

Committee on Natural Resources

Rob Bishop Chairman
Markup Memorandum

July 24, 2017

To: All Natural Resources Committee Members

From: Majority Committee Staff
Subcommittee on Indian, Insular and Alaska Native Affairs (x6-9725)

Mark-Up: **H.R. 1491 (Rep. Doug LaMalfa)**, To reaffirm the action of the Secretary of the Interior to take land into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians, and for other purposes.
July 25-26, 2017; 1324 Longworth HOB

H.R. 1491, “Santa Ynez Band of Chumash Indians Land Affirmation Act of 2017”

Summary of the Bill

H.R. 1491 ratifies the Bureau of Indian Affairs’ (BIA) acquisition of approximately 1,400-acres of land, known as “Camp 4,” in trust for the benefit of the Santa Ynez Band of Chumash Mission Indians (“Chumash” or “tribe”). Under H.R. 1491, gaming regulated under the Indian Gaming Regulatory Act (IGRA)¹ would not be allowed on Camp 4.

Cosponsors

Reps. Tom Cole (R-OK), Paul Cook (R-CA), Jeff Denham (R-CA), Tom McClintock (R-CA), Steven Knight (R-CA), Devin Nunes (R-CA), Raul Ruiz (D-CA), Norma Torres (D-CA), Luis Correa (D-CA), Tony Cardenas (D-CA), and Juan Vargas (D-CA).

Background

The Santa Ynez Reservation was established in 1901 under the authority of the Act of January 12, 1891, for members of the Chumash tribe. European diseases took a large toll on the original population of the Chumash people.² Today, the tribe has about 140 enrolled members and more than a thousand descendants (i.e., individuals of Chumash ancestry who do not qualify for membership in the tribe), and the tribe’s reservation of about 138 acres is located in Santa Ynez (Santa Barbara County).³ The tribe constructed a casino and hotel resort on its reservation pursuant to the Indian Gaming Regulatory Act (IGRA), which facility has lifted the tribe from

¹ 25 U.S.C. 2701 et seq.

² Tiller’s *Guide to Indian Country*, 3rd Edition. Veronica E. Valarde Tiller at 340 (2015).

³ Written statement of Vincent Armenta, Chairman, Santa Ynez Band of Chumash Indians, Subcommittee on Indian and Alaska Native Affairs oversight hearing on “Indian lands: Exploring resolutions to disputes concerning Indian tribes, state, and local governments, and private landowners over land use and development,” August 2, 2012.

historic poverty to economic success. With other private investments in the region, the tribe has become one of the largest employers in Santa Barbara County.⁴

The current reservation also hosts dense tribal housing that was originally built through Department of Housing and Urban Development low income grant programs (grants obtained prior to the tribe's successful operation of gaming under IGRA). The tribe reports that relatively few of its members reside on the reservation.

In 2010, the tribe purchased a 1,400-acre tract of land known as Camp 4, located about two miles from the reservation in an unincorporated area of Santa Barbara County,⁵ from the Fess Parker estate. The tribe has testified it intends to use Camp 4 for suitable tribal housing for its current and future members. At present, the landscape of Camp 4 is mainly agricultural in character. Under California state law and Santa Barbara County zoning rules – including the Williamson Act – the property may not be easily converted to the kind of developed status the tribe says it desires to pursue. (The Williamson Act provides certain property tax relief for California landowners who agree to maintain their property for open space or agriculture.)

To divest the state and county of its regulatory, zoning, and tax jurisdiction over Camp 4, the Chumash requested legislation from Congress and applied to the BIA to have title to the land placed in trust.

In December 2014, the Pacific Region Director for the BIA approved an application by the tribe to accept title to the Camp 4 property in trust after making a Finding of No Significant Impact under an Environmental Assessment.⁶ The Environmental Assessment describes the reasonably foreseeable consequence of the trust acquisition as being for “tribal housing on five or one-acre lots and associated facilities. The housing project would include up to 143 residential units, as well as supporting infrastructure including on-site wastewater treatment and reuse of recycled water and development of groundwater to meet potable water demands.”⁷

Under the Department's rules, a decision by a Regional Director of the BIA to acquire land in trust for non-gaming purposes⁸ may be appealed administratively. When an administrative appeal is pending, title to the land does not yet transfer to the U.S. in trust.

