

**TESTIMONY OF DAVID CROSBY
BEFORE THE
U.S. SENATE COMMITTEE ON INDIAN AFFAIRS**

May 18, 2005

Mr. Chairman and members of the Committee, thank you for inviting me to testify today on the important matter of the acquisition in trust of lands by the Bureau of Indian Affairs (BIA) for federally-recognized Indian tribes. This is an issue of significant importance to me and the community in which I reside – Santa Ynez Valley, California – as our region is experiencing first-hand the problems of tribal trust land acquisition and economic expansion related to casino gaming.

My Interest in the Trust Land Process

Before addressing the topic of this hearing, I should explain why I am appearing before this Committee today.

Although I am a professional musician, I have long been involved in political and social issues, including the civil rights, anti-war, anti-nuclear, Live Aid, and Tibetan Freedom movements. I have been fortunate to be involved in these movements with other musicians and artists, and through them, I have learned the importance of activism.

One of the constant themes in my activism has been the support of social causes and the rights of disadvantaged people against improper governmental action. The Indian tribes of this country fall into that category, and I consider myself a champion of their rights. Their mistreatment by the federal government is one of the darkest chapters of American history, and certainly racism against Native Americans continues today. These are problems that I know this Committee takes seriously, and I support your efforts to solve them.

The specific topic of this hearing, however, is one in which federal Indian policy has veered off into a direction that is creating a new set of problems and a new form of divisiveness. I am speaking of the problems caused by taking land into trust in circumstances, and under procedures, that do little to address the problems confronting Indian tribes and much to drive a wedge between local communities and their tribal neighbors. This occurs when the trust land process is used primarily as a mechanism to evade environmental requirements, community land use plans, state and local taxes, and the rules and regulations that govern other residents and citizens of a region.

I am speaking not of the establishment of tribal reservations or the acquisition in trust of land necessary for a tribe to achieve and maintain autonomy and self-sufficiency. I am instead speaking of the circumstances where trust land is a tool used to enable parties to build developments antithetical to the rules and principles that shape the character and quality-of-life of a region and represent the values that the residents of such an area share. This problem is especially severe in a situation such as the one we are experiencing in the Santa Ynez Valley, where the extraordinary revenues generated by Indian casinos enable the purchase of land almost anywhere. When such land is taken into trust, it can then be developed without regard to state and local environmental and land use standards. While this issue is of great concern to me personally, I am aware that it is a problem elsewhere in the country, which is the reason for this hearing today.

The Santa Ynez Valley Issue

As noted at the outset, I live in an area called the Santa Ynez Valley. This beautiful region is in northern Santa Barbara County. It is surrounded by the Santa Ynez Mountains, and consists of farms, vineyards, and small communities. It presents ecological values of great importance, including wildlife habitat, parks, and historic properties. These values make the Valley a special place, a fact recognized by the Santa Barbara County plan for the Santa Ynez region, which was developed after a detailed and lengthy public review process. That plan protects the Valley for the long-term so it will remain one of the most pristine, scenic, and ecologically-valuable areas in the State of California, if not the country.

Our Valley is also home to the Santa Ynez Band of Chumash Indians, the members of which have long called the Valley their home. Today, we are neighbors, but the relationship between the Tribe and the non-Indian residents of the community has become strained due to the current trust land acquisition process and the potential expansion of casino gaming in the Valley. The Chumash Tribe has an existing reservation that supports a highly successful casino and resort. We respect and support the Chumash Tribe's efforts to achieve economic success for its members, develop a strong tribal government, and further tribal self-determination. We also congratulate the Tribe for its tremendous success in attaining these goals through the development of its casino and resort on its reservation lands.

The community groups of which I am part, however, are concerned with the Chumash Tribe's additional development efforts for land outside of its reservation. Our groups support efforts to work cooperatively with the Chumash Tribe to provide for the long-term protection of the special values of the Valley that we all share in common and desire to preserve. We feel that the Tribe, the State of California, our local governments, and the Valley's citizens can and must work together toward this

goal by respecting each others rights, while honoring the current plan that is in place for the Valley.

Recently, actions by the Tribe and BIA have threatened to undermine that goal. Those actions involve off-reservation trust land expansion fueled by the Tribe's tremendous gaming revenues, including expansion that could involve additional casino gaming operations in locations outside the Chumash Tribe's current land base to the detriment of the local community. The Chumash Tribe has made clear that it intends to expand its trust lands so that it can undertake development, which very well could be inconsistent with the current land use plans that protect the environment and bucolic character of the Valley from run-away development. This process is starting to unfold.

