommending the appropriate disposition of the remains and any grave goods.</li> </ul>	Tribe General Contractor	Procedures for the recovery of human remains pursuant to 43 C.F.R. 10.4 Procedure shall be included in construction specifications	Construction Phase (if warranted)	
<ul style="list-style-type: none"> <li>Should paleontological resources be unearthed, a paleontological resource impact mitigation plan (PRIMP) shall be prepared prior to further earthmoving in the vicinity of the find. The PRIMP shall detail the procedures for collecting and</li> </ul>	Tribe General Contractor	Any fossils discovered during construction shall be collected and catalogued by an approved paleontologist/geologist Procedures for the discovery	Construction Phase (if warranted)	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
preserving the discovered fossils. Any fossils discovered during construction shall be accessioned in an accredited scientific institution for future study.		and recovery of fossils shall be included in construction specifications		
<b>Transportation and Circulation</b>				
<p><i>Alternatives A and B – Near Term</i></p> <ul style="list-style-type: none"> <li>▪ <b>SR-246 at SR-154</b> – The Tribe shall pay a fair share contribution of 22.5 percent for Alternative A or 23.2 percent for Alternative B for the development of a roundabout being installed by Caltrans at SR-246 at AR-154.</li> </ul>	Tribe General Contractor	Proportionate share agreement Standard industry practices	Planning phase	
<p><i>Alternatives A and B – Cumulative</i></p> <ul style="list-style-type: none"> <li>▪ <b>SR-154 Corridor</b> – The Tribe shall pay a fair share contribution, as indicated in <b>Table 5.7-1</b> in <b>Section 5.0</b>, for the development of either roundabouts or signalization of specified intersections as determined by Caltrans. Completion of roundabouts at these intersections would result in a LOS A. Signalization of these intersections would result in a LOS B. Completion of roundabouts or signalization of the above intersections would result in an acceptable level of service on the highway segments SR-154 North of Edison Street and SR-154 South of SR-246-Armour Ranch Road.</li> <li>▪ <b>SR-246 Corridor</b> – The Tribe shall pay a fair share contribution, as indicated in <b>Table 5.7-1</b> in <b>Section 5.0</b>, for the development of either roundabouts or signalization of specified intersections as determined by Caltrans. Completion of roundabouts at these intersections would result in a LOS A. Signalization of these intersections would result in a LOS B. Completion of roundabouts or signalization of the above intersections would result in an acceptable level of service on the highway segment SR-246 from SR-154 to Solvang.</li> </ul>	Tribe General Contractor	Proportionate share agreement Standard industry practices	Planning phase	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
<b>Public Services</b>				
<ul style="list-style-type: none"> <li>To minimize the risk of fire and the need for fire protection services during construction, any construction equipment that normally includes a spark arrester shall be equipped with a spark arrester in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws.</li> </ul>	Tribe General Contractor	Standard industry practices consistent with equivalent state and local standards Development plans to be reviewed and approved by appropriate licensed professionals Measures shall be included in construction specifications	Planning and Construction Phases	
<ul style="list-style-type: none"> <li>During construction, staging areas, welding areas, and areas slated for development using spark-producing equipment shall be cleared of dried vegetation or other materials that could serve as fire fuel. To the extent feasible, the contractor shall keep these areas clear of combustible materials in order to maintain a firebreak.</li> </ul>	Tribe General Contractor	Standard industry practices consistent with equivalent state and local standards Development plans to be reviewed and approved by appropriate licensed professionals Measures shall be included in construction specifications	Planning and Construction Phases	
<ul style="list-style-type: none"> <li>Fire extinguishers shall be maintained onsite and inspected on a regular basis.</li> </ul>	Tribe General Contractor	Standard industry practices consistent with equivalent state and local standards Development plans to be reviewed and approved by appropriate licensed professionals Measures shall be included in construction specifications	Planning and Construction Phases	
<ul style="list-style-type: none"> <li>An evacuation plan shall be developed for the project alternatives in the event of a fire emergency.</li> </ul>	Tribe	Standard industry practices, consistent with equivalent state and local standards	Planning Phase	
<ul style="list-style-type: none"> <li>Prior to development of the project site, the Tribe will either:</li> </ul>	Tribe	Standard industry practices, consistent with equivalent state and local standards	Planning Phase	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
<ul style="list-style-type: none"> <li>Grant permission to the Santa Barbara County Fire Protection Department (SBCFD) to enter the project site after it has been taken into trust while maintaining the Tribe's existing funding of the SBCFD via the Special Distribution Funding and/or other grant programs; or</li> <li>Enter into a new agreement with the SBCFD to provide fire protection and emergency response services on the project site after it has been taken into trust. As part of this agreement, the SBCFD will ensure it has either revised its existing or entered into a new Cooperative Wildland Fire Management and Stafford Act Response Agreement (Cooperative Agreement), as necessary, with the California Department of Forestry and Fire Protection (CAL FIRE) such that the SBCFD is authorized to provide fire protection and emergency response services on the project site after it has been taken into trust.</li> </ul>		<p>Development plans to be reviewed and approved by licensed professionals</p> <p>Measures shall be included in construction specifications</p>		
<b>Hazardous Materials</b>				
<ul style="list-style-type: none"> <li>Potentially hazardous materials, including fuels, shall be stored away from drainages and secondary containment shall be provided for all hazardous materials during construction.</li> </ul>	Tribe General Contractor	<p>Measures shall be included in construction specifications</p> <p>Hazardous materials storage and disposal plan shall be developed in accordance with industry practices</p>	Planning and Construction Phases	
<ul style="list-style-type: none"> <li>A spill prevention and countermeasure plan shall be developed which identifies proper storage, collection, and disposal measures for potential pollutants (such as fuel storage tanks) used onsite, as well as the proper procedures for cleaning up and reporting spills.</li> </ul>	Tribe General Contractor	<p>Measures shall be included in construction specifications</p> <p>Hazardous materials storage and disposal plan shall be developed in accordance with industry practices</p>	Planning and Construction Phases	
<ul style="list-style-type: none"> <li>Vehicles and equipment used during construction shall be provided proper and timely maintenance to reduce the potential for mechanical breakdowns leading to a spill. Maintenance and fueling shall be</li> </ul>	Tribe General Contractor	<p>Measures shall be included in construction specifications</p> <p>Hazardous materials storage and disposal plan shall be</p>	Planning and Construction Phases	

Mitigation Measure	Implementing Responsibility	Compliance Standards	Timing	Verification (Date/Initial)
conducted in an area that meets the criteria set forth in the spill prevention plan.		developed in accordance with industry practices		
<ul style="list-style-type: none"> <li>A hazardous materials storage and disposal plan shall be prepared. The plan shall provide a detailed inventory of hazardous materials to be stored and used onsite, provide appropriate procedures for disposal of unused hazardous materials, and detail training requirements for employees that handle hazardous materials as a normal part of their employment. The plan shall also include emergency response procedures in the event of an accidental release of hazardous materials.</li> </ul>	Tribe General Contractor	Measures shall be included in construction specifications Hazardous materials storage and disposal plan shall be developed in accordance with industry practices	Planning and Construction Phases	

## ***EXHIBIT D***

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*U.S. FISH AND WILDLIFE SERVICE  
CONCURRENCE LETTER*



# United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Ventura Fish and Wildlife Office  
2493 Portola Road, Suite B  
Ventura, California 93003

IN REPLY REFER TO:  
08EVEN00-2014-I-0219

October 8, 2014

Amy Dutschke, Regional Director  
Pacific Regional Office  
Bureau of Indian Affairs  
2800 Cottage Way  
Sacramento, California 95825

Subject: Fee to Trust Land Acquisition, Santa Ynez Band of Chumash Indians, Santa Barbara County, California

Dear Ms. Dutschke:

We are responding to your request, dated March 11, 2014, and received in our office on March 17, 2014, for our concurrence with your determination that the subject project may affect, but is not likely to adversely affect the federally threatened California red-legged frog (*Rana draytonii*) and vernal pool fairy shrimp (*Branchinecta lynchi*). The Santa Ynez Band of Chumash Indians (Tribe) proposes the development of either 143 5-acre residential lots or alternatively 143 1-acre residential lots for tribal members and would include the conveyance of approximately 1,433 acres into Federal trust status for the benefit of the Tribe. The proposed project is located adjacent to Highway 154, east of the town of Santa Ynez, in unincorporated Santa Barbara County, California. The proposed project consists of the fee simple conveyance of five parcels into federal trust status for the benefit of the Tribe. This trust action would shift civil regulatory jurisdiction over the 1,433 acres from the State of California and Santa Barbara County to the Tribe and the Bureau of Indian Affairs (BIA).

The U.S. Fish and Wildlife Service's (Service) responsibilities include administering the Endangered Species Act of 1973, as amended (Act), including sections 7, 9, and 10. Section 9 of the Act and its implementing regulations prohibit the taking of any federally listed endangered or threatened wildlife species. Section 3(19) of the Act defines take to mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Service regulations (50 CFR 17.3) define harm to include significant habitat modification or degradation which actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. Harassment is defined by the Service as an intentional or negligent action that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. The Act provides for civil and criminal penalties for the unlawful taking of listed species. Exemptions to the prohibitions against take may be obtained through coordination with the Service in two ways: through

interagency consultations for projects with Federal involvement pursuant to section 7 of the Act or through the issuance of an incidental take permit under section 10(a)(1)(B) of the Act.

The Proposed Project consists of two main components: (1) the placement of five parcels totaling approximately 1,433 acres into federal trust status for the Tribe; and (2) the development of residential plots with the remaining acreage (after residential development) dedicated to agriculture, open space/recreational, conservation of riparian corridors and oak woodland, and development of utilities. Development of the site would include domestic water connections, a wastewater treatment plant, and supporting roads and infrastructure. Two project alternatives have been proposed: 143 5-acre residential lots (793 acres of disturbance) or 143 1-acre residential lots (194 acres of disturbance).

The proposed project site occurs within the range of the California red-legged frog and vernal pool fairy shrimp. California red-legged frogs have been observed in close proximity to the project site (California Natural Diversity Database 2014), and the southern portion of the property falls within critical habitat for the vernal pool fairy shrimp.

#### California red-legged frog

The California red-legged frog was federally listed as threatened on May 23, 1996 (61 Federal Register (FR) 25813). It uses a variety of habitat types, including various aquatic systems, riparian, and upland habitats, and its diet is highly variable. The species breeds from November through March; earlier breeding has been recorded in southern localities (Storer 1925). California red-legged frogs spend most of their lives in and near sheltered backwaters of ponds, marshes, springs, streams, and reservoirs. Deep pools with dense stands of overhanging willows and an intermixed fringe of cattails are considered optimal habitat.

Juvenile and adult California red-legged frogs may disperse long distances from breeding sites throughout the year. They can be encountered living within streams at distances exceeding 1.8 miles from the nearest breeding site, and have been found up to 400 feet from water in adjacent dense riparian vegetation (Bulger et al. 2003). Some California red-legged frogs have moved long distances over land between water sources during winter rains. Adult California red-legged frogs have been documented to move more than 2 miles in northern Santa Cruz County “without apparent regard to topography, vegetation type, or riparian corridors” (Bulger et al. 2003). Most of these overland movements occur at night. These individual frogs were observed to make long-distance movements that are straight-line, point to point migrations over variable upland terrain rather than using riparian corridors for movement between habitats. For the California red-legged frog, suitable habitat is considered to include all aquatic and riparian areas within the range of the species and includes any landscape features that provide cover and moisture (61 FR 25813). Evidence provided by AECOM (2011) suggests that California red-legged frogs exhibit strong site fidelity, traveling over steep terrain for over 1 mile to return to a pool from which they were translocated.