Following the BIA's approval of the tribe's application to acquire Camp 4 in trust, Santa Barbara County voted 3-2 to file an administrative appeal and to file litigation against the BIA action.⁹ In addition, other individuals and nearby property owners also filed an administrative appeal, which argues among other things that the BIA violated NEPA.¹⁰

On January 19, 2017, the Deputy Assistant Secretary-Indian Affairs dismissed these appeals. On January 28, 2017, the County filed a lawsuit in federal court, while certain private individuals sought additional administrative review of the BIA action. This last administrative

⁴ Tiller's Guide to Indian Country 3rd Edition. Veronica E. Valarde Tiller at 340 (2015).

⁵ <http://www.chumashea.com/wp-content/uploads/2013/08/site-and-vicinity.pdf>

⁶ <http://www.chumashea.com/>

⁷ <http://www.chumashea.com/wp-content/uploads/2014/10/FONSI.pdf> at 5.

⁸ Once BIA acquires land in trust, however, a tribe may convert the land to another purpose than that stated on its trust application, as long as the actual use is not otherwise restricted under federal law.

⁹ <http://www.independent.com/news/2015/jan/26/county-appeals-federal-camp-4-approval/>.

¹⁰ See Opening Brief of Appellant Santa Ynez Valley Concerned Citizens, U.S. Department of the Interior, Assistant Secretary of the Interior – Indian Appeals, December 31, 2015.

appeal was dismissed by the “Acting” Assistant Secretary-Indian Affairs. H.R. 1491 therefore affirms the BIA’s action to place title to Camp 4 in trust. It is expected that upon enactment of H.R. 1491, the County’s suit will be dismissed by the court.

Prior Consideration of Similar Legislation

The Committee on Natural Resources considered similar legislation, H.R. 1157 (Rep. Doug LaMalfa), in the 114th Congress. On June 17, 2015, the Subcommittee on Indian, Insular and Alaska Native Affairs held a hearing on H.R. 1157, after which the County of Santa Barbara and the tribe held a number of meetings in an effort to resolve their differences concerning the status and proposed uses of Camp 4. The County formed an *ad hoc* Subcommittee to facilitate these discussions.¹¹

On July 12, 2016, the Committee on Natural Resources held a markup where H.R. 1157 was adopted and favorably reported to the House of Representatives. On September 6, 2016, the Committee filed its report on the bill.¹² No further action occurred on H.R. 1157.

Analysis of H.R. 1491

H.R. 1491 begins with Findings relating to the Chumash tribe and the purpose and need for the bill. The bill reaffirms the actions of the BIA to acquire title to Camp 4 in trust, provides a legal description of the property, prohibits gaming on it, and clarifies that certain California state laws including the Williamson Act (California Land Conservation Act of 1965, Government Code Section 51200, et seq.) shall no longer apply to it.

The bill also provides that nothing in the Act affects any water right of the tribe or terminates any right-of-way or right-of-use issued, granted, or permitted before the date of enactment of the Act.

Cost

In the 114th Congress, the CBO stated that a substantively similar bill H.R. 1157, would have no significant budgetary effects due to holding the land in trust, and there would be no effect on direct spending or revenues.

Administration Position

Unknown. In the 114th Congress, the Obama Administration took no position on the bill H.R. 1157 due to the ongoing appeals by Santa Barbara County, California.¹³

Anticipated Amendments

An amendment is expected to be filed by the sponsor, Rep. LaMalfa, to strike the Findings (Sec. 2) and to correct two typos concerning the dates the BIA acted on the tribe’s trust application.

Effect on Current Law (Ramseyer)

None.

¹¹ <https://www.countyofsb.org/tribal-matters.sbc>.

¹² [http://lis.gov/cgi-lis/cpquery/R?cp114:FLD010:@1\(hr715\)](http://lis.gov/cgi-lis/cpquery/R?cp114:FLD010:@1(hr715))

¹³ <http://naturalresources.house.gov/uploadedfiles/blacktestimonyfinal.pdf>.