

## **Summary of Ad Hoc Subcommittee's Responses to Questions Posed by Community September 25, 2017, October 5, 2017 and through Ad Hoc Subcommittee's Website**

Guiding Points for Ad hoc Subcommittee of the Santa Barbara County Board of Supervisors in development of proposed agreement:

- Build on the early work of previous Ad Hoc Subcommittee and Tribe in the public process
- Recognize Tribal sovereignty and self-governance
- Recognize need for Tribal housing
- Recognize critical services provided by County and Tribe
- Protect the rural character of the Santa Ynez Valley
- Provide greater certainty regarding development and timing
- Establish strong model for government-to-government relations
- Address fiscal and environmental impacts

### **KEY ISSUE AREAS**

The Final EA (May 2014) provides for land use terms, best practices for environmental protection and a mitigation-monitoring plan as Appendix C. For reference, below are excerpts from the Final EA as well as the proposed agreement pertaining to multiple questions posed by the community at the meeting of September 25, 2017 as well as subsequent written comments.

### **LAND USE**

### **NO GAMING**

Final EA, sec. 2.3, p. 2-13: "No gaming would occur on the subject property."

Gaming is also specifically referenced and disallowed within H.R. 1491. Per H.R. 1491 Section 3. REAFFIRMATION OF STATUS AND ACTIONS (g) RESTRICTED USE OF TRANSFERRED LAND states “The Tribe may not conduct, on the land described in this subsection (b) taken into trust for the Tribe pursuant to this Act, gaming activities –

(1)As a matter of claimed or inherent authority (2) under any Federal law including the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) and regulations promulgated by the Secretary or the National Indian Gaming Commission under that Act.”

The following chart summarizes the land uses for Camp 4 Alternative B:

Table 2-1

Summary of Land Use Alternative B

<b>Project Components</b>	<b>Alternative B</b>
Land Taken into Trust	1,433 ± acres
Residential Development	143 one-acre lots (194 acres)
Designated Tribal Land Uses	206 acres of Agriculture (existing and future), 869 acres of Open Space/Recreational – General/Trails, and 30 acres of Special Purpose Zone – Tribal Facilities 98 acres of Resource Management Zone – Riparian Corridors 33 acres of Resource Management Zone – Oak Woodland, and 3 acres of Special Purpose Zone – Utilities
Water Source	Groundwater/Recycled Water
Wastewater Treatment	Onsite WWTP

Analytical Environmental Services  
May 2014  
Chumash Camp 4 Fee-to-Trust  
Final Environmental Assessment

## **LAND USE GENERAL**

As referenced in Section IV of the Agreement, “The Tribe shall comply with the Final EA, FONSI, and Alternative B as referenced on page 2-3, pages 2-12 to 2-16 and Table 2-2 on page 2-15 of the Final EA as adopted May of 2014, including, without limitation:

- a) No buildings on Camp 4 within 985 feet of State Highway 154; and
- b) All required mitigation measures in the FONSI and Final EA shall be implemented as required by each phase of the Project.

In addition, compliance with the FONSI and Final EA shall not preclude all forms of solar energy on Camp 4, including, without limitation, solar photovoltaics and water heating. However, all forms of solar energy are prohibited on Camp 4 within 985 feet of State Highway 154”.

## **WATER**

The Final EA adopted for the Camp 4 project contained a mitigation plan for water usage. The following provides a summary of key aspects of water use on Camp 4 for adopted Alternative B.

### **NO EXPORTING OF WATER; WATER ONLY FOR APPROVED PROJECT**

#### **Water Calculations:**

Current water use: 256 AFY to irrigate existing vineyard

Project water demand:

84 AFY residential/tribal facilities

206 AFY for vineyard irrigation (represents 50 AFY less reduction in water for reducing 50 acres of vineyard)

(34 AFY) less savings for recycled water

0 AFY No Net increase in water use

#### **Tribal Resolution 930B (Attached), Exhibit F to FONSI:**

206 Acre-Foot per Year (AFY) for Vineyard Irrigation;

36 AFY for Residential Indoor Use;  
14 AFY for Residential Landscaping Irrigation;  
32 AFY for Residential Lawn Irrigation;  
2 AFY for Tribal Office Complex Indoor Use;  
Total Water Needs = 290 AFY  
Recycled Water Use (90% of 38 AFY for Indoor Use) = -34 AFY  
Ground Water Use (Total Water Needs less Recycled Water Use) = 256 AFY  
Existing groundwater Use = 256 AFY  
Net groundwater Water Use Increase = 0 AFY

Final EA, p. 2-4: "Development of the site would include domestic water connections."

