

# County Of Santa Barbara

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## Executive Office

October 31, 2013

Ms. Amy Dutschke, Regional Director  
Bureau of Indian Affairs,  
Pacific Regional Office  
2800 Cottage Way, Room 2820  
Sacramento, CA 95825

E-mail: [amy.dutschke@bia.gov](mailto:amy.dutschke@bia.gov)

Re: Santa Ynez Band of Chumash Mission Indians: Fee-to-Trust Application for Five Parcels Known as the Camp 4 Property

Dear Ms. Dutschke:

This comment letter is submitted by the County of Santa Barbara (County) in response to the Santa Ynez Band of Chumash Mission Indians' Fee-to-Trust Application for Five Parcels Known as the Camp 4 Property. Our comments are in accordance with 25 Code of Federal Regulations (CFR) Section 151. The County opposes this Trust Acquisition because of the substantial and significant potential negative impacts which may result, including jurisdictional problems, conflicts of land use and the loss of revenues needed to support public services, as a direct result of removal of the property from the County's tax roll.

### Introduction

On September 23, 2013 the County of Santa Barbara officially received notification of the *Application for Transfer of Title for Fee Lands Into Trust* submitted in July 2013 by the Santa Ynez Band of Chumash Mission Indians to the United States Department of the Interior (DOI), Bureau of Indian Affairs (BIA), for the property commonly referred to as Camp 4. The BIA is seeking comments regarding the proposed trust land acquisition in order to obtain sufficient data that would enable an analysis of the potential impacts on County government, which may result from the removal of Camp 4 from the tax roll and local jurisdiction. The BIA originally indicated that comments must be received within thirty days of receipt of the notice, October 23<sup>rd</sup>. As you know the proposed project is substantial in size, scope and affected resources. Because of the significant concerns that could result from this fee-to-trust approval, the County Executive Officer (CEO) requested a 60-day extension to review possible impacts and prepare comments. The BIA approved a 15-day extension for the County. With the extension County comments must be submitted prior to the close of business on November 7, 2013.

The Code of Federal Regulations pertaining to requests to have lands taken in trust, 25 CFR Section 151.10, addresses "on-reservation acquisitions" and 25 CFR Section 151.11 addresses "off-reservation acquisitions." Sections 151.10 and 151.11 both allow the County to provide written comments about the proposed acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.

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This response includes in more detail within:

- Section 151.10(e), both directly and through Section 151.11(d): impacts resulting from removal of the land from the tax rolls; and
- Section 151.10(f), both directly and through Section 151.11(d): as jurisdictional problems and potential conflicts of land use which may arise.

It is the County's position that the Camp 4 Trust Acquisition must be processed and evaluated in accordance with regulations addressed in 25 CFR Section 151.11 for "off-reservation acquisitions" because none of the property is adjacent and contiguous to current reservation boundaries.

### **Background**

The County of Santa Barbara (County) recognizes the role and unique interests of tribes, states, counties and other local government to protect all members of their communities and to provide governmental services and infrastructure benefits to all. In addition, the County recognizes and respects the tribal right of self-governance, to provide for tribal members and to preserve traditional tribal culture and heritage. In similar fashion, the County recognizes and promotes its own self-governance to provide for the health, safety and general welfare of all residents of our communities.

Under the fee-to-trust (FTT) process outlined in Federal Regulations tribes may request the federal government to take additional land owned by them in fee into trust. This FTT transfer process converts land from private or individual title to federal title, holding it in trust for exclusive use by an American Indian Tribe and removing it from local regulatory jurisdiction. As a result, the land becomes exempt from state and local government taxes and land use regulations. In addition to the substantial financial losses to the County and other taxing entities, the status of trust land often creates jurisdiction confusion in law enforcement, land use planning, social service delivery and emergency services. Additionally, the loss of local control can result in land uses that conflict with the County's General Plan, Community Plans, and surrounding uses. This loss of local control to regulate land uses without appropriate mitigation can congest county/state roadways, impact water quality in waterways, reduce water supply to adjacent properties, degrade habitat, air quality and the environment and create public nuisance complaints.

### **Significant Loss of Tax Revenue**

The County currently provides major public services to the property proposed for Trust Acquisition. These include law enforcement, fire protection, emergency medical response, and roadway access and maintenance. With the development anticipated in the proposed project the need for these services and many others will be expanded. Moving the property from fee ownership into trust will remove it from the tax rolls. The result will be significant loss of local tax revenue for the County, schools, and other taxing entities. As this property is developed, the tax value will increase exponentially and the County will suffer a substantial loss of tax revenue with no corresponding mitigation.

Per the County Assessor, the 2012/13 assessed value on the Camp 4 parcels, under the Williamson Act Contract (agreement for the property to remain in agriculture), was \$8.3 million with an estimated tax of \$83,000 (1%). The current assessed value, without the Williamson Act Contract, is \$34 million with an estimated tax of \$340,000. Assuming no additional development of the property, if the land is taken into trust and removed from the tax rolls, the county will lose nearly \$35 million over 50 years. Under the proposed Alternative #1, principally residential, the county would lose more than \$311 million over 50 years. Under proposed Alternative #2 (residential and tribal facilities) the County would lose nearly \$275 million in property taxes and an unknown additional amount of sales tax generated by the Community Center and Banquet Hall/Exhibition facility.

Cumulative Estimated Property Tax Loss - Camp 4  
Tax Value (1% of Assessed Value)  
(dollars in millions)

	Current	Year 5	Year 10	Year 20	Year 50
Existing uses - (w/o Williamson Act )	\$ .34	\$ 1.84	\$ 4.15	\$ 9.8	\$ 34.9
Alternative #1 – 5 Acre parcels	\$ 3.8	\$ 19.8	\$ 42.0	\$ 94.0	\$311.4
Alternative #2 – 1 Acre parcels	\$ 3.1	\$ 16.2	\$ 34.5	\$ 78.2	\$273.8

**Compatibility with the County’s General Plan, Santa Ynez Community Plan, and County land use regulations**

Tribal applications to take land into federal trust often do not specify and limit the uses for the proposed site, and even when they do, a tribe is not bound to those uses once the land is taken into trust. This is the case with the Camp 4 project. Per the Tribe, the proposed uses include both development of a portion for housing as well as land-banking and holding land for future development. The development contemplated by the Tribe is likely the largest and most impactful in the entire Santa Ynez Valley. The proposed development is incompatible with the County’s General Plan, Santa Ynez Community Plan, and County land use regulations. It should be noted that the Santa Ynez Valley Community Plan includes guidance that 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.

It should also be noted that the uses specified in the application by the Tribe may be achieved, with the property remaining in fee, via the County’s land use process to amend a Community Plan. In doing so, the amended Plan respects service, resource, and infrastructure capacities while accommodating development to a degree and in a manner which provides the greatest community welfare with the least public and private harm. Appropriate mitigation of any additional impacts is required. It is recognized and anticipated that the Tribe may choose to change the uses on the site, and once in trust the County has no regulatory authority to play a role in the approval of such uses.

**Proposed Trust Acquisition is “off reservation”**

The proposed Trust Acquisition encompasses over 1,400 acres and is zoned AG-II-100 (Agriculture, with a minimum parcel size of 100 acres). This property is under an existing Williamson Act Contract, which is a 10-year rolling contract enabling property taxes to be substantially reduced in exchange for the land remaining in agriculture. The property has been preserved for agricultural use by a Williamson Act Contract since at least 1971. In August 2013, the Tribe submitted an application for non-renewal, meaning the contract will expire in December 31, 2022. On July 1, 2013, the Tribe passed Resolution 931 which requires compliance with the existing Williamson Act Contract until the contract expires. It is unlikely the contract can legally be removed by approval of the Trust Acquisition.

Finally, Camp 4 is located 1.75 miles from the Tribe’s Reservation and does not have any shared boundaries with the Reservation. Therefore the BIA must utilize the process for off-reservation discretionary trust acquisition. (25 CFR 151.11)

**There is no need for additional land to be taken into Trust**

Camp 4 is 1,433 acres located in the middle of the Santa Ynez Valley in Santa Barbara County, California, directly off of State Highway 154 between Baseline Avenue and Armour Ranch Road. The property is zoned exclusively for agriculture. The project proposes 143 residential dwellings ranging from 3,000 to 5,000 square feet as well as an on-site wastewater treatment plant, roads, and other infrastructure.

The Tribe currently has an approximately 138-acre Reservation located on the south side of Highway 246 in the Santa Ynez Valley, approximately 1.6 miles west of the intersection of Highways 246 and 154. Of the 138 acres, at least 26 acres currently has residential capacity, and 16 acres has economic development capacity. The Tribe has 136 tribal members and approximately 1,300 lineal descendants. The stated purpose of Camp 4 is to provide housing for tribal members because the current Reservation is claimed to be insufficient in size.

In August 2013, the BIA released an Environmental Assessment for public review and comment. The Environmental Assessment identifies two Alternatives. Alternative A consists of 1,433 acres to be converted to 143 five-acre residential lots. A total of 793 acres would be covered by residential homes and transportation infrastructure. The project site would also include 300 acres of vineyards (256 existing and 44 acres dedicated for expansion), 206 acres of open space/recreational, 98 acres of riparian corridor and 33 acres of oak woodland conservation and 3 acres of Special Purpose Zone for utilities.

