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September 25, 2017

**SENT VIA FACSIMILE & EMAIL**

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**Re: Intergovernmental Memorandum of Agreement- Camp 4**

Dear Supervisors Hartman, Williams, Adam, Wolf and Lavagnino:

My wife and I live in Santa Ynez, California, and we are neighbors of the Chumash Tribe with respect to Camp 4. We were Appellants in the matter before the U.S. Department of the Interior, Assistant Secretary-Indian Affairs, involving the Chumash Fee-to-Trust application. Santa Barbara County was also an Appellant challenging the FONSI and Notice of Decision issued by the BIA's Regional Director. As you know, there is litigation pending in Federal District Court filed by Santa Barbara County and others with regard to the federal action to take Camp 4 into trust, among other things. Additional lawsuits may be filed in federal court.

I reviewed the County's website for the Public Meeting set for today, September 25, 2017, involving the "Intergovernmental Memorandum of Agreement - Camp 4" between Santa Barbara County and the Santa Ynez Band of Chumsh Indians ("Tribe"). The tentative agreement is contrary to and inconsistent with the position taken by Santa Barbara County in the extensive litigation involving the decisions to take Camp 4 into trust, including the County's position asserted in the pending federal court action. Why is the County changing its position?

The agreement is not in the best interest of the Santa Ynez Valley as the agreement does not protect the environment or the rural character of the Santa Ynez Valley. The agreement does not insure compliance with the Williamson Act. The County's dismissal of its litigation (which attempts to protect the environment and the rural character of the Santa Ynez Valley) is not in the best interest of the Santa Ynez Valley as it precludes resolution of important environmental issues, among others, that need to be resolved in a neutral judicial proceeding. Moreover, the County's agreeing to support the Tribe sponsored H.R. 1491 is a further disservice to the community as the County is actively interfering with those who are pursuing and who will be pursuing litigation in Federal District Court to address and correct erroneous and unlawful decisions involved in Camp 4 being taken into trust.

As you know, H.R. 1491 is designed to preclude and dismiss any litigation in federal court to challenge any improper or illegal action by the federal agencies involved in the decision process to take Camp 4 into trust. Why is the County assisting in precluding members of the community from asserting and/or pursuing legal rights expressly allowed by federal law? Are the legal rights of the community only worth \$178,500 per year to the County?

Why is the County now taking a position contrary to the County's position asserted in the County's Notice of Appeal, Opening Brief, Reply Brief and Supplemental Reply Brief filed with the U.S. Department of the Interior, Assistant Secretary-Indian Affairs? The County correctly and appropriately asserted in its appeal briefs that the BIA's Regional Director abused her discretion and unlawfully issued the FONSI and Notice of Decision which according to the County violated the *National Environmental Policy Act* (NEPA), among other things. Is the destruction of the environment and the rural character of the Santa Ynez Valley worth only \$178,500 per year to the County?

It is respectfully requested Santa Barbara County in any "Intergovernmental Memorandum of Agreement" with the Santa Ynez Band of Chumash Indians remain consistent with the County's unambiguous position concerning the significant negative environmental impacts the development of Camp 4 will cause. Set forth below are the factual and legal contentions set forth in the County's Notice of Appeal, Opening Brief, Reply Brief and Supplemental Reply Brief filed with the U.S. Department of the Interior, Assistant Secretary-Indian Affairs:

**COUNTY'S NOTICE OF APPEAL (Dated January 21, 2015):**

- I. THE NOD FAILS TO PROPERLY CONSIDER THE FACTORS REQUIRED BY 25 C.F.R. §§ 151.10 AND 151.11 AND IS AN IMPROPER EXERCISE OF DISCRETION.
  - A. Regional Director Erred by Not Appropriately Considering the Need for the Trust Acquisition.
  - B. Regional Director Erred by not Appropriately Considering the Purposes for the Land.
  - C. Regional Director Erred by not Appropriately Considering the Impact Land n County Tax Rolls.
  - D. Regional Director Erred by not Appropriately Considering the Jurisdictional Problems and Land Use Conflicts Resulting from the Trust Acquisition.
  - E. Regional Director Erred by not Appropriately Considering the BIA's Ability to Discharge Any Additional Duties.
  - F. Regional Director Erred by not Appropriately Considering the Whether Compliance with NEPA Was Met.
  - G. Regional Director Erred by not Appropriately Considering the Economic Benefits Associated with the Business Uses.
  - H. Regional Director Erred by not Appropriately Considering the Off-Reservation Location of the Land.