Final EA, p. 2.2.2, p. 2-4: "New domestic water connections would also be constructed to support the residences."

Final EA, 2.2.5, p. 2-7: "Inspection of water supply system by U.S. Environmental Protection Agency (USEPA)."

Final EA 2.3, p. 2-13: "... new domestic water connections would also be constructed to support the residences."

## **LIMITATIONS ON COMMERCIAL**

The following provides further references in the Final EA, which provide for the land uses on Camp 4 pertaining to limitations on commercial:

Final EA Section 2.5, p. 2-19

Alternative B would involve the construction of a similar residential development of reduced intensity compared to Alternative A. The visual character of both alternatives would be compatible with the neighboring East Baseline/Rancho Estates.

Final EA Section 4.1.11, p. 4-33

The proposed tribal housing development on Parcels 2, 3, and 4 would be similar in nature to existing low density, rural residential development scattered across the landscape of the Santa Ynez Valley.

## **NET DECREASE IN COMMERCIAL AS NO WINERY PLANNED FOR APPROVED PROJECT**

Final EA Section 4.4.8, p. 4-68

Alternatives A and B would not result in changes to surrounding land use patterns; therefore, any changes would be attributable to County policies only. The approved and pending projects that would occur in the Santa Ynez Valley include residential, commercial, hospitality, and agriculture/agriculture-related land uses (vineyards/wineries).

Final EA Section 2.2.3, p. 2-6

The vineyard is currently in operation and includes a storage reservoir, existing access roadways, and a processing/shipping area. No winemaking facilities are currently located on the project site, and there are no plans to develop a winery on the project site.

Appendix N of the Final EA, which shows all the potential uses of Camp 4 as proposed by the Tribe, indicates there are no designated commercial land uses outside of ag commercial for vineyard production.

## **PROVISION OF OPEN SPACE**

Final EA Section 4.1.1, p. 4-1

As referenced in Section 2.2 of the Final EA, no construction activities would occur on Parcel 5, and minimal construction would occur on Parcel 1. The current agricultural and grazing uses would be maintained on these parcels with the exception of 53 acres on Parcel 1, of which 3 acres would be developed into a wastewater treatment plant (WWTP) and the vineyard would be reduced by approximately 50 acres to add additional open space.

Final EA Section 2.3, p. 2-13

With the decrease in residential development intensity, Alternative B would increase open space and recreational land uses from 300 acres under Alternative A to 869 acres under Alternative B.

## **NO STRUCTURES WITHIN 985 FEET OF HIGHWAY 154**

Final EA Section 4.1.12, p. 4-34

The proposed tribal housing community and passive/equestrian trails would be separated from SR-154 by a 985-ft wide-open space zone that would not be developed; therefore, no development on the project site would be positioned within the view shed of SR-154.

Final EA Section 2.2.3, p. 2-6

The open space/recreational area adjacent to State Route (SR) 154 would be utilized as a view shed protection zone.

## **HOUSE SIZE**

Final EA 2.2, p. 2-4: “Single family detached houses of varying sizes ranging from 3,000 to 5,000 square feet.”

Final EA Section 2.2, p. 2-12: “At least 75 percent of the residences built will be single story to minimize visual effects.”

Final EA Section 2.2.2, p. 2-4: “All residential structures would be designed to be compatible with surrounding residential structures ...”

## **TRIBAL FACILITIES FOR MEETING HALL/EMPLOYEES AND EVENTS/GOVERNMENT FACILITY**

Final EA Section 2.3, 2-13

Approximately 30 acres of the project site would be reserved for approximately 12,042 square feet of tribal facilities.