California red-legged frogs have been found at elevations that range from sea level to about 5,000 feet. The historical range of the California red-legged frog extended coastally from southern Mendocino County and inland from the vicinity of Redding, California, southward to northwestern Baja California, Mexico (Jennings and Hayes 1985, Storer 1925). The California red-legged frog has been extirpated or nearly extirpated from 70 percent of its former range. Currently, California red-legged frogs are known from three disjunct regions in 26 California counties and one region in Baja California, Mexico (Grismer 2002, Fidenci 2004, Smith and Krofta 2005).

According to the California Natural Diversity Database, a juvenile California red-legged frog was observed below an impassible 6-foot tall waterfall in 2003, approximately 0.75 miles southwest of the project site across Highway 154 (CNDDDB 2014). Suitable aquatic habitat is not present onsite; however, surveys for the California red-legged frog were not conducted on adjacent properties which may contain suitable aquatic habitat. The predominant land uses in the area are agriculture and ranching, which routinely allow aquatic features to form on the landscape (e.g., stock ponds). The proposed project site could be within dispersal range (i.e., 2 miles) of breeding sites or aquatic areas, where California red-legged frogs making point-to-point migrations may travel. However, we are not aware of any known breeding sites within 2 miles of the project site. The likelihood that individuals would disperse though the project site is generally unknown.

**Protective Measures:** The Tribe proposes to implement the following measures to protect the California red-legged frog during construction (AES 2014):

- A qualified biologist will conduct a habitat sensitivity training related to the California red-legged frog for project contractors and personnel, as identified under the protective measures for vernal pool fairy shrimp.
- A qualified biologist will conduct a preconstruction survey within 14 days prior to the onset of construction activities occurring within 1 mile (1.6 kilometers) of potential breeding habitat.
- A qualified biologist will monitor construction activities during initial grading activities within the project site. Should a California red-legged frog be detected within the construction footprint, grading activities will halt and the Service shall be consulted. No grading activities will commence until the biologist determines that the California red-legged frog has vacated the construction footprint on its own accord and the Service authorizes the re-initiation of grading activities.
- If the National Weather Service forecast predicts a rain event of 1/2 inch or more over a 48-hour period for the worksite area, construction activities will be halted 24 hours before the rain event is anticipated to begin. Construction activities, for the purposes of this protective measure, consist of all activities which pose a risk of crushing dispersing amphibians including driving construction vehicles and equipment, and activities that alter the natural contours of the existing property including digging trenches, modifying drainages, vegetation clearing and grubbing, land grading, and pouring of building pads for new structures. After a rain event, a qualified biologist will conduct a pre-construction survey for amphibians dispersing through the project site. Construction will

resume only after the site has sufficiently dried and the qualified biologist determines that amphibians are unlikely to be dispersing through the project site.

#### Vernal pool fairy shrimp

Habitat for vernal pool fairy shrimp consists of vernal pools and ephemeral wetlands that pond for a period of time sufficient to complete the life cycle of the species. Under optimal conditions this can be as little as 18 days; however, 41 days is more typical of usual seasonal conditions (Eriksen and Belk 1999, Helm 1998). Vernal pool fairy shrimp often occur in habitats that exhibit an unpredictable and short-lived inundation pattern, including vernal pools and vernal pool-like depressions, depressions in sandstone rock outcrops, earth slumps, and grassy swales and depression basins. Upland vegetation communities associated with vernal pool fairy shrimp habitat include native and non-native grassland, alkaline grassland, alkaline scrub, and coastal sage scrub.

Although vernal pool fairy shrimp are more widely distributed than most other fairy shrimp species, the species is generally uncommon throughout its range and rarely abundant where it is found (Eng et al. 1990, Eriksen and Belk 1999). The species currently occurs predominantly in a variety of vernal pool and ephemeral ponded habitats in the Central Valley and Coast Range of California, with a limited number of sites in the Transverse Range and on the Santa Rosa Plateau and in Hemet, Riverside County. Elevations at which the species is typically found range from 33 feet to 4,000 feet, although it has been found at 5,600 feet in the Los Padres National Forest (Service 2007).

Within ephemeral ponded and vernal pool habitat on the Central Coast of California (i.e., Monterey, San Luis Obispo, and Santa Barbara counties), vernal pool fairy shrimp are known to occupy in at least 55 basins on Fort Hunter Liggett, at least 46 basins at Camp Roberts, Soda Lake at the Carrizo Plain National Monument, several areas in the vicinity of Paso Robles, at least two sites in the Los Padres National Forest, at least two vernal pools at the Santa Maria Airport, at least 60 natural or man-made features at the Unocal-Chevron tank farm and an isolated nearby area, at least 1 site on the Burton Mesa Ecological Preserve, and in at least 12 complexes on Vandenberg Air Force Base. A number of these sites were discovered after the publication of the listing and critical habitat rules and recovery plan.

Maintaining the integrity of surrounding upland habitat is essential to the proper ecological functioning of vernal pool fairy shrimp habitat. Habitat loss and fragmentation is the largest threat to the survival and recovery of vernal pool fairy shrimp and other species restricted to vernal pool and other ephemeral wetland habitats.

The project site provides habitat for vernal pool fairy shrimp within the seasonal wetlands and is located within a core area of the Vernal Pool Recovery Plan. Approximately 0.15 acres of suitable habitat may be affected by the proposed project (AES 2014). The seasonal wetlands did not contain water during the September 2011, March 2012, and April 2012 biological surveys of the project site; however, vernal pool fairy shrimp have the potential to occur onsite.

Protective Measures: The Tribe will implement the following measures to protect the vernal pool fairy shrimp during construction (AES 2014):

- Prior to the final site determination of the residential units, utility corridors, roadways, and any other project component that would result in ground disturbance, a 250-foot wetland habitat buffer zone will be established around seasonal wetland habitat within the project site to assure avoidance of direct or indirect impacts to vernal pool fairy shrimp.
- Prior to construction within 500 feet of a wetland habitat buffer zone, a qualified biologist will demarcate each buffer zone using appropriate materials such as high visibility construction fencing, which will not be removed until the completion of construction activities within 500 feet of the wetland habitat buffer zone.
- Staging areas will be located away from the wetland habitat buffer zones. Temporary stockpiling of excavated or imported material shall occur only in approved construction staging areas.
- Prior to construction within 500 feet of a wetland buffer zone, a Service-approved biologist will conduct a habitat sensitivity training related to vernal pool fairy shrimp for project contractors and personnel. Supporting materials containing training information shall be prepared and distributed. Upon completion of training, all construction personnel shall sign a form stating that they have attended the training and understand all the conservation measures. Training will be conducted in languages other than English, as appropriate. Proof of this instruction will be kept on file with the Tribe. The Tribe will provide the Service with a copy of the training materials and copies of the signed forms by project staff indicating that training has been completed within 30 days of the completion of the first training session. Copies of signed forms will be submitted monthly as additional training occurs for new employees. The crew foreman will be responsible for ensuring that construction personnel adhere to the guidelines and restrictions. If new construction personnel are hired following the habitat sensitivity training, the crew foreman will ensure that the personnel receive the mandatory training before starting work.

#### Vernal pool fairy shrimp critical habitat

The Service designated critical habitat for the vernal pool and longhorn fairy shrimp on August 6, 2003 (68 FR 46684) and clarified the designation on February 10, 2006 (71 FR 7118). The designation for vernal pool fairy shrimp contains 597,821 acres in 84 subunits. The proposed project falls within critical habitat Unit 31, which is 20,754 acres.

The Primary Constituent Elements (PCEs) of critical habitat for vernal pool fairy shrimp are the habitat components that provide:

- (i) Topographic features characterized by mounds and swales, and depressions within a matrix of surrounding uplands that result in complexes of continuously, or intermittently, flowing surface water in the swales connecting the pools described in PCE (ii), providing for dispersal and promoting hydroperiods of adequate length in the pools.
- (ii) Depressional features including isolated vernal pools with underlying restrictive soil layers that become inundated during winter rains and that continuously hold water for a

minimum of 18 days (Helm 1998), in all but the driest years; thereby providing adequate water for incubation, maturation, and reproduction. As these features are inundated on a seasonal basis, they do not promote the development of obligate wetland vegetation habitats typical of permanently flooded emergent wetlands.

- (iii) Sources of food, expected to be detritus occurring in the pools, contributed by overland flow from the pools' watershed, or the results of biological processes within the pools themselves, such as single-celled bacteria, algae, and dead organic matter, to provide for feeding.
- (iv) Structure within the pools described in PCE (ii), consisting of organic and inorganic materials, such as living and dead plants from plant species adapted to seasonally inundated environments, rocks, and other inorganic debris that may be washed, blown, or otherwise transported into the pools, that provide shelter.

Approximately 330.11 acres of the southern portion of the project site occurs within vernal pool fairy shrimp critical habitat, which is approximately 1.6% of Unit 31, or 0.05% of the total critical habitat designation. Furthermore, as stated above, the proposed project may affect only 0.15 acres of the suitable habitat onsite (AES 2014). The Tribe will implement the aforementioned measures to protect the vernal pool fairy shrimp during construction. Those measures will also protect critical habitat for the vernal pool fairy shrimp.

According to the Tribe, implementation of the protective measures will avoid all seasonal wetlands and swales that provide flowing water to the wetland features (PCE 1, PCE 2) (Wilson in litt. 2014). Storm water drainage improvements would be implemented to ensure storm water flows on the project site post-development equal existing runoff rates. Thus, construction within the associated upland areas will not affect the amount of flowing water reaching the wetland features onsite (PCE 2). The implementation of the protective measures and establishment of 250-foot buffer zones around all seasonal wetlands and swales will protect rock and plant material within the vernal pools and the detritus that may be a food source for vernal pool fairy shrimp (PCE 4, PCE 3) (Wilson in litt. 2014). We find no reason to dispute this analysis.

### Conclusion

We concur with your determination that the proposed residential development of the 1,433-acre project site may affect, but is not likely to adversely affect the California red-legged frog and vernal pool fairy shrimp and its designated critical habitat. We came to this conclusion because:

- 1) The project site does not support suitable aquatic breeding habitat for the California red-legged frog. Individuals have the potential to disperse through the project site during migration events to breeding sites. The Tribe will implement protective measures to ensure California red-legged frogs are not adversely affected during migration, including conducting preconstruction surveys and monitoring, and halting construction activities during rain events. The threat of injury or mortality to the California red-legged frog during construction is discountable.

- 2) It is unknown if vernal pool fairy shrimp inhabit aquatic features onsite. The Tribe will implement protective measures to ensure vernal pool fairy shrimp are not adversely affected, including avoiding suitable habitat (i.e. seasonal wetlands and swales) with a 250-foot buffer from construction. The threat of injury or mortality to the vernal pool fairy shrimp is discountable.
- 3) As small area (i.e., 1.6%) of designated critical habitat Unit 31 for the vernal pool fairy shrimp occurs in the southern portion of the project site. The proposed project may affect 0.15 acres of suitable habitat for the species. The affects to critical habitat are insignificant. In addition, the Tribe will implement protective measures to ensure critical habitat for the vernal pool fairy shrimp is not adversely affected, including avoiding suitable habitat which contain the PCEs. Adverse effects to the primary constituent elements of the critical habitat designation are also discountable.

Further consultation, pursuant to section 7(a)(2) of the Act is not required. If the proposed action changes in any manner that may adversely affect a listed species or critical habitat, you must contact us immediately to determine whether additional consultation is required. If you have any questions concerning this letter, please contact Colleen Draguesku of my staff at (805) 644-1766, extension 221.