- II. THE NOD AND FONSI VIOLATE NEPA AND ITS IMPLEMENTING REGULATIONS.
  - A. The BIA failed to Prepare an Environmental Impact Statement For Camp 4 in Violation of NEPA and Implementing Regulations.
  - B. The Mitigation Measures Proposed in the FONSI/Final EA Are Inadequate and Do Not Reduce Impacts to an Insignificant Level; an EIS is Still Required under NEPA and Implementing Regulations.
  - C. The FONSI/Final EA are Based on an Inappropriate Present-Day Baseline in Violation of NEPA and Implementing Regulations.
  - D. The BIA Failed to Adequately Consider the Cumulative Impacts of the Proposed Action in Violation of NEPA and Implementing Regulations.
  - E. The BIA Failed to Analyze Viable Alternatives in the FONSI/Final EA in Violation of NEPA and Implementing Regulations.
  - F. The FONSI/Final EA are based on Assumptions, Factual Inaccuracies, and Unsupported Conclusions in Violation of NEPA and Implementing Regulations.
- III. THE BIA FAILED TO PROVIDE SUFFICIENT INFORMATION FOR INFORMED PUBLIC COMMENT BY INTRODUCING NEW ANALYSIS IN THE FONSI IN VIOLATION OF NEPA AND IMPLEMENTING REGULATIONS.

**COUNTY'S OPENING BRIEF (Dated December 31, 2015):**

- III. ARGUMENT
  - A. THE COUNTY HAS STANDING TO CHALLENGE THE NOD AND FONSI.
  - B. THE REGIONAL DIRECTOR ABUSED HER DISCRETION BY FAILING TO PROPERLY ANALYZED THE 25 C.F.R. §§ 151.10 AND 151.11 FACTORS.
    - 1. The Regional Director Did Not Adequately consider the Need for the Land.
    - 2. The Regional Director Did Not Adequately Consider the Purposes of the Land.
    - 3. The Regional Director Did Not Adequately Consider the Tax Roll Impacts.
    - 4. The Regional Director Did Not Adequately Consider the Jurisdictional Problems and Land Use Conflicts Resulting from the Trust Acquisition.
    - 5. The Regional Director Did Not Adequately Consider the BIA's Ability to Discharge Any Additional Duties Owed by It.

6. The Regional Director Did Not Adequately Consider NEPA Compliance.
  7. The Regional Director Did Not Adequately Consider the Economic Benefits.
  8. The Regional Director Did Not Adequately Consider the Off-Reservation Locale.
- C. THE REGIONAL DIRECTOR ABUSED HER DISCRETION BY NOT REQUIRING SUFFICIENT OWNERSHIP INFORMATION OR ADEQUATELY RECOGNIZING OTHER PROPERTY INTERESTS WITHIN CAMP 4.
- D. THE NOD AND FONSI VIOLATE NEPA AND ITS IMPLEMENTING REGULATIONS AS AN EIS IS REQUIRED FOR A SIGNIFICANT FEDERAL ACTION LIKE THE CAMP 4 TRUST ACQUISITION.
- E. EVEN IF AN EIS IS NOT REQUIRED, THE FINAL EA IS INADEQUATE TO SUPPORT A FONSI AND MUST BE VACATED AND REMANDED.
1. The Proposed Mitigation Measures Are Inadequate.
  2. The Final EA Does Not Adequately Consider the Cumulative Impacts of the Proposed Action.
  3. The Final EA Does Not Analyze All Viable Alternatives to Camp 4.
  4. The Final EA Is Based on an Inappropriate Baseline.
  5. The Final EA Contains Assumptions, Inaccuracies, and Omissions.
- F. THE BIA VIOLATED DUE PROCESS IN DECIDING THE APPLICATION.
- G. THE BIA MUST SUPPLEMENT ITS ENVIRONMENTAL REVIEW FOR CAMP 4 DUE TO SIGNIFICANT NEW CIRCUMSTANCES.
1. The 350 Acres Owned by the Tribe Is a Viable Alternative to the Proposed Camp 4 Trust Acquisition that Constitutes a Significant Change.
  2. The Drought Conditions Are a Significant Change that Affect Impacts to Water Usage in the Area.

**COUNTY'S REPLY BRIEF (Dated February 16, 2016):**

II. ARGUMENT.

- A. NEITHER THE REGIONAL DIRECTOR NOR THE TRIBE HAS ESTABLISHED THAT THE REGIONAL DIRECTOR PROPERLY ANALYZED THE FACTORS REQUIRED BY 25 C.F.R. §§ 151.10 AND 151.11.
1. The Regional Director and Tribe Do Not Establish the Need for the Trust Acquisition Was Adequately Addressed.
  2. The Regional Director and Tribe Do Not Establish that the Regional Director Appropriately Considered the Purpose for the Land.

