

SANTA YNEZ BAND OF CHUMASH INDIANS LAND
AFFIRMATION ACT OF 2017

SEPTEMBER 21, 2017.—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. 1491]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1491) 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, 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 Indians Land Affirmation Act of 2017”.

SEC. 2. REAFFIRMATION OF STATUS AND ACTIONS.

(a) **RATIFICATION OF TRUST STATUS.**—The action taken by the Secretary on January 20, 2017, to place approximately 1,427.28 acres of land located in Santa Barbara County, California, into trust for the benefit of the Santa Ynez Band of Chumash Indians is hereby ratified and confirmed as if that action had been taken under a Federal law specifically authorizing or directing that action.

(b) **RATIFICATION OF ACTIONS OF THE SECRETARY.**—The actions taken by the Secretary to assume jurisdiction over the appeals relating to the fee-to-trust acquisition of approximately 1,427.28 acres in Santa Barbara County, California, on January 30, 2015, is hereby ratified and confirmed as if that action had been taken under a Federal law specifically authorizing or directing that action.

(c) **RATIFICATION OF ACTIONS OF THE SECRETARY.**—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, is hereby ratified and confirmed as if that action had been taken under a Federal law specifically authorizing or directing that action.

(d) **ADMINISTRATION.**—

(1) ADMINISTRATION.—The land placed into trust for the benefit of the Santa Ynez Band of Chumash Indians by the Secretary of the Interior on January 20, 2017, shall be a part of the Santa Ynez Indian Reservation and administered in accordance with the laws and regulations generally applicable to the land held in trust by the United States for an Indian tribe.

(2) 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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. 1491 is 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.

BACKGROUND AND NEED FOR LEGISLATION

The 99-acre Santa Ynez Reservation was formally established in 1901 under the authority of the Act of January 12, 1891, for members of the Chumash Tribe. The Chumash people, however, have resided along California’s Central Coast prior to contact with European settlers in 1769 where approximately 22,000 Chumash lived in villages between Malibu and Monterey, California.

Like many California Indians, European diseases took a large toll on the original population of the Chumash people, falling to approximately 2,788 by 1831.¹ Today, the Tribe has approximately 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).² The Tribe constructed a casino and hotel resort on its reservation pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), which 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 (grants obtained prior to the Tribe’s successful operation of gaming). 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, from the Fess Parker estate.⁴ At present, the landscape of Camp 4 is mainly agricultural. 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

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

² 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.

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

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

relief for California landowners who agree to maintain their property for open space or agriculture.

In 2011, to divest the State and county of its regulatory, zoning and tax jurisdiction over Camp 4, the Chumash Tribe delivered a proposed cooperative agreement to the County of Santa Barbara as an initial offer to mitigate any potential impacts of taking the land into trust.

In June 2013, after waiting more than two years for a response from Santa Barbara County to the Tribe's proposed mitigation agreement, the tribe submitted a fee-to-trust application for the Camp 4 property. The Tribe has testified it intends to use Camp 4 for suitable tribal housing for its current and future members. The Bureau of Indian Affairs (BIA) published a Notice of Availability for the initial Environmental Assessment (EA), prepared under the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 et seq.), and invited comments through an extended comment period ending on November 18, 2013.

In response to comments and changes in the plan for development of Camp 4, the BIA conducted another EA. A revised EA was published in May 2014, and comments on the revised EA were accepted through an extended comment period ending July 14, 2014. Based on the comments submitted to the revised EA for the proposed federal action to accept the fee-to-trust transfer for the Santa Ynez Band of Chumash Indians, the BIA issued a "Finding of No Significant Impact" on October 23, 2014.

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 the revised EA.⁵ The revised EA 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

Under the Interior Department's rules, a decision by a Regional Director of the BIA to acquire land in trust for non-gaming purposes may be appealed administratively.⁷ 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.⁸ Additionally, other individuals and nearby property owners also filed an administrative appeal, which argues among other things that the BIA violated NEPA.⁹ Subsequently, the Tribe requested legislation from Congress to have title to the land placed in trust.

⁵ <http://www.chumashea.com/>

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

⁷ 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.

⁸ <http://www.independent.com/news/2015/jan/26/county-appeals-federal-camp-4-approval/>.

⁹ 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.

On January 19, 2017, the Principal Deputy Assistant Secretary-Indian Affairs dismissed these appeals and affirmed the December 2014 BIA Pacific Region decision to place the land into trust. On January 28, 2017, Santa Barbara County filed a lawsuit in federal court, while certain private individuals sought additional administrative review of the BIA action. This last administrative 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.

The Committee on Natural Resources considered similar legislation, H.R. 1157 (Congressman 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.¹⁰ The Natural Resources Committee favorably reported H.R. 1157 on September 6, 2016 (H. Rept. 114-715).

COMMITTEE ACTION

H.R. 1491 was introduced on March 10, 2017, 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 July 25, 2017, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman LaMalfa offered an amendment designated #1; it was adopted by unanimous consent. No further amendments were offered, and the bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent on July 26, 2017.

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 AND CONGRESSIONAL BUDGET ACT

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 following estimate for the bill from the Director of the Congressional Budget Office:

¹⁰<https://www.countyofsb.org/tribal-matters.sbc>.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 20, 2017.

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. 1491, the Santa Ynez Band of Chumash Indians Land Affirmation Act of 2017.

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,
Director.

Enclosure.

H.R. 1491—Santa Ynez Band of Chumash Indians Land Affirmation Act of 2017

H.R. 1491 would affirm the decision made by the Department of the Interior (DOI) to take into trust approximately 1,400 acres of land owned by the Santa Ynez Band of Chumash Mission Indians (Chumash Tribe) in Santa Barbara County, California. Under the bill, DOI would hold the title to that land for the benefit of the tribe. The bill would prohibit certain types of gaming on those lands and end any administrative appeals of DOT's decision about this property. CBO estimates that implementing the bill would have no significant budgetary effects related to holding the land in trust.

Enacting H.R. 1491 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 1491 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 1491 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 be insignificant and thus would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$78 million and \$156 million in 2017, 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. By ratifying DOT's decision to take the land into trust, the bill would effectively extinguish any existing or future appeal of that decision. The costs of the mandates would be the value of forgone compensation and settlements associated with such appeals if they would have been suc-

cessful 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 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.

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. This bill does not contain any directed rule makings.

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 to existing law.