

SANTA YNEZ BAND OF CHUMASH MISSION INDIANS
LAND TRANSFER ACT OF 2016

SEPTEMBER 6, 2016.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 1157]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1157) to authorize 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Santa Ynez Band of Chumash Mission Indians Land Transfer Act of 2016”.

SEC. 2. TRANSFER OF LAND IN TRUST FOR SANTA YNEZ BAND OF CHUMASH MISSION INDIANS.

(a) **TRANSFER AND ADMINISTRATION.**—

(1) **TRANSFER OF LANDS INTO TRUST.**—If the Tribe transfers title to the land described in subsection (b) to the United States, the Secretary shall take that land into trust for the benefit of the Tribe, subject to valid existing rights and to the terms relating to an easement as set forth in the stipulated judgment in *Willard W. Shepherd v. Fess Parker Ranch LLC* filed in the Superior Court of the State of California for the County of Santa Barbara on January 26, 2004.

(2) **ADMINISTRATION.**—The land transferred under paragraph (1) shall be part of the Santa Ynez Indian Reservation and administered in accordance with the laws and regulations generally applicable to land held in trust by the United States for an Indian tribe.

(3) **EFFECT.**—For purposes of certain California State laws (including the California Land Conservation Act of 1965, Government Code Section 51200, et seq.), placing the land described in subsection (b) into trust shall remove any restrictions on the property pursuant to California Government Code Section 51295 or any other provision of such Act.

(b) LEGAL DESCRIPTION OF LANDS TRANSFERRED.—The lands to be transferred pursuant to this Act are described as follows:

Legal Land Description/Site Location:

Real property in the unincorporated area of the County of Santa Barbara, State of California, described as follows:

PARCEL 1: (APN: 141-121-51 AND PORTION OF APN 141-140-10)

LOTS 9 THROUGH 18, INCLUSIVE, OF TRACT 18, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105580 OF OFFICIAL RECORDS.

PARCEL 2: (PORTION OF APN: 141-140-10)

LOTS 1 THROUGH 12, INCLUSIVE, OF TRACT 24, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105581 OF OFFICIAL RECORDS.

PARCEL 3: (PORTIONS OF APNS: 141-230-23 AND 141-140-10)

LOTS 19 AND 20 OF TRACT 18 AND THAT PORTION OF LOTS 1, 2, 7, 8, 9, 10, AND 15 THROUGH 20, INCLUSIVE, OF TRACT 16, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THAT LIES NORTHEASTERLY OF THE NORTHEASTERLY LINE OF THE LAND GRANTED TO THE STATE OF CALIFORNIA BY AN EXECUTOR'S DEED RECORDED APRIL 2, 1968 IN BOOK 2227, PAGE 136 OF OFFICIAL RECORDS OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105582 OF OFFICIAL RECORDS.

PARCEL 4: (APN: 141-240-02 AND PORTION OF APN: 141-140-10)

LOTS 1 THROUGH 12, INCLUSIVE, OF TRACT 25, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105583 OF OFFICIAL RECORDS.

PARCEL 5: (PORTION OF APN: 141-230-23)

THAT PORTION OF LOTS 3 AND 6 OF TRACT 16, IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP SHOWING THE SUBDIVISIONS OF THE CANADA DE LOS PINOS OR COLLEGE RANCHO, FILED IN RACK 3, AS MAP 4 IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, THAT LIES NORTHEASTERLY OF THE NORTHEASTERLY LINE OF THE LAND GRANTED TO THE STATE OF CALIFORNIA BY AN EXECUTOR'S DEED RECORDED APRIL 2, 1968 IN BOOK 2227, PAGE 136 OF OFFICIAL RECORDS OF SAID COUNTY.

THIS LEGAL IS MADE PURSUANT TO THAT CERTAIN CERTIFICATE OF COMPLIANCE RECORDED DECEMBER 5, 2001 AS INSTRUMENT NO. 01-105584 OF OFFICIAL RECORDS.

(c) RULES OF CONSTRUCTION.—Nothing in this Act shall—

(1) enlarge, impair, or otherwise affect any right or claim of the Tribe to any land or interest in land that is in existence before the date of the enactment of this Act;

(2) affect any water right of the Tribe in existence before the date of the enactment of this Act; or

(3) terminate or limit any access in any way to any right-of-way or right-of-use issued, granted, or permitted before the date of the enactment of this Act.

(d) RESTRICTED USE OF TRANSFERRED LANDS.—The Tribe may not conduct, on the land described in subsection (b) taken into trust for the Tribe pursuant to this Act, gaming activities—

(1) as a matter of claimed inherent authority; or

- (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.
- (e) DEFINITIONS.—For the purposes of this section:
- (1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (2) TRIBE.—The term “Tribe” means the Santa Ynez Band of Chumash Mission Indians.

PURPOSE OF THE BILL

The purpose of H.R. 1157 is to authorize the Secretary of the Interior to take land into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians.