3. The Regional Director and Tribe Do Not Establish that the Regional Director Appropriately Considered the Impact on County Tax Rolls.
  4. The Regional Director and Tribe Do Not Establish that the Regional Director Appropriately Considered the Jurisdictional Problems and Land Use Conflicts Resulting from the Trust Acquisition.
  5. The Regional Director and Tribe Do Not Establish that the Regional Director Appropriately Considered the BIA's Ability to Discharge Any Additional Duties.
  6. The Regional Director and Tribe Do Not Establish that the Regional Director Appropriately Considered the Economic Benefits Associated with Business Uses.
  7. The Regional Director and Tribe Do Not Establish that the Regional Director Appropriately Considered the Off-Reservation Locale.
- B. THE REGIONAL DIRECTOR AND TRIBE FAIL TO SHOW HOW THE RECORD SUPPORTS A FINDING OF NO SIGNIFICANT IMPACT FOR THE CAMP 4 TRUST ACQUISITION; AN EIS IS REQUIRED.
1. The Regional Director and Tribe Apply the Wrong Standard for Determining When a Proposed Federal Action Requires the Preparation of an EIS, Which Camp 4 Does, and Inaccurately Characterize the County's Appeal as Mere "Disagreement" with the BIA's Conclusions.
  2. The Regional Director and Tribe Do Not Address the Significant Criteria that Determines Whether an EIS Should be Prepared Under NEPA and Fail to Refute Comments Establishing the Significance of the Acquisition.
  3. The Regional Director and Tribe Attempt to Narrow the Scope of the Proposed Action to Avoid Studying Viable Alternatives and Fully Analyzing the Impacts of the Project.
  4. The Regional Director and Tribe Fail to Show that The Final EA/FONSI Adequately Addressed Mitigation Measures, Cumulative Impacts, the Baseline for the Project, and the Impacts of the Project.
- III. THE REGIONAL DIRECTOR AND TRIBE FAIL TO ADDRESS THE CHANGED CIRCUMSTANCES REQUIRING SUPPLEMENTATION OF THE ENVIRONMENTAL REVIEW IN THIS CASE.

**COUNTY'S SUPPLEMENTAL REPLY BRIEF (Dated March 11, 2016):**

II. ARGUMENT

- A. THE REVISED LAND USE MAP CONSTITUTES SIGNIFICANT NEW CIRCUMSTANCES OR INFORMATION REQUIRING THE BIA TO SUPPLEMENT ITS ENVIRONMENTAL REVIEW UNDER NEPA.

- B. THE REVISED LAND USE MAP HIGHLIGHTS THE INADEQUACIES OF THE FINAL EA FOR CAMP 4.
- C. THE REVISED LAND USE MAP SHOWS THE REGIONAL DIRECTOR FAILED TO ADEQUATELY ANALYZE ALL PROPOSED USES OF THE CAMP 4 AND THE RESULTING JURISDICTIONAL AND LAND USE CONFLICTS.
- D. THE REVISED LAND USE MAP SHOWS THE REGIONAL DIRECTOR FAILED TO ADEQUATELY ANALYZE THE ECONOMIC BENEFITS OF PROPOSED BUSINESS USES ON CAMP 4.

The above sections from the County's Notice of Appeal, Opening Brief, Reply Brief and Supplemental Reply Brief provide an excellent outline of the issues involved. The County's arguments were accurate and correct when made and they are equally accurate and correct today. The County is alleging the same issues in the County's litigation filed in Federal District Court.

The "Intergovernmental Memorandum of Agreement - Camp 4" between Santa Barbara County and the Tribe does not adequately resolve the erroneous and unlawful decisions involved in the taking of Camp 4 into trust. The Tribe's payment of a nominal sum of \$178,500 per year in exchange for the County's foregoing further litigation to protect the environment and rural character of the Santa Ynez Valley and the County's support for the passage of H.R. 1491 is an insult to the community and the environment.

Hopefully the County will remain true to the factual and legal positions the County has correctly asserted and articulated in the litigation, i.e., the BIA Regional Director abused her discretion and Fee-to-Trust will have a significant negative impact on the environment and an Environmental Impact Report is required.

If you have any questions concerning this matter, please do not hesitate to contact me at [BrianKramerLaw@aol.com](mailto:BrianKramerLaw@aol.com) or my office at 1230 Rosecrans Avenue, Suite 300, Manhattan Beach, California 90266, Tel. (310) 536-9501.

Very truly yours,  
*Brian Kramer*  
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cc:

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Santa Barbara County Board of Supervisors  
September 25, 2017  
Page 7

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