

**SANTA YNEZ VALLEY CONCERNED CITIZENS**  
P.O. BOX 244, Santa Ynez, CA 93460

Appeal to the Notice of Decision made June 13, 2012 and received June 18, 2012  
Preservation of Los Olivos and Preservation of Santa Ynez v. Pacific Regional Director,  
Bureau of Indian Affairs, Docket No. IBIA 05-050-A

Honorable Ken Salazar  
Secretary of the Interior  
1849 C. Street, NW  
Washington, D.C. 20240  
Fax: 202-209-6956

Amy Dutschke, Regional Director  
Pacific Regional Office  
Bureau of Indian Affairs  
2800 Cottage Way, Room W-2820  
Sacramento, CA 95826

**AMENDED**  
NOTICE OF APPEAL

**THE NOTICE OF APPEAL IS HEREBY AMENDED TO DELETE IN ITS ENTIRITY THE THIRD PARAGRAPH REFERENCING CARCEIRI v. SALAZAR AND HAWAII v. OFFICE OF HAWAIIAN AFFAIRS. THESE REFERENCES WERE INCLUDED IN ERROR AND HAVE NEVER BEEN ISSUES THAT SANTA YNEZ VALLEY CONCERNED CITIZENS HAVE ENDORSED OR ENGAGED. A “strikethrough” copy is attached and made a part hereof.**

The Appellants, **Santa Ynez Valley Concerned Citizens (SYVCC)**, hereby appeals the Decision of the United States Department of Interior entered on 13 June 2012, to transfer a 6.9 acre parcel of fee owned land into federal Indian trust on behalf of the Santa Ynez Band of Mission Indians based upon the authority of 25 United States Code section 465.

This appeal is based upon the grounds that the Secretary exceeded his power and authority in approving and accepting this land into trust for the following reasons and that it has now been conclusively determined that these Appellants and others had legal and prudential standing to challenge this transfer to trust and the reasons given for it, and to challenge the authority of the Secretary to approve this transfer. *Patchak v. Salazar* (USCA D.C. Dist. 2011) 632 F3d 702, *Affd. on Writ of Cert. by the U.S. Supreme Court June 18, 2012 ruling and the County of Amador v. Salazar* (USCA D.C. Dist. 2011) 640 F3d 370.

In addition, on July 9, 2008 United States District Judge, A. Howard Matz (Case No. CV-06-1502 AHM (CTx)) remanded back to the Bureau of Indian Affairs (BIA) the initial approval of this application. In his decision, Judge Matz outlined processes and procedures for the IBIA to follow. None of which were referenced and or delineated in the BIA's Notice of Decision made June 13, 2012. The Secretary erred in disregarding Judge Matz's decision.

1. The Secretary relied upon the letter opinion of the Solicitor for the Department of Interior Michael J. Berrigan concluding neither of these cases applied or affected the eligibility of the tribe to transfer land into trust. That reliance was misplaced and an error of law because the Solicitors opinion is mistaken and erroneous.

2. The remand requires an examination of all the issues that were, and still are, before the IBIA for determination and examination on their merits including:

a. The adequacy of the Environmental information, assessment and analysis Finding Of No Significant Impact (F.O.N.S.I.) it was erroneous and based on inaccurate and insufficient facts, information and studies that were done at or before the time of the original determination to take this land into trust since rescinded and now renewed in connection with the Notice of Decision of the Secretary dated 13 June 2012 and which is appealed herein. We also refer you to the SYVCC's letter of October 21, 2004 to your office and made part of your record detailing the flaws and erroneous findings contained in the F.O.N.S.I.

b. The F.O.N.S.I. determination is stale and of no adequate effect today some 7+ years later after that information was considered and the facts and impacts have changed materially and significantly during the intervening years. The Secretary failed to address and re-examine all of the data originally used to arrive by the F.O.N.S.I. determination 7 years ago or more since the opening of the much larger gambling casino by the Santa Ynez Band of Mission Indians and the introduction of alcohol sales and service (which they are seeking to expand currently) the crime and calls to fire and other first responders, traffic congestion, light and noise pollution has in-creased by more than 500 %. These increases in demands placed on all public services and infrastructure provided by the County of Santa Barbara and the community, have not been accounted for and the impacts properly analyzed or assessed. The information and impact analysis from over 7 years ago is woefully inadequate and stale and the F.O.N.S.I. originally rendered is no longer of any validity.

