

January 16, 2001

Governor Gray Davis  
State Capitol Building  
Sacramento, CA 95814

Re: Tribal State Gaming Compact and Santa Ynez Band of Mission Indians,  
County of Santa Barbara

Dear Governor Davis:

The Santa Ynez Band of Mission Indians (the Tribe) is currently constructing gaming facilities pursuant to the tribal gaming compact (the Compact) between the Tribe and the State of California.<sup>1</sup> The County of Santa Barbara believes the situation presents an imminent threat to public health and safety and the environment of the Santa Ynez community if measures are not taken at once to require adequate compliance with the Compact.

The California Constitution vests you with authority to represent the State in compact negotiations with Indian tribes conducted under the Indian Gaming Regulatory Act (Art. IV § 19) and with “[t]he supreme executive power of this State” (Art. V § 1), which includes the ultimate authority to protect the public interest (*Deukmejian v. Brown* (1981) 29 C.3<sup>rd</sup> 150, 158)). We thus request that you exercise your authority under the Compact and the Constitution to resolve this issue, by litigation if necessary.

As you are aware, Compact § 10.8.1 requires signatory Tribes to make a good faith effort to incorporate the purposes and policies of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321, et seq., and the California Environmental Quality Act (CEQA), Pub. Res. Code § 21000, et seq. The California Attorney General has advised that this effort, at a minimum, requires the Tribes to take reasonable steps to identify the significant off-reservation impacts of their projects, consider feasible mitigation measures and project alternatives, and provide meaningful opportunities for public comment. The Attorney General has written, “In addition to these procedural aspects, the core policies and purposes of CEQA include a substantive mandate to implement feasible mitigation measures and project alternatives that have been identified during the review process.” Please see letter from Attorney General Bill Lockyer to San Diego County Counsel, November 28, 2000.

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<sup>1</sup> Because of time constraints imposed by the compact, the facilities being constructed are temporary. The tribe contemplates construction of a permanent facility ten times the size of that under construction.

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The Environmental Assessment for the Tribe's gaming facility does not address alternatives to the project in a reasonable and meaningful manner, nor does it address feasible mitigation measures that the community and numerous local agencies requested be reviewed. Please see attached comment letters.<sup>2</sup> Although the Tribe did reduce the size of the proposed casino structure, the parking structure and the number of gaming devices remain unchanged and the traffic and health and safety impacts of the project remain. Also, portions of the project appear to be within the Approach Zone/Safety Area 2 of the Santa Ynez Airport. Please see attached letter from California Department of Transportation, Aeronautics D.

The Supervisor of the district in which the casino is located and county staff have met with the tribe in order to convince them of the need for additional analysis and consideration of the impacts on the communities in the Santa Ynez Valley. Various local agencies identified several important health and safety considerations – fire, traffic, air quality, wastewater and airport safety. The Tribe ignored or inadequately addressed these issues.

In sum, the Tribe did not make a good faith effort to analyze or implement reasonable mitigation measures or alternatives that would abate community concerns and did not provide meaningful opportunity for public comment on the project.

The Tribe is proceeding with the construction of facilities without adequate environmental analysis or adequate mitigation measures. The County has in good faith sought to follow the letter and spirit of the procedures outlined in the Compact in raising our health and safety concerns. However, other than the reduction in size of the casino structure, no changes to the analysis or the mitigation measures have occurred. The unmitigated impacts of the project threaten the health and safety of the community, whose interests it is your duty to protect. The Board of Supervisors of Santa Barbara County has considered this matter at a public meeting. We respectfully request you to seek redress of this situation pursuant to § 11.2.1 (c) of the Compact, find that the Tribe has breached its terms, and take action as appropriate.

Respectfully,

COUNTY OF SANTA BARBARA

Joni Gray, Chair  
Board of Supervisors

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<sup>2</sup> Attached are the following comment letters on Environmental Assessment, with the Tribe's response: (1) County of Santa Barbara (traffic and circulation, public safety (fire and emergency service), visual resources, biological resources); (2) Santa Barbara County Association of Governments (traffic and circulation, regional transportation, airport land use and safety); (3) Santa Barbara County Air Pollution Control District (air quality); (4) City of Solvang (water, wastewater, traffic, air quality, cumulative impacts); (5) City of Buellton (impacts in vicinity of project site, traffic, off-Reservation parking, visual impact of parking structure).