BACKGROUND AND NEED FOR LEGISLATION

The Santa Ynez Reservation was established in 1901 in California 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.¹ 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 its reservation of about 138 acres is located in Santa Barbara County.² The Tribe constructed a casino and hotel resort on its reservation pursuant to the Indian Gaming Regulatory Act (IGRA, 25 U.S.C. 2701 et seq.), and this facility has lifted the Tribe from 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.³

The current reservation also hosts dense tribal housing that was originally built through Department of Housing and Urban Development low income grant programs; these grants were 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,⁴ 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 law and Santa Barbara County zoning rules—including the Williamson Act⁵—the property may not be easily converted to the kind of developed status the Tribe says it desires to pursue.

To divest the State and County of its regulatory, zoning, and tax jurisdiction over Camp 4, the Chumash have requested legislation and also applied to the Bureau of Indian Affairs (BIA) in the Department of the Interior to acquire title to the land 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

¹*Tiller’s Guide to Indian Country*, 3rd Edition. Veronica E. Valarde Tiller at 340 (2015).

²Written 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.

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

⁴<http://www.chumasha.com/wp-content/uploads/2013/08/site-and-vicinity.pdf>

⁵The Williamson Act provides certain property tax relief for a California landowner who agrees to maintain his property as open space or for agricultural uses. California Land Conservation Act of 1965, Government Code Section 51200, et seq.

property in trust after making a Finding of No Significant Impact under an Environmental Assessment prepared under the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 et seq.). 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.”⁶

It is important to note that when the BIA exercises its discretionary authority to acquire land in trust (typically under regulations developed pursuant to Section 5 of the Indian Reorganization Act of 1934, 25 U.S.C. 465), NEPA is triggered. Under its regulations, the BIA also considers certain other criteria when taking land into trust.⁷ In contrast, when Congress legislatively mandates the acquisition of land in trust, NEPA is not applied, and no BIA assessment of local impacts is performed. The California State Association of Counties and the National Association of Counties—while not directly weighing in on H.R. 1157—have previously testified that the BIA’s fee-to-trust process is broken.⁸

Under rules and policies developed by the Department of the Interior, a decision by a Regional Director of the BIA (as in this case) to acquire land in trust (for non-gaming purposes) may be appealed administratively.

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, arguing among other grounds that the BIA violated NEPA.¹⁰

It is unlikely that title to Camp 4 will transfer into federal trust until the appeals are resolved. A timeframe for the exhaustion of appeals in this case is uncertain.

Following an Indian, Insular and Native Alaska Subcommittee hearing on H.R. 1157 on June 17, 2015, the County of Santa Barbara and the Tribe engaged in a number of meetings in an effort to resolve differences concerning the placement of Camp 4 in trust for the tribe. The County formed an ad hoc subcommittee to facilitate these discussions,¹¹ which two of the County supervisors (including the one whose district includes Camp 4) characterize as ongoing. The Tribe continues to urge the Committee to report and Congress to enact H.R. 1157.

H.R. 1157 directs the Secretary of the Interior to acquire Camp 4 in trust for the benefit of the Chumash tribe. Legislative acquisition of Camp 4 in trust would waive NEPA and render the administrative appeal over BIA’s alleged violation of NEPA moot.

⁶<http://www.chumashea.com/wp-content/uploads/2014/10/FONSI.pdf> at 5.

⁷See 25 C.F.R. 151.10 and 151.11, regarding need for trust land, justification, and impacts on others.

⁸See, for example, statements of Diane Dillon, Napa County Supervisor, on behalf of CSAC, and Matthew D. Chase, Executive Director of NaCO, *Carcieri: Bringing Certainty to Trust Land Acquisitions*, Senate Committee on Indian Affairs hearing, S. Hrg. 113–214, Nov. 13, 2013.

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

¹⁰See 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.

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

Except for a prohibition on gaming, H.R. 1157 imposes no restriction on the Tribe's use of Camp 4, and the bill clarifies that certain California state laws, including the Williamson Act shall no longer apply to Camp 4. 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 in existence before the date of enactment of the Act.

The Committee recently received a letter from an attorney for an individual who owns property adjacent to Camp 4, access to which is provided by an easement over Camp 4. The letter expresses concern that the right-of-way language in H.R. 1157 does not adequately protect the property owner's easement rights, which are confirmed by the Santa Barbara County Superior Court.

At the Committee's markup of this bill, an amendment was adopted to clarify that lands placed into trust by H.R. 1157 are subject to valid existing rights and to the terms relating to an easement as set forth in the stipulated judgment in *Willard W. Shepherd v. Fess Parker Ranch LLC* (2004). Section 2(c) was further clarified to include that no limitations on access may be placed on any existing right-of-way or right-of-use issued, granted, or permitted prior to the date of enactment of H.R. 1157.