Sincerely,



Jeff Phillips  
Deputy Assistant Field Supervisor

cc:

Chad Broussard, Bureau of Indian Affairs

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## ***EXHIBIT E***

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*CALIFORNIA OFFICE OF HISTORIC PRESERVATION  
CONCURRENCE LETTERS*

**OFFICE OF HISTORIC PRESERVATION  
DEPARTMENT OF PARKS AND RECREATION**

1725 23<sup>rd</sup> Street Suite 100  
SACRAMENTO CA 95818-7100  
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[caohp@parks.ca.gov](mailto:caohp@parks.ca.gov) / [www.ohp.parks.ca.gov](http://www.ohp.parks.ca.gov)



Reply in Reference to: **BIA\_2014\_0303\_001**

March 6, 2014

Amy Dutschke - Regional Director  
United States Department of Interior  
Bureau of Indian Affairs - Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825

RE: Section 106 consultation for a *Fee to Trust Conveyance-1390 acres for Santa Ynez Band of Mission Indians, Santa Barbara County*

Dear Ms. Dutschke:

Thank you for your letter of 24 February 2014 consulting pursuant to Section 106 of the National Historic Preservation Act (NHPA) of 1966 (16 U.S.C. 470f), as amended, and its implementing regulation found at 36 CFR Part 800. You determined the above noted action is a Federal undertaking and request my concurrence on a finding of "No Adverse Effect."

BIA is proposing a fee-to-trust transfer of four parcels of land (identified as APN 141-121-051, 141-140-010, 141-230-023 and 141-240-002) for the Santa Ynez Band of Mission Indians in Santa Barbara County. Encompassing a total of 1390-acres in the Santa Ynez Valley, BIA determined the Area of Potential Effect (APE) to be the aforementioned acreage and depicted it in Map-1 and -2 of the following study documenting the results of a CHRIS records search and field-survey that identified 10 unevaluated cultural resources in the APE:

- *Phase 1 and 1.5 Archaeological Investigations for the Project 1390/Camp Four/Parker Ranch, Vicinity of Santa Ynez, Santa Barbara County, California* (Archaeological Assessment and Management/Spanne 2011)

The 10 cultural resources in the APE are as follows:

- **AS-1 (CA-SBA-4019)** - A small prehistoric light density lithic scatter consisting of flaked-stone waste, utilized flakes and a core tool.
- **AS-2 (CA-SBA-4020)** - A small prehistoric light density lithic scatter of primary and secondary flakes, blades and small cores.
- **AS-3-H (CA-SBA-4021H)** - A moderate size historic resource containing a well head, a concrete block water tank foundation, stock troughs with pipe, and a light scatter of historic artifacts.
- **AS-4-H (CA-SBA-4022H)** - A multi-component resources containing a light density scatter of historic refuse and flaked-stone.
- **T-1 and T-2** - Both sites consist of one concrete stock trough.
- **PS-1, -2, -3 and -4** - The four sites consist of one rock pile each

BIA will treat the above resources as eligible properties for purposes of the proposed undertaking.

Ms. Amy Dutschke  
6 March 2014

BIA\_2014\_0124\_001  
Page 2 of 2

Based on a review of submitted materials, I concur with "*No Adverse Effect*" pursuant to 36 CFR Part 800.5(b) for the fee-to-trust undertaking.

You may have additional Section 106 responsibilities for conditions such as changes in project scope or unanticipated discoveries. Thank you for including historic properties and my comments in your project planning. Please direct questions to Jeff Brooke at (916) 445-7003 or [Jeff.Brooke@parks.ca.gov](mailto:Jeff.Brooke@parks.ca.gov).

Sincerely,

A handwritten signature in black ink, reading "Carol Roland Nawi, Ph.D." in a cursive style.

Carol Roland Nawi, PhD  
State Historic Preservation Officer

# ***EXHIBIT F***

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## ***TRIBAL RESOLUTIONS***

*TRIBAL RESOLUTION 930B*



## Santa Ynez Band of Chumash Indians

P.O. Box 517 • Santa Ynez, CA 93460  
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www.santaynezchumash.org

### *BUSINESS COMMITTEE*

*Vincent Armenta, Chairman  
Richard Gomez, Vice Chairman  
Kenneth Kahn, Secretary/Treasurer  
David D. Dominguez, Committee Member  
Gary Pace, Committee Member*

### Resolution No. 930B

#### Resolution of the Business Committee of the Santa Ynez Band of Chumash Indians to Select a Preferred Project Alternative for the Final Camp 4 Environmental Assessment

WHEREAS, the Santa Ynez Band of Chumash Indians ("Tribe") is a federally recognized Self Governance Indian Tribe by the United States Government possessing inherent powers of self-governance with duties, rights, responsibilities, and with power and authority over the lands within the exterior boundaries of the Santa Ynez Band of Chumash Indians Reservation; and

WHEREAS, Pursuant to 25 CFR 151.10 and 151.11, the Indian Reorganization Act and any other applicable federal law and/or regulations, the Santa Ynez Band of Chumash Indians ("Tribe") submitted to the Bureau of Indian Affairs Business Committee Resolution No. 930A an application to transfer the following approximately 1400 acres of real property (the "Camp 4") held by the Tribe in fee simple to the United State of America, to be held in trust for the Tribe (so-called "fee to trust" transfer) as listed herein and as described in more detail in such Resolution 930A Exhibit A LEGAL: DESCRIPTION:

Parcel 1: (APN: 141-121-51 and portion of APN: 141-140-10)  
Parcel 2: (Portion of APN: 141-140-10)  
Parcel 3: (Portions of APNs 141-230-23 and 141-140-10)  
Parcel 4: (APN: 141-240-02 and portion of APN 141-140-10)  
Parcel 5: (Portion of APN: 141-230-23)

WHEREAS, the Bureau of Indian Affairs (BIA), Pacific Regional Office, published a Notice of Availability for the Final Environmental Assessment (EA) for the Santa Ynez Band of Chumash Indians (Tribe) Camp 4 Fee to Trust Acquisition on May 29, 2014 identifying a review period ending June 30, 2014. By request, the BIA extended the review period to July 14, 2014;

WHEREAS, such Camp 4 Final EA evaluated three project alternatives:  
Alternative A - Five-Acre Allotments; and  
Alternative B - One-Acre Allotments; and  
Alternative C - No Action;

THEREFORE BE IT RESOLVED, that the Business Committee of the Santa Ynez Band of Chumash Indians hereby selects Alternative B One-Acre Allotments as the Tribe's preferred Alternative for the purposes of the Final Camp 4 EA; and

BE IT FURTHER RESOLVED, that Alternative B One-Acre Allotments will not increase net groundwater use on Camp 4 over current use based on the following Project assumptions:

206 Acre-Foot Per Year (AFY) for Vineyard Irrigation;

36 AFY for Residential Indoor Use;

14 AFY for Residential Landscaping Irrigation;

32 AFY for Residential Lawn Irrigation;

2 AFY for Tribal Office Complex Indoor Use;

Total Water Needs = 290 AFY

Recycled Water Use (90% of 38 AFY for Indoor Use) = -34 AFY

Groundwater Water Use (Total Water Needs less Recycled Water Use) = 256 AFY

Existing groundwater Use = 256 AFY

Net groundwater Water Use Increase = 0 AFY

BE IT FURTHER RESOLVED, that Alternative B One-Acre Allotments will maximize the use of Camp 4 as recreation and open space upon which grazing of livestock is both approved and encouraged; and

BE IT FURTHER RESOLVED that the Tribe agrees to implement the following additional mitigation for the California Red-Legged Frog:

*If the National Weather Service forecast predicts a rain event of ½ inch or more over a 48-hour period for the worksite area, construction activities will be halted 24 hours before the rain event is anticipated to begin. Construction activities, for the purposes of this protective measure, consist of all activities which pose a risk of crushing dispersing amphibians including driving construction vehicles and equipment, and activities that alter the natural contours of the existing property including digging trenches, modifying drainages, vegetation clearing and grubbing, land grading, and pouring of building pads for new structures. After a rain event, a qualified biologist will conduct a pre-construction survey for amphibians dispersing through the project site. Construction will resume only after the site has sufficiently dried and the qualified biologist determines that amphibians are unlikely to be dispersing through the project site.*

BE IT FURTHER RESOLVED that the Tribe agrees to implement the following additional mitigation for Vernal Pool Fairy Shrimp (VPFS):

*Prior to the final site determination of the residential units, utility corridors, roadways, and any other project component that would result in ground disturbance, a 250 foot wetland habitat buffer zone will be established around seasonal wetland habitat within the project site to assure avoidance of direct or indirect impacts to VPFS. Should the USFWS determine that, even with this mitigation, impacts to VPFS may be significant; the Tribe shall only approve for consideration those site plans that exclude development of residential units within VPFS designated critical habitat.*

This resolution supersedes any previous Tribal resolutions.

### CERTIFICATION

We the undersigned, duly elected members of the Business Council of the Santa Ynez Band of Chumash Indians, do hereby certify that the foregoing resolution was adopted on August 13, 2014 by a vote of 4 in FAVOR, 0 OPPOSED, 0 ABSTAINING.

\_\_\_\_\_  
Vincent Armenta, Chairman

\_\_\_\_\_  
Kenneth Kahn, Secretary/Treasurer

\_\_\_\_\_  
Gary Pace, Committee Member

\_\_\_\_\_  
Richard Gomez, Vice Chairperson

\_\_\_\_\_  
David Dominguez, Committee Member

*TRIBAL RESOLUTION 948*



## Santa Ynez Band of Chumash Indians

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### *BUSINESS COMMITTEE*

*Vincent Armenta, Chairman  
Richard Gomez, Vice Chairman  
Kenneth Kahn, Secretary/Treasurer  
David D. Dominguez, Committee Member  
Gary Pace, Committee Member*

## RESOLUTION NO. 948

**Re:** To establish the Santa Ynez Tribal Police Department and to take all other necessary legal and administrative actions for all lands annexed to the Reservation by fee-to-trust

**WHEREAS:** The Santa Ynez Band of Chumash Indians ("Tribe") is a federally recognized Self Governance Tribe by the United States Government possessing inherent powers of self-governance with duties, rights, responsibilities, and with power and authority over the lands within the exterior boundaries of the Santa Ynez Band of Chumash Indians Reservation ("Reservation") and all lands annexed to the Reservation by fee-to-trust

**WHEREAS:** The Business Committee of the Santa Ynez Band of Chumash Indians is the duly authorized body of the tribe to exercise full government responsibilities and is empowered to make tribal policy and carry out tribal business; and

**WHEREAS:** With the passage of Public Law 280 (PL 280), the State of California was granted the authority by the United States to enforce its criminal prohibitory laws against persons on the Reservation. Despite this limited grant of criminal jurisdiction, the Santa Barbara County Sheriff's Department has been unable to provide consistent and effective law enforcement on the Reservation. More recently, the Board of Supervisors of Santa Barbara County have questioned whether they will permit County law enforcement services on lands annexed to the Reservation by fee-to-trust; and

**WHEREAS,** To protect persons and property located on lands annexed to the Reservation by fee-to-trust and to ensure that applicable federal, state and tribal laws are enforced, the Business Committee finds it necessary to establish the Santa Ynez Tribal Police Department as follows;

**NOW THEREFORE BE IT RESOLVED THAT,** the Business Committee of the Santa Ynez Band of Chumash Indians does hereby establish the Santa Ynez Tribal Police Department (SYTPD) as a new tribal department with a Chief of Police as its most senior officer. The Chief of Police shall be POST certified by the State of California and must be able to pass a background check by the Bureau of Indian Affairs (BIA) Office of Law Enforcement Services (OLES) or any successor agency to OLES; and

**NOW THEREFORE BE IT FURTHER RESOLVED THAT,** the SYTPD shall at least initially only have jurisdiction over all land annexed to the Reservation by fee-to-trust after June 3, 2014; and

**NOW THEREFORE BE IT FURTHER RESOLVED THAT,** the Chief of Police with the Tribal Legal Department shall create a separate Ordinance of the Santa Ynez Band of Chumash Indians establishing the Santa Ynez Tribal Police Department and Qualifications, Training and Performance Standards for Police Officers substantially similar to the form attached and shall submit such Ordinance to the Business Committee for all approvals it deems necessary; and

**NOW THEREFORE BE IT FURTHER RESOLVED THAT**, the Business Committee shall work with the BIA OLES to enter into a Deputation Agreement to govern the issuance of BIA OLES Special Law Enforcement Commissions (SLECs) for the Chief of Police and any other Tribal Police Officers. This Deputation Agreement shall be made pursuant to the Assistant Secretary – Indian Affairs' Cross Deputation Agreements, Memoranda of Understanding, Memoranda of Agreement, and Special Law Enforcement Deputations Agreements, FR Doc. 04-2842, or any superseding policy guidance; and

**NOW THEREFORE BE IT FURTHER RESOLVED THAT**, the Business Committee shall apply to the federal Department of Justice to grant the Tribe concurrent federal law enforcement jurisdiction on the Reservation and lands annexed to the Reservation by fee-to-trust under PL 280 as amended by the Tribal Law and Order Act (TLOA)


#### CERTIFICATION

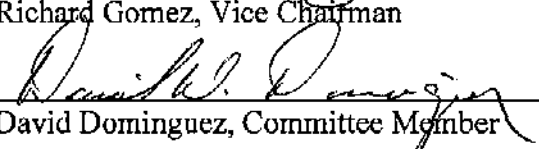
This is to certify that the foregoing resolution was adopted by the Santa Ynez Business Committee at a duly called meeting of the Tribal Business Committee on August \_\_, 2014 by a vote of \_\_ in FAVOR, 0 OPPOSED, and 0 ABSTAINING.