The tribal facilities would include development of a meeting hall, private offices, general office space, conference room, break room and kitchen, and associated circulation and miscellaneous spaces (lobby, bathrooms, reception, storage, etc.). These facilities would be open to tribal members and their guests for tribal events, functions, and ceremonies. The facilities would also be open to tribal

residents of the site as a gathering place for socializing and recreation with capacity to accommodate up to approximately 400 attendees plus vendors.

No gaming would occur on the subject property. It is anticipated that the tribal development would include office space for up to 40 tribal employees and result in up to 100 events per year being held at the facilities.

The Tribe reports that there is no liquor in existing Tribal Hall and the same rules will apply to new facility.

Approximately 250 parking spaces would be provided for the facilities. The visual character and design of the tribal facilities would be similar to that of structures on nearby farms and ranches.

Final EA, 4.2.8, p. 4-47: “The tribal facilities would be positioned at the center of the project site, thereby creating a buffer between the facilities and surrounding ... uses.”

Final EA, 4.2.12, p. 4-53: “...Tribal facilities positioned at center of project site, creating a visual buffer ...”

Final EA, 2.1.1, p. 2-3: “12,042 square feet of tribal facilities”

Regarding the impacts of trips to the Tribal Hall, Table 5 on page 12 of the Traffic Impact Study identifies the trips estimated to be generated from events at the Tribal Hall/Center. These trips were added to the study intersection, along with the trips associated with the residences, to assess impacts to the surrounding roadways. According to the Tribe, as with the current facility, most of these “events” are after school meetings such as culture nights, language lessons, AA meetings, weight watchers and 4H.

## **COMPLIANCE WITH THE SANTA YNEZ VALLEY COMMUNITY PLAN**

Pursuit of an enforceable Intergovernmental Memorandum of Agreement for “Camp 4” is consistent with the policies contained within the Santa Ynez Valley Community Plan.

Specifically Policy LUC-SYV- 6 indicates, the County shall oppose the loss of jurisdictional authority over land within the plan area where the intended use is inconsistent with the goals and polices and development standards of the Plan or in the absence of a satisfactory enforceable agreement. In addition, Action LUG-SYCV-6.1 indicates, the County shall pursue legally enforceable government-to-government agreements with entities seeking to obtain jurisdiction over land within the Plan Area to encourage compatibility with the surrounding area and mitigate environmental and financial impacts to the County.

## **TERM**

During the public Ad Hoc Subcommittee process, the term of the agreement was a key item discussed. Two primary options were discussed. The County originally requested the term of the agreement be consistent with the Tribe’s State Gaming Compact until the year 2040 and then renew with future Compacts. The Tribe requested that the agreement be coterminous with the State Gaming Compact and have a reopener if the Tribe lost gaming exclusivity. After thorough discussions, the County and the Tribe agreed on a term ending on December 31, 2040 without a reopener for loss of gaming exclusivity.

The agreement also contains provisions for mutually agreed upon reopeners during the term of the agreement.

After 2040, in the absence of another agreement, the Tribe will have flexibility to pursue other projects for the site.

## **WAIVER**

The complete waiver of sovereign immunity has been released with the full agreement for the Board of Supervisors Set Hearing of October 3, 2017. These materials were distributed on Thursday, September 28th.

In order for any agreement to be enforceable by the County, the Tribe must provide an express waiver of sovereign immunity. Therefore, securing a waiver was directed by the Board of Supervisors in the initiation of the original Ad Hoc



Subcommittee process in August 2015 and identified by the Board and the Ad Hoc Subcommittee as foundational to the County and the Tribe moving forward on an agreement.

The waiver of sovereign immunity was the subject of discussions at multiple public Ad Hoc Subcommittee meetings from August 2015 to March 2016. Then, in Open Session on March 15, 2016, the Board of Supervisors directed County Counsel to work with the Tribe to develop waiver of sovereign immunity language that was appropriate for the County. On August 30, 2016, the Board of Supervisors received a report on the waiver of sovereign immunity and separately approved an agreement for law enforcement services with the Tribe that included this waiver. The waiver of sovereign immunity language provided within tentative Memorandum of Agreement is consistent with the terms of the previously approved August 30, 2016 law enforcement contract with the Tribe.

