FINDING OF NO SIGNIFICANT IMPACT FOR THE PROPOSED SANTA YNEZ BAND OF CHUMASH INDIANS CAMP 4 FEE-TO-TRUST PROJECT

AGENCY: Bureau of Indian Affairs

ACTIONS: Finding of No Significant Impact

SUMMARY: The Santa Ynez Band of Chumash Indians (Tribe) submitted a request to the Bureau of Indian Affairs (BIA) to approve the trust acquisition of approximately 1,411 acres plus rights of way for tribal housing (Proposed Action). The land proposed for trust acquisition and development known locally as “Camp 4” is located within an unincorporated area of Santa Barbara County approximately 1.5 miles northwest of the Tribe’s existing Reservation, east of the Town of Santa Ynez, 3.95 miles east of the City of Solvang, and 22.2 miles northwest of the City of Santa Barbara, California (project site). The project site is within the “Santa Ynez Valley Planning Area” of Santa Barbara County and occurs in Section 8, Township 6 North, Range 30 West on the “Santa Ynez,” California U.S. Geological Survey (USGS) 7.5-Minute Topographic Quadrangle.

Based upon the entire administrative record including the analysis in the Final Environmental Assessment (EA) and consideration of comments received during the public review period, the BIA makes a finding of no significant impact (FONSI) for the federal action to acquire approximately 1,411 acres plus rights of way into trust and subsequent implementation of Alternative A (Five-Acre Housing Plots) or Alternative B (One-Acre Housing Plots). This finding constitutes a determination that the Proposed Action is not a federal action significantly affecting the quality of the human environment. Therefore, an Environmental Impact Statement (EIS) is not required. Comment letters received on the Final EA are provided as Exhibit A. Responses to each comment letter received are provided as Exhibit B. A Mitigation Monitoring and Enforcement Program is provided as Exhibit C. A letter from the U.S. Fish and Wildlife Service (USFWS) concurring that the trust acquisition is not likely to adversely affect federally-listed species under Section 7 of the Endangered Species Act is provided as Exhibit D. Letters from the California Office of Historic Preservation (OHP) concurring that the undertaking will not affect cultural and historic resources are provided as Exhibit E. Tribal Resolutions related to the Proposed Action that were passed by the Tribe since the release of the Final EA are provided as Exhibit F. A copy of the signed Notification of Assumption of Williamson Act Contract for the project site is included as Exhibit G.

BACKGROUND: The members of the modern Tribe are the direct descendants of the original Chumash peoples, whose numbers totaled 18,000-22,000 prior to the Spanish contact. Prior to the Mission Period, there were approximately 150 independent Chumash villages along
the coast of California. Subsequent to Spanish contact, the Chumash population dwindled to approximately 2,700 in 1831. The Tribe is a politically independent unit of the Chumash cultural group and is the only federally-recognized band of Chumash Indians. Historically the Chumash had an extensive territory ranging along the California Coast. The Tribe’s Reservation was established in 1906 through grants to the federal government from the Catholic Church. The 100 acres of land that initially formed the Tribe’s Reservation, was largely unusable creek beds and flood plains. The Tribe reorganized its government under the Indian Reorganization Act (IRA) of 1934 after having voted to accept the provisions of the IRA. Although complete reorganization efforts in California were slow to come from the federal government, the Tribe nonetheless began developing both its governmental functions and structures to assure continued survival of the Tribe and its members. The turbulent beginnings of a casino in the 1980s ultimately provided a base upon which the Tribe began to develop its governmental capabilities and entrepreneurial infrastructure. The Tribe has slowly been able to purchase additional properties making the current Reservation approximately 146 acres.

The Tribe’s purpose for taking the 1,411 acres plus rights of way of land into trust is to provide housing to accommodate the Tribe’s current members and anticipated growth. The project site lies within the area historically held for the Tribe by the Roman Catholic Church. This geographical area was subject of the 1897 Quiet Title Action brought by the Roman Catholic Church (Bishop of Monterey), and these lands are part of the Tribe's ancestral territory and comprise most of its historic territory. These lands were once part of the lands of Mission Santa Ines and part of the subsequent Rancho Canada de los Pinos recognized by the U.S. government as well as being near an individual land grant made to a Santa Ynez Chumash Indian by Mexican Governor Micheltorena. All these lands were considered to have been the property of the Santa Ynez Mission Indians by the Spanish and Mexican governments and the Catholic Church. After California statehood, the Catholic Church carried forward this theory of land tenure by the Santa Ynez Chumash.

The proposed trust land would enable the Tribe to provide housing for its existing tribal members and continue to provide housing for descendants as they come of age. The current Reservation lands are highly constrained due to a variety of physical, social, and economic factors. A majority of the lands held in trust for the Tribe are located in a flood plain. This land is not suitable for much, if any, development because of flooding and drainage problems. The irregular topography and flood hazards are associated with the multiple creek corridors which run throughout the Reservation, resulting in severe limitations of efficient land utilization. The current Reservation has a residential capability of approximately 26 acres or 18 percent of the Reservation and an economic development capability of approximately 16 acres or 11 percent of the Reservation. The remaining 99 acres or 71 percent of the Reservation is creek corridor and sloped areas which are difficult to impossible to develop. Therefore, the size of the usable portion of the Tribe’s Reservation amounts to approximately 50 acres, much of which has already been developed.
The Tribe has a population of 136 tribal members and approximately 1,300 lineal descendants which it must provide for. Currently, approximately 17 percent of the tribal members and lineal descendants have housing on tribal lands. All current land assignments on the existing Reservation will continue to be maintained unchanged. Article VIII of the Articles of Organization of the Tribe expressly states that only the General Council composed of all adults members of the Tribe over the age of 21 can veto or cancel an existing land assignment on the Reservation. This trust land acquisition is an integral part of the Tribe's efforts to bring tribal members and lineal descendants back to the Tribe, accommodate future generations, and create a meaningful opportunity for those tribal members and lineal descendants to be a part of a tribal community revitalization effort that rebuilds tribal culture, customs, and traditions. To meet these goals, the Tribe needs additional trust land to provide housing for tribal members and lineal descendants who currently are not accommodated with tribal housing.

