



P.O. Box 722 • Los Olivos, CA 93441 • (805)693-5090



P.O. Box 1945 • Santa Ynez, CA 93460

August 20, 2007

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

Re: Violations of Santa Ynez Band's Tribal State Compact

Dear Governor Schwarzenegger,

We believe the Santa Ynez Band is in violation of sections 2.8 and 4.2 and section 15.6 of the 1999 Tribal State Gaming Compact.

Sections 2.8 and 4.2 are being violated by the use of recently purchased off-reservation properties (Royal Scandinavian Inn and Federico's) and leased off reservation parking lots, to support their gaming facility. Per the Tribal State Compact, these off-reservation properties should be classified as "Gaming Facilities." All "Gaming Facilities" must be on land held in federal trust.

Unless the Governor's intent is to facilitate the development of casino "Company Towns," there can be no compromise or mitigation on sections 2.8 or 4.2 of the Tribal State Compact for our community and any other hosting community. The Compact, as written and ratified, ensures that all gaming and gaming related activity will remain on the reservation. This is for the protection and health of the community. Our community does not support expansion of gambling. This is further evidenced by 13,000 signatures that were gathered on an informal petition, *NoMoreSlots*.

These compact provisions further protect the community from the casino enter prise moving non-gambling administrative/office space or hotel rooms off the reservation to make room for more gambling and increasing the numbers of casino patrons by housing and parking them off-reservation.

In addition, through our research on the above issues, we have found that **Section 15.6**, "Representations", may have also been violated. The Compact on file with the State of California dated September 10, 1999 is signed by **Edward Valencia, Chairperson of the Santa Ynez Band of Mission Indians**. All addendums, dated October 1, 1999 are also signed by **Edward Valencia**.

However, copies of the Compact dated September 10, 1999 (*including* the addendums dated October 1, 1999) found online and easily available to the public, such as the compact copy we obtained from the National Congress of American Indians, are signed by **Vincent Armenta, Chairperson of the Santa Ynez Band of Chumash Indians**. The fact that the Compact on file with the State and copies available online are clearly two different compacts with two different chairpersons stating they are each the tribal chairperson and two different tribal names on the same dates is of grave concern. A copy of the online compact is available at http://www.ncai.org/Gaming_compacts.103.0.html

We question who had authority to sign the Compact on September 10, 1999 and the Addendums on October 1, 1999, who had the authority to change the name of the tribe, if this Compact is in fact valid, why an official document has been altered and who authorized this alteration.

In conclusion, we are requesting a determination be made on the validity of the Compact. If the copy signed by Mr. Armenta has been falsified, then we are asking the State to take action. If the compact is determined to be valid, we request the criteria used to determine the validity of the compact and if deemed valid we are asking the State for full and timely enforcement of the current compact.

Mitigation, compromise, or any interpretation of the terms of the existing Tribal State Gaming Compact can not be an option for the protection of the hosting communities. Any compromise to the terms only sets precedent for future violations and will erode the rights of the hosting community. If allowed to continue, the Governor will essentially allow the creation of a “company town” out of the Santa Ynez Valley that currently enjoys a diverse tourist industry **NOT** reliant on gambling.

It has also come to our attention that Cheryl Schmit (*Stand Up for California*) and C.J. Jackson (*Santa Ynez Valley Concerned Citizens*) have had communications with your office regarding this matter. Because of the complexity of this issue, approaches to tribal gambling expansion differ. Preservation of Los Olivos (P.O.L.O.) and Preservation of Santa Ynez (POSY) are responsible to hundreds of citizens who support and actively encourage our groups’ approach. It is therefore necessary to clarify any possible confusion by giving you official notice that neither Ms. Schmit nor Mr. Jackson are authorized to speak for P.O.L.O. and POSY on this tribal gambling expansion or any other matter.

We would appreciate a timely response to our questions regarding this Tribal State Compact. If you are in need of any additional information or would like to meet with us, please contact representatives from either P.O.L.O. or POSY at the below numbers.

Sincerely,

Jon Bowen, President
Preservation of Santa Ynez, POSY



Kathy Cleary
Preservation of Los Olivos, P.O.L.O.



Kathryn Bowen
Preservation of Los Olivos, P.O.L.O.