Some members of the public have asked about the enforceability of the County's law enforcement agreement with the Tribe. For clarity, the County has two law enforcement agreements with the Tribe:

- The first law enforcement agreement, approved by the Board on November 4, 2014, does not contain a waiver of sovereign immunity. At the November 4<sup>th</sup> hearing, enforceability of the agreement was addressed. Since there is not a waiver of sovereign immunity in that agreement, the County could not litigate that agreement in court. However, the County mitigated that risk by the Tribe agreeing to prepay for law enforcement services on a quarterly basis.
- The second law enforcement agreement of August 30, 2016, however, does contain the Tribe's waiver of sovereign immunity which is the same waiver proposed for this tentative Memorandum of Agreement on Camp 4. So, the County would be able to litigate to enforce the August 30, 2016 law enforcement agreement and the tentative Memorandum of Agreement on Camp 4.

The waiver of sovereign immunity term was reviewed in public at several Ad Hoc Subcommittee meetings and the tentative Memorandum of Agreement contains this waiver language.

In the waiver, the Tribe has expressly, and irrevocably, waived for the term of this agreement its right to assert immunity from suit and enforcement and execution of any ensuing judgment or award and has consented to be sued in the federal and state courts. The waiver is specific and irrevocable but is limited to issues that may arise solely under the agreement. In addition, Tribe's General Council (the whole membership of the Tribe) is the governing body of the Tribe and will vote on the proposed Memorandum of Agreement. If approved by vote, the General Council will approve a Resolution authorizing the Tribal Chairman to sign the proposed Memorandum of Agreement and approve waiving sovereign immunity. The Resolution, once executed by the Tribal Chairman, will be attached as Exhibit D to the proposed Memorandum of Agreement. There are no third-party beneficiaries to the waiver.

## **MITIGATIONS**

### **Fiscal**

The \$178,500 amount is a negotiated settlement amount. The Tribe and the County have differing perspectives on cost calculations for fiscal mitigations. A variety of fiscal models were explored by the Tribe and the County to reconcile impacts of Camp 4 development and related service delivery costs. Both the County and the Tribe recognized that each government provides an array of critical services and incurs certain costs for the delivery of those services. As noted in Section III of the Agreement, "Parties acknowledge that development of the Camp 4 property may, in some cases, result in impacts and costs to the County."

Regarding supporting the Tribe's requests to consider the \$178,500 payment to the County credits per their State Compact, under the new compact, the Tribe is allowed to reduce payments to the State in exchange for making payments to either a) local governments or b) projects that benefit both the Tribe and residents of the State. The "offset" discussed in the agreement references the reduction in payment to the state in recognition of a payment that is consistent with either a) or b) above. If the Tribe elects to make a payment under b), the governor's office must affirmatively approve the expenditure.

In addition to fiscal mitigation referenced, the Tribe must provide for on-site and offsite infrastructure improvements to address the impacts of the development.

Per the Mitigation Monitoring and Enforcement (MM) Plan referenced in Exhibit C of the Final EA:

- *The Tribe shall construct public transportation stops on Baseline Road east of SR-154.*
- *The Tribe shall pay 23.2 percent for Alternative B for the development of a roundabout being installed by Caltrans at SR 246 at AR 154. (MM, p. 13)*
- *To maintain an acceptable level of service on the highway segments SR-154 North of Edison Street and SR-154 South of SR 246-Armour Ranch Road, the Tribe shall pay a fair share contribution, as indicated in Table 5.7-1 in Section 5.0 for the development of either roundabouts or signalization of specified intersections as determined by Caltrans. (MM, p. 13)*
- *To maintain an acceptable level of service on the highway segments SR-246, the Tribe shall pay a fair share contribution, as indicated in Table 5.7-1 in Section 5.0 for the development of either roundabouts or signalization of specified intersections as determined by Caltrans. (MM, p. 13)*

### **Support of H.R. 1491**

Supporting H.R. 1491 allows the County to have the agreement referenced in the federal legislation so Congress and the Department of the Interior officials have notice that a local agreement exists and the Tribe has waived its sovereign immunity with respect to it.

