

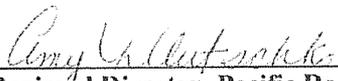


UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
PACIFIC REGION

APPROVAL OF PROPOSED LAND CONSOLIDATION & ACQUISITION PLAN
SANTA YNEZ BAND OF CHUMASH INDIANS

The within Proposed Land Consolidation & Acquisition Plan, consisting of pages 1 - 9 with Exhibits A and B and Tribal Resolution #926 dated March 27, 2013, is hereby approved pursuant to 25 CFR §151.2(h) and §151.3(a)(1). All acquisition applications submitted pursuant to said plan shall be considered within the Secretary's discretion and under all applicable laws and regulations, including the National Environmental Policy Act of 1969.

Date: 6/17/13


Regional Director, Pacific Region
Bureau of Indian Affairs
Sacramento, California

Pursuant to the authority
delegated by 209 DM 8, 230 DM 1
and 3 IAM 4

Santa Ynez Band of Chumash Indians

**LAND CONSOLIDATION AND
ACQUISITION PLAN**

June 2013

Purpose and Scope

Pursuant to 25 C.F.R § 151.2(h)¹, the Santa Ynez Band of Chumash Indians ("Santa Ynez" or "Tribe") submits this Proposed Tribal Consolidation and Acquisition Plan ("Plan") for the approval of the authorized representative of the Secretary of the Interior.² The Federal Government's land acquisition policy at 25 C.F.R. 151.3(a)(1) specifically contemplates tribal consolidation areas to be akin to both on-reservation and adjacent lands with respect to acquisition for trust purposes. This means that tribal consolidation areas, like on-reservation or adjacent lands, do not require the high level of scrutiny that off-reservation acquisitions do, and further affords such acquisitions a greater level of credibility as part of a plan which has already been reviewed and approved by the BIA.

The purpose of this Plan is to assist the Tribe in acquiring additional lands in order to increase the tribal land base and provide sufficient land for housing, economic development and governmental purposes. The Tribe believes that planning for land acquisitions within the area historically held for the Tribe by the Roman Catholic Church will help the Tribe achieve its goals of providing ample housing and governmental services to its members. In addition, the Tribe has been offered restricted public domain allotments held by individual tribal members or descendents of the original Indian allottees within the Los Padres National Forest. Such lands could be used for mitigation or exchange purposes.

The Tribe's plan includes the geographical area which was the subject of the 1897 Quiet Title Action brought by the Roman Catholic Church (Bishop of Monterey), encompassing approximately 11,500 acres of the College

¹ The intent of this Tribal Consolidation and Acquisition Plan is to meet the provisions of 25 C.F.R. §§ 151.2(h) and 151.3(a)(1). See attached Exhibit A, an IBIA case that addresses this provision. The IBIA found that the Regional Director was not acting reasonably when he used the ILCA-derived criteria to assess the appellant's "Land Consolidation and Acquisition Plan." *Abesentee Shawnee Tribe. Anadarko Area Director* (1990) 18 IBIA 156, 163.

² 25 C.F.R. 151.2 (Definitions) includes, in part: (h) *Tribal consolidation area* means a specific area of land with respect to which the tribe has prepared, and the Secretary has approved, a plan for the acquisition of land in trust status for the tribe. Further, 151.3(a)(1) (Land acquisition policy) states: (1) When the property is located within the exterior boundaries of the tribe's reservation or adjacent thereto, or within a tribal consolidation area; or

Rancho ("Tribal Consolidation Area").³ As described more fully below, this area was part of the Tribe's ancestral territory and comprised most of its historic territory. The Tribal Consolidation Area was once part of the lands of Mission Santa Ines and was part of the subsequent Rancho Canada de los Pinos recognized by the U.S. government as well as being close to an individual land grant made to a Santa Ynez Chumash Indian by Mexican Gov. 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. Even after California statehood, the Catholic Church carried forward this theory of land tenure by the Santa Ynez Chumash.

The Santa Ynez Band of Chumash Mission Indians has clear connections to the Tribal Consolidation Area based on law and cultural use. The tribal government has the opportunity to return the lost land - which it has had to purchase back - to its jurisdiction and stewardship once more through federal trust status. The intent of this Plan is to assist the Tribe with that goal.

History of the Santa Ynez Reservation

The Chumash people have been associated with the property included within this Plan and surrounding territory since time immemorial. In fact, a rich record exists of the Santa Ynez Chumash's historical connections to these lands. Archaeological evidence supports the area's use by the Chumash people before contact with the Spanish. This use continued during and after the Mission Period.