\_\_\_\_\_  
Vincent Armenta, Chairman

  
\_\_\_\_\_  
Kenneth Kahn, Secretary-Treasurer

\_\_\_\_\_  
Gary Pace, Committee Member

  
\_\_\_\_\_  
Richard Gomez, Vice Chairman

  
\_\_\_\_\_  
David Dominguez, Committee Member

ORDINANCE NO. [REDACTED]

AN ORDINANCE OF THE TRIBAL COUNCIL  
OF THE [REDACTED]  
INDIANS ESTABLISHING THE COYOTE  
VALLEY POLICE DEPARTMENT AND  
QUALIFICATION, TRAINING AND  
PERFORMANCE STANDARDS FOR POLICE  
OFFICERS.

The Tribal Council ("Council") of the [REDACTED] ("Tribe")  
hereby ordains as follows:

**Section 1. Findings and Declarations.** The Tribal Council for the Tribe finds and  
declares that:

1. The Tribe is a federally recognized Indian Tribe organized under the provisions of a written constitution establishing the [REDACTED] as the governing body of the Tribe.
2. Pursuant to Article Vi, Section 1(n), the Tribal Council is vested with the authority "[t]o enact laws, statutes, and codes governing conduct of individuals and proscribing offenses against the Band; to maintain order to protect the safety and welfare of all persons within tribal jurisdiction; and to provide for the enforcement of the laws and codes of the Band."
3. The Tribe is the beneficial owner of the Coyote Valley ("Reservation") comprising Coyote Valley Indian Reservation, as described in the deed recorded in Book 1230, Page 339, Official Records of the County of Mendocino. Title to the Tribe's Reservation trust lands is owned by the United States of America in trust for the Tribe.
4. With the passage of Public Law 280, the State of California was granted the authority by the United States to enforce its criminal prohibitory laws against persons on the Reservation. Despite this limited grant of criminal jurisdiction, the [REDACTED] County Sheriff's Department has been unable to provide consistent and effective law enforcement on the Reservation. Response time by Deputy Sheriffs to calls for assistance on the Reservation are twice as long as those off the Reservation, if the Officers respond at all. The failure of the Sheriff's Department to provide effective law enforcement on the Reservation has resulted in crimes being committed on the Reservation that go unpunished; Reservation property being stolen or damaged; persons being assaulted and battered and court orders not being enforced.

5. To protect persons and property located on the Reservation and to ensure that applicable federal, state and tribal laws are enforced, the Tribal Council finds it necessary to adopt this Ordinance establishing a tribal police department.

6. To make sure that the Chief of Police and the police officers employed by the Tribe are qualified to handle any incident that may arise on the Reservation in a responsible and professional manner, the Tribal Council finds it necessary to establish, through the adoption of this Ordinance, qualifications and performance standards for its police personnel that are employed by the Tribe to provide law enforcement services on the Reservation.

7. The adoption of this Ordinance is necessary in order to preserve, protect and promote the public health, safety and welfare.

**Section 2. Adoption of a New Ordinance Adding Three New Chapters to Title 8 of the Coyote Valley Tribal Code Entitled "Police Department"; Chief of Police" and "Qualifications, Training, and Performance Standards for Police Officers."** Three new Chapters 1, 2, and 3 entitled "Police Department" "Chief of Police" and "Qualifications, Training, and Performance Standards for Police Officers are hereby adopted and added to Title 8 of the [REDACTED] Tribal Code and shall provide as follows:

#### Chapter 1

### **[REDACTED] TRIBAL POLICE DEPARTMENT**

#### **Sections:**

- 8.01.010 Establishment of the Police Department
- 8.01.020 Composition of the Department
- 8.01.030 Department Budget
- 8.01.040 Sovereign Immunity

**8.01.010 Establishment of the Police Department.** There is hereby established within the Tribal Government a separate agency or department which shall be known as the "[REDACTED] Police Department" ("Department").

**8.01.020 Composition of the Department.** The Department shall be composed of the Chief of Police, a dispatcher and such police officers as the Chief of Police deems necessary to adequately provide law enforcement services on the Reservation, consistent with the staffing levels and the funds budgeted and appropriated for the Department by the Tribal Council pursuant to Section 8.01.030 below.

**8.01.030 Department Budget.** The Chief of Police shall prepare and submit to the Tribal Council, on or before December 1<sup>st</sup> of each year, an annual budget for the Department that sets forth each position for the Department and the cost of operating the Department for the following

year. The Tribal Council shall appropriate the funds approve by it for the costs of operating the Department as set forth in the Department's budget.

**8.01.040 Sovereign Immunity.** The Tribe is a sovereign governmental entity that can only act through its authorized officers and employees. In carrying out their duties as officers and employees of the Department, said officers and employees are exercising powers expressly delegated to them by the Tribal Council for the purpose of fulfilling specific governmental purposes. As such, when said officers and employees are acting within the course and scope of their employment, they enjoy the Tribe's sovereign immunity from suit and cannot be sued without the consent of the Tribal Council. Any person seeking to obtain the consent of the Tribal Council to file any lawsuit of demand for arbitration against any officer or employee of the Department, must file a claim with the Tribal Council under the Tribe's Claims Ordinance.

## CHAPTER 8.02

### CHIEF OF POLICE

#### Sections:

- 8.02.010 Office Established.
- 8.02.020 Qualifications.
- 8.02.030 Bonding.
- 8.02.040 Vacancy.
- 8.02.050 Compensation and Reimbursement.
- 8.02.060 Powers and Duties.

**8.02.010 Office Established.** The Office of the Chief of Police is created and established. The Chief of Police shall report to and be under the direct supervision and control of the Tribal Council, and when the Tribal Council is not in session, then the Chair of the Tribal Council in that order.

**8.02.020 Qualifications.** No person shall be appointed to the office of the Chief of Police unless he or she possesses the following minimum qualifications:

1. Possession of either a State of California or Bureau of Indian Affairs ("BIA") POST certificate;
2. Possession of a California Class 3 driver's license;
3. Possession of an Associate Arts degree from an accredited college or university or equivalent education, with major work in the administration of justice or public or business administration or a related field;

4. Knowledge of current principles, practices and techniques of police administration, organization and operation;

5. Knowledge of current laws and regulations pertaining to BIA special officers, federal jurisdiction within Indian Country, and Tribal criminal jurisdiction within a P.L. 280 state;

6. Knowledge of crime prevention and law enforcement techniques including but not limited to investigation, identification, patrol, traffic control, juvenile delinquency control, record keeping; and the care and custody of persons and property;

7. Five (5) years of experience in law enforcement, including at least two (2) years in a responsible middle management capacity, preferably in a Tribal, County or municipal police department; and

8. Passage of a psychological evaluation performed by a licensed psychiatrist or psychologist, concluding that the person is mentally fit for duty.

**8.02.030 Bonding.** The Chief of Police shall, at the discretion of the Tribal Council, obtain and keep in force and effect during the term of his or her office a bond, the coverage and amount to be determined by the Tribal Council. Any premium for such bond shall be included in the Department's budget and shall be a proper charge against the Department.

**8.02.040 Vacancy.** The Chief of Police may appoint, subject to the approval of the Chair of the Tribal Council, a peace officer from within the Department or who meets the qualifications set forth in Section 8.02.020 above to act as the Chief of Police during any temporary absence or disability of the Chief of Police.

**8.02.050 Compensation and Reimbursement.** The Chief of Police shall receive such compensation and expense allowances as the Tribal Council shall from time to time determine and fix by resolution, said compensation and expenses shall be a proper charge against such funds of the Department as the Tribal Council shall designate in the Department's budget.

**8.02.060 Powers and Duties.** Under the direction and supervision of the Tribal Council, or if the Council is not in session, the Chair of the Tribal Council, the Chief of Police shall:

1. Enforce or cause to be enforced all applicable federal, state and tribal laws that the Department has been authorized by the United States, the State of California, or its political subdivisions, and the Tribal Council to enforce;

2. Arrest, or cause to be arrested, all persons who violate any such applicable laws, or issue, or cause to be issued, citations to said violators;

3. Prepare, plan, direct, supervise, and coordinate the administration, budget, duties, and responsibilities of the Police Department and its personnel;

4. Attend all regular Tribal Council meetings and such other meetings as the Tribal Council or Chairman or Tribal Administrator may request;

5. Confer with the Tribal Council, Tribal officers, and the Tribal citizens of the Tribe on law enforcement problems and assist in the development of Tribal law enforcement policies;

6. Coordinate law enforcement activities with other federal, Tribal, state, county or city law enforcement agencies including entering into mutual aid or cross-deputization agreements with such agencies;

7. Establish from time to time, as are necessary, written general orders proscribing police officer standards that are consistent with the provisions of this Chapter 2 of this Title 8;

8. Establish a chain of command within the Department, including specific positions or ranks for police officers, and specifying the duties and responsibilities of each position in a written job description. Such ranks can include, but are not limited to, the rank of Deputy Chief of Police, Captain, Lieutenant, Sergeant, Corporal, Detective and Patrolman; and

9. Perform such other duties as the Tribal Council shall from time to time request.

### Chapter 3

## QUALIFICATIONS, TRAINING AND PERFORMANCE STANDARDS FOR POLICE OFFICERS

### Sections:

8.03.010 Definitions.

8.03.020 Philosophy of Enforcement.

8.03.030 Public Relations.

8.03.040 Juvenile Matters.

8.03.050 Confidential Information.

8.03.060 Use of Firearms.

8.03.070 Duty and Shift Changes.

8.03.080 Organization and Administration of the Department.

8.03.090 Function of Divisions.

8.03.100 Duties and Responsibilities of Officers.

8.03.110 Rules of Conduct for Officers.

8.03.120 Advancements, Promotions, Transfers and Reclassifications.

- 8.03.130 Uniform Requirements.
- 8.03.140 Vehicular Pursuit Procedures.
- 8.03.150 Felony and High risk Vehicle Stops Procedure.
- 8.03.160 Handcuffing Procedures.