H.R. 1491 states that it is to reaffirm trust status of the Camp 4 property and to ratify *the actions taken by the Secretary to dismiss the appeals relating to the fee-to-trust acquisition of approximately 1,427.28 acres in Santa Barbara County, California, on January 19, 2017. . . .*

Note that an enforceable local agreement protects County interests and does not impair the rights of citizens to go forward with litigation. A Supreme Court case will be heard in November and likely decided early in 2018. It is the Supreme Court and federal courts hearing Camp 4 litigation, not the County, that will determine any issue related to community litigation proceeding. If community litigation may not proceed, the County will nonetheless have an agreement in place to protect County and community interests.

Unlike the Gun Lake Act presently before the Supreme Court in the case of *Patschak v. Zinke*, H.R. 1491 bill does not state that it prevents lawsuits.

## **PUBLIC PROCESS**

As of the public meeting of September 25, 2017, the full agreement was not complete. The goal of the Ad Hoc Subcommittee was to provide information at the earliest opportunity after the parties had reached an agreement in principle. Therefore, in order to begin outreach to the community, key terms were provided which were agreed to in principle, even though the written terms were not complete. Where the terms were complete, the excerpts of critical wording from the proposed agreement were included in the power point presentation. This was the case for the Waiver of Sovereign Immunity, Term, Mitigation of Fiscal Impacts and Land Use and Code Compliance.

While not all may agree, it is the Ad Hoc Subcommittee's position that H.R. 1491 is, in fact, poised to move forward. The prior bill H.R. 1157 was delayed and ultimately died due in large part to the initiation of the Ad Hoc Subcommittee discussions with the Tribe and the expressed need by the County and the Community at large to secure time to develop an intergovernmental agreement. This timing to secure such an agreement was not open-ended. The Ad Hoc Subcommittee has been pursuing an agreement since August 2015, with the previous Ad Hoc, and since January 2017 with the current Ad Hoc Subcommittee. The previous Ad Hoc Subcommittee met in nine (9) open, public meetings over approximately a year and a half, and negotiated many of the terms publically. In February 2017, the newly established Ad Hoc Subcommittee continued discussions on the remaining terms in meetings directly with the Tribal leadership.

A statement was also made at the meeting of September 25, 2017 regarding the timing of the posting of materials for the meeting. All materials including the agenda and the PowerPoint were posted on the public website on Friday afternoon at approximately 3:30 p.m. Subsequent materials received from the public were posted to the website on Monday September 25, 2017.

**ADDITIONAL COMMENTS**  
**PROVIDED OCTOBER 5, 2017**

**OR**

**VIA WRITTEN COMMENTS NOT PREVIOUSLY REFERENCED ABOVE**

**IMPACT TO EXISTING DEVELOPMENT – Baseline, Linda Vista and Armour Ranch Road**

The exact location of houses is still undecided by the Tribe. Exhibit N to the Final EA lists 8 different layouts for one-acre lots. Alternative B was selected to spread one-acre lots into each buildable area to facilitate environmental analysis. The Final EA does provide for setbacks, but the 985 feet is only for Highway 154 as it is a designated scenic highway.

Final EA 2.1, p. 2-1 & 2-2

To meet the purpose and need for the trust acquisition, the Tribe considered nine concept plans [one five acre; eight one acre] for development on the project site (2013 EA Appendix N):

--Five acre assignments;

--One acre assignments in the northeastern corner of project site;

--One acre assignments in the northeastern corner of project site with an expanded vineyard;

--One acre assignments in three clusters in the northeastern, central, and south-central portions of the project site;

--One acre assignments in three clusters in the northeastern, central, and south-central portions of the project site with a setback off Armour Ranch Road;

--One acre assignments in the southeastern corner of the project site;

--One acre assignments in the northwestern corner of the project site with the vineyard moved to the east of the existing vineyard;

--One acre assignments in the northwestern corner of the project site with the vineyard moved to the southwestern portion of the project site; and

--One acre assignments clustered in the central portion of the project site.

These concept plans were presented to tribal members at a meeting held on October 30, 2012 and presented to the community during a town hall meeting on January 21, 2013. The public meeting presentation is included as 2013 EA Appendix N.

The five-acre concept plan was selected to be evaluated in detail within the Final EA as Alternative A; being the only concept plan identifying five-acre assignments and comparatively different from the remaining eight concept plans.