c. The Santa Ynez Band of Mission Indians has not demonstrated any need economically, socially or culturally to transfer this land into trust and has not met the terms and statutory criteria set out in 25 C.F.R. 151.110 or 25 C.F.R. 151.111 including the elimination and mitigation of petroleum pollution and subterranean intrusion and spread of the plume of petroleum contamination identified in the earlier objections of the appellants who appealed the decision to transfer this land into trust earlier. Once again these objections were never addressed in this latest decision to transfer this parcel into trust. There is no reason that any development on this parcel of land in the Township of Santa Ynez cannot be developed in accordance with the existing Valley General Plan using the rules and regulations for all such development proposed which would mitigate the many negative impacts occurring should the property be transferred into Federal Indian Trust. This is a divestment of State and local authority stripes the right to impose reasonable standards and regulations on the proposed commercial development; the elimination to assess and impose sufficient taxes to pay for all of these public services and infrastructure required by such development and future commercial uses for which the State and County are obligated to provide for which no taxes are paid by the tribe. There is no existing agreement between the tribe and the government to mitigate the costs of these services and infrastructure furnished by the State and particularly the County of Santa Barbara including the local businesses and residences who must pay the costs of these services and infrastructure which will not be paid or charged to the tribe, the land or tribal businesses if this land is allowed to be transferred into federal Indian trust.

d. The application of the Santa Ynez Band of Mission Indians on file herein is false and contradictory. It contains substantial proposals for approximately 27,000 square feet of commercial and retail development on the land to be transferred into trust. Yet the tribe states there is no proposed commercial development on their application. This requires a highly detailed description of any such commercial development. The tribe stated falsely "none was intended", yet the plan proposed and presented by the tribe clearly outlines a

separate commercial component. The BIA's oversight and review in this matter is very questionable.

e. The Santa Ynez Band of Mission Indians is proposing additional transfers from fee to trust in this area including a pending application to transfer a 5.8 acre parcel also in the small township of Santa Ynez and yet the N.E.P.A. analysis and the F.O.N.S.I. finding, fails to account for, analyze and address the cumulative impacts of these multiple transfers and the undisclosed commercial development intended to be built and engaged in on these properties.

In addition the tribe has acquired 1,400 acres, also referred to as Camp 4, and made significant efforts to enlist the support of various local governments to back the tribe's intention to apply for Fee to Trust status.

The cumulative impacts of the 6.9ac, 5.8ac and the intended 1,400ac parcels must be considered. The 1,400ac is as large as the entire City of Solvang and sits at the gateway to the entire Santa Ynez Valley.

f. The ability of the Santa Ynez Band of Mission Indians to construct and operate commercial businesses on the 6.9 acres of land (which is contiguous to Santa Ynez's existing commercial district), once transferred into trust, creates unfair advantage and competition to all surrounding or nearby businesses who must pay appropriate taxes to fund all the public services and infrastructure and abide by all the laws and regulations and obtain insurance to protect customers and workers in their businesses. These local businesses are subject to lawsuit for liability for any tort or breach of contract, violations of law and civil rights, when the tribe and it's businesses, on the other hand, have common law immunity from any such un-consented lawsuits from anyone if they are able to bring that land into trust . It also constitutes an unfair tax burden on the non-Indian taxpayers and businesses in the Valley Community who must pay increased taxes or suffer losses of services because of the lack of ability to collect taxes from the tribe and it's businesses to pay for the public services and infrastructure used by the tribe regularly at the non-Indian taxpayers expense. It exposes the current Santa Ynez commercial district to an unbalanced playing field, putting the existing business at a very distinct disadvantage and jeopardizing their very existence.

For all of the above reasons cited, the Santa Ynez Valley Concerned Citizens hereby appeals the BIA's decision of April 12, 2012.

Submitted June 16, 2012, AND AMENDED JUNE 20, 2012.

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Gregory M. Simon, Vice-President  
SANTA YNEZ VALLEY CONCERNED CITIZENS  
P.O. Box 244  
Santa Ynez, CA 93460