Based on these constraints, the Tribe is unable to provide adequate housing for its current members and will be unable to provide housing for future tribal members on the existing Reservation, risking the Tribe’s ability to provide for future generations and maintain its cultural foundations within its ancestral lands.

The trust transfer of the project site would provide necessary housing within the Tribe’s ancestral and historic territory for its current members and future generations. This would thereby protect the Tribe’s heritage and culture by ensuring existing and future generations are afforded the ability to live under tribal governance as a community within the Tribe's ancestral and historic land holdings. Secondarily, the trust acquisition of the proposed trust land would also allow full tribal governance over its existing agricultural operations on the property; thereby allowing the Tribe to continue to maintain economic self sufficiency through diversified tribally-governed commercial enterprises. Under the Proposed Action, the tribal government would be able to exercise its sovereignty over its land holdings.

An EA for the Proposed Action (SCH #20130810610) was submitted to the State Clearinghouse and released for public and agency review for a 30-day comment period, established consistent with Section 6.2 of the Bureau of Indian Affairs National Environmental Policy Act (NEPA) Guidebook (59 IAM 3-H) (BIA NEPA Guidebook), beginning on August 20, 2013 and was noticed to end on September 19, 2013 (referred herein as the “2013 EA”). In response to requests received, the public comment period was extended to October 7, 2013, providing an extension of 19 days. During the public comment period, the federal government was partially shut down on October 1, 2013 and returned to full operation on October 16, 2013. The Council on Environmental Quality (CEQ) issued guidance regarding NEPA documents under public review during the government shutdown that recommended extending any comment period deadlines held during the government shutdown by a minimum of the period of time equal to the shutdown (16 days). The comment period was therefore extended a second time to November 18, 2013.
Overall, the 2013 EA was released for public and agency review and comment for 90 days. The BIA received a total of 1,129 comment letters; a majority of which were form letters.

As stated in Section 1.3 of the 2013 EA, one of the purposes of the Proposed Action was to fulfill the purpose of the Tribe’s Consolidation and Acquisition Plan (Plan) by providing housing within the Tribal Consolidation Area (TCA) to accommodate the Tribe’s current members and anticipated growth. The Tribe submitted the Plan to the BIA in March 2013, which identified a TCA encompassing approximately 11,500 acres within the Santa Ynez Valley, including the project site. The BIA approved the Plan on June 17, 2013. Several appeals were filed to the Interior Board of Indian Appeals (IBIA) requesting review of the BIA Regional Director’s approval of the Plan and TCA. On October 11, 2013, the Tribe withdrew without prejudice the approved Plan and corresponding TCA via Resolution #926 Santa Ynez Band of Chumash Indians-Tribal Land Consolidation Area. The Tribe also requested that the BIA dismiss any appeals on the TCA without prejudice. In response to this request, the IBIA dismissed the appeals.

The Tribe prepared and submitted a revised trust acquisition application to the BIA excluding the withdrawn Plan and TCA from the purpose and need. A Final EA was prepared that addresses the revised trust acquisition request, responds to comments received on the 2013 EA, and was completed in accordance with the requirements set forth in the NEPA, the CEQ Guidelines for Implementing NEPA, and the BIA NEPA Guidebook. The Final EA was submitted to the State Clearinghouse (SCH# 2013081060) and released for public and agency review for a 30-day review period, established consistent with Section 6.2 of the BIA NEPA Guidebook, beginning on May 29, 2014 and was noticed to end on June 30, 2014 (Final EA). In response to requests received, the review period was extended to July 14, 2014, providing an extension of 15 days.

On March 11, 2014, the BIA initiated informal consultation with the USFWS pursuant to Section 7 of the Endangered Species Act of 1979. On June 9, 2014, the USFWS requested clarification into the mitigation measures and potential impact to special status species and noted discrepancies between the Biological Assessment sent to the USFWS for informal consultation and the 2013 EA. A response to the USFWS requests for clarification was sent with a copy of the Final EA on June 12, 2014. The USFWS responded on July 24, 2014 with additional request for clarification on the findings of the Final EA as well as recommendations for mitigation for the California red-legged frog. A technical memorandum responding to the requests for clarification as well as commitments to the suggested mitigation was sent to the USFWS on August 13, 2014. On October 8, 2014, the USFWS issued a letter of concurrence (Exhibit D) to the BIA supporting a finding of Not Likely to Adversely Affect for the Proposed Action.

On February 24, 2014 the BIA initiated consultation with the California Office of Historic Preservation (OHP) pursuant to Section 106 of the National Historic Preservation Act of 1966. On March 6, 2014 the BIA received concurrence from the State Historic Preservation Officer.
(SHPO) that implementation of the proposed fee-to-trust transfer would result in “No Adverse Effect” to historic properties pursuant to 36 CFR Part 800.5(b) “Protection of Historic Properties” (Exhibit E).

To determine if the Proposed Action is a federal action significantly affecting the quality of the human environment, the BIA assessed the results of the 2013 EA and Final EA as well as the comments received during the public review period for both documents consistent with the policies and goals of NEPA and the BIA NEPA Guidebook. In addition, since the completion of the Final EA and in response to comments received on the Final EA, the Tribe passed Tribal Resolution 930B which selects the one-acre concept plans as the Preferred Project Alternative (refer to Exhibit F).

DESCRIPTION OF THE PROPOSED ACTION: The BIA’s Proposed Action consists of the transfer of the project site into federal trust status for the benefit of the Tribe. The proposed fee-to-trust conveyance is for 5 parcels totaling approximately 1,411 acres plus rights of way. A reasonably foreseeable consequence of this action is the subsequent development of the project site 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.

ALTERNATIVES CONSIDERED: The BIA considered three alternatives in the Final EA, as summarized below.

1) **Alternative A – Five-Acre Lots.** 1,433± acre (1,411 acres plus rights of way) trust land acquisition and assignment of 143 five-acre residential lots for tribal members. The residential lot assignments and access roadways would cover approximately 793 acres of the project site. The project site would include 206 acres of vineyards (50-acre reduction of the existing vineyard), 300 acres of open space/recreational area, 98 acres of riparian corridor and 33 acres of oak woodland conservation, and 3 acres of Special Purpose Zone-Utilities. Water, wastewater, and reclamation facilities would be constructed on-site.