The Santa Ynez Chumash, ultimately, ended up with just a sliver of land under its jurisdiction. In 1906, the federal government placed 99 acres into federal trust around Zanja de Cota Creek. Today the Santa Ynez Indian Reservation comprises about 137 acres. This area includes unusable lands such as a streambed and an easement for a state highway that cuts through the reservation.

The acquisition of additional property within the Plan area represents an opportunity for the Chumash people to return a small portion of their historical territory to their stewardship. The goal is to create a tribal community on the land by building homes for tribal families. This also will

³ See attached Exhibit B, map of the proposed consolidation and acquisition area.

help relieve overcrowded conditions on the present reservation, where much of the housing stock was built through HUD low-income grant programs.

The Chumash have long-standing cultural and spiritual ties to the property encompassed within the Plan and the surrounding territory. The legal record - involving actions by the U.S. government, Mexican government, and the Spanish through their Mission outposts - also demonstrates the land tenure history of Santa Ynez Chumash in this territory.

Except for a brief experience with tribes in the lower Colorado River basin along the present-day Arizona border, the Chumash were the first California tribal group that Europeans encountered in what is now California. Explorer Cabrillo sailed to the islands and coastal areas inhabited by the Chumash in 1542.

The Mission Era

The Spanish built five Catholic missions among the Chumash people. Mission Santa Ines was established in 1804 as a halfway point between the Santa Barbara and La Purisma (Lompoc) missions. Each mission was granted about seven square leagues of land surrounding it for the use and support of the local Indian communities. That would have given Mission Santa Ines more than 441 square miles of land.

In practice, the missionaries and soldiers were brutal men who enslaved the local Chumash people and nearly decimated them through disease, starvation and harsh treatment. Despite this, the sentiment of the Spanish and Mexican governments and the Catholic Church was that the lands of the missions essentially were what we know of today as reservations, for the use and upkeep of the Indians. The tribal members forced to live and work near the missions were considered to be neophytes or Christianized Indians.

The Church viewed the land to be held in trust for the Indians, who had a "natural" right of occupancy. The Church and Spain considered title to the land to be with the Indians as decreed from the "laws of nature and imminent occupation." The priests were just the administrators of the land on behalf of their Indian "wards." That is, the mission activity was not accompanied by a conveyance of land to the missions themselves. Under the

Spanish theory of colonization, the mission establishments weren't intended to be permanent.

The slave-like conditions at the mission led to the Chumash Revolt of 1824. It started when soldiers flogged an Indian from La Purisma mission who was at Santa Ines. The revolt spread to the Santa Barbara and La Purisma missions and led to the burning of the Santa Ines mission. Many Chumash feared the soldiers would kill them and fled to the San Joaquin Valley. The priests and military knew they couldn't keep the missions going without the Indian slave labor so soldiers rounded up the Chumash and brought them back to the mission.

A decade after the revolt, the Mexican government secularized the missions and intended to disperse the lands to the Indians and settlers. The goal never was fully accomplished. Many Chumash did flee the mission after the secularization efforts and ended up in the area around Zanja de Cota Creek in the Canada de la Cota. The area still was considered to be within the lands of the Catholic Church.

California statehood

Statehood for California in 1850 ushered in new attempts to deal with the Chumash land. The United States and California began addressing land claims and Mexican land grants that arose from the Treaty of Guadalupe Hidalgo.

The Bishop of Monterey petitioned the Board of Commissioners in charge of land claims in California on behalf of the Catholic Church and "Christianized Indians" associated with the 20 missions across California. Among his requests: That the government confirm at least one square league area to each mission, and confirm the grants to individual Indians and communities.

The basis of the petition was two-fold. First, the Church stated it held the land in trust for the Indians. Second, the Church had valid grants based upon the laws of the Spanish and Mexican governments and the Catholic Church. The Church's view was this: The land and any revenues from it belonged to the Indians. The role of the missionaries was to make sure that the land and revenues were cared and accounted for.

The Land Claims Commission denied the claims of the individual Santa Ynez Indians. But it did grant the Bishop of Monterey the right to the Canada de los Pinos, the area that is included within the Plan. The federal government in 1861 issued a patent for those lands to the Bishop. The Chumash villages around Mission Santa Ines lands remained within the land grant.

Mission Indian Relief Act

In 1891, Congress passed the Mission Indian Relief Act designed to help those Indians who had been associated with and enslaved by the missions. Many of these communities were destitute because their land had been taken away from them. In fact, much of the land these Indians had lived and worked on was lost through the land claims settlement process and the government later gave it to settlers.