COMMITTEE ACTION

H.R. 1157 was introduced on February 27, 2015, by Congressman Doug LaMalfa (R-CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian, Insular, and Alaska Native Affairs. On June 17, 2015, the Subcommittee held a hearing on the bill. On July 12, 2016, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent and Congressman Rob Bishop (R-UT) offered Amendment #1 that was adopted by voice vote. The bill as amended was ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 29 yeas to 1 nay, on July 13, 2016, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07.13.16

Recorded Vote: #1

FC Mark Up on 8 bills: **On Favorably Reporting H.R. 1157 (Rep. Doug LaMalfa), To authorize 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. "Santa Ynez Band of Chumash Mission Indians Land Transfer Act of 2015"**

| MEMBERS | Yes | No | Pres | MEMBERS | Yes | No | Pres |
|---|-----|----|------|---------------------------|-----|----|------|
| Mr. Bishop, UT, Chairman | X | | | Mr. LaMalfa, CA | X | | |
| <i>Mr. Grijalva, AZ, Ranking Member</i> | X | | | <i>Mrs. Dingell, MI</i> | X | | |
| Mr. Young, AK | | | | Mr. Denham, CA | X | | |
| <i>Mrs. Napolitano, CA</i> | X | | | <i>Mr. Gallego, AZ</i> | X | | |
| Mr. Gohmert, TX | | | | Mr. Cook, CA | X | | |
| <i>Mrs. Bordallo, Guam</i> | | | | <i>Mrs. Capps, CA</i> | | X | |
| Mr. Lamborn, CO | | | | Mr. Westerman, AR | X | | |
| <i>Mr. Costa, CA</i> | X | | | <i>Mr. Polis, CO</i> | X | | |
| Mr. Wittman, VA | X | | | Mr. Graves, LA | X | | |
| <i>Mr. Sablan, CNMI</i> | X | | | <i>Mr. Clay, MO</i> | | | |
| Mr. Fleming, LA | X | | | Mr. Newhouse, WA | | | |
| <i>Mrs. Tsongas, MA</i> | | | | Mr. Zinke, MT | X | | |
| Mr. McClintock, CA | X | | | Mr. Hice, GA | X | | |
| <i>Mr. Pierluisi, Puerto Rico</i> | | | | Mrs. Radewagen, AS | X | | |
| Mr. Thompson, PA | X | | | Mr. MacArthur, NJ | X | | |
| <i>Mr. Huffman, CA</i> | | | | Mr. Mooney, WV | | | |
| Mrs. Lummis, WY | | | | Mr. Hardy, NV | X | | |
| <i>Mr. Ruiz, CA</i> | X | | | Mr. LaHood, IL | X | | |
| Mr. Benishek, MI | X | | | | | | |
| <i>Mr. Lowenthal, CA</i> | X | | | | | | |
| Mr. Duncan, SC | | | | | | | |
| <i>Mr. Cartwright, PA</i> | X | | | | | | |
| Mr. Gosar, AZ | X | | | | | | |
| <i>Mr. Beyer, VA</i> | X | | | | | | |
| Mr. Labrador, ID | | | | | | | |
| <i>Mrs. Torres, CA</i> | | | | TOTALS | 29 | 1 | |

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 31, 2016.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1157, the Santa Ynez Band of Chumash Mission Indians Land Transfer Act of 2016.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Robert Reese.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 1157—Santa Ynez Band of Chumash Mission Indians Land Transfer Act of 2016

Under H.R. 1157, the Santa Ynez Band of Chumash Mission Indians (Chumash Tribe), could request that the Department of the Interior (DOI) take into trust approximately 1,400 acres of land the tribe owns in Santa Barbara County, California. DOI would hold the title to that land for the benefit of the tribe if requested. The bill would prohibit certain types of gaming on those lands. CBO estimates that implementing the bill would have no significant budgetary effects related to holding the land in trust.

Enacting H.R. 1157 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 1157 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

The bill would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$77 million and \$154 million in 2016, respectively, adjusted annually for inflation).

The bill would impose an intergovernmental mandate by preempting the authority of state and local governments to tax land taken into trust for the Chumash Tribe. Information from Santa Barbara County about taxes and other receipts associated with the

land indicates that such revenues total less than \$500,000 annually.

The bill also would impose an intergovernmental and private-sector mandate by eliminating the ability of public and private entities to appeal the federal government's decision to take land into trust for the benefit of the Chumash Tribe. The County of Santa Barbara and private entities appealed DOI's approval in 2014 of the Tribe's application to take land into trust. The bill would effectively extinguish those appeals and preclude any future challenges by making the trust acquisition mandatory if the Tribe requests it. The costs of the mandates would be the value of forgone compensation and settlements associated with such appeals if they would have been successful under current law; however, because no monetary award is available for such challenges to the administrative procedures and decisions of the federal government, CBO expects that the mandate would impose no costs.

The CBO staff contacts for this estimate are Robert Reese (for federal costs), Rachel Austin (for intergovernmental mandates), and Amy Petz (for private-sector mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize the Secretary of the Interior to take land into trust for the benefit of the Santa Ynez Band of Chumash Mission Indians.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