In January, BIA agreed to accept into trust 6.9 acres of land for the Tribe outside of its existing reservation, across the highway from the casino. The Tribe claims that it will use the land for a cultural center, administrative offices, parking, and shops. While local citizen groups are comfortable with this proposed development because such use is consistent with the Valley plan, we are concerned that once the land is in trust the Tribe will use it for something else, including possibly casino expansion.

In February, the Chumash Chairman indicated that the Tribe would enter into an agreement with the County in which it would adhere to the plans it identified to the BIA to justify the trust acquisition. The Tribe additionally agreed to refrain from using the land for gaming purposes. Although we offered our own version of such an agreement to facilitate the process, the Tribe has still not acted upon its Chairman's commitment. The Tribe's failure to execute the promised agreement with the County forced citizen groups to appeal the BIA decision.

Although the BIA and the Tribe have tried to dismiss this appeal before the issues it raises are addressed, the Interior Board of Indian Appeals has granted the request for an extension to see if it is possible for an agreement to be reached. The answer to that question rests with the Tribe and the County, which remain in negotiation over this agreement. Unfortunately, the public has been excluded from this process.

But it is not only the Tribe's 6.9-acre trust acquisition request that has caused Valley citizen groups to act. Of greater concern is the potential spread of trust lands throughout the Valley. Trust land acquisition results in the removal of the land from the County's jurisdiction, renders local land-use plans that protect the Valley inapplicable, and diminishes the tax base that supports the County's critical services. Trust land acquisition puts a strain on our community by adding the burdens

associated with development, which are quite substantial particularly when gaming is involved, without the offset typically associated with the tax revenues generated by the development.

BIA refuses to address this issue just as these concerns are being realized. The Tribe has now proposed yet another trust land request for 5.8 acres, which is located adjacent to the 6.9-acre request now under appeal. This request was not developed in cooperation with the local governments or community. In addition, the Tribe has refused to say what the land will be used for or why it is necessary to have the land placed in trust. These two trust land requests could very well be the precursors of a Tribal strategy of applying incrementally to the BIA to have more and more land taken into trust and developed for any purpose.

Our concerns are heightened by the Tribe's past negotiations with Mr. Fess Parker to develop his 745-acre parcel of land in the heart of the Valley. Mr. Parker is considering transferring the land to the Tribe so that the Tribe can apply to the BIA to have the land placed in trust. Trust status is critical to the proposal, because Mr. Parker's goal is to develop the land in a manner prohibited by under the current County land use plans. Trust status is necessary to circumvent the Valley's existing protections. As recently as a few months ago, the Tribe and Mr. Parker were envisioning a major resort with a large number of homes, as well as possibly a casino.

Mr. Parker has, in fact, attempted to develop the land for several years. His plans conflict with local land use standards. Placing the land into trust would make it possible to do an end-run around the rules that bind all residents of the Valley and businesses. The Tribe, of course, benefits by obtaining a substantial chunk of prime real estate in the Valley, where trust status would allow it to undertake development not allowed on non-trust land. While the exact nature of Parker's plans and his negotiations with the Tribe remain unclear, the mere fact that a mechanism exists under federal law where this could be allowed demonstrates the need for stronger standards.

As described above, I have a long career of supporting social causes and the rights of disadvantaged people against improper government action. The Indian tribes of this country fall into this category. The threat we are confronting in the Santa Ynez Valley, however, has very little to do with tribal rights. It is instead a question of governmental integrity and the ability of our laws to control otherwise prohibited development made possible by the trust land process. We cannot have in place a system that enables any party, no matter what its origin, to undermine the fabric of a local community by circumventing important land use planning protections and evading a revenue collection structure that is fair to all people. Backed by the great wealth from casinos, many tribes can buy land anywhere they want. This land can

then be used to create new developments that generate greater wealth, even if at odds with state and local laws. Limits must be established. Current BIA rules, along with the government's hands-off approach to tribal trust land requests, fail miserably in this regard.

Recommendations

I therefore support the efforts of Congress to strengthen the rules governing trust land expansion. The tribes and BIA must be required to disclose the full extent of their plans. Once economic self-sufficiency has been achieved, they should live by the same rules that apply to non-Indian citizens. Tribes should be allowed to become as wealthy as they want, but there must come a point where land cannot still be available to place into trust. Land should be taken into trust only when truly needed to promote tribal self-sufficiency. Any land taken into trust should be limited to the proposed uses indicated by the tribe in its application, and those uses should be required to be consistent with state and local requirements. Revenues should be returned to the community commensurate with the burdens it must bear. If this plan is followed, the kind of long-term cooperative relationship I am personally committed to bringing to the Santa Ynez Valley will be possible.

Thank you for this opportunity to express my views and your careful consideration of these remarks.