**8.03.010 Definitions.** As used in this Chapter, the following terms shall have the following meanings:

- A. "Accountability" shall mean the state of being held answerable to the Tribal Council for the proper performance of a duty or function.
- B. "Civilian Employees" shall mean any employee of the Department who does not hold a commission or deputization from the Tribal Council to be a police officer.
- C. "Commissioned Personnel" shall mean those employees of the Department that have been commissioned or deputized as police officers by the Tribal Council.
- D. "Department or Departmental" shall mean the ~~San Juan~~ Police Department established under Chapter 1 of this Title 8.
- E. "Department Manual" shall mean the written rules and regulations of the Department governing the conduct of Department Personnel and the operations, policies and procedures of the Department codified in a book or books, and containing a table of contents and general index.
- F. "Detail" shall mean a person employed by the Department who is delegated the responsibility for the performance of a particular task or tasks which are usually, but not always, specialized in nature.
- G. "Employee" shall mean any person employed by the Department who is paid out of the Department's budget, whether on a regular or part-time basis.
- H. "General Orders" shall mean written directives issued by the Chief of Police which are applicable to the Department as a whole, or any subdivision thereof, which establish a policy, regulation, or procedure concerning a given subject, which are effective until revoked by a subsequent order.
- I. "Misconduct" shall mean any action or conduct on the part of an employee of the Department which, if true, could be grounds for disciplinary action.
- J. "Order" shall mean an instruction, either written or verbal, issued by a superior officer.

K. "Procedures" shall mean written directives detailing the method by which the work of the Department is to be accomplished; covering the operation of the Department as a whole, that are effective permanently or until revoked by a subsequent procedure. Procedures shall not conflict with the provisions of the Department Manual or any General Orders.

L. "Police Officer" shall mean a person who has been commissioned or deputized by the Tribal Council as a police officer, regardless of rank or sex and whether the person is temporarily or permanently employed.

M. "Rank" shall mean is a position that a police officer holds within the chain of command for the Department, which, by holding said position the police officer has been given certain defined supervisory responsibilities over other police officers.

N. "Seniority" shall mean a status in the Department established first by rank and secondly by continuous time in grade or rank with the Department.

O. "Superior Officer" shall mean a police officer of the Department of higher rank.

P. "Supervisor" shall mean an employee of the Department assigned to a position requiring the exercise of direction and control over subordinates, and includes those performing in an acting or temporary capacity.

Q. "Uniform" shall mean clothing of a distinctive design and color required by the Department to be worn by the employees of the Department. The term shall include articles of equipment required to be worn or carried in conjunction with the uniform.

R. "Unlawful Order" shall mean an instruction, either written or verbal, issued by a superior officer or supervisor which is in violation of a federal, state or tribal law. An unlawful order is also an order which is in conflict with any provision in the Departmental Manual or any General Order, unless emergency conditions justify such order.

S. "Watch Commander" shall mean the designated ranking officer on duty within the Department.

**8.03.020 Philosophy of Enforcement.** Each officer is vested with the legal authority of the Tribe and is charged with the responsibility to prevent and detect criminal activity, investigate offenses, apprehend offenders, protect life and property, preserve the peace and enforce laws and ordinances. In the discharge of these responsibilities, the actual steps to be taken in any given situation are left to the good judgement, discretion, abilities, initiative and resourcefulness of the individual Police Officer. Each Police Officer must fulfill his/her responsibilities with consideration, self-control, impartiality and honesty. Each Police Officer must do that which is required for the preservation of himself, herself and others, but must refrain from any use of unnecessary or excessive force.

**8.03.030 Public Relations.** It shall be the policy of the Department to strive to gain the support and to win friendly citizen cooperation in its programs and procedures in order to facilitate the accomplishment of the Department's objectives. The attitude of the public toward the Department is molded by every experience they have in observing, talking to and in being served and controlled by the Department's Police Officers.

The attitude of each Police Officer shall be one of service and courtesy but must be distinguished between service and servility, and between courtesy and softness. Each Police Officer must be firm, but also courteous, avoiding even the appearance of rudeness.

Each Officer shall develop a position that is friendly and unbiased, pleasant and personal in all non-restrictive situations and firm and impersonal on occasions calling for regulation and control. Every Officer must understand that an Officer's primary function is to preserve the peace and to prevent violations, not to arrest people.

The appearance, attitude, habits, private life and the public contacts of the individual Officer affect the attitude of the public towards the Officer and the Department. Each Officer shall examine their own conduct in all public contacts and avoid situations which unnecessarily bring discredit upon them and the Department.

**8.03.040 Juvenile Matters.** It shall be of the utmost importance that the Officer's attitude, demeanor and speech toward juveniles be civil and respectful, but at the same time, firm.

It is the responsibility of every employee of the Department to report to the agency having jurisdiction over the matter, any matter coming to their attention in which a juvenile is delinquent or the victim of any offense or neglect.

It is the policy of the Department, in cases involving juveniles that after the proper investigation or the securing of the necessary evidence for evidence for prosecution, the investigating or arresting Officers shall refer to the matter to the Juvenile Probation Officer of the Tribe, or if the Tribe does not have Juvenile Probation Officer, then to the Juvenile Probation Officer for Mendocino County for process and disposition under Public Law 280.

**8.03.050 Confidential Information.** Employees of the Department shall treat as confidential the official business of the Department, and shall not impart the same to anyone except those to whom it is intended, or as directed by their superiors. Employees shall not make it known to any person the contents of any order or directive which they may receive, unless so required by the nature of the order.

Employees shall not deliver addresses at public gatherings containing confidential information concerning the Department nor shall they make any statements for publication concerning the plans, policies or affairs of the Administration of the Department, unless authorized to do so.

Employees shall not make any statements or divulge any information that emanates from records on file with the Department to any persons not having the authority to have the same.

### **8.03.060 Use of Firearms.**

**A. General (Use of Firearms).** A Police Officer may at any time be faced with a situation in which the Officer must make a decision regarding his/her duty to discharge or fire a weapon at a person. Even though the firing of a weapon may be legally justified, there are moral considerations and other factors the Officer must evaluate before shooting. The immediate situation, the nature of the offense, the Officer's own safety and the safety of innocent persons will generally indicate what action is warranted. In determining if the Officer should use deadly force, the Officer should base his/her decision on sound judgment rather than on strict interpretation alone of the applicable laws, Manual provisions or General Orders.

**B. Self Defense.** When acting in self defense, or in the defense of others, to prevent death or great bodily harm, when there is an immediate and active peril, there is no question about the legal and moral aspects of the use of deadly force necessarily applied to preserve life. Under these circumstances, the Officer must use his/her firearm quickly, and accurately.

**C. Overcoming Resistance.** When overcoming resistance to arrest, or other lawful actions of the Officer, the law places certain restrictions upon the use of deadly force, and only allows the Officer to use that amount of deadly force that is necessary to protect himself/herself, others or to overcome the resistance. In addition, the Officer must take into consideration the procedures outlined in Section 8.03.060 (D) below, if applicable, in using deadly force to overcome resistance.

**D. Fleeing Felon.** While the law permits the use of deadly force, reasonably and necessarily used in the attempt to apprehend a fleeing felon, the Officer must consider the following points:

1. Is the Officer convinced beyond a reasonable doubt that a felony has been committed?
2. Is the Officer convinced that it was committed by the person fleeing?
3. Is the Officer convinced that an innocent bystander will not be injured by your action?
4. Is the Officer convinced that the nature of the crime is severe enough to justify the use of deadly force?
5. Is the Officer convinced that he/she has exhausted all other means of apprehension?
6. Does the Officer have reason to believe that the felon may commit a violent crime if not taken into custody immediately?

**E. Fleeing Auto.** When in pursuit of a person fleeing in a vehicle, the Officer will not fire his/her weapon even though the felon has been given the opportunity, but fails or refuses to surrender.

**F. Special Circumstances.** In any situation that the Officer knows or has reason to believe that the subject is a juvenile, female, or mentally incompetent person, the Officer should, if at all possible, be even more restrictive in his/her use of deadly force.

**G. Warning Shots.** AN OFFICER SHALL NEVER FIRE A WARNING SHOT.

**8.03.070 Duty and Shift Changes.** The Chief of Police or the Chief's designated representative may, at the Chief's discretion, change the duty assignment, location duty assignment, hours of employment or days off of any employee, when such change is necessary to accomplish the assigned objectives of the Department. The Department shall not be responsible for transportation to the assigned duty station.

**8.03.080 Off Duty Weapons.** No officer shall carry a firearm when off duty, unless that officer is authorized by California law or until certified as a Federal Peace Officer.

**8.03.090 Organization for Command.** Lines of control, permitting the delegation of authority, the placing of responsibility, the supervision of operations and the coordination of effort are established in conformity with the Organizational Chart of the Department which shall be approved by the Chief of Police in accordance with this Section. The Organizational Chart for the Department, approved by the Chief under this Section shall become part of the Department's Manual.

**A. Unity of Command.** Each individual, unit and situation is under the immediate control of one and only one person. The principle is that the employee should be under the direct control of one and only one supervisor.

**B. Chain of Command.** All official communications of the Department, whether moving downward, or requests, information, suggestions, or complaints moving upward, shall be confined to official channels. Each link in the chain of command shall be respected in this regard. The order of chain of command of authority within the Department is as follows: Chief of Police; Deputy Chief of Police; Captain; Lieutenant; Sergeant and Corporal.

**C. Departmental Command.** In the absence of the Chief of Police and Deputy Chief of Police, the responsibility for the command of the Department shall follow the chain of command.

**D. Authority and Responsibility.** Each employee assigned an area of responsibility shall have the authority commensurate with that responsibility.

**E. Temporary Supervisory Assignments.** All employees temporarily performing the duties of a superior in an acting capacity shall be vested with the authority and responsibilities of the superior. Said employees shall not interfere with, countermand, or modify the orders previously issued by the superior, except in an emergency.

**F. Exercise of Authority.** A ranking Officer shall exercise the authority of his/her position under all conditions which require that he/she use such authority in the best interests of the Department.

**G. Supervisory Responsibilities.** Each supervisor is responsible and held accountable for the actions, conduct and performance of his/her subordinates and the operation of his/her unit. He/she shall train all subordinates to properly carry out their duties and obligations through his/her instruction, example, guidance, counsel, and development of sound operating procedures. He/she shall make known to them and promote an understanding of these and all other procedures essential to an effective and well disciplined operation.

Each supervisor shall at all times set proper example for his/her subordinates to follow and shall strive to assist them, improve their welfare, promote and maintain a high level of morale and shall never fail to stand behind a subordinate who has acted within his rights. He/she shall at all times be aware of the level of performance of his/her subordinates and shall at prescribed times, fairly and impartially evaluate them, in accordance with Tribal and Department instructions.

**H. Delegation of Responsibility.** While supervisors may delegate their responsibility for the performance of duties and functions to subordinates, they cannot delegate their accountability.

**I. Seniority.** When a question of seniority may arise, such seniority shall be determined first by rank or grade, second by the amount of continuous time in that rank or grade, and third by the continuous time on the Department.

When two or more employees are working together on the same assignment or detail and are of equal rank or grade, such seniority shall not be exercised except in an emergency necessitating it, unless one employee has been designated by competent authority as being in command.

### **8.03.020 Functions of Division.**

**A. Uniform Patrol Division.** The Uniform Patrol Division ("UPD") is the enforcement arm of the Department and is charged with the maintenance of a 24 hour patrol service within the boundaries of the Coyote Valley Indian Reservation.

The UPD is responsible for the discharge of all primary law enforcement duties of the division. Some of these are:

1. Maintenance of the public peace through the quelling of disturbances, riots and insurrections.
2. Protection of life and property through patrol and observations of Tribal residential and commercial areas.
3. Crime detection, prevention and suppression through investigation of suspicious circumstances and the elimination of opportunity to commit crime; apprehension of offenders and recovery of stolen property.
4. The initial investigation and reporting of criminal and non-criminal incidents.
5. In addition to its primary duties, certain secondary functions are performed on a routine basis. Some of these are: Responses to requests for medical aid; Enforcement of traffic laws, and preliminary investigation of traffic accidents; Conducting preliminary searches; Assisting outside agencies, and enforcing court orders.