POLO Main Line 805.693.5090

Cc: Dirk Kempthorne, Secretary of the Interior

Supporting Evidence for Basis of Letter to the Governor

Section 2.8 of Tribal Gaming Compact:

Defines a “gaming facility” as:

“...all rooms, buildings, and areas, including parking lots and walkways, a principal purpose of which is to serve the activity of the gaming operations...”

Off-Reservation Properties Used to Support the Gaming Facility

In 2006 and 2007, the Santa Ynez Band purchased multiple developed properties. These are off-reservation, fee-titled properties. They are the *Royal Scandinavian Inn (RSI)*, *Federicos*, and *McCormix Gas Station*. **The Santa Ynez Band has publicly stated in newspapers and in other publications that the Royal Scandinavian Inn and the Federicos property will be used to support their gaming facility:**

*(Please Note: Any reference to “Casino Resort guests” or “Resort guests” are **gambling patrons** at the Chumash Casino.)*

Statements regarding the purchase of the Royal Scandinavian Inn:

Spring 2007 Edition of Chumash Magazine

“A key strategy in purchasing the RSI centered on ensuring that guests visiting the Chumash Casino had someplace to stay, should they decide to spend the night or weekend. With only 106 rooms, the Chumash Casino Resort currently runs at 100% occupancy on the weekends and 85% on weekdays.”

“The addition of the RSI to the Chumash family adds 133 more rooms, allowing Resort management the option of offering Resort guests two properties.”

The Lompoc Record, November 21, 2006

“Tribal spokeswoman Frances Snyder said the inn will provide additional rooms for Chumash Casino Resort guests.”

Santa Ynez Valley Journal published Santa Ynez General Council Meeting Minutes, April 18, 2007:

“We need three to four hundred hotel rooms on permanent basis. A conservative estimate of impact on revenue would be between 20 and 40 million dollars a year in additional revenue to the Casino. Our request would be to evaluate some properties and get approval to tie them up subject to approval by the Tribe and subject to due diligence, appraisals, etc. This makes sense for the business and is a way to grow the business as we are limited in increasing revenue by the supply of hotel rooms we have.”

“The hotel rooms are somewhere in the 15 to 40 million dollar range depending on how much you can acquire. We think the returns is somewhere in the 20 to 40 percent range based upon the gaming. Our assumption is that we could fill about 75% of the rooms with gamblers worth about \$250 per night.”

“The ‘A’ player is \$800 and above, ‘B’ is between \$500 and \$800 and the ‘C’ player is between \$250 and \$500 a day. A typical casino visit is 6 hours. If you take a typical visit and add a hotel room, you get two days from the guest. Hotels make money on an average room rate of \$120-\$150 per room. Mr. Brents believes we could add significant incremental value to that. The hospitality industry in the valley should be controlled by the Tribe.”

Statements regarding the purchase of FEDERICO’s:

Santa Ynez Valley News, November 11, 2006

“The Chumash Casino Resort is moving forward with plans to convert the former Federico’s restaurant into office space. Set to be renamed the Chumash Employee Resource Center, the 15,000-square-foot property at 585 McMurray Road in Buellton will house Chumash University training for supervisors, human resources, accounting and employee interviews/hiring.”

“Frances Snyder, the tribe’s spokeswoman, cited the building’s central location to Highways 101 and 246, its parking spaces and interior space as reasons why the site was chosen.”

“About 25 to 35 employees will work at the site with one to two classes a week for 20-35 employees...In May, the Planning Commission approved a shuttle bus stop for employees and guests. The shuttle operates daily for 24 hours with a stop every hour. There are 142 parking on site spaces.”

Santa Ynez General Council Meeting Tribal Minutes, February 21, 2006:

“It is a 15,000 square foot building plus a restaurant. It has 144 parking spaces which are critical to us.”

“We think it is a strong piece of property for the tribe and a strong holding in the long term and will add revenue right away to the Casino.”

Control the Hospitality Industry, Parking, Conversion of On-Reservation Non-Gaming Space to Gaming Space:

Further, tribal minutes document the tribe’s intent to control the hospitality industry, support their gaming operation with off-site parking, and convert on reservation non-gaming space (currently used for office/administrative) to gaming space by moving the office/administrative areas off the reservation (Federicos):

Santa Ynez General Council Meeting Minutes, February 21, 2006:

“The Hospitality industry in the valley should be controlled by the Tribe.”

