

# 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

December 17, 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: Application for Transfer of Title for Fee Lands Into Trust Submitted by the Santa Ynez Band of Chumash Mission Indians dated November 2013**

Dear Ms. Dutschke:

On October 31, 2013 my office provided comments pertaining to the Santa Ynez Band of Chumash Indians (Tribe) Fee to Trust Application for five parcels known as Camp 4. At that juncture, the Tribal Consolidation Area (TCA) was a matter for consideration and the Fee to Trust Application was premised on Camp 4 being part of a TCA. After the County of Santa Barbara provided its comments of October 31, 2013, the Interior Board of Indian Appeals vacated approval of the TCA and the Tribe withdrew it from consideration.

On November 25, 2013, the County of Santa Barbara received a copy of the Application for Transfer of Title for Fee Lands Into Trust Submitted by the Santa Ynez Band of Chumash Mission Indians which includes an amended and revised narrative for the Camp 4 Fee to Trust Application (Amended Fee to Trust Application). In order to ensure that the County of Santa Barbara's comments are reflective of the Amended Fee to Trust Application, this comment letter is now submitted. All 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 as a direct result of removal of the property from the County's tax roll and jurisdiction, including conflicts of land use and the loss of revenues needed to support public services.

### Introduction

On November 25, 2013 the County of Santa Barbara officially received notification of the Amended Fee to Trust Application submitted in November 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 indicated that comments must be received within thirty days of receipt of the notice. 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

Page 2 of 5

proposed acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.

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 Amended Fee to Trust Application 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 in the Amended Fee to Trust Application. These services 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, however, 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 -<br>(w/o Williamson Act ) | \$ .34  | \$ 1.84 | \$ 4.15 | \$ 9.8  | \$ 34.9 |
| Alternative #1 –<br>5 Acre parcels       | \$ 3.8  | \$ 19.8 | \$ 42.0 | \$ 94.0 | \$311.4 |
| Alternative #2 –<br>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 Santa Ynez Community Plan addresses 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 trust acquisition proposed in the Amended Fee to Trust Application 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 Amended Fee to Trust Application.

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 the Amended Fee to Trust Application 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 Amended Fee to Trust 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 Amended Fee to Trust 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;

Page 5 of 5

- 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.

County submitted its complete comments to the EA on October 7, 2013. A copy of the October 7 comments is attached to this letter.

In addition to the EA being an inadequate environmental review for the proposed project, the EA at issue is now further and even more fundamentally flawed. The EA supporting the Amended Fee to Trust Application was completed in August 2013 and is premised on the now withdrawn and vacated TCA. Therefore, it is no longer based on accurate or complete information concerning the Amended Fee to Trust Application. For example, the proposed alternatives in Section 2.0 of the EA are analyzed within the context of there being a TCA, which clearly does not exist. Accordingly, the EA should be withdrawn and the proper environmental review – an EIS – conducted in order to satisfy the requirements of the National Environmental Policy Act.

### **Conclusion**

The County requests that the Amended Fee to Trust Application 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 project currently proposed by the Amended Fee to Trust Application conflicts with the County's General Plan, Santa Ynez Community Plan, and County land use regulations. In addition the Amended Fee to Trust Application cannot be adequately evaluated in the absence of an Environmental Impact Statement. Further, it does not demonstrate the necessary justification for the BIA to acquire the land into trust. 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.

Thank you for the opportunity to comment on the Amended Fee to Trust Application. 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,

  
Mona Miyasato  
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