#### **8.03.100 Duties and Responsibilities of Officers.**

**A. Chief of Police or Chief.** The Chief of Police is the chief executive officer of the Department. The Chief is the final authority in all matters of Departmental Policy, operations and discipline. The Chief exercises all lawful powers of his/her office and issues such orders as are necessary to assure the effective operation of the Department.

The Chief is charged with the responsibility of the maintaining of law and order within the Coyote Valley Indian Reservation through the enforcement of all laws and ordinances; the prevention and suppression of affrays, breaches of the peace, riots and insurrections and for the investigation of offenses committed in his/her jurisdiction.

**B. Deputy Chief.** The Deputy Chief of Police is charged with the same duties and responsibilities as is the Chief of Police. In the absence of the Chief the Deputy Chief of Police follows the above authority and responsibility. The Deputy Chief assists the Chief in the administration of the Department. The Deputy Chief handles all personnel matters and disciplinary matters with the concurrence of the Chief and performs such other tasks as instructed by the Chief of Police.

**C. Captain.** A Captain is responsible for the operation of all Details and Shifts. The responsibility extends to all hours in which his/her command is operational.

The Captain must train and supervise the subordinates under his/her control and assist them with the performance of their duties when necessary. He/she is responsible for the maintenance for good morale and discipline within his/her command. He/she shall establish

such controls as necessary to ensure compliance by his/she subordinates with all orders issued by competent authority. He/she must also interpret and implement the Department's Manual. In the absence of a Captain, the duties of Captain shall be assigned to a specific officer by the Chief.

**D. Lieutenant.** In the absence of the Captain, the Lieutenant will follow above authority and responsibility. This level of supervision is to supervise the Uniformed Officers through subordinate personnel on an assigned shift; and to do other work as required. The Lieutenant is distinguished from the sergeant by virtue of emphasis on several or many functional aspects of director supervision, as well as policy determination and formulation.

A Lieutenant's duties include planning, organizes, supervises and reviews law enforcement activities on an assigned shift; evaluates field activity and determines necessary deployment of shift; inspects personnel and equipment for fitness; analyzes and recommends operating policies and procedures; assumes personal command of activities as necessary; prepares details and comprehensive reports.

**E. Sergeant.** The sergeant represents the first level of supervision in the non-ranked police officer series. The sergeant's position is characterized primarily by having a wide latitude for exercising initiative and judgment over operational and program management matters. Also by having authority to make supervisory decisions with a minimal degree of direction from higher levels.

A Sergeant's duties include planning, assigning officers, supervises, reviews and evaluates the work of the non-ranked police officers and supportive personnel on a shift; evaluates field activity and determines the necessary deployment; inspects personnel, equipment and property; plans, teaches and supervises training programs; develops and implements criminal apprehension programs and procedures; evaluates existing procedures, work flow and reports; assists in analyzing, developing and recommending operating programs and procedures; recommends changes and modifications; prepares detailed staff report; takes immediate charge of the handling of emergencies, testifies in court to the findings or circumstances of specific cases.

**F. Corporal.** The corporal can be delegated the responsibility of performing any of the duties of the sergeant.

**G. Police Officer.** A Police Officer is the first line representative of the Tribe. He/she must conduct his/her contacts with the public in a manner conducive to good public relations. The Officer may be called upon to perform a wide variety of assignments in an equally wide variety of circumstances. He/she must inspect his/her assigned equipment before and after duty, attend briefings, roll call, and regular training sessions. He/she must be proficient in emergency vehicle operation and report writing. He/she must arrest offenders, write clear and concise reports and assist the Tribal Attorney's Office with prosecution. He/she may be called upon to assist the citizenry in a variety of non-criminal capacities. He/she may be assigned to maintain security over a given area, and the persons therein and direct and regulate their

activities. He/she must assist in the training of new officers and assist other officers and other law enforcement agencies when called upon to do so under the provisions of Public Law 280.

**H. OFFICER CANDIDATE (Minimum Qualifications).** An Officer Candidate will possess a minimum of a recognized California Police Basic Academy Certificate, a Level One Police Reserve Certificate, or equivalent Certification from another State or the Federal Government. The Officer Candidate shall be at least (21) twenty one years of age at the time of his/her swearing in and taking the oath of office. The Officer Candidate shall be of good health both physically and mentally. The officer Candidate shall have an extensive background investigation conducted on them and must meet the standards of the Department as established by the Chief of Police.

### **8.03.100 RULES OF CONDUCT - GENERAL.**

**A. Standard of Conduct.** Employees shall conduct their private and professional lives in such a manner as to avoid bringing discredit to themselves or the Department. No gambling or drinking of any alcoholic beverage will be permitted while in uniform.

**B. Loyalty.** Employees shall maintain such loyalty to the Department and their associates as is consistent with their oath of office and professional ethics. Loyalty to the Department and to associates is an important factor in departmental morale and efficiency.

**C. Cooperation.** All employees shall establish and maintain a high spirit of cooperation within the Department and with other law enforcement agencies. Cooperation between the ranks and units of the Department and with other agencies is essential to effective public safety.

**D. Insubordination.** Employees shall not be insubordinate. Intentional failure or refusal of any employee of the Department to obey a lawful order given by a superior officer shall be deemed insubordination.

**E. Performance of Duty.** All employees shall perform their duties as required or directed by Federal law, Departmental Rule, Policy or Order, or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed.

**F. When to Take Action/On Duty.** Employees of the Department, after considering the situation, are to take steps reasonably necessary and consistent with their assignment to effect the enforcement or provisions of Tribal, State and Federal laws and to protect life and property.

**G. When to Take Action/Off Duty.** Off duty employees of the Department are expected to be discreet, particularly in matters of minor offenses. In case of a felony, or of a clear and immediate danger to life or property, employees are expected to take action. Appropriate action would be the notification to the proper authorities of a crime in progress. If

an Police Officer does take any kind of action while off duty, they are to get any necessary report numbers from the concerned agency and they are to make an "informational" type report upon their return to their duty station.

**H. Obedience to Laws and Regulations.** All employees shall observe and obey all laws and ordinances, all rules and policies of the Department and all General or Special Orders of the Department or Divisions thereof. In the event of improper action or breach of discipline, it will be assumed that the employee was familiar with the law, rule or policy in question.

**I. Establishing Elements of a Violation.** The existence of facts establishing a violation of law or ordinance is all that is necessary to support any allegation of such as a basis for a charge under the above section. It is not necessary that a formal charge be filed or sustained.

**J. Conduct Toward Superior and Subordinate Officers and Assoc.'s.** Employees shall treat superior officers, subordinates and associates with respect. They shall be courteous and civil at all times in their relationship with one another. They shall not ridicule one another or the orders issued by competent authority.

**K. Courtesy to Rank.** While on duty, commissioned personnel holding rank shall be addressed by such rank when in the presence of non-employees of the Department.

**L. Criticism of Orders.** Employees shall not criticize instructions or orders in the presence of subordinates or persons from outside the Department.

**M. Issuing Orders.** Orders shall be issued in clear and understandable language and in pursuit of departmental business. No employee shall issue any order which is in violation of any law, or ordinance, or which is beyond the scope of his/her authority.

**N. Obedience to Unlawful Orders.** Obedience to an unlawful order is never a defense. For an unlawful action; therefore, no employee is required to obey any order which is contrary to any applicable Federal, State or Tribal Law. Responsibility for refusal to obey an unlawful order rests with the employee and they must be able to justify their action.

**O. Obedience to Unjust or Improper Orders.** An employee who is given an order that he/she feels to be unjust or contrary to rules and regulations, shall discuss this with the superior giving the order. If the order is not modified or rescinded, the employee must obey the order to the best of his/her ability, and may submit a report of the incident to the Captain or if there is no Captain to the officer assigned the Captain's duties.

**P. Conflicting Orders.** In the event of a conflict of orders, the employee shall call such conflict to the attention of the superior issuing the last order. Responsibility for countermanding the original order then rests with the individual issuing the second order.

Should the superior not change or rescind his/her order, then it shall be obeyed, and the employee shall not be held accountable for violating the previous order. Orders will be countermanded, or conflicting orders issued, only when necessary for the good of the Department.

**Q. Soliciting Gifts, Gratuities, Rewards, Loans, etc.** Employees shall not under any circumstances, solicit any gifts, gratuities, rewards or loans, where there is any direct or indirect connection between their solicitation and their Departmental employment.

**R. Acceptance of Gifts, Gratuities, Rewards, Loans, etc.** Employees shall not accept any gift, gratuity, reward or other thing of value, the acceptance of which might tend to influence directly or indirectly the actions of said employee in any matter of official business, or which might tend to cast an adverse reflection on the Department or any employee thereof.

**S. Debts-Incurring and Payments.** Employees shall pay all just debts and legal liabilities incurred by them. If not financially able to pay his/her creditors when debt is due, he/she shall contact said creditor and make mutually agreeable arrangements to satisfy the debts.

**T. Reporting for Duty.** Employees shall report for duty at a specified time and place, no later than 15 minutes prior to the hour of assigned shift and in attire appropriate to their assignment. Inability to comply shall be reported to their superiors as early as possible in advance of the specified time.

**U. Change of Address or Phone Number.** Employees shall, within 24 hours, report any change in address or telephone number to their superior, and to the person designated by the Captain to maintain personnel files.

**V. Appearance - Personal.** Employees shall be neat and clean in their person and attire when on duty. They shall maintain good personal hygiene and keep hair neatly trimmed and combed. Employees wearing civilian attire will appear neat and business-like.

**W. Damage to Tribal, Private, Real or Personal Property.** Any damage to Tribal, private, real or personal property committed in the performance of official duties shall be promptly reported to the employee's superior in writing.

**X. Care of Property and Equipment.** An employee shall be responsible for the proper care, maintenance and serviceable condition of any Tribal property issued to or assigned to his/her use. He/she shall report to his/her immediate superior the loss of, damage to, or unserviceable condition of any such property. An employee shall not loan any person his/her identification card or badge. An employee shall not permit any unauthorized person the use of any Tribal equipment issued to him/her.

**Y. Misappropriation of Property.** No employee shall appropriate to his/her own use, or the use of another, any property belonging to the Tribe, or any item of evidence, lost, found, stolen or recovered property.

**Z. Surrender of Tribal Property at Time of Separation.** Upon separation from the Department, an employee shall surrender to his/her immediate superior all Tribal and Departmental items of property.

**AA. Untruthfulness.** No employee shall knowingly make false statements or misrepresentations to fellow employees, subordinates or superiors.

**BB. Removal or Alteration of Official Records Prohibited.** An employee shall not remove or alter any official record of the Department except as directed by his/her superiors in accordance with established Departmental Procedures, or under due process of law.

**CC. Tampering with Evidence.** No employee of the Department shall fabricate, withhold, alter, or destroy evidence of any kind. This does not apply to destruction of evidence pursuant to a Tribal Court Order.

**DD. Official Correspondence.** Employees of the Department shall not engage in Official Department Correspondence, or use departmental letterhead without the permission of their Division Commanders or superiors.

**EE. Absence From Duty.** No employee shall be absent from duty without proper leave or permission of his/her appropriate supervisor.

**FF. Sick Leave.** While on official sick leave, an employee shall remain at his/her home or other place of confinement unless authorized by his/her doctor. This section does not apply to an employee whose physical injuries will not permit his/her return to duty if his/her doctor does not require confinement. No employee shall feign illness or injury, or deceive a superior as to his/her true health condition.

**GG. Patriotic Courtesy.** On the approach of the American Flag, Tribal Flag, or during flag ceremonies, an employee shall stand, face the flag, come to attention, and if in uniform and covered, shall render a hand salute. An employee uncovered or in civilian dress shall place his right hand over his/her heart. When the National Anthem is played, an employee in uniform shall face the source, stand at attention and, if covered, render a hand salute. An employee uncovered, or in civilian dress shall follow the same procedure, except shall place his/her right hand over his/her heart instead of the hand salute. When a funeral procession for a Department employee or other person to whom national and/or local recognition is given approaches, an employee in uniform shall come to attention, remove his/her hat and hold it over his/her heart. While passing a casket to view the remains, a uniformed employee shall place his/her hat over his/her heart. For funerals of employees of other Departments, a uniformed employee shall wear the full uniform. Employees who wear a uniform to a funeral of an

employee or former employee of the Department shall wear the full uniform. A piece of black tape shall be worn over the badge for the funeral and burial ceremonies.

