

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****Plan for the Use of the Mission Indian Judgment Funds in Docket No. 80 A-2 Before the United States Court of Federal Claims**

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

EFFECTIVE DATE: This plan was effective as of March 9, 1995.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The Act of October 19, 1973, (Pub.L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use and distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on October 26, 1993, in satisfaction of the award granted to the Mission Indians before the United States Court of Federal Claims in Docket 80 A-2. The plan for the use of the funds was submitted to Congress with a letter dated October 20, 1994, and was received (as recorded in the Congressional Record) by the Senate on December 1, 1994, and by the House of Representatives on December 1, 1994. The plan became effective March 9, 1995, as provided by the 1973 Act, as amended by Pub.L. 97-458, since a joint resolution disapproving it was not enacted. The plan reads as follows:

PLAN—for the Use and Distribution of the Cuyapaipe Band of Mission Indians, et al. in Docket 80-A-2 before the United States Court of Federal Claims

The funds appropriated October 26, 1993, in satisfaction of the award granted in Docket 80-A-2, granted to the Cuyapaipe Band of Mission Indians, et al. before the United States Court of Federal Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as follows.

The Secretary of the Interior (Secretary) shall divide the funds between the six respective Mission Bands of Indians of California, according to the settlement and judgment in Docket 80-2-A. The division of the funds is as follows: Cuyapaipe, \$257,995; Santa Rosa, \$517,880; Morongo Band, \$6,066,375; Pechanga Band, \$439,420; La Posta \$118,330; and San Luis Rey \$100,000.

Interest and investment income accrued shall be proportionately divided in accordance with the appropriate investments made prior to the effective date of the plan.

Cuyapaipe Band

The Cuyapaipe Band of Mission Indians share of the award in Docket 80-A-2 shall be distributed and used as follows.

Per Capita Aspect

The Secretary shall make per capita distributions in sums as equal as possible of thirty percent (30%) of the Band's share. The membership roll of the Cuyapaipe Band shall be brought current, pursuant to the Band's Constitution and By-Laws, to include all band members born on or prior to and living on the effective date of this Plan. The per capita distributions shall be made in accordance with the wishes of the General Council. Any remaining amount after the per capita payments have been distributed to the members shall revert to the tribe for use in the programming aspect of this plan.

Programming Aspect

Seventy percent (70%) of the funds allocated to the Cuyapaipe Band shall be invested by the Cuyapaipe General Council in a permanent investment program. Until such time as the Cuyapaipe Council presents an investment plan to the Secretary for approval, the Secretary shall continue to invest the funds of this aspect. Should the Council undertake to invest the funds in the future it shall present an investment plan to the Secretary for approval.

The investment plan will contain or be subject to the requirements of sound investments, responsible accounting and adequate controls to obtain maximum benefit for the Cuyapaipe Band of Mission Indians.

Upon the Secretary's approval of the investment plan, the invested funds will be transferred to the Cuyapaipe Band at a mutually agreed upon time. All responsibility of the United States for the judgment funds or the investment or use of the funds so transferred shall cease at the time the funds are transferred.

La Posta Band

The La Posta Band of Mission Indians share of the award in Docket 80-A-2 shall be distributed and used as follows.

Programming Aspect

Seventy percent (70%) of the funds allocated to the La Posta Band, including principal, interest and

investment income accrued shall be invested by the Secretary, to be used by the tribal governing body on a budgetary basis on programs which may include, but are not limited to: tribal administrative costs, economic development, tribal educational and burial fund priorities.

Tribal Investment and Dividend Aspect

Thirty percent (30%) of the funds allocated to the La Posta Band shall be transferred to the Band to be invested by the Band in an investment program. Until such time as the La Posta Band presents an investment plan to the Secretary for approval, the Secretary shall continue to invest the funds of this aspect.

The investment plan will contain or be subject to the requirements of sound investments, responsible accounting and adequate controls to obtain maximum benefit for the La Posta Band.

Upon the Secretary's approval of the investment plan, the invested funds will be transferred to the La Posta Band at a mutually agreed upon time. All responsibility of the United States for the judgment funds or the investment or use of the funds so transferred shall cease at the time the funds are transferred.

The principal of the investment plan will remain continually invested until such time as the governing body of the La Posta Band authorizes the use of the principal for tribal programs. The interest on the principal shall be distributed by the Band in the form of dividend payments to all eligible tribal members born on or prior to and living on the dates such dividend payments are declared by the tribal governing body.

Morongo Band*Per Capita Aspect*

The Secretary of the Interior (Secretary) shall make a per capita distribution of eighty percent (80%) of the Band's share of the principal, interest, and investment income accrued, in sums as equal as possible, pursuant to the custom and tradition practices of the Band. The membership roll of the Morongo Band shall be brought current, pursuant to Amended Ordinance No. 3 of the Morongo Band. Such per capita payments shall include all eligible Band members born on or prior to and living on the effective date of this Plan.

Any remaining amount after the per capita payments to the members shall revert to the band for use in the programming aspect of this plan.

Programming

Twenty percent (20%) of the Band's share shall be invested by the Secretary and utilized by the governing body on a budgetary basis for purposes which may include, but not be limited to, water system expansion, water system repairs, water system services and aquifer recharge.

Pechanga Band

The Pechanga Band of Mission Indians share of the award in Docket 80-A-2 shall be used in the following manner.

The Band's share will be invested by the Secretary for tribal program and investment purposes, until such time as the General Council determines the use of the funds, through the normal administrative process. The Band's share will be used for activities which may include, but not be limited to: land acquisition, fire department, cemetery burial fund, recreation and youth programs, Pechanga Creek embankment improvements, a convalescent home for the elderly, tribal administration and operations.

If at any future date the Pechanga Band presents an investment plan to the Secretary for approval, the Secretary shall determine that the investment plan contains and is subject to the requirements of sound investments, responsible accounting and adequate controls, to obtain maximum benefit for the Pechanga Band. Upon the Secretary's approval of the investment plan, the invested funds will be transferred to the Pechanga Band, at a mutually agreed upon time. All

responsibility of the United States for the judgment funds or the investment or use of the funds so transferred shall cease at the time the funds are transferred.

No part of these funds shall be used for a per capita payment distribution.

Santa Rosa

The Santa Rosa Band of Mission Indians share of the award in Docket 80-A-2 shall be used in the following manner.

Investment Aspect

Twenty percent (20%) of the Band's share shall be invested by the Secretary in a permanent investment program. The funds invested under this aspect shall be subject to review periodically by the governing body of the Santa Rosa Band to determine whether continued investment is in the best interest of the tribe. The governing body shall submit a proposal to the Secretary for use of the investment, interest and investment income accrued.

Programming

Eighty percent (80%) of the Band's share of the funds, shall be invested by the Secretary, to be used by the tribal governing body on a budgetary basis for programming purposes, which may include, but are not limited to: land acquisition, sewage facilities, fire department needs, an alcoholism treatment fund, a youth day care center, the tribal cemetery, and tribal recreation facilities.

San Luis Rey

The share of the award in Docket 80-A-2 made to the San Luis Rey Band of Mission Indians shall be invested by the Secretary, until such time as a specific plan for the use of the funds is approved by Congress.

General Provisions

The per capita shares of living competent adults shall be paid directly to them. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, part 4, subpart D. Per capita shares of legal incompetents and minors shall be handled pursuant to 25 CFR 115.4 and 115.5, as appropriate, as provided in the Act of October 19, 1973, 87 Stat. 466, as amended January 12, 1983, 96 Stat. 2512.

None of the funds made available under this plan for programming or per capita distribution shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources, nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for any per capita shares in excess of \$2,000, any Federal or federally assisted programs.

Dated: May 23, 1995.

Ada E. Deer,

Assistant Secretary - Indian Affairs.

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