Although eight one acre concept plans are being assessed by the Tribe, based on the similarities in the developments, one layout (Concept Plan Option M.0.1) was selected as the representative layout to be evaluated in detail within the Final EA as Alternative B. This layout includes the largest distance between assignment clusters and therefore covers a majority of the area that could be developed once a concept plan is approved by the Tribe for development.

### **TRAFFIC MITIGATION ROUNDABOUTS**

The Traffic Impact Study (TIS) includes fair share of 154 roundabout at 246. The TIS also includes roundabout or signalization at 154 and Roblar with fair share of 2.6 percent.

Regarding Armour Ranch, approximately one-third 1/3 of the lots on Armour Ranch Rd. in Alternative B, have exact locations to be determined. The TIS prepared for the EA, which was included as Appendix I of the EA and Final EA, assessed impacts to the operations of Baseline Road east of Edison Street.

Final EA 4.4, p. 4-57: Near-Term cumulative conditions were established by reviewing the cumulative project database maintained by the County for projects within the Santa Ynez Valley. Table 4-17 presents a summary of the approved and pending near-term cumulative development within the Santa Ynez Valley.

### **STATUS OF TRIBAL LAND CONSOLIDATION AREA (TCA)**

The TCA was voluntarily withdrawn by Tribe and Fee-to-Trust application and EA were resubmitted without TCA. The current project has no TCA.

Final EA 1.1, p. 1-5:

Several appeals were filed to the Interior Board of Indian Appeals (IBIA) requesting review of the BIA Regional Director's approval of the Plan and TCA. On October 11, 2013, the Tribe withdrew without prejudice the approved Plan and corresponding TCA via Resolution #926 Santa Ynez Band of Chumash Indians-Tribal Land Consolidation Area (included as Appendix P). The IBIA dismissed the appeals (Appendix Q to the Final A).

The Tribe prepared and submitted a revised trust acquisition application to the BIA excluding the withdrawn Plan and TCA from the purpose and need. This Final EA addresses the revised trust acquisition request.

#### **TIMING FOR REVIEW OF THE EA; COMPLETE REVIEW OF THE EA**

Many of the documents have been in review for several years. The Draft EA was released in 2013 and the Final EA in May 2014. The Agreement itself is 44 pages long

Final EA 1.1, p. 1-1 & 1-5

An EA for the Proposed Action (SCH #20130810610) was submitted to the State Clearinghouse and released for public and agency review for a 30-day comment period, established consistent with Section 6.2 of the Bureau of Indian Affairs National Environmental Policy Act (NEPA) Guidebook (59 IAM 3-H) (BIA NEPA Guidebook), beginning on August 20, 2013 and was noticed to end on September 19, 2013 (2013 EA). In response to requests received, the public comment period was extended to October 7, 2013, providing an extension of 19 days. During the public comment period, the federal government was partially shut down on October 1, 2013 and returned to full operation on October 16, 2013. The Council on Environmental Quality (CEQ) issued guidance regarding NEPA documents under public review during the government shutdown that recommended extending any comment period deadlines held during the government shutdown

by a minimum of the period of time equal to the shutdown (16 days). The comment period was therefore extended a second time to November 18, 2013. Overall, the 2013 EA was released for public and agency review and comment for 90 days. Responses to the comments received on the 2013 EA are provided in Appendix O of the document.

The Final EA was completed and released in May of 2014.

## **SOLID WASTE IMPACTS**

Final EA 4.2.9, p. 4-49.

Specifically as to residential solid waste (trash) removal traffic generation, based on a garbage truck holding 12 to 14 tons of waste and a generation rate of 0.5 tons per day, once a week or even every other week for trash service will suffice.

Regarding the Wastewater Recycling Facility/Wastewater Treatment Plant (WWTP), the solids from the plant will be compressed and placed in a dumpster which will be hauled about weekly to Santa Maria for processing as compost (based on existing WWTP plant performance).

Final EA 4.2.9, p. 4-49 & 4-50

Alternative B would remove approximately 50 acres of vineyard and 135 acres of grazing land. Implementation of the BMPs presented in Sections 2.2.10 [Green Building/LEED] and 2.3.1 [recycling] would further reduce impacts to solid waste facilities.

***For additional information please reference Final EA for Camp 4 (May 2014) and Exhibit C Mitigation Monitoring and Enforcement Program.***



