

NOTE: SYVCC has supported and continues to support POLO's ongoing efforts

Could 1400 acres go into federal trust?

March 23, 2010

P.O.L.O. has been contacted regarding recent news of the potential sale of 1400 acres to the Santa Ynez Band of Mission Indians and whether it could be taken into "trust."

Coincidentally, P.O.L.O. has just received the legal response from the Department of the Interior on the 6.9 acre fee-to-trust lawsuit that our Community has been fighting for 5 years. This response is excellent news about the importance of continued Community support of the 6.9 acre lawsuit that should stop any additional land from being taken into "trust."

P.O.L.O., in our opening brief filed February, 2010, provided documentation to prove that the Santa Ynez Band was not under federal jurisdiction in 1934 and in light of the recent Supreme Court Decision, *Carcieri*, does not qualify to take any land into "trust." In its response, the Department of the Interior (DOI) cannot disqualify our documentation. The DOI requests that the case be "remanded" (go back) to the BIA for research. In a separate response and direct challenge to the Department of the Interior, the Santa Ynez Band opposes this request for remand stating they do not want it to go back to the BIA.

Docket No. IBIA 05-50-A MOTION FOR REMAND OF DECISION OF BIA REGIONAL DIRECTOR

Counsel for the Department of the Interior, Office of the Regional Solicitor and Office of the Solicitor, Division of Indian Affairs, hereby move the Interior Board of Indian Appeals (the "Board") to remand the decision dated January 14, 2005, by the Pacific Regional Director, Bureau of Indian Affairs (BIA), in which the Regional Director determined to take a 6.9 acre parcel, located in Santa Barbara County, California, in trust for the Santa Ynez Band of Chumash Indians. The January 14, 2005 decision is the subject of the appeal pending before the Board in this proceeding.

Pursuant to a memorandum dated February 24, 2010, from the Assistant Secretary Indian Affairs to the BIA Pacific Regional Director, the BIA Pacific Region has been directed to request remand of the decision pending before the Board in this appeal. Specifically, the Region has been directed to apply the holding of *Carcieri v. Salazar* to the decision in order to determine whether the Santa Ynez Band of Chumash Mission Indians was under Federal jurisdiction in 1934.

Due to the need to further gather documents and compile a complete administrative record and to make a determination of this issue, the BIA respectfully requests that the Board remand the decision dated January 14, 2005, which is at issue in this appeal, in order to allow BIA to make a finding regarding the 1934 Federal jurisdictional status of

the Santa Ynez Band of Chumash Mission Indians.

Should the above request be denied, in the alternative, the Regional Director requests an extension of time, pursuant to 43 C.F.R. § 4.1 OOCd)(1), to file its response to the Appellants' Opening Brief. The Regional Director needs additional time to gather and complete a review of the documents necessary to respond to Appellants' argument regarding the Tribe and the decision in Carcieri.

Respectfully submitted, Daniel G. Shillito Candace N. Beck Attorneys for Pacific Regional Director Bureau of Indian Affairs Dated: March 19,2010

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