Based on the Act, the federal government created the Smiley Commission which found that the Santa Ynez Indians were primarily living in a village around the Zanja de Cota Creek area on lands they had moved to around 1835 after the secularization of the missions. The commission determined that abundant evidence existed to validate the Chumash's long period of occupancy of the mission land, but the commission could not support creating a federal reservation through the legal theory of adverse possession because the Bishop's earlier petition stated that the Church had long considered the mission lands to be "owned" by the Chumash. The Chumash could not be considered to have been in adverse possession of the land - even though the previous Land Claims Commission denied their land claims.

Church lawsuit

The Smiley Commission developed a different approach. The federal government began negotiating with the Catholic Church to obtain federal trust lands for the Santa Ynez Chumash. Part of this scheme involved the Bishop of Monterey filing a lawsuit against individual Santa Ynez tribal members in a quiet title action. With U.S. government support through the approval of the local Indian agent, the Bishop commenced a quiet title claim. The action concerned about 11,500 acres of the Rancho Canada de los Pinos, or the College Rancho.

The action was necessary because, at least according to the position held by the Bishop in his petition to the Land Claims Commission, the Church actually held the lands around the mission in trust for the Chumash. The negotiations and quiet title action resulted in an agreement in which the Bishop would convey some land to the federal government for a reservation for the Santa Ynez Band of Chumash Mission Indians.

At various times, parcels of land ranging from 5 acres to 200 acres were proposed as the property to be deeded to the United States for the Santa Ynez Chumash. Each of these proposals represented areas that were significantly less than the original mission lands (held for the local Chumash), the Rancho Canada de los Pinos (the mission lands as reconfigured by the United States), and even the combined total of the Santa Ynez individual land grants.

Ultimately, what was transferred to the United States to be held in trust for the tribe was just 99 acres, a tiny fraction of the 11,500 acres of the Rancho Canada de los Pinos that had been that had been given up without Chumash consent.

Previous Land Consolidation/Acquisition Efforts of the Tribe

As noted, the Tribe was originally conveyed a mere 99 acres for use as a Reservation. In the 1970s, the Tribe acquired an additional 27 acres which was used for HUD housing. Since that time, the Tribe has purchased additional lands for inclusion in the Reservation. In 2003, approximately 12 acres were added to the Reservation when the Tribe's fee-to-trust acquisition was granted. The Tribe has a further fee-to-trust acquisition for 6.9 acres of land contiguous to the Reservation which was approved by the Department of Interior currently pending before the IBIA. The Tribe has additionally submitted an application for 6.6 acres of land contiguous to the Reservation.

In 2010, the Tribe was able to purchase the 1390 acre Camp 4 property from Fess Parker. The Camp Four property was once part of the lands of Mission Santa Ines and part of the area included within the Quiet Title Action. Thus, the Tribe has consistently purchased land within their historic territory and within the Tribal Consolidation Area.

Provisions of the Land Consolidation and Acquisition Plan

1. *Goals.* Consistent with its prior efforts, the Tribe is pursuing two overall land-related goals. First, to the extent feasible (both financially and otherwise), the Tribe wishes to provide a sufficient land base for the Tribe to house its members, economic development and tribal government activities. Second, the Tribe wishes to promote the highest and best use of any existing and future trust land base by assuring that Tribal goals such as cultural preservation are met while at the same time still providing land for housing, economic development and other governmental functions.
2. *Need to Set Priorities.* Due to the high cost of land acquisition in the Consolidation and Acquisition area, the Tribe must prioritize its land acquisitions.
 - a. *Priorities.* With the financial and other constraints in mind, as well as the Tribe's goals and prior acquisitions, the Tribe's priority schedule for acquisition of land within the Tribal Consolidation Area will be:

CATEGORY 1 - Highest Priority: Acquisition of parcels which can be used for tribal housing, economic development and tribal governmental facilities.

CATEGORY 2 – High Priority: Acquisition of parcels contiguous to existing parcels of tribal trust land that have the potential of being used for projects of importance designated by the Tribe.

CATEGORY 3 – Medium Priority: Acquisition of parcels not contiguous to tribal trust lands, but having development potential.

CATEGORY 4 – Low Priority: Acquisition of parcels not contiguous to tribal trust lands for the purpose of increasing the tribal trust land base or of public domain allotments for purposes of increasing the tribal trust land base, exchange or mitigation.

3. *Procedure.* The Business Committee will review each potential land acquisition and determine into which category it falls. Depending on the categorization, and subject to the availability of funds, the Tribe will then determine whether to acquire the parcel or not.