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March 1, 2016

SENT VIA FACSIMILE & EMAIL

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**Re: Ad Hoc Subcommittee Regarding Santa Ynez Band of Chumash Indians
Meeting on March 3, 2016**

Dear Supervisors Farr, Adam, Wolf, Carbajal, 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 are Appellants in the matter currently pending before the U.S. Department of the Interior, Assistant Secretary-Indian Affairs, involving the Chumash Fee-to-Trust application. Santa Barbara County is also an Appellant challenging the FONSI and Decision issued by BIA's Regional Director.

It is respectfully requested Santa Barbara County post on its website the Notice of Appeal, Opening Brief and Reply Brief filed by Santa Barbara County wherein the County asserts the BIA's Director abused her discretion and unlawfully issued the FONSI and Decision which according to the County violate the *National Environmental Protection Act* (NEPA), among other things. It is respectfully requested Santa Barbara consistently maintain its position with respect to the significant negative environmental impacts development of Camp 4 will cause. Set forth below are the allegations stated by the Santa Barbara County in its Appeal:

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.

The County's Ad Hoc Subcommittee regarding Santa Ynez Band of Chumash Indians appears to be engaging in the same illegal and improper decision making engaged in by the Regional Director. Why is the County's Ad Hoc Subcommittee engaging in discussions for a development that violates the *National Environmental Protection Act* (NEPA)? Why is the County backing away from the thorough and proper analysis the County performed and set forth in its Notice of Appeal, Opening Brief and Reply Brief? The County's arguments set forth above were proper arguments when made and are proper arguments today.

Santa Barbara County has already assessed the numerous impacts the transfer of Camp 4 from Fee-to-Trust will cause and has determined it "may have a significant effect on the environment." If Santa Barbara County is going to negotiate in good faith with the Tribe and in compliance with the *California Environmental Quality Act* (CEQA) and NEPA, the County must insist on the preparation of an Environmental Impact Statement (EIS) as expressly stated by the County in its Appeal of the BIA's erroneous and illegal FONSI and Decision.

With respect to Attachment 2B to the Agenda for the meeting of March 3, 2016, it is respectfully requested the County require the Tribe to produce the design plans, drawings and specifications for the proposed development. Hopefully the County is not going to consider engaging in discussions concerning the potential development of Camp 4 without reviewing design plans, drawing and specifications for the proposed development, e.g., design plans, drawing and specification for the 143 residences, a tribal facility, roadways, sewage and water treatment plants, among other things. As you know, all of the above are in violation of the Santa Ynez Valley Community Plan and require the preparation of EIS.

With respect to allowing the Tribe to violate the *Williamson Act*, it is respectfully requested the County require the Tribe to set forth the benefits to the local community if the Tribe is allowed to avoid its contractual obligations under the *Williamson Act* contracts on the five (5) parcels of land known as Camp 4. The local community is not aware of any benefits to the local community in allowing the Tribe to avoid its contractual obligations under the *Williamson Act*.

If Santa Barbara County considers opening Pandora's Box (allowing development of Camp 4) without an EIS, the County may be opening the flood gates of prolonged litigation required to protect the environment as the County has specifically and correctly set forth in the County's Notice of Appeal, Opening Brief and Reply Brief.

If you have any questions concerning this matter, please do not hesitate to contact me at 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

cc:

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