

SANTA BARBARA NEWS-PRESS



Tribal sovereignty isn't the issue; it is the abuse of it

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Recently, Chumash tribal spokesmen have characterized the efforts of Santa Ynez Valley citizens groups like the Concerned Citizens and our coalition partners as a challenge to tribal sovereignty. This is a misrepresentation.

What are missing in the spate of editorials and public pronouncements are the significant issues regarding the illegitimate use of that sovereign power and privilege.

We in the valley oppose the expansion of lands governed by tribal sovereignty without required mitigation of significant burdens unilaterally imposed on the surrounding communities and environment.

Second, we oppose the expansion of rights and privileges of tribal sovereignty beyond their legislated limits, direction and intent.

Finally, we oppose deliberate circumvention of rules, regulations and procedures created by state and federal governments to protect against abuse of process.

Tribal gaming, and its massive financial engine, have exploited the ambiguous elements of the law at the expense of local communities across the country.

In late 2001, the Chumash applied to take 6.9 acres into trust / reservation status invoking provisions of the federal statutes that would ultimately allow gaming and gaming-related uses. A portion of the 6.9 acres is purportedly for a cultural center, with the remaining land proposed to include 27,000 square feet of retail /

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professional / commercial space exempt from property and certain other taxes.

Under the Indian Gaming Regulatory Act, property held in trust up to 1988 by a federally recognized tribe could only be used for gaming subject to the execution of a compact with the state and an environmental review. Properties not in trust by 1988 could only be used for gaming subject to a “two-part test.”

In the first part of the “test,” the Interior secretary must determine, after consulting with affected tribes and communities, that gaming is in the best interest of the tribe and not detrimental to the surrounding community.

The second part of the test requires that the governor of the affected state then concur. This process is critically important to citizens. Without community and government support for gaming, it would be difficult for a tribe to force gaming development on any community. The community should note that some forms of gaming could still be allowed on lands placed in trust, without any input from the county, state or federal governments.

The Chumash amended their application, claiming that the property in question was subject to an exception to the required two-part test because the property was “contiguous” to the existing reservation. The tribe also applied to take another 5.8 acres into federal trust under yet another exception, arguing the property was part of aboriginal or “restored” lands.

In both cases, the tribe seeks to circumvent the role of state, local and federal decision-makers and community input. During this process, the Chumash tribe contributed hundreds of thousands of dollars to out-of-area legislators who wrote letters supporting further tribal land expansion efforts. The Western office of the Bureau of Indian Affairs also seems a willing facilitator instead of an independent arbitrator and regulator. The tribal leadership’s actions reflect an ongoing aggressive land base expansion plan, including a strategy to preserve the capacity to expand gaming and/or gaming-related enterprise.

Is the tribal leadership placing the gambling rights entitlement process above its professed goal of constructing a cultural center? Had the argument really been only about the appropriateness of a cultural center, the center could already be open, thus fostering a broader understanding of the Chumash culture to visitors and residents alike. A permanent museum and cultural center is a laudable goal and an asset to the entire community; however the conversion of 12.7 more acres in the heart of Santa Ynez to

sovereign, tax-exempt status eligible for various forms of gaming and gambling industry uses, is not.

The Chumash leadership seeks once again to reduce complex issues into a divisive context and obscure the legitimate, documented concerns of its neighbors.

We are not alone in this concern as federal legislators like John McCain are seeking much needed and long overdue reforms to the gaming and trust land regulations.

By Charles "C.J." Jackson