“For our current needs, we need additional hotel rooms especially on weekends. We need additional off site parking. We are looking at something with training and employment center”

“The hotel guest average daily worth to the property, given the limited rooms we have, is about \$1,100 per visit. We are currently looking at the possibility of acquiring blocks of rooms to put guests up in because we just don’t have enough.”

“We believe the revenue contribution is between \$20-\$30 million annually. As the rooms get farther from the property, the value of the guest to the enterprise decreases but it is estimated the value of every one hundred rooms is between \$7 - \$10 million in annual revenue to our organization.”

OFF-SITE PARKING: “Currently we are renting spaces in Buellton, Santa Maria and Lompoc...We park employees there and it is very valuable to us.”

OFF-SITE TRAINING: “We think we would like to have a more one stop shopping for the employment process so that you apply for a job, you are interviewed, and you receive your training off property. It is a low value use of the space because it is really for gaming and gaming related activity. **We could actually convert non-gaming space to gaming space.**”

Defining “Gaming Facilities” and “Gaming-Related”:

In a letter from the BIA to Santa Barbara County Counsel Shane Stark dated Feb. 15, 2005, regarding the application by the Santa Ynez Band for 6.9 acres to be taken into trust, the BIA reassures the County of Santa Barbara *that property used exclusively for or to support a gaming facility is considered gaming related, and must comply with Part 151 regulations and the Indian Gaming Regulatory Act (IGRA).*

“Additionally, if fee-to-trust property is going to be used exclusively for or to support a gaming facility, it is considered gaming-related. Likewise, if the subject property will not be used exclusively to support the gaming facility, but the gaming facility cannot operate without the land and improvements, then that also is considered gaming-related.”

*“During the presentation, Mr. Bearquiver informed the Board and the public that any request for acquisition of land by the Federal government for gaming or gaming-related purposes must not only comply with the Part 151 regulations but also comply with the requirements of Section 20 of the Indian Gaming Regulatory Act. **Any application for acquisition of land for gaming or gaming-related purposes, even where contiguous, must be submitted to the Office of Indian Gaming Management in Washington, D.C., which thoroughly reviews all such applications.**”*

“Lastly, should a tribe be successful in getting land placed into trust as a non-gaming related property, but later change its mind and place gaming or gaming-related facilities on the property without going through the necessary approvals, then the Department of Interior has noted that persons who knowingly and willfully falsifies information or makes false statements on or in connection with trust applications may be subject to criminal prosecution under the False Statements and Accountability Act of 1996.”

“Tribal” LLC’s:

Another practice of cannibalization of communities into Casino Company Towns is occurring by the placement of off-reservation properties and businesses into “tribal” LLC’s. Allowing this practice clearly enables the tribally owned off-reservation businesses significant advantages over non-Indian businesses. Patrons have no recourse in an event of injury because the tribe will enjoy sovereign immunity.

For example, the Santa Ynez Band passed in December 2006 the Santa Ynez Band of Chumash Indian Limited Liability Company Act. All new purchases are being held under the new LLC Act. This is NOT a traditional LLC, **but a tribal LLC that is designed to be exempt from all federal and state income taxes and will be immune from suit “to the fullest extent as the tribe enjoys sovereign immunity.”**

Santa Ynez Band of Chumash Indians Limited Liability Company Act (tribal LLC) ballot item, October 3, 2006:

“Approval of the SYBCI Limited Liability Company Act (Tribal LLC) would establish a business entity wholly-owned by the Tribe for the conducting of off-reservation business.”

*“Ownership title to property acquisitions made by the Tribe would be taken by the Tribal LLC.”
(Attachment F)*

Taken from Draft of the Santa Ynez Band of Chumash Indians Limited Liability Company Act:

“The LLC shall be exempt from all federal or state income taxes or other impositions to the same extent as the Tribe.”

“The LLC shall have and enjoy the Tribe’s sovereign immunity from unconsented suits and other legal process and claims, together with all other rights and privileges arising from tribal sovereignty, to the fullest extent that the Tribe enjoys sovereign immunity and the rights and privileges of tribal sovereignty.”