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

Based on the need for less than 200 of the over 1400 acres of the property to be used for housing and the fact that the proposed residential development could be processed via the County's land use development process, the County believes there is no need for additional land to be taken into trust. (25 CFR 151.11(o)) If the property remains in fee and is developed for the purposes proposed in the Trust Acquisition application it contributes to the financial strength of the entire community, including the Tribe, while respecting local concerns for development and avoiding jurisdictional and land use conflicts. Other residents of the county utilize and develop properties in compliance with local regulations. The Tribe must at least attempt to work with the County via the land development process placed on all residents prior to concluding that its only option for development is conversion of the property to trust. While the Tribe may want the BIA to approve moving the land to trust, it has not articulated a genuine need, or necessity arising from existing circumstances, nor has it articulated a satisfactory economic benefit, to justify transferring into trust land that the Tribe currently holds in fee.

### **Need for an Environmental Impact Statement**

Factors to be considered with the Camp 4 FTT application should include the extent of the impacts from the proposed project and any proposed mitigation measures. To adequately evaluate the impacts, the County has identified the need for the environmental document to be elevated from the current level proposed by the BIA of an Environmental Assessment (EA) to an Environmental Impact Statement (EIS). An EIS is necessary to disclose all project components, accurately analyze all the project's potentially significant direct and cumulative impacts, and require substantial measures to mitigate or avoid them. An EIS is also necessary to evaluate a full range of alternatives including use of the County's standard land development process for property held in fee. Without an EIS that provides correct and complete information, neither the BIA nor the public can make a proper, informed evaluation of the proposed project. At a minimum, impacts to be considered should include:

- Compatibility with the County's General Plan, Santa Ynez Community Plan, and County land use regulations;
- Conversion of Agricultural Land and Agricultural Preserve (Williamson Act) Contract requirements;

- Provision of public safety services including law enforcement, fire protection, and emergency medical services;
- Provision of other public services including schools, parks and recreation;
- Avoidance of negative impacts to water supplies, storm water quality, wastewater or solid waste management, biology, and air quality;
- Traffic capacity and circulation for vehicles, bicycles, and pedestrians; and
- Loss of taxes and special assessments used to fund countywide services.

### **Tribal Consolidation Area (TCA) Appeal**

It should be noted that the County appealed the recent BIA decision to approve an 11,500 acre Tribal Consolidation Area (TCA) for the Santa Ynez Band of Chumash Mission Indians. On October 1, 2013 the Tribe sent a letter to the BIA withdrawing their request for consideration of this Tribal Consolidation Area which the BIA approved on June 17, 2013. This withdrawal of the TCA creates a confusing contradiction given the fact that the TCA serves as a foundational document for both the Camp 4 fee-to-trust (FTT) application and the associated Environmental Assessment (EA). The County has requested that the BIA clarify the effect of the withdrawal of the TCA.

On October 28, 2013 the County received notice from the Interior Board of Indian Appeals (IBIA) stating that because of the withdrawal letter by the Tribe, the IBIA was declaring the decision by the BIA to approve the TCA to be moot and therefore, without any legal effect. Prior to BIA determination of FTT for the Camp 4 property, which relied heavily upon inclusion within the boundaries of the TCA, the Trust Acquisition application and associated environmental document must be amended.

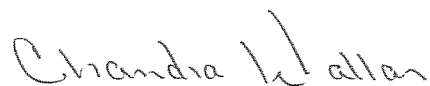
### **Conclusion**

The County requests that this Trust Acquisition be denied and that the Tribe be directed to process any and all development proposals utilizing the County's land development process which is available to all property owners.

The currently proposed project conflicts with the County's General Plan, Santa Ynez Community Plan, and County land use regulations. The BIA has used the wrong standard for trust consideration since the proposed parcels can only be evaluated pursuant to the federal regulation for off-reservation acquisitions. In addition the Trust Acquisition cannot be adequately evaluated in the absence of an Environmental Impact Statement. The Tribe has not stated a real need for additional land to be taken into trust and removed from the tax rolls and local jurisdiction. If the land is taken into trust the County will lose substantial tax revenue, while at the same time experiencing an increased demand for its services and infrastructure. Lastly the County's appeal of the Tribal Consolidation Area has not been completely resolved which greatly impacts the analysis of the Trust Acquisition. These factors, individually and collectively, present the reasons to deny the Trust Acquisition.

Thank you for the opportunity to comment on the Camp 4 Trust Acquisition. If you have any questions concerning this comment please contact Dennis Bozanich, Assistant to the County Executive Officer, at 805-568-3400 or [Dbozanich@co.santa-barbara.ca.us](mailto:Dbozanich@co.santa-barbara.ca.us).

Sincerely,



Chandra L. Wallar  
County Executive Officer

cc: Members of the Board of Supervisors  
Congresswoman Lois Capps, California 24<sup>th</sup> Congressional District  
Senator Dianne Feinstein  
Senator Barbara Boxer  
Congressman Doc Hastings, Natural Resources Committee Chair  
Thomas Walters, Walters and Associates  
Sam Cohen, Santa Ynez Band of Chumash