2) **Alternative B – One-Acre Lots.** Identical trust land acquisition and development of 143 one-acre residential lots for tribal members. The residential lot assignments and access roadways would cover approximately 194 acres of the project site. The project site would include 869 acres of open space/recreational area, 30 acres of tribal facilities (including 12,042 square feet of tribal facilities), and the same acreages of vineyard, riparian corridor and oak woodland conservation, and utilities land uses as proposed under Alternative A. Water, wastewater, and reclamation facilities would also be constructed on-site.
3) No Action Alternative. Under the No Action Alternative, the 1,411 acres plus rights of way would not be placed into federal trust and would not be developed. Land use jurisdiction for the 1,411 acres plus rights of way would remain with Santa Barbara County. To maintain economic viability, the Tribe would maximize vineyard use on the project site through adding approximately 44 acres of vines on the site.

ENVIRONMENTAL IMPACTS: Potential impacts to land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions and environmental justice, transportation and circulation, land use, public services, noise, hazardous materials, and visual resources were evaluated in the 2013 and Final EAs for Alternatives A and B, with the following conclusions:

A. Project design, implementation of Best Management Practices (BMPs), and mitigation measures would ensure impacts to land resources would be less than significant. Refer to Final EA Sections 2.2.10, 4.1.1, 4.2.1, and 5.1.

B. Project design, implementation of BMPs, and mitigation measures would ensure impacts to water resources would be less than significant. Refer to Final EA Sections 2.2.5, 2.2.6, 2.2.8, 2.2.10, 2.3, 2.3.1, 4.1.2, 4.2.2, and 5.2. Under existing conditions, approximately 256 acre-feet per year (AFY) of groundwater is utilized on the project site for irrigation of the existing 256-acre vineyard. The net water demand for potable water for Alternative A is 348 AFY, including 172 AFY for residential (and a reduction of 30 AFY of recycled water) and 206 AFY for vineyard irrigation. The net water demand for potable water for Alternative B is 256 AFY, including 84 AFY for residential/Tribal facilities (and a reduction of 34 AFY of recycled water) and 206 AFY for vineyard irrigation. Accordingly, implementation of Alternative A would result in an increase of 92 AFY over existing conditions and implementation of Alternative B would result in no net increase in water demands over existing conditions. According to local planning documents, the Uplands Basin has a surplus of several hundred AFY (estimate in the 2009 Santa Ynez Valley Community Plan to be approximately 513 AFY) of safe yield. Potable water supply demands for the residential aspects of Alternatives A and B would be met via connection to two new wells to be developed below the Baseline Fault at a distance that would prevent adverse impacts to neighboring wells, per the mitigation measure identified in Section 5.2.

C. Project design, implementation of BMPs, and mitigation measures would ensure impacts to air quality would be less than significant. Refer to Final EA Sections 2.2.10, 4.1.3, 4.2.3, and 5.3.

D. Project design, implementation of BMPs, and mitigation measures would ensure impacts to biological resources would be less than significant. Refer to Final EA Sections 2.2.10, 4.1.4, 4.2.4, and 5.4.

E. Implementation of mitigation measures would ensure impacts to cultural resources would be less than significant. Refer to Final EA Sections 4.1.5, 4.2.5 and 5.5.
F. Impacts to socioeconomic conditions and environmental justice issues would be less than significant. Refer to Final EA Sections 4.1.6 and 4.2.6.

G. Project design and implementation of the mitigation measures would ensure impacts to transportation and circulation would be less than significant. Refer to Final EA Sections 2.2.7, 4.1.7, 4.2.7, and 5.7.

H. Impacts to land use resources would be less than significant. Refer to Final EA Sections 4.1.8 and 4.2.8.

I. Project design, implementation of BMPs, and mitigation measures would ensure impacts to public services would be less than significant. Refer to Final EA Sections 2.2.4, 2.2.5, 2.2.6, 2.2.10, 2.3.1, 4.1.9, 4.2.9, and 5.9. In addition, since the release of the Final EA, the Tribe has passed Resolution 948 which establishes the Santa Ynez Tribal Police Department, thereby reducing the reliance on the Santa Barbara County Sheriff’s Office for law enforcement on the Tribe’s trust lands. In addition, the Tribe passed Resolution 949 which establishes a dedicated fund for local school districts that include the project site. The resolution establishes an annual grant set aside program for the local school districts equivalent to the 2013-2014 property taxes paid on the project site. The passing of these resolutions further reduces impacts to public services. A copy of Resolutions 948 and 949 are provided in Exhibit F.

J. Impacts associated with noise would be less than significant. Refer to Final EA Sections 4.1.10 and 4.2.10.

K. Project design and implementation of the mitigation measures would ensure that hazardous materials impacts would be less than significant. Refer to Final EA Sections 2.2.6, 2.2.10, 4.1.11, 4.2.11, and 5.11.

L. Project design and implementation of BMPs would ensure impacts to visual resources would be less than significant. Refer to Final EA Sections 2.2.10, 4.1.12, and 4.2.12.

M. Project design, implementation of BMPs and mitigation measures would ensure that cumulative impacts would be less than significant. Refer to Final EA Sections 2.2.10, 2.2.6, 2.3.6, 4.5, 5.1, 5.2, 5.3, 5.4, 5.5, 5.7, 5.9, 5.10, and 5.11.

BEST MANAGEMENT PRACTICES: Protective measures and BMPs have been incorporated in the project design of Alternatives A and B to eliminate or substantially reduce environmental impacts from the project. These measures and BMPs are listed below:

Protective Measures and BMPs for Alternatives A and B

Wastewater Treatment Plant (WWTP)

- Sodium hypochlorite, caustic soda and/or citric acid would be stored in the chemical room of the WTTP. The storage and metering facilities would be located inside a chemical spill containment area, sized to contain 150 percent of the storage volume in case of an unintentional release.
- The sodium hypochlorite would be stored in a 55-gallon drum and the citric acid would be stored as dry material and then in a 50-gallon mixing tank when needed.
The WTTP would incorporate an active odor control system such as a packaged biofilter with an active carbon absorption unit.

All treated effluent storage dimensions will be designed to hold 100-year rainfall event precipitation amounts, which is approximately 1.5 times greater than that estimated to be required for normal rainfall years.

Disposal of treated wastewater to irrigation areas shall be adjusted based on weather conditions in order to prevent surface runoff.

The Tribe would adopt standards equivalent to the landscape irrigation standards in the State Water Resources Control Board Recycled Water Policy (as referenced in Resolution No. 2009-0011).

Potential groundwater impacts from irrigation and effluent storage will be minimized through treatment of effluent through nitrogen and salinity reduction processes.

Operation and maintenance of the wastewater utility from house service laterals, through the wastewater and effluent system, to treatment and disposal will be by the Tribe utilizing contract services. Individual residents will have no responsibility regarding operation and maintenance of any aspect of the wastewater treatment and conveyance systems. The residents’ sole responsibility would be to follow tribal guidance on what should and should not be flushed down sinks and toilets. Community education shall be promoted to reduce needless contaminants to wastewater.

The effluent storage basins and irrigation areas would be located and designed so that they are well-drained and readily accessible.

Implementation of the following measures would be incorporated during design and operation of the wastewater and effluent system to minimize chances of system failures:
- Solvent welded plastic house services;
- Above grade cleanouts;
- Dual (redundant) discharge pumps;
- High water alarms;
- Maintaining records of pumping, inspections, and other maintenance activities; and
- Flushing of solvent, paint, paper towels, diapers, feminine hygiene products, cigarette butts, pesticides, and fertilizer would be discouraged by recurring outreach notices to the residents. The frequency of the noticing would be based on the results of ongoing system inspections.

**Land Resources**
- All structures would meet the Tribe’s building ordinance, which meets or exceeds International Building Code (IBC) requirements.
- Non-corrosive materials and/or protective coatings shall be used for buried facilities constructed in corrosive soils.

**Water Resources**
- Areas outside of buildings and roads would be kept as permeable surfaces to the extent practicable; either as vegetation or high infiltration cover, such as mulch, gravel, or turf.
block. Pedestrian pathways would use a permeable surface where possible, such as crushed aggregate or stone with sufficient permeable joints (areas between stone or brick if used).

- Existing native vegetation would be retained where possible.
- Roof downspouts would be directed to splash blocks and not to underground storm drain systems.
- Runoff from rooftops and other impervious areas would be directed to vegetated areas to help treat and infiltrate stormwater prior to leaving the site.
- Runoff from roadways would filter through rock-lined swales and bio-swales.
- Permanent energy dissipaters would be included for drainage outlets.
- Rock rip-rap energy dissipaters would be installed at the point of release of concentrated flow.
- High water-demand plants would be minimized in landscaping plans. Native and drought-tolerant plant species (trees, shrubs, and ground cover) landscaping would be emphasized.

**Air Quality**

The following measures would reduce project-related greenhouse gas emissions associated with climate change:

- Buildings would be sited to take advantage of shade, prevailing winds, and sun screens to the extent feasible to reduce energy use.
- Buildings would be designed to include efficient lighting and lighting control systems.
- Energy efficient heating and cooling systems as well as appliances would be installed in residences and tribal facilities.
- Solar or other alternative power systems would be utilized where feasible.

**Biological Resources**

- Native trees would be preserved to the maximum extent feasible in accordance with the Tribe’s *Tribal Ordinance Regarding Oak Tree Preservation for the Santa Ynez Band of Chumash Indians*.
- All identified wetland areas and California Live Oak would be avoided to the maximum extent feasible.
- Preservation of existing Resource Management Zones (RMZs) would result in maintaining other significant native vegetation as well; i.e. coastal sage scrub.

**Public Services**

- Structural fire protection would be provided through compliance with tribal ordinances no less stringent than applicable International Fire Code requirements. The Tribe would ensure that appropriate water supply and pressure is available for emergency fire flows.

**Visual Resources**

- Signage for all streets, tribal facilities, and the residential community would be subtly
incorporated into the landscape.

- Lighting would include emergency and nighttime security lighting at public facilities including parking lots, street intersections, and residential areas and would be downcast and shielded, in accordance with “dark sky” principles. Street lighting would consist of pole-mounted lights, limited to 18 feet tall, with cut-off lenses and downcast illumination to the extent feasible.

**Green Building**

The Tribe proposes to incorporate the “Build it Green” 2005 Green Building Guidelines for New Home Construction along with the Leadership in Energy and Environmental Design (LEED) for Homes criteria for all the residential units on the project site (U.S. Green Building Council, 2010). The above-noted BMPs and protective measures would aid the Tribe in achieving these standards. In addition, the following measures would be implemented:

- Individual homes would have limited personal planting areas with a portion of the watering needs satisfied from captured rainwater or reclaimed water.
- Indoor plumbing would use the highest efficiency fixtures and fittings available.
- All homes would be designed for efficient use of energy and natural resources and would be sized below the median standard based on the LEED for Homes rating system. Each plan would be oriented to maximize access to solar energy and natural daylight. Operable windows would be placed to provide efficient natural ventilation, taking advantage of prevailing breezes.
- All appliances and heating, ventilation, and air conditioning (HVAC) equipment would be Energy Star Certified for optimal performance.
- During construction, all waste material would be separated and sorted into individual bins for recycling.
- At least 75 percent of the residences built would be single story to minimize visual effects.
- Building envelopes would be designed to maximize performance of HVAC, lighting, and other energy systems. Equipment and appliances would meet or exceed California State, Title 24 energy requirements.
- HVAC equipment would have no chlorofluorocarbon (CFC) refrigerants.
- To the extent possible, building materials with recycled content would be specified for use during construction.
- Building and landscape elements would be designed to give preference to materials that are produced regionally or within 500 miles of the project.
- Wood materials and products used in construction would be specified to be Forest Stewardship Council (FSC) certified from suppliers who practice responsible and sustainable forest management.
- During construction, on-site absorptive materials would be protected from moisture damage.
All paints, coatings, adhesives and sealants used on the interiors of buildings would have a low Volatile Organic Compound (VOC) limits to reduce odor and harmful indoor air contaminants.

Carpets, cabinets, and other interior finishes would be selected, in part, on minimizing their potential to off-gas or adversely affect indoor air quality.

**Additional Protective Measures and BMPs for Alternative B**

**Public Services**
- The tribal facilities would be equipped with an early detection system that ensures an initial response to any fire alarm (automatic, local, or report). This would rely on automatic sprinkler systems in the occupied areas and smoke detection, along with automatic sprinkler systems, in the areas of the facility that are normally unoccupied, such as storerooms and mechanical areas.

**Green Building**
- Upon completion, the tribal facilities would have trash enclosures for separation of recyclable materials and newspapers.
- The tribal facilities would meet all Americans with Disabilities Act (ADA) accessibility requirements. Pathways would meet required slopes and roadway crossings would include textured paving and indicators for the visually impaired.

**SUMMARY OF EA MITIGATION MEASURES:** The mitigation measures described below are included to: 1) reduce significant impacts to a less-than-significant level, 2) further reduce already less-than-significant impacts, or 3) accomplish both. All mitigation measures necessary to reduce significant impacts to less-than-significant levels will be enforceable and binding on the Tribe because they are intrinsic to the project, required by federal law, required by agreements between the Tribe and local agencies, and/or are required by tribal resolutions. The construction contract will include applicable mitigation measures, and inspectors shall be retained during construction.

**LAND RESOURCES**

Implementation of the protective measures and Best Management Practices (BMPs) described above along with the mitigation measures below would minimize potential impacts related to soils. These measures are recommended for Alternatives A and B.

- The Tribe shall comply with the National Pollutant Discharge Elimination System Permit (NPDES Construction General Permit) from the United States Environmental Protection Agency (EPA) for construction site runoff during the construction phase in compliance with the Clean Water Act (CWA). A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared, implemented, and maintained throughout the construction phase of the development, consistent with Construction General Permit requirements. The SWPPP shall detail the BMPs to be implemented during
construction and post-construction operation of the selected project alternative to reduce impacts related to soil erosion and water quality. The BMPs shall include, but are not limited to, the following:

- Existing vegetation shall be retained where possible. To the extent feasible, grading activities shall be limited to the immediate area required for construction and remediation.
- Temporary erosion control measures (such as silt fences, fiber rolls, vegetated swales, a velocity dissipation structure, staked straw bales, temporary revegetation, rock bag dams, erosion control blankets, and sediment traps) shall be employed for disturbed areas during the wet season.
- No disturbed surfaces shall be left without erosion control measures in place during the winter and spring months.
- Construction activities shall be scheduled to minimize land disturbance during peak runoff periods. Soil conservation practices shall be completed during the fall or late winter to reduce erosion during spring runoff.
- Creating construction zones and grading only one area or part of a construction zone at a time shall minimize exposed areas. If possible during the wet season, grading on a particular zone shall be delayed until protective cover is restored on the previously graded zone.
- Disturbed areas shall be re-vegetated following construction activities.
- Construction area entrances and exits shall be stabilized with crushed aggregate.
- Sediment shall be retained on-site by a system of sediment basins, traps, or other appropriate measures.
- A spill prevention and countermeasure plan shall be developed which identifies proper storage, collection, and disposal measures for potential pollutants (such as fuel, fertilizers, pesticides, etc.) used on-site.
- Petroleum products shall be stored, handled, used, and disposed of properly in accordance with provisions of the Clean Water Act [33 United States Code (U.S.C.) 1251 to 1387].
- During the wet season, construction materials, including topsoil and chemicals, shall be stored, covered, and isolated to prevent runoff losses and contamination of surface and groundwater.
- Fuel and vehicle maintenance areas shall be established away from all drainage courses and designed to control runoff.
- Sanitary facilities shall be provided for construction workers.
- Disposal facilities shall be provided for soil wastes, including excess asphalt during construction and demolition.

- All workers shall be trained in the proper handling, use, cleanup, and disposal of all chemical materials used during construction activities and shall provide appropriate facilities to store and isolate contaminants.
All contractors involved in the project shall be trained on the potential environmental damages resulting from soil erosion prior to development by conducting a pre-construction conference. Copies of the project’s erosion control plan shall be distributed at that time. All construction bid packages, contracts, plans, and specifications shall contain language that requires adherence to the plan.

**WATER RESOURCES**

Implementation of the protective measures and BMPs described above along with the recommended mitigation measures below would minimize potential impacts related to water resources. These measures are recommended for Alternatives A and B.

- Development and implementation of a SWPPP under **Land Resources** will reduce impacts to stormwater quality.
- Through contractual obligations, the Tribe shall ensure that construction of the wastewater treatment plant and roadways located adjacent to flood areas occur in the dry season.
- Recycled water application areas shall be monitored to ensure off-site runoff does not occur. Provisions included within monitoring requirements to reduce the potential for off-site flow shall include:
  - Recycled water shall be applied to confined areas (such as landscaped areas) only during periods of dry weather. In accordance with the water balance and seasonal storage requirements presented in the Water and Wastewater Feasibility Analysis (Appendix C of the Final EA), a minimum of five acre-feet of storage shall be provided to account for storage during wet weather and winter months when irrigation rates are lowest. The Tribe shall not apply recycled water 24 hours prior to a forecasted rain event and shall wait 24 hours after the rain event to apply recycled water.
  - Recycled water shall not be applied during periods of winds exceeding 30 miles per hour (mph).
  - Recycled water shall not be applied within 100 feet of a water of the U.S.

- New groundwater wells shall be located within the central portion of the project site, south of the Baseline fault within the permeable sands of the water-bearing Careaga Formation.
- During years when the County of Santa Barbara declares local drought conditions, there will be no turf grass irrigation allowed, thereby reducing residential lawn water demand to zero.

**AIR QUALITY**

Implementation of the protective measures and BMPs described above would reduce potential adverse impacts to air quality. Implementation of the mitigation measures below would minimize
potential air quality impacts related to hazardous air pollutant emissions during the construction of Alternative A or B.

- Through contractual obligations, the Tribe shall ensure construction vehicles, delivery, and commercial vehicles do not idle for more than five minutes.
- Through contractual obligations, the Tribe shall ensure heavy duty construction equipment is equipped with diesel particulate matter filters, which would reduce particulate matter from exhaust by 50 percent.
- Through contractual obligations, the Tribe shall ensure that exposed surfaces and unpaved roads are water twice a day, which would reduce fugitive dust emissions by 55 percent.
- Through contractual obligations, the Tribe shall ensure that construction equipment on unpaved roads would not exceed 15 miles per hour, which would reduce fugitive dust emissions by 44 percent.
- Residential architectural coating will be low ROG coatings, which would reduce ROG emissions by 10 percent.
- Through contractual obligations, the Tribe shall, to the extent possible and feasible, require the use of heavy duty construction equipment that meets CARB’s most recent certification standards.

**CLIMATE CHANGE**

Implementation of the protective measures and BMPs described above along with the mitigation measures described below would minimize potential impacts related to climate change. These measures are recommended for Alternatives A and B.

- The Tribe shall adopt and comply with the California Green Building Code and exceed Title 24 standards by 25 percent.
- The Tribe shall ensure 75 percent of the solid waste generated on-site is recycled.
- The Tribe shall work with the Santa Ynez Valley Transit to extend public transportation to the project site and construct public transportation stops on Baseline Road east of SR-154.

**BIOLOGICAL RESOURCES**

Implementation of the protective measures and BMPs described above along with the mitigation measures below would minimize potential impacts to biological resources. These measures are recommended for Alternatives A and B.
Oak Trees
The following mitigation measures are required for Alternatives A and B to identify and avoid and/or reduce impacts to oak trees, including oak trees protected under the Tribal Ordinance Regarding Oak Tree Preservation for the Santa Ynez Band of Chumash Indians (Tribal Oak Tree Ordinance) (Santa Ynez Band of Chumash Indians, 2000) and blue oak trees within the project site:

 Once the construction footprint is finalized, the contractor shall flag any oak trees slated for removal prior to groundbreaking. An arborist accredited by the International Society of Arboriculture shall survey trees anticipated for removal, identify any oak trees within the selected footprint, and prepare an Arborist Report. The Arborist Report shall identify all oak trees anticipated for removal and require a no net loss of oak trees. The Arborist Report shall provide a revegetation plan that includes proposed planting locations within the project site with a minimum spacing of 20 feet, protection within the dripline of newly planted trees, and a five-year monitoring plan to ensure that the revegetation effort is successful.

Waters of the U.S.
The following mitigation measures are required for Alternatives A and B to identify and avoid and/or reduce impacts to waters of the U.S. (including wetlands) within the project site:

 Any proposed construction activities that would occur within the vicinity of potentially jurisdictional waters of the U.S. shall be conducted during the dry season (i.e., April 15 through October 15) to further reduce the quantity of potential sedimentation within the watershed.

 A Section 404 Clean Water Act permit shall be obtained from the U.S. Army Corps of Engineers (USACE) prior to any discharge of dredged or fill material into waters of the U.S. An Individual Permit may be required if the development of the selected alternative exceeds 0.5 acres of impacts to waters of the U.S. The Tribe shall comply with all the terms and conditions of the permit and compensatory mitigation shall be in place prior to any direct effects to waters of the U.S. At minimum, mitigation measures require the creation of waters of the U.S. at a 1:1 ratio for any affected waters of the U.S. The U.S. Environmental Protection Agency (USEPA) shall require a 401 Water Quality Certification permit prior to the USACE issuance of a 404 permit. Mitigation shall be implemented in compliance with any permits.

Federally Listed Wildlife
The following mitigation measures are required for Alternatives A and B to compensate for adverse affects to vernal pool fairy shrimp (Branchinecta lynchi; VPFS). Refer to Exhibit D for concurrence from USFWS that the following mitigation measures would reduce impacts to VPFS to a less-than-significant level:
Prior to the final site determination of the residential units, utility corridors, roadways, and any other project component that would result in ground disturbance, a 250 foot wetland habitat buffer zone will be established around seasonal wetland habitat within the project site to assure avoidance of direct or indirect impacts to VPFS.

Prior to construction within 500 feet of a wetland habitat buffer zone, a qualified biologist shall demarcate each buffer zone using appropriate materials such as high visibility construction fencing, which will not be removed until the completion of construction activities within 500 feet of the wetland habitat buffer zone.

Staging areas shall be located away from the wetland habitat buffer zones. Temporary stockpiling of excavated or imported material shall occur only in approved construction staging areas.

Prior to construction within 500 feet of a wetland buffer zone, a USFWS-approved biologist shall conduct a habitat sensitivity training related to VPFS for project contractors and personnel. Supporting materials containing training information shall be prepared and distributed. Upon completion of training, all construction personnel shall sign a form stating that they have attended the training and understand all the conservation measures. Training shall be conducted in languages other than English, as appropriate. Proof of this instruction will be kept on file with the Tribe. The Tribe will provide the USFWS with a copy of the training materials and copies of the signed forms by project staff indicating that training has been completed within 30 days of the completion of the first training session. Copies of signed forms will be submitted monthly as additional training occurs for new employees. The crew foreman will be responsible for ensuring that construction personnel adhere to the guidelines and restrictions. If new construction personnel are hired following the habitat sensitivity training, the crew foreman will ensure that the personnel receive the mandatory training before starting work.

With concurrence from USFWS that the mitigation strategy above would affect but not adversely affect CRLF and VPFS and designated habitat (Attachment D), the following mitigation measure from the Final EA would not be implemented:

- Should the USFWS determine that even with the mitigation presented in the BA, impacts to VPFS may be significant; the Tribe shall, through passage of a Business Committee Resolution, only approve for consideration those site plans that exclude development of residential units within the VPFS designated critical habitat.

The following mitigation measures are required for Alternatives A and B to compensate for adverse affects to California red-legged frog (Rana aurora draytonii; CRLF). Refer to Exhibit D for concurrence from USFWS that of the following mitigation measures would reduce impacts to CRLF to a less-than-significant level:

- A qualified biologist shall conduct a habitat sensitivity training related to CRLF for project contractors and personnel, as identified under the mitigation measures for VPFS.
A qualified biologist shall conduct a preconstruction survey within 14 days prior to the onset of construction activities occurring within 1.6 kilometers of potential breeding habitat.

A qualified biologist shall monitor construction activities during initial grading activities within the project site. Should a CRLF be detected within the construction footprint, grading activities shall halt and the USFWS shall be consulted. No grading activities shall commence until the biologist determines that the CRLF has vacated the construction footprint on its own accord and the USFWS authorizes the re-initiation of grading activities.

If the National Weather Service forecast predicts a rain event of ½ inch or more over a 48-hour period for the worksite area, construction activities will be halted 24 hours before the rain event is anticipated to begin. Construction activities, for the purposes of this protective measure, consist of all activities which pose a risk of crushing dispersing amphibians including driving construction vehicles and equipment, and activities that alter the natural contours of the existing property including digging trenches, modifying drainages, vegetation clearing and grubbing, land grading, and pouring of building pads for new structures. After a rain event, a qualified biologist will conduct a pre-construction survey for amphibians dispersing through the project site. Construction will resume only after the site has sufficiently dried and the qualified biologist determines that amphibians are unlikely to be dispersing through the project site.

Nesting Migratory Birds and Other Birds of Prey

The following mitigation measures are required for Alternatives A and B to avoid and/or reduce impacts to migratory birds and other birds of prey nesting within the project site:

- If any construction activities (e.g., building, grading, ground disturbance, removal of vegetation) are scheduled to occur during the nesting season, pre-construction bird surveys shall be conducted. The nesting season generally extends from February 1 to September 15. Preconstruction surveys for any nesting bird species shall be conducted by a qualified wildlife biologist throughout all areas of suitable habitat that are within 500 feet of any proposed construction activity. The surveys shall occur no more than 14 days prior to the scheduled onset of construction activities. If construction is delayed or halted for more than 14 days, another preconstruction survey for nesting bird species shall be conducted. If no nesting birds are detected during the preconstruction surveys, no additional surveys or mitigation measures are required.
- Any trees proposed for removal shall be removed outside of the nesting season. The nesting season generally extends from February 1 to September 15.
- If nesting bird species are observed within 500 feet of construction areas during the surveys, appropriate avoidance setbacks shall be established. The size and scale of nesting bird avoidance setbacks shall be determined by a qualified wildlife biologist and shall be dependent upon the species observed and the location of the nest.
Avoidance setbacks shall be established around all active nest locations via stakes and high visibility fencing. The nesting bird setbacks shall be completely avoided during construction activities and the fencing must remain intact. The qualified wildlife biologist shall also determine an appropriate monitoring plan and decide if construction monitoring is necessary during construction activities. The setback fencing may be removed when the qualified wildlife biologist confirms that the nest is no longer occupied and all birds have fledged.

- If impacts (i.e., take) to migratory nesting bird species are unavoidable, consultation with the USFWS shall be initiated. Through consultation, an appropriate and acceptable course of action shall be established.

**CULTURAL RESOURCES**

The following mitigation measure is required for Alternatives A and B to avoid adverse effects to cultural resources and/or historical properties:

- Prior to the final siting of the residential units, utility corridors, roadways, and any other project component that would result in ground disturbance, a qualified archaeologist shall identify appropriate buffer zones around each cultural resource to assure avoidance during construction.

- Prior to construction within 500 feet of a cultural resource buffer zone, a qualified Tribal Cultural Resource Monitor shall demarcate each buffer zone using appropriate materials such as high visibility construction fencing, which will not be removed until the completion of construction activities within 500 feet of the cultural resource buffer zone.

- A qualified Tribal Cultural Resource Monitor shall monitor construction activities occurring within 500 feet of the buffer zone.

The following mitigation measures are recommended for Alternatives A and B to reduce the potential for significant construction-related impacts to cultural resources, including archaeological sites, human remains, and/or paleontological resources:

- In the event that any prehistoric or historic cultural resources, or paleontological resources, are discovered during ground-disturbing activities, all work within 50 feet of the resources shall be halted and the Tribe and the Bureau of Indian Affairs (BIA) archaeologist shall be consulted to assess the significance of the find. If any find is determined to be significant by the qualified professionals, then appropriate agency and tribal representatives shall meet to determine the appropriate course of action.

Discoveries, the State Historic Preservation Office (SHPO) and the BIA archaeologist will also be contacted immediately. No further ground disturbance shall occur in the vicinity of the find until the County Coroner, SHPO, and BIA archaeologist have examined the find and agreed on an appropriate course of action. If the remains are determined to be of Native American origin, the BIA representative shall notify a Most Likely Descendant (MLD). The MLD is responsible for recommending the appropriate disposition of the remains and any grave goods.

- Should paleontological resources be unearthed, a paleontological resource impact mitigation plan (PRIMP) shall be prepared prior to further earthmoving in the vicinity of the find. The PRIMP shall detail the procedures for collecting and preserving the discovered fossils. Any fossils discovered during construction shall be accessioned in an accredited scientific institution for future study.

**SOCIOECONOMIC CONDITIONS/ENVIRONMENTAL JUSTICE**

No mitigation is necessary for Alternative A or B.

**TRANSPORTATION AND CIRCULATION**

The Tribe shall contribute its fair share of the funding for the traffic improvements recommended below proportionate to the level of impact associated with the trips added by Alternatives A or B. Mitigation measures for Alternatives A and B are summarized below.

**Alternatives A and B – Near-term**

- **SR-246 at SR-154** – The Tribe shall pay a fair share contribution of 22.5 percent for Alternative A or 23.2 percent for Alternative B for the development of a roundabout being installed by the California Department of Transportation (Caltrans) at SR-246 at AR-154.

**Alternatives A and B – Cumulative**

- **SR-154 Corridor** – The Tribe shall pay a fair share contribution, as indicated below, for the development of either roundabouts or signalization of the following intersections as determined by Caltrans:

<table>
<thead>
<tr>
<th>Intersection</th>
<th>Fair Share Contribution (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Alt A</td>
</tr>
<tr>
<td>SR-154 at Grand Avenue</td>
<td>2.9</td>
</tr>
<tr>
<td>SR-154 at Roblar Avenue</td>
<td>2.4</td>
</tr>
<tr>
<td>SR-154 at Edison Street</td>
<td>3.0</td>
</tr>
<tr>
<td>SR-154 at SR-246 and Armour Ranch Road</td>
<td>22.5</td>
</tr>
</tbody>
</table>

Source: Appendix I of the Final EA.

Completion of roundabouts at these intersections would result in a LOS A. Signalization of these intersections would result in a LOS B. Completion of roundabouts or
signalization of the above intersections would result in an acceptable level of service on the highway segments SR-154 North of Edison Street and SR-154 South of SR-246-Armour Ranch Road.

- **SR-246 Corridor** – The Tribe shall pay a fair share contribution, as indicated below, for the development of either roundabouts or signalization of the following intersections as determined by Caltrans:

<table>
<thead>
<tr>
<th>Intersection</th>
<th>Fair Share Contribution (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>SR-246 at Alamo Pintado Road</td>
<td>5.3</td>
</tr>
<tr>
<td>SR-246 at Edison Street</td>
<td>29.4</td>
</tr>
<tr>
<td>SR-246 at Refugio Road</td>
<td>6.6</td>
</tr>
<tr>
<td>SR-246 at Armour Ranch Road and SR-154</td>
<td>22.5</td>
</tr>
</tbody>
</table>

Source: Appendix I of the Final EA.

• Completion of roundabouts at these intersections would result in a LOS A. Signalization of these intersections would result in a LOS B. Completion of roundabouts or signalization of the above intersections would result in an acceptable level of service on the highway segment SR-246 from SR-154 to Solvang.

**LAND USE**

No mitigation is necessary for Alternative A or B.

**PUBLIC SERVICES**

Implementation of the protective measures and BMPs described above along with the mitigation measures below would ensure that the construction and operation of Alternatives A or B would not have significant adverse impacts on fire and emergency services.

• To minimize the risk of fire and the need for fire protection services during construction, any construction equipment that normally includes a spark arrester shall be equipped with a spark arrester in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws.

• During construction, staging areas, welding areas, and areas slated for development using spark-producing equipment shall be cleared of dried vegetation or other materials that could serve as fire fuel. To the extent feasible, the contractor shall keep these areas clear of combustible materials in order to maintain a firebreak.

• Fire extinguishers shall be maintained onsite and inspected on a regular basis.

• An evacuation plan shall be developed for the project alternatives in the event of a fire emergency.

• Prior to development of the project site, the Tribe will either:
  - Grant permission to the Santa Barbara County Fire Protection Department
(SBCFD) to enter the project site after it has been taken into trust while maintaining the Tribe’s existing funding of the SBCFD via the Special Distribution Funding and/or other grant programs; or

- Enter into a new agreement with the SBCFD to provide fire protection and emergency response services on the project site after it has been taken into trust. As part of this agreement, the SBCFD will ensure it has either revised its existing or entered into a new Cooperative Wildland Fire Management and Stafford Act Response Agreement (Cooperative Agreement), as necessary, with the California Department of Forestry and Fire Protection (CAL FIRE) such that the SBCFD is authorized to provide fire protection and emergency response services on the project site after it has been taken into trust.

**NOISE**

Impacts relating to noise generation during construction and operation would be less-than-significant for Alternative A or B, and no mitigation is necessary.

**HAZARDOUS MATERIALS**

Implementation of the protective measures and BMPs described above along with the mitigation measures listed below would reduce potential impacts associated with construction and operation of Alternatives A and B.

- Potentially hazardous materials, including fuels, shall be stored away from drainages and secondary containment shall be provided for all hazardous materials during construction.
- A spill prevention and countermeasure plan shall be developed which identifies proper storage, collection, and disposal measures for potential pollutants (such as fuel storage tanks) used onsite, as well as the proper procedures for cleaning up and reporting spills.
- Vehicles and equipment used during construction shall be provided proper and timely maintenance to reduce the potential for mechanical breakdowns leading to a spill. Maintenance and fueling shall be conducted in an area that meets the criteria set forth in the spill prevention plan.
- A hazardous materials storage and disposal plan shall be prepared. The plan shall provide a detailed inventory of hazardous materials to be stored and used onsite, provide appropriate procedures for disposal of unused hazardous materials, and detail training requirements for employees that handle hazardous materials as a normal part of their employment. The plan shall also include emergency response procedures in the event of an accidental release of hazardous materials.

**VISUAL RESOURCES**

No mitigation is necessary for Alternatives A and B.
RESPONSE TO FINAL EA COMMENTS: A total of 186 comment letters were received regarding the Final EA. These comment letters are provided as Exhibit A. Responses to each comment letter are provided as Exhibit B. A Mitigation Monitoring and Enforcement Program is provided as Exhibit C.

PUBLIC AVAILABILITY: A Notice of FONSI detailing the availability of the FONSI will be published in local newspapers and distributed to all persons and agencies known to be interested in the Proposed Action. The FONSI will be made available via the internet at www.chumashEA.com and as a hard copy at the Santa Ynez Band of Chumash Indians Tribal Office, 100 Via Juana Lane, Santa Ynez, CA 93460; the Solvang Public Library, 1745 Mission Drive, Solvang, CA 93463; and the Santa Ynez Branch of the Santa Barbara Public Library, 3598 Sagunto, Santa Ynez, CA 93460.

DETERMINATION: While the Proposed Action assessed under the Final EA is the trust acquisition of the 1,411 acres plus rights of way, the BIA also must consider the reasonable foreseeable consequences of such action. For the Proposed Action, the foreseeable consequences assessed in the Final EA were based on the nine concept plans being considered by the Tribe (refer to Appendix N of the 2013 EA). It has been determined that the proposed federal action to approve the Tribe’s request to acquire the proposed 1,411 acres plus rights of way into trust for the purpose of developing up to 143 units of tribal housing and associated facilities, with water and wastewater service provided by on-site systems, does not constitute a major federal action that would significantly affect the quality of the human environment. Therefore an Environmental Impact Statement is not required. This determination is supported by the aforementioned findings described in this FONSI, the analysis contained in the entire administrative record, including the Final EA, public comments made on the 2013 EA and the Final EA, the responses to those comments, and the mitigation imposed.

Issued in Sacramento, California this 17 day of October, 2014.

[Signature]
Regional Director
Bureau of Indian Affairs
U.S. Department of the Interior