**HH. Use of Alcohol - Before Duty and on Duty.** No employee of the Department shall report for or be on duty while under the influence of an intoxicating liquor or drugs or be unfit for duty because of their use. The odor of alcohol on the breath will be considered presumptive evidence of violation of this subsection. No employee shall drink any intoxicating beverage while on duty.

**II. Use of Alcohol - Off Duty - Public Places.** No employee of the Department shall become intoxicated in a public place to the extent that it brings discredit or embarrassment to the Department.

**IJ. Sleeping on Duty.** An employee shall not sleep while on active duty.

**KK. Fraternization.** An employee shall not fraternize with, engage the services of, accept services from, give or receive favors from any person in the custody of the Department without the express permission of the Chief of Police.

**LL. Court Attendance and Demeanor.**

1. An employee when subpoenaed into court to testify shall be punctual in attendance. He/she shall be dressed in full uniform or civilian clothes of good taste and business-like appearance.
2. An employee shall testify in a calm, distinct and audible tone of voice. He/she shall not suppress or overstate the slightest circumstance with a view of favoring or discrediting any person, but shall testify with the strictest accuracy.
3. No employee shall by his/her actions or demeanor make apparent his/her feelings toward the defendant or witness during the proceedings, within the court-room or within the hearing of the participants.

**MM. Neighborhood Disputes.** An employee shall attempt to avoid becoming involved, either as an Officer or as a participant, in a neighborhood dispute, except in the line of duty.

**NN. Controversial Opinions.** An employee shall not represent the Department in any manner in his/her personal expression of views on any political, religious or controversial subject, unless so directed by the Chief.

**OO. Hours of Duty.** An employee of the Department shall have regular hours assigned to him/her, but when off duty, all commissioned personnel shall be subject to call. If

needed, an employee may be required to perform extra duty. An employee shall not change the dates or times of his/her assignment duty nor exchange duty with another employee without prior approval of his/her appropriate superior.

**PP. Physical Fitness.** A commissioned employee shall maintain such physical condition to enable him/her to properly perform his/her assigned duties.

**QQ. Cowardice.** An Officer shall not display cowardice or fail to support his/her fellow Officers in the performance of duty.

**RR. Range Qualification.** A Police Officer shall be required to qualify on the shooting range. A Police Officer who fails to qualify may be subject to extensive training at the range on his/her own time or he/she may be subject to disciplinary action if he/she fails or refuses to train properly.

### **8.30.120 Advancements, Promotions, Transfers, and reclassifications.**

**A. Merit System.** All advances in rank and/or pay status within the Department shall be made on the basis of merit, with consideration being given all qualified applicants. All promotions within the Department shall be made on the basis of qualification through a competitive selection process.

**B. Personnel Policies.** All policies pertaining to the compensation, application of salary ranges, overtime pay, holiday pay, annual leave, sick leave, leave of absence, unauthorized absence, anniversary date, new hires, probationary employees, resignations, reinstatement, performance evaluations, disciplinary actions, types of disciplinary actions, demotions, dismissals, suspensions from duty, complaints against employees of the Department, Employee grievances, appeals from personnel actions and all other personnel procedures shall be established by the Chief and set forth in the Manual of the Department.

**8.03.130. Uniforms and Equipment.** Uniformed personnel shall possess at all times, unless otherwise exempted by a general order issued by the Chief, apparel, identification and equipment necessary to perform the duties of an employee of the Department that the employee holds. The Department uniforms shall be worn in a military manner. All buttons shall be secured at all times when in public view. Prescribed uniforms shall be maintained at all times in a clean and serviceable condition, ready for immediate use. Officers in charge shall be responsible for ensuring that their subordinates at all times properly wear and maintain their uniforms and equipment. The Chief shall establish policies or promulgate general orders establishing the type, color and appearance of the uniforms, footwear, badges, jackets, shoulder patches, rank designation, ties, tie bars, name plates, shirts, trousers, handcuffs, flashlights, rain coats, and jump suits to be worn by Department personnel and the type of equipment to be worn and used by Department personnel. Such equipment shall include but not be limited to batons, sidearms, including back-up weapons, shot guns, and ammunition. The procedures established by the chief shall include but not be limited to firearm safety standards, and standards for the unholstering, use, discharge, qualifications for use and inspection of weapons.

**8.03.140 Vehicular Pursuit Procedures.** To provide Police Officers with a uniform pursuit policy so as to ensure compliance with applicable Tribal, State and Federal laws, the safety of innocent persons and to reduce the amount of risk involved to Police Officers the following subsections shall govern vehicle pursues by Department personnel:

**A. Laws Pertaining to Pursuit Policy:**

1. Off-Reservation pursuit (crossing the Reservation boundary line) Fresh pursuit includes fresh pursuit as defined by the common law and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed.

A. In reading the above section, it becomes apparent that Police Officers may only pursue off of the Reservation in felony or suspected felony matters..

B. Where it cannot be established that a felony has been committed, or where there is a lack of sound reasonable cause to believe that a felony has been committed, Officers shall cease vehicular pursuits.

2. On Reservation pursuit (within jurisdictional boundaries of the Reservation), but within the "Fresh pursuit" includes fresh pursuit as defined by common law and also the pursuit of a person who has committed a Felony or is reasonably suspected of having committed a Felony in this state, or who has committed, or attempted to commit, any criminal offense in this state in the presence of the arresting officer referred to in criminal offense. It shall also include the pursuit of a person suspected of having committed a supposed felony in this state, though no felony has actually been committed, if there is reasonable ground for so believing.

pursuits:

**B. Operational Procedures.** The following procedures apply to vehicular

1. Pursuits should normally be initiated when, in the Officer's judgment, an individual clearly exhibits the intention of avoiding arrest by using a vehicle to flee.

2. An Officer

a.

b.

call that should

3. A pursuit shall be discontinued when there is a clear danger to the public and the continuance of the pursuit would permit the danger to exist, or if there is danger to pursuing Officer(s). The seriousness of the crime, and the length of the pursuit are also factors which must be considered when exercising good sound judgment and common sense or when other law enforcement agencies supersede the pursuit or when instructed to do so by the on duty supervisor.

**B. Pursuit Units.** Pursuits shall be actively limited to two (2) units unless specifically authorized by the Captain or the Field Supervisor in command of the pursuit. Officers shall never initiate or become involved in a vehicular pursuit while driving their personal vehicles.

**C. Responsibility of Officers Initiating a Pursuit.** It shall be the responsibility of the Officer initiating a pursuit to immediately notify the Departments Dispatch or if the pursuit is off the Reservation, then the Sheriff's Department Dispatcher of emergency traffic and that a pursuit is underway, giving, if possible all of the following information: The law violation or the reason for the pursuit; the description of vehicle being pursued, and the number of occupants.

**D. Responsibility of Field Supervisor.** The Field Supervisor should, with reasonable caution, attempt to remain with or near the pursuit. His/her purpose shall be to anticipate traffic problems; alert area units to necessary action, request additional assistance as needed, and order unnecessary units to drop out of the pursuit. In the event that the Field Supervisor is unable to respond to the pursuit, he/she should assign an Officer to assume responsibility for control of the pursuit activities. This assigned Officer would then possess the authority and responsibility during the duration of the pursuit. The Field Supervisor shall request the County Sheriff's Dispatchers to notify adjacent jurisdictions should the pursuit be traveling in their direction. In the event of injury (civilian, suspect or officer) it shall be the responsibility of the Field Supervisor to immediately notify the Chief providing him/her with as many details as possible.

**E. Conclusion.** Vehicular pursuits are not favorable under any circumstances. The success, failure, and danger involved in a pursuit is directly dependent upon the Self-Discipline and Sound Professional Judgment of all involved.

**8.03.150 Felony and High Risk Vehicle Stops Procedure.** Every traffic stop made by a Police Officer carries with it the possibility of developing into a more than normal friendly issuing of an enforcement document or verbal warning. Many officers have been killed or injured while making what appeared to them at the onset to be a "normal routine traffic detention". Certain techniques have been developed to assist the officer in placing himself/herself in the best possible position for response and protection in situations of surprise attack. These techniques are contained in this section. Unfortunately, there have been officers

killed and injured on situations where the officer did have some reason to be highly suspicious at the time of stopping the violator. His/her suspicions were aroused either as a result of a prior radio broadcast, an area briefing item, or perhaps as a result of his/her observations of unusual behavior during the pull-over. These enforcement stops, classified as "high risk" and "felony", require special techniques to minimize the possibility of an attack on the Officer(s). The Chief of Police shall establish regulations and general orders governing the procedures and basic principles that an Officer must follow in handling "high risk" and "felony" stops which will give him/her the best possible advantage and protection: however, it must be recognized that subjects, situations, and conditions are so varied that a degree of flexibility is necessary in applying these principles and procedures. The Officer's safety is of primary concern in handling a high risk or felony situation.

**3.08.160 Handcuffing Procedures.** All Suspect(s) will be Searched and Handcuffed behind their backs before placing them in any Department vehicle. Suspects and Victims will not be handcuffed together nor placed in the patrol vehicle together. An Officer's weapon will be holstered prior to handcuffing a suspect. The Chief of Police shall establish specific procedures or general orders for the use of hand cuffs by Officers.

**Section 3. Severability.** In the event that any section or provision of this Ordinance is held or determined to be invalid by any court of competent jurisdiction, it is the intent of the Tribal Council that the remaining sections or provisions of this Ordinance, and any amendments of this Ordinance shall continue in full force and effect.

**Section 5. Amendments.** This Ordinance may be amended at any time by the Tribal Council, when such amendment is necessary to promote the general health, safety, and welfare of the Tribe or its members.

**Section 6. Repeal of Prior Ordinances.** All prior Ordinances previously enacted by the Tribal Council, which are inconsistent with the provisions of this Ordinance are hereby repealed. If the provisions of this Ordinance conflict with the provisions of any other Ordinance, the provisions of this Ordinance shall control.

**Section 7. Effective Date.** This Ordinance shall take effect immediately after its adoption by the Tribal Council.

### **CERTIFICATION**

The foregoing Ordinance was adopted at a regular meeting of the ~~Crowe Valley Tribal~~ Council, with a quorum present, held on June \_\_\_\_, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

*TRIBAL RESOLUTION 949*



## Santa Ynez Band of Chumash Indians

P.O. Box 517 • Santa Ynez, CA 93460  
805-688-7997 • Fax 805-686-9578  
www.santaynezchumash.org

### *BUSINESS COMMITTEE*

*Vincent Armenta, Chairman  
Richard Gomez, Vice Chairman  
Kenneth Kahn, Secretary/Treasurer  
David D. Dominguez, Committee Member  
Gary Pace, Committee Member*

## Resolution No. 949

**Resolution of the Business Committee of the Santa Ynez Band of Chumash Indians to establish a dedicated fund for local school districts that include the Camp 4 property**

**WHEREAS,** the Santa Ynez Band of Chumash Indians is a federally recognized Self Governance Indian Tribe by the United States Government possessing inherent powers of self-governance with duties, rights, responsibilities, and with power and authority over the lands within the exterior boundaries of the Santa Ynez Band of Chumash Indians Reservation; and

**WHEREAS,** the federal Indian Gaming Regulatory Act (IGRA), 25 U.S.C. § 2710(b)(2)(B), requires that net gaming revenues from Indian gaming be used for public purposes that are consistent with those typically provided by governments. The five public purposes specified by IGRA for a tribe's use of net revenues from its tribal gaming operations are:

1. To fund tribal government operations or programs;
2. To provide for the general welfare of the Indian tribe and its members;
3. To promote tribal economic development;
4. To donate to charitable organizations; and
5. To help fund operations of local government agencies; and

**WHEREAS,** to help fund operations of local government agencies the Tribe has established the CHUMASH FOUNDATION which makes charitable grants in excess of \$1 million annually; and

**WHEREAS,** the 1,400 acres known as "Camp 4" currently pay \$82,778 a year in property taxes of which the following amounts are paid to school districts for 2013-2014:

College Elementary School District-General	\$18,691
SYVHD-General	\$14,518
Allan Hancock CC Dist-General	\$4,975
County School Service	\$3,435
<u>Education Revenue Augmentation</u>	<u>\$9,810</u>
Total	\$51,429; and

**NOW THEREFORE BE IT RESOLVED,** that of the monies paid to the CHUMASH FOUNDATION, \$51,429 annually shall be set aside for grants to the above-mentioned school districts at such time that the 1,400 acres +/- is annexed to the Santa Ynez Chumash Reservation by fee-to-trust transfer to the United States; and

**NOW THEREFORE BE IT FURTHER RESOLVED** that such set aside for grants to the above-mentioned school districts shall be periodically reviewed by the Santa Ynez Tribal Business Committee, which shall include, without limitation, an increase for each house completed on the Camp 4 property.

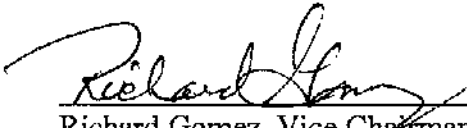
#### CERTIFICATION

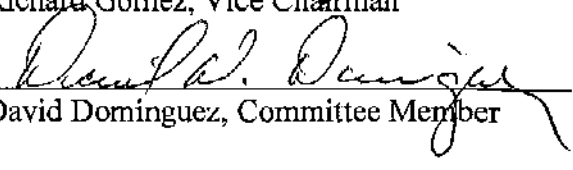
This is to certify that the foregoing resolution was adopted by the Santa Ynez Business Committee at a duly called meeting of the Tribal Business Committee on August 6, 2014 by a vote of 3 in FAVOR, 0 OPPOSED, and 0 ABSTAINING.

\_\_\_\_\_  
Vincent Armenta, Chairman

  
\_\_\_\_\_  
Kenneth Kahn, Secretary-Treasurer

\_\_\_\_\_  
Gary Pace, Committee Member

  
\_\_\_\_\_  
Richard Gomez, Vice Chairman

  
\_\_\_\_\_  
David Dominguez, Committee Member

Camp 4 Parcels

APN	TRA	Acreage	Use Code	13-14 FY	14-15*
				AV	AV
141-121-051	62-023	155	4235 Ag Preserve	3,969,789	3,969,789
141-140-010	62-023	758	4235 Ag Preserve	4,201,869	4,201,869
141-230-023	62-023	248	5432 Ag Preserve	57,619	57,619
141-240-002	62-023	257	5432 Ag Preserve	48,477	48,477
		1,418		8,277,754	8,277,754
					33,030,328

Appox Camp 4

Tax Year	Tax Rate Area	Fund Number	Fund Title	Allocated Percent	13-14 FY	14-15 FY
2013	62023	0001	General	22.62896318%	18,732	74,744
2013	62023	2230	CSA 32	0.00000000%	-	-
2013	62023	2280	Fire Protection Dist	13.59193081%	11,251	44,895
2013	62023	2400	Flood Ctrl/Wtr Cons Dist Mt	0.30816277%	255	1,018
2013	62023	2590	Santa Ynez Flood Zone Number 1	0.57275620%	474	1,892
2013	62023	3050	Water Agency	0.39672613%	328	1,310
2013	62023	3310	Oak Hill Cemetery District	0.35130367%	291	1,160
2013	62023	4160	Mosquito & Vector Mgt District	0.02140752%	18	71
2013	62023	4500	Cachuma Resource Cons Dist	0.00000000%	-	-
2013	62023	6601	College Elem Sch Dist-Gen	22.57943120%	18,691	74,581
2013	62023	8401	SVVHD-General	17.53837480%	14,518	57,930
2013	62023	9401	Allan Hancock CC Dist-Gen	6.01015360%	4,975	19,852
2013	62023	9801	County School Service	4.15017580%	3,435	13,708
2013	62023	9802	Education Revenue Augmentation	11.85061432%	9,810	39,143
				100.00000000%	82,778	330,303

All Schools

K - 12 Only

All Schools	51,429	205,213
	62%	62%
K-12 Schools only	33,209	132,510
	40%	40%
CC Only	4,975	19,852
	6%	6%

\*FY 14-15 increase due to non-Renewal of Ag Preserve Contract.

## ***EXHIBIT G***

---

### *NOTIFICATION OF ASSUMPTION OF WILLIAMSON ACT CONTRACT*



2014-0032894

Recording requested by and  
When recorded return to:

Santa Ynez Band of Chumash Indians  
 Attention: Tribal Chairman  
 P.O. Box 517  
 Santa Ynez, CA 93460

Recorded  
 Official Records  
 County of  
 Santa Barbara  
 Joseph E. Holland  
 County Clerk Recorder

REC FEE 18.00  
 CONFORMED COPY 2.00

02:43PM 21-Jul-2014

ML  
 Page 1 of 2

Rec'd  
 CC

**NOTIFICATION OF ASSUMPTION OF WILLIAMSON ACT CONTRACT  
 PURSUANT TO GOVERNMENT CODE ("Gov. Code") SECTION 51243(b)**

**WHEREAS**, Gov. Code Section 51243(b) provides that an Agricultural Preserve (Williamson) Act contract shall be binding upon, and inure to the benefit of, all successors in interest of the owner;

**WHEREAS**, an Agricultural Preserve (Williamson) Act Contract controls the permitted uses on Assessor's Parcel No.s 141-140-010, 141-121-051, 141-230-023 and 141-240-002 and the Contract designates the above-described real property as Agricultural Preserve Number 71-AP-037 as recorded on February 3, 1972 as Instru. No. 3889, Book 2385, Page 431;

**WHEREAS**, the name of the previous owner(s) of the property are **John Vickers Crawford and Thomas H. Crawford**, where heretofore entered into an Agricultural Preserve Contract with the County of Santa Barbara, effective January 1, 1972, pursuant to California Gov. Code Sections 51200, et seq., who thereafter sold the above mentioned real property to **FESS PARKER RANCH, LLC**, as successor in interest of the owner pursuant to Gov. Code Section 51243(b);

**WHEREAS**, **FESS PARKER RANCH, LLC**, sold the above mentioned real property to the **SANTA YNEZ BAND OF MISSION INDIANS ("Chumash")**, as successors in interest of the owner pursuant to Gov. Code Section 51243(b), on March 26, 2010, which was recorded on April 1, 2010 as Instru. No. 2010-0016911;

**NOW, THEREFORE**, by **RESOLUTION NO. 931**, the Business Committee of the Santa Ynez Band of (Chumash) Mission Indians has filed a Notice of Non-Renewal for all such Agricultural Preserve (Williamson) Act Contracts binding such real property pursuant to Gov. Code Section 51243(b), which notice has been approved by the Board of Supervisors, and the Tribe agrees to comply with the terms of such Contracts during the nine (9) year non-renewal period until the expiration of the Contract (hereinafter the "Assumption") (or upon cancellation or other termination, whichever occurs first).

Nothing in this Assumption shall waive or limit in whole or in part the sovereign immunity of the Santa Ynez Band of Chumash Indians ("Chumash") or its members, officials, employees or agents. Further, nothing in this Assumption shall change the legal implications of ownership of the property or in any way impose additional obligations of responsibilities on the Chumash. Federal law and tribal law shall govern this assumption to the fullest extent possible, including, without limitation, after any such land described in such Assumption is taken by the United States in trust for the Chumash.

SANTA YNEZ BAND OF MISSION INDIANS

Dated: 7-21-14

By: 

Vincent P. Armenta, Tribal Chairman

SEE ATTACHED FORM FOR  
 NOTARY CERTIFICATE

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of San Luis Obispo

On July 21, 2014 before me, M. Sanchez, Notary Public  
(Here insert name and title of the officer)

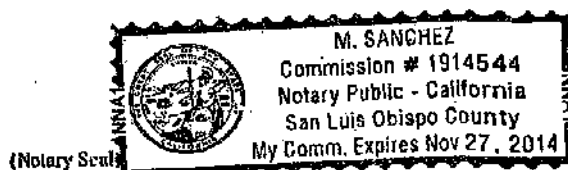
personally appeared Vincent P. Armenta

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

M. Sanchez  
Signature of Notary Public



## ADDITIONAL OPTIONAL INFORMATION

### DESCRIPTION OF THE ATTACHED DOCUMENT

Notification of Assumption  
(Title or description of attached document)

OF William Son act Contract  
(Title or description of attached document continued)

Number of Pages 1 Document Date 7-21-14

(Additional information)

### CAPACITY CLAIMED BY THE SIGNER

- ☒ Individual (s)  
☐ Corporate Officer

(Title)

- ☐ Partner(s)  
☐ Attorney-in-Fact  
☐ Trustee(s)  
☐ Other \_\_\_\_\_

### INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they; is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

# COUNTY OF SANTA BARBARA

Michael C. Ghizzoni  
County Counsel



105 East Anapamu Street  
Suite 201  
Santa Barbara, CA 93101  
Telephone: (805) 568-2950  
FAX: (805) 568-2982

## COUNTY COUNSEL

July 31, 2014

*Sent via First Class and Electronic Mail*

Matthew M. Clarke  
Christman Kelley & Clarke, PC  
1334 Anacapa Street  
Santa Barbara, California 93101  
matt@christmankelley.com

Re: *Save the Valley, LLC v. Vincent Armenta et al.*; Case No. 1483105

Mr. Clarke:

Thank you for your correspondence of July 30, 2014 regarding the above referenced litigation. Prior to receiving your letter, the Santa Ynez Band of Mission Indians (the "Tribe") provided us with a copy of the recorded Notification of Assumption of Williamson Act Contract ("Notification of Assumption"). We promptly reviewed the Notification of Assumption for compliance with Santa Barbara County Uniform Rule 6-2(A).

For transfers of land restricted by a Williamson Act contract, Uniform Rule 6-2(A) provides:

The transferee shall cause to be completed and signed immediately subsequent to the instrument creating the new ownership a *Notification of Assumption of Williamson Act/Farmland Security Zone Contract* (form may be obtained by contacting Planning and Development). The assumption notice shall include the legal description set forth in the instrument which transferred the ownership interest or a reference to the recording data for the contract being assumed, and shall submit said document along with the applicable fee to Planning and Development. County Counsel shall then review and approve as to form and return the form to the applicant for subsequent recording by the County Recorder's Office.

The Notification of Assumption recorded by the Tribe contains the information required by Uniform Rule 6-2(A). Therefore, County Counsel approves the document as to form.

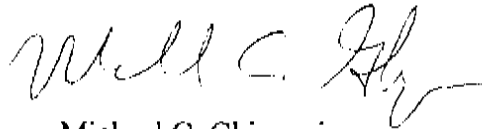
Matthew M. Clarke  
Christman Kelley & Clarke, PC  
July 31, 2014  
Page 2

We also note that the Williamson Act contract at issue is binding on all successors in interest of the owner, including the Tribe, as required by Government Code § 51243(b). The contract runs with the land.

Since we have concluded the Notification of Assumption meets the requirements of Uniform Rule 6-2(A), we decline to intervene in the litigation.

Amber Holderness is the primary attorney handling this matter for our office. She can be reached at (805) 568-2969 regarding any remaining questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael C. Ghizzoni", with a stylized flourish at the end.

Michael C. Ghizzoni  
County Counsel