

January 19th, 2017

via USPO

Penny Pritzker
Secretary of Commerce
UNITED STATES DEPARTMENT OF COMMERCE
1401 Constitution Avenue, Northwest
Washington, D.C. 20230

RE: Attached Complaint and Request for Administrative Review

Dear Secretary Pritzker:

Under cover of this letter, please find a petition entitled "Complaint and Request for Administrative Review and Request for Relief and Costs" (dated 1/19/17; 26 pages plus exhibits).

We respectfully request that you grant the relief requested in the complaint and/or initiate an administrative review of the issues. This complaint seeks (among other matters) the permanent withdrawal of the nomination of a federal marine sanctuary entitled "Chumash Heritage National Marine Sanctuary" (CHNMS) for possible designation as a NMS. The CHMNS nomination is a fraudulent document.

Please make this letter and attached complaint part of any administrative record that may be maintained by DOC NOAA under the name "Chumash Heritage National Marine Sanctuary".

Please be so kind as to acknowledge receipt of this letter and attached complaint. Please also kindly inform us as to any action or decision that you or your staff may take with respect to the complaint, and in particular whether you will grant the requested relief, the requested hearing and/or the requested award of costs.

Sincerely yours,

David A. James, Sr.
Chairman Emeritus

cc: membership



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2 FOREST PRESERVATION SOCIETY SC
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4 Prescott, Arizona 86304
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7 For the Complainants

8 *Before the*
9 **UNITED STATES DEPARTMENT OF COMMERCE**
10 **SECRETARY OF COMMERCE**

11 *In the Matter of:*

12 DOC - No.:

13 FOREST PRESERVATION SOCIETY OF)
14 SOUTHERN CALIFORNIA, an)
15 unincorporated association; DAVID)
16 ALLEN JAMES, SR, an individual.)

17 **COMPLAINT AND REQUEST FOR**
18 **ADMINISTRATIVE REVIEW AND**
19 **REQUEST FOR RELIEF & COSTS**

20 Complainants;

- 21 v.)
22)
23)
24)
25)
26)
27)
28)
1. Falsified NOAA ONMS Documents
 2. Fraud, Deceit, Misrepresentation
 3. Violations of Law, Regulation & Policy
 4. Request for Hearing
 5. Request for Relief

1 NATIONAL OCEANIC AND)
2 ATMOSPHERIC ADMINISTRATION,)
3 NATIONAL OCEAN SERVICE, OFFICE)
4 OF MARINE SANCTUARIES; KATHRYN)
5 D. SULLIVAN, DANIEL J. BASTA, and)
6 WILLIAM J. DOUROS,)

(18 U.S.C. 1001)
(5 U.S.C. §§ 551-559)
(16 U.S.C. 996)
(16 U.S.C. 470aa-mm)
(16 U.S.C. 470, *et seq.*)
(25 U.S.C. 3001, *et seq.*)
(NOAA 13175 Policy)

Respondents.

PRELIMINARY STATEMENT

This complaint is about the wrongful actions of DOC NOAA ONMS units and personnel to directly solicit participation in a fraudulent scheme for the nomination of a federal marine sanctuary entitled the "CHUMASH HERITAGE NATIONAL MARINE SANCTUARY" (hereinafter, CHNMS) by knowingly misrepresenting material facts to elected officials and the general public, in a manner calculated to obscure the true nature and intent of the CHNMS and conceal the true identity(s) of the sanctuary nominator(s). In fact, the very vehicle for the

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1 nomination process itself was created through the effort of federal employees utilizing federal
2 funds and facilities to deliberately (and successfully) mislead the public into believing the
3 nomination was made by a Northern California Chumash Indian tribal government, when no
4 such tribal government existed. It is about the use of federal funds, facilities and resources to
5 facilitate, and coordinate with state environmental authorities, the taking of private property
6 without compensation. It is also about attempts to conceal the evidence of wrongdoing and to
7 intimidate or threaten those good citizens intent on bringing such activities to the attention of the
8 government.

9 -I-

10 AUTHORITY AND JURISDICTION

11 **Public Duty.** *Resolved, that it is the duty of all persons in the service of the United*
12 *States, as well as all other inhabitants thereof, to give the earliest information to*
13 *Congress or other proper authority of any misconduct, frauds or misdemeanors*
14 *committed by any officers or persons in the service of these states, which may come to*
15 *their knowledge.* Enacted 1778 in the Continental Congress of the United States.
(emphasis added)

16 In 1778, the word "inhabitant" was synonymous with that of "citizen" and more
17 narrowly defined *the plain, inescapable duty of the private citizen* to inform the
18 government of any misconduct, frauds or misdemeanors.

19 Misconduct contemplates all violations of Departmental policy, published or
20 unpublished, that have application to the general laws of the United States.

21 **Executive Department or Agency.** 5 U.S.C. § 101 and 18 U.S.C. § 6 broadly
22 define the meaning of the words "department" and "agency" to include any quasi-
23 administrative unit established to carry out the purpose and intent of any department or
24 agency of the United States (for example, the CHNMS). *See also*, 41 C.F.R. 101-6 and
25 102-3, at definitions. DOC jurisdiction is more fully set forth at 15 U.S.C. Chapter 40.

26 Clearly, the Secretary of Commerce has the duty, power and sufficient regulatory
27 authority to investigate the matters set forth (below) in this complaint and to also, in part or
28 whole, grant the relief requested.

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-II-
PARTIES

1. **Party Complainants.** (a) Forest Preservation Society of Southern California (hereinafter "FPS") is an unincorporated association (Cal. Corp. Code §§ 18010, *et seq.*) organized to monitor the activity of federal and state land management agencies and to protect the public's right to the use of public land together with those among its membership holding private property interests situated within the proposed boundaries of the nominated CHNMS. (b) David Allen James, Sr. is a citizen of the United States and chairman emeritus of FPS.

2. **Party Respondents.** (a) National Oceanic and Atmospheric Administration (NOAA); (b) National Ocean Service and Office of National Marine Sanctuaries (NOS ONMS) are all establishment entities subject to the general laws, departmental policy and the Inspector General Act of 1978. (c) Dr. Kathryn D. Sullivan is an officer of the United States, employed by the Department of Commerce, in her official capacity as Administrator of NOAA. (d) Daniel J. Basta is an officer of the United States, employed by the Department of Commerce in his official capacity as Director of Office of National Marine Sanctuaries and holding delegated authority from the Secretary of Commerce. (e) William J. Douros is an officer of the United States, employed by the Department of Commerce in his official capacity as Regional Director of Office of National Marine Sanctuaries, West Coast Region. Respondents Sullivan, Basta and Douros are subject to the authority direction, and control of the Secretary of Commerce.

3. **Non-Responding Entities.** (a) Santa Lucia Chapter of the Sierra Club (hereinafter "SLCSC"); (b) Andrew Christie, director of SLCSC; (c) Fred Collins, a resident of San Luis Obispo County, State of California; (d) California Coastal Commission (hereinafter "CCC"), an agency of the State of California; (e) Dr. Charles Lester, executive director of the CCC, (f) The Sierra Club (San Francisco) and (g) Mike Thornton, an employee of the Sierra Club.

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-III-
BACKGROUND NARRATIVE

1. This complaint is about a deceptive scheme concocted between NOAA ONMS, the Sierra Club, Fred Collins and the California Coastal Commission. The purpose of the scheme is to deceive the general public and the Congress of the United States by endorsing a Chumash Indian imposter posing as the "tribal administrator" of the Northern Chumash Tribal Council government and to wrongly dispose of Chumash cultural resources. Another important purpose is to overlay a veneer of Native American "Heritage" and respectability to the nomination of a new marine sanctuary off the Santa Barbara coast, thereby linking-up with two existing marine sanctuaries. In this fashion, in what is tantamount to an environmental troika, NOAA hopes to gain increased "public acceptance" and support by encouraging the false perception that the primary purpose of new sanctuary is to protect the offshore cultural resources of the coastal Chumash tribes from oil drilling and coastal development. This is about the misuse of the resources and funds of the federal government for political purpose.

2. On May 6th, 2014, in furtherance of this scheme, Mike Thorton of the Sierra Club California (San Francisco) contacted Mr. Charles F. Lester, Director of the California Coastal Commission, soliciting the support of the Board of Directors of the Coastal Commission for the nomination of a marine sanctuary entitled the "Chumash Heritage National Marine Sanctuary". This *ex parte* solicitation occurred without the knowledge or consent¹ of the members of the California Coastal Commission (*i.e., plane sub rosa*). In fact, no vote was taken by the California Coastal Commission authorizing any endorsement or support whatsoever for the "Chumash Heritage National Marine Sanctuary". Prior to May of 2014, numerous contacts occurred

¹ On April 18th, 2015, a California Public Records Act request was filed for records of any vote taken by the California Commission in support of the Chumash Heritage National Marine Sanctuary. On July 9th, 2015, the Commission's reply contained no record of any vote taken by the California Coastal Commission in support of the CHNMS. None.

1 between the Santa Lucia Chapter of the Sierra Club, NOAA regulatory personnel, and the
2 California Coastal Commission, some dating back to December of 2013, and all calculated to
3 unfairly subvert and manipulate the regulatory process while insuring that their activities are
4 carefully shielded from public view and comment *and* placed well beyond the reach of state and
5 federal public records act requests (*surprisingly*; no emails, telephone calls, meetings [in person
6 or electronic] or other discussion memoranda, *etc., etc., ad nauseam*).

8 3. Notwithstanding the fact that there was no vote by the Coastal Commission, on
9 January 6th, 2015, Mr. Charles Lester, Executive Director wrote to William Douros of NOAA
10 stating that he was writing, *not for himself as a private citizen*, but "on behalf of the California
11 Coastal Commission" to state the "Commission's support" for "Chumash Heritage National
12 Marine Sanctuary". Nowhere in his letter does Lester disclose the *ex parte* Thornton (Sierra
13 Club) contacts but he keeps Thornton's (Sierra Club) request, and thus the 'basis' for the
14 endorsement, from *all Coastal Commission board members*—in fact, as of 7/30/2015, there are
15 no emails, no telephone calls, no other records of contact—thus effectively duping the public
16 into believing that the new marine sanctuary had the full 'official' support of the California
17 Coastal Commission. The truth is that there was no public input, no vote, no support and many
18 commission members found it difficult, if not impossible, to consult with Dr. Lester on these
19 matters (or any other). Despite Dr. Lester's reluctance to discuss the issues with the commission
20 itself, he maintained regular and frequent contact with officials of the Sierra Club (Thornton and
21 Christie) and employees of DOC ONMS. This situation was independently brought to the
22 attention of the Governor of the State of California and subsequently, the California Coastal
23 Commission, acting upon its own initiative, fired Dr. Lester.

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1 4. **The Nomination**. A cursory examination of NOAA's website of the newly nominated
2 (and accepted into inventory) CHNMS discloses that the proposed establishment of this marine
3 sanctuary is largely about (as the name indicates) the preservation and perpetuation of the rich
4 coastal heritage of the Chumash people—unquestionably, a very noble purpose. In fact, the
5 original draft submission (FOIA-961-nom-draft-7-8-15) contains the following public statement:
6

7 *The cultural significance of Chumash heritage makes this proposed national marine*
8 *sanctuary the only one of its kind. The Chumash once lived in villages west of current*
9 *tidal lines and on Point Conception. The ocean has submerged the homes of the Chumash*
10 *ancestors. Protecting these submerged ancient villages from future industrial*
encroachment will ensure the resting places of the ancestors remain undisturbed.
(emphasis added)

11 These noble sentiments appear to be the official statements of Tribal Council for the Northern
12 Chumash through and by their Tribal Administrator, Fred Collins who is also known to the
13 public as "Lone Wolf". A more accurate description of what the public was led to believe was
14 provided by Mr. Collins to the County of San Luis Obispo in a letter dated June 5th, 2013,
15 wherein Mr. Collin's states:
16

17 *"The Northern Chumash Tribal Council (NCTC) is a sovereign California Native*
18 *American Tribal Government, located at 67 South Street, San Luis Obispo California."*
19 Fred Collin, Tribal Administrator (emphasis added)

See; Exhibit "A"

20 Notwithstanding the fact that the NCTC is not a 'tribal council', and most particularly is NOT a
21 'sovereign tribal government' (both statements are patent lies), Mr. Collins continues to make the
22 point that the Chumash Tribal Government is a 'stakeholder' in local development projects. As
23 you may know, Madam Secretary, the terms "*tribal government*", "*sovereign tribe*" "*tribal*
24 *council*" and "*tribal administrator*" all have *specific legal meaning* (as does the term 'federal
25 agent') and *leave the public with the unavoidable impression* that the CHNMS is nominated by a
26 *bona fide* native American sovereign government comprised of the Northern Chumash people
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1 and, for that reason alone, worthy of their money, political support and sober consideration.
2 Further, you should know that the claim that the CHNMS is supported by the Santa Ynez Band
3 of Chumash Indians (the only federally recognized tribe of Chumash in California) is yet another
4 falsity completely disavowed by the Chumash and their attorney Sam Cohen. *See*; Exhibits "B"
5 and "C". You may also know that the *knowingly false* use of these terms in any document or
6 writing within the Department's jurisdiction is a felony cognizable under the laws of the United
7 States; *see*, 18 U.S.C. § 1001.

9 5. **Fraudulent Nominator.** A diligent search yields *no record* of any Northern Chumash
10 tribal government. There is *no record* of any Northern Chumash Tribal Council. There is *no*
11 *record* that any Northern Chumash Tribal Council member even read, let alone reviewed and
12 approved, the CHNMS nomination submitted to NOAA. There is *no record* that any Chumash
13 Tribal Council appointed *any person* to act on their behalf as their official 'tribal administrator'
14 for their 'sovereign tribal government'—none. Absolutely none. The fact of the matter is that the
15 "Northern Chumash Tribal Council" is not a bona fide council for any Indian tribe (much less the
16 'Northern Chumash'). It is, according to the California Secretary of State, a business entity
17 incorporated and controlled solely by Fred Collins—the alleged 'tribal' administrator. This, yet
18 another transparent fact, is part of the public record and readily available to both Douros and
19 Basta.

22 6. If not the Chumash, who then was the real 'nominator'? An examination of metadata
23 for documents submitted to us by NOAA yields the interesting fact that both the draft CHNMS
24 nomination (prepared on 6/30/15) and final documents were authored by an "Andrew" (metadata
25 date 2015-07-09T15:51:37-07:00—Postscript v.5.2.2 in Windows) which match metadata (also
26 provided by NOAA) for documents generated by Andrew Christie of the Santa Lucia Chapter of
27

1 the Sierra Club (*see*; FOIA-961-No.1-nom-draft-7-8-15).

2 7. There is no documentary evidence that any 'real person' appointed to the Northern
3 Chumash Tribal Council ever saw Mr. Christie's handiwork (the draft CHNMS nomination
4 proposal)², much less comment or ultimately vote on it. There is none because it never happened,
5 there was NO bona fide tribal government *ever involved*—only the Sierra Club.
6

7 8. Accordingly, we conclude from the 446 pages made available to us by NOAA that the
8 Sierra Club and ONMS personnel are the *real nominators* despite their persistent utilization of an
9 alleged Chumash straw man—actions hardly 'robustly' transparent or even plausibly honest.
10

11 9. Furthermore, the Northern Chumash Tribal Council is not a federally recognized tribe
12 under the rules established by the Secretary of Interior, a fact well known to Messrs. Basta and
13 Douros who studiously ignored or downplayed that fact for the purpose of garnering more
14 'public' sympathy and support. In fact, both Douros and Basta willfully ignored Departmental
15 policy that required them to enter into formal government-to-government consultations with
16 "real" Chumash, that is the federally-recognized "Santa Ynez Band of Chumash Indians"
17 (hereinafter, "SYBCI").
18

19 10. Subsequent Sierra Club glowing endorsements, *of what is tantamount to an*
20 *NOAA/ONMS/ Sierra Club* project, must be viewed in that light; and while Mr. Christie may be
21 excused from his legerdemain on the ground of 'studied' ignorance, Messrs. Basta and Douros
22 may not. Moreover, they certainly knew, or had good and palpable reason to know, that the so-
23 called "tribal administrator" was blatant poseur, fraud and convicted felon. Both full well know
24 such conduct violates the Secretary's ethics rules—and there is absolutely *nothing mitigating*
25 here to discuss.
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28 ² I think it significant to point out here how important this metadata is to tracking actual events. In response to our FOIA, NOAA withheld metadata by refusing to provide emails in native format thereby effectively obscuring the complete file information. We believe the complete (not partial) record will track more serious wrongful conduct.

1 11. But here, Madam Secretary, as elsewhere in this complaint, their reason for
2 misconduct is more tawdry than any thoughtless result. Messrs. Basta and Douros were (and
3 remained) inexorably bent on classic, bureaucratic empire building at public expense—to wit:
4 Create the need and money; personnel and power will follow in full measure.

6 12. A more sinister objective was to avoid any official government-to-government
7 consultation with the only real, federally-recognized Chumash tribe, the Santa Ynez Band of
8 Chumash Indians, for the simple reason that any such formal consultation would immediately
9 expose the fraudulent nature of the Collins-Sierra Club-Douros relationship, as more particularly
10 described under Headnotes 'C' and 'D', infra.

12 13. **Chumash Imposter & Convicted Drug Smuggler**. Worse, if that can be imagined,
13 it appears from public documents that Fred Collins, Tribal Administrator for the Northern
14 Chumash Tribal Council, is neither Chumash nor descended from any native American tribe. It
15 appears that Mr. Collins is entirely of Mexican descent and that his claim to be a Chumash
16 Indian is false. The Salinan Tribe commissioned a genealogy of Fred Harvey Collins, prepared
17 by Lorrain Escobar a certified geneologist on March 23rd, 2013 (26 pages plus 86 pages of
18 supporting documents). Subsequently, the report was entered into evidence in the case of Fred
19 Collins v. Salinan Heritage Preservation Association, San Luis Obispo Superior Court, Case No.
20 15CV-0154. In his memorandum striking, and then dismissing, Mr. Collins' SLAPP suit against
21 the Salinan Tribe, Judge Tangeman states, in pertinent part:

24 *Plaintiff's complaint alleges that he is a spokesman and tribal administrator for the*
25 *Northern Chumash Tribal Council, who makes his living as a Native American*
26 *advocating for and consulting on matters related to Native Americans, particularly those*
27 *concerning Northern Chumash People. (Complaint at ~1)*

26 -and-

28 ///

1 *Defendants rely upon a report from Certified Genealogist Lorraine Escobar. Her report*
2 *examines birth, census, and marriage records dating into the 1800s to support her*
3 *conclusion that Plaintiff is not a direct descendant of any California Indian, let alone a*
4 *Chumash Indian. In many instances, some of the records are inconsistent or unclear. In*
5 *that regard, Ms. Escobar makes certain assumptions that support her conclusion about*
6 *what a particular document means. Ms. Escobar concludes that the paternal lineage for*
7 *Plaintiff is straightforward, but that the families on the maternal lineage are complex.*
8 *However, the opinion concludes that, if one follows the maternal lineage from Plaintiff to*
9 *his direct ancestors, his origins are traced to Mexico. (emphasis added)*

10 *Re: Special Motion to Strike CCP §425.16, filed July 8th, 2015 (Exhibit "D" at p.9)*

11 14. Judge Tangeman thereupon dismissed Mr. Collins' suit in its entirety. Collins has
12 appealed, which appeal as of this writing, remains pending. Both the Court record and the
13 Escobar Genealogy are bulky documents and part of the public record. The entire record is
14 available to the Secretary upon request.

15 15. Here, I think it only fair to say that Mr. Collins may have convinced himself that he is
16 a Chumash Indian. I think it also fair to say that some (but not all) of his actions have benefitted
17 the Chumash people—except for three important facts: **First**, the law does not permit Mr.
18 Collins to 'pretend' to be Chumash and to thereby identify or dispose of Chumash cultural assets
19 and resources. He must, in fact, **be** Chumash. **Second**, it appears from the public record that Fred
20 Harvey Collins has the same name as Fred Harvey Collins, a convicted drug smuggler (1970),
21 who invested substantial sums of money to bring shipments of cocaine across the Mexican
22 border for resale in San Luis Obispo, California. **Third**, all conspiracy is unlawful, and by
23 conniving with Basta and Douros to deceive local government officials (most egregiously, the
24 County of San Luis Obispo) and the general public, Collins destroyed the last claim to decency
25 he may have had.

26 16. Significantly, the public record respecting his conviction (i.e.; sentencing reports)
27 make no mention of any claim to be a Chumash Indian or any native American lineage. Messrs.
28

1 Basta and Douros knew, or reasonably should have known, of the facts set forth in this
2 paragraph, each having received actual notice by email.

3 *Please see; United States v. Fred Harvey Collins and Daniel Mark Scheffer 478 F.2d 837;*
4 *see also; U.S. Court of Appeal, 5th Circuit, 463 F.2d 567 (1970).*

6 17. **Public Deception.** Mere obscuration provided no means to an end; the public *had to*
7 *be deceived as to who the actual nominator was*, as it would never accept the nomination of a
8 marine sanctuary proposed by the Sierra Club. Moreover, the Sierra Club and ONMS learned to
9 their great regret that the lack of Native American participation could dampen public support and
10 result in the rejection of the marine sanctuary. Clearly, something needed to be done—and it
11 was. On October 15th, 2014 Fred Collins responded to a communication sent to him by Bill
12 Douros, writing:

14 *"Thank you for the our (sic) reach, as you can imagine we do have question, next week*
15 *will be good for us. I will try to have a meeting at Carol and David's on Thursday (i.e.;*
16 *10/16/14) in the afternoon, let me know if that will work for you, and I will set up the*
meeting. Be well, Fred Collins" (see; FOIA-961-No.1-re conversation)

17 We believe the foregoing email contained a typo and should have read *"Thank you for the out*
18 *reach . . ."* What that "out reach" may have been is yet unknown, because significantly, the
19 original Douros conversation (written or telephonic) that Collins is responding to appears to be
20 missing from the 446 emails and other documents provided to us by NOAA on December 16th,
21 2015. However, we reasonably believe that the missing conversation is a discussion with Mr.
22 Collins about fronting (i.e.; how-to instructions) the proposed nomination of the CHNMS for Mr.
23 Douros, the Sierra Club and ONMS all quite fraudulently in the name of the so-called "Northern
24 Chumash Tribal Council." What is clear is that Collins did have questions, that those questions
25 required a 'private' meeting—further, that it was unlikely that those questions were about *an*
26 'arms-length' proposal Collins made to Douros, but rather the other way around.
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1 Shortly thereafter (10/31/2014), Mr. Douros sent an email to Andrew Christie requesting
2 a meeting with Douros and Lisa Wooninck of NOAA to discuss the 'state' (perhaps the California
3 Coastal Commission) and the "*critierion about community support*" (*see, IV ¶ 6, infra*) and that
4 he (Douros) wanted to get him the information as soon as possible. Apparently, this was
5 information *not available to the general public, nor capable of being sent by email*. It needed a
6 personal telephone conference with Douros and Wooninck because they both knew Christie was
7 working on getting 'community' support.
8

9 18. **Ethic Rules - Public Service is a Public Trust.** The Secretary of Commerce has
10 made it plain to each employee that:
11

12 *As an employee of the U.S. Department of Commerce, you have been placed in a position*
13 *of trust and are held to a high standard of ethical conduct. You not only have an*
14 *obligation to perform your duties to the best of your abilities but also to familiarize*
15 *yourself with Government ethics rules and policies and to comply with applicable*
16 *restrictions, both when performing your Government duties and, in some cases, when*
17 *engaging in personal activities when off duty and after leaving Federal service.*

18 More particularly, Ethics Rule 8 provides:

19 *Employees shall act impartially and not give preferential treatment to any private*
20 *organization or individual.*

21 19. Working closely with Mr. Christie and Mr. Collins (a convicted felon) to deceive and
22 mislead the public into believing that the CHNMS is nominated by a bona fide tribal government
23 for the protection of Chumash cultural resources is *not acting impartially*, Mr Douros knew that.
24 Further, coaching a prospective nominator and providing information not otherwise provided to
25 the general public and other stakeholders opposed to the CHNMS is clearly giving preferential
26 treatment to a private organization or individual and by extension, *excluding a broad range of*
27 *interests* required for acceptance of the CHNMS into the national inventory.
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1 inventory of nominations for potential selection as a national marine sanctuary. The CHNMS
2 contains false and or misleading statements in violation of 18 U.S.C. 1001(a)(3) (and
3 Departmental policy) which false statements respondents continue to utilize. Among the most
4 egregious of those statements is the claim that the CHNMS was submitted by the Northern
5 Chumash Tribal Council through its "tribal administrator" Fred Collins. Mr. Collins, in his
6 'official' correspondence, also claims that "The Northern Chumash Tribal Council (NCTC) is a
7 sovereign California Native American Tribal Government" (see, Exhibit "A"). Logically, might
8 you think that the CHNMS was submitted by Chumash Indians? Please think again: **(a)** there is
9 no tribal 'council' of Northern Chumash Indians, none; **(b)** no Northern Chumash tribe appointed
10 any tribal administrator to speak for it, none; **(c)** no tribal council of Northern Chumash ever
11 saw, let alone composed, any submission for a national marine sanctuary, including and
12 especially, the alleged CHNMS, none.

15 2. **The true facts are:** **(a)** the Northern Chumash Tribal Council, Inc.³, is a private, non-
16 profit California corporation organized by Fred Harvey Collins for his personal aggrandizement;
17 **(b)** at the time the CHNMS was submitted to, and accepted by ONMS, the Northern Chumash
18 Tribal Council had no council members, no council officers, no council treasurer and no tribal
19 records; **(c)** Fred Harvey Collins created the title, and appointed himself "tribal administrator",
20 an official-sounding tribal office calculated to mislead and deceive the public; **(d)** according to
21 San Luis Obispo Superior Court records (see, Exhibit "D" at p.6) Fred Harvey Collins, the self-
22 appointed 'tribal administrator' is not of Chumash descent, nor a Native American, but of
23 Mexican lineage; **(e)** Mr. Collins' back pocket NCTC is not sovereign because it is not a tribal
24 government; and **(f)** lastly, according to federal court records, the same Fred Harvey Collins has
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³ It is interesting to note that nowhere in the CHNMS descriptions does Mr. Collins use the true, legal title of this corporation. Instead, he omits the "Inc." designating it as an incorporated entity. This omission is deliberate and this practice was followed closely by all the respondents.

1 been convicted of drug smuggling, for transporting cocaine over the Mexican border—to San
2 Luis Obispo, California.

3 3. **Foreknowledge, Unlawful Solicitation**: The respondents, and each of them, knew
4 that the CHNMS, before and upon acceptance as part of the national inventory, contained
5 materially false and misleading statements. Notwithstanding Respondents' knowledge of the
6 falsity of Mr. Collins' statements and his submissions to ONMS, they continued to make use of,
7 and maintain, the documents in the national inventory, thereby enabling the convicted felon Fred
8 Harvey Collins to continue to solicit, under false pretenses, substantial sums of money from the
9 general public. To the extent that Respondents had foreknowledge of the falsity of the
10 representations contained in the CHNMS, they have aided and abetted Mr. Collins in deceiving
11 the public. Even if we concede (and we do not) the possibility that Respondents did not initially
12 realize that the CHNMS was (and is) a fraud, nevertheless, respondents cannot argue that they
13 had no information that would have alerted them to the true facts. Repeatedly, Respondents were
14 put on notice as to the fraudulent nature of the CHNMS by FPS, OPCC, several NGOs, local
15 government and private individuals, but to no avail.

16 4. **Duty to Protect the Public**. The first and foremost duty of all officers of the United
17 States is to (insofar as possible) protect the public from harm. Disingenuously, Respondents'
18 claim they have no duty to act on the fraudulent content of the CHNMS submission because they
19 are constrained by law to only examine whether the proposed CHNMS meets the four (4)
20 regulatory criteria and seven (7) management '*considerations*' for acceptance into the national
21 inventory, thereby ignoring the single most important criterion of public service—*do no harm*.
22 Respondents failed their duty, claiming instead that the issues of fraud, deceit and
23 misrepresentation are more properly addressed at some time in the vaguely distant future,
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1 possibly by those other than themselves—*possibly*. In the meanwhile, any harm to the public that
2 might occur in the interim is "unavoidable" because (federal law and Departmental policy
3 notwithstanding) the public must seek its remedies elsewhere.
4

5 **Fraud, Deceit, Misrepresentation.**

6 5. Respondents, apparently satisfied with retaining fraudulent material in documents that
7 they have custody and control over (Headnote IV, ¶¶ 1-4, *supra*), proceed to practice deceit in
8 their own right. Commencing in or about May of 2015 and continuing from time to time
9 thereafter at various venues within the California counties of Santa Barbara, San Luis Obispo
10 and Ventura, wrongly and falsely represented to local governments and the public at large, the
11 following: **(a)** the CHNMS nomination enjoys "broad public support" within the affected
12 California coastal communities; **(b)** that the Salinan Tribe of Monterey and San Luis Obispo
13 Counties support the nomination of the CHNMS; and that **(c)** that the Santa Ynez Band of
14 Chumash Indians support the nomination of the CHNMS. The foregoing representations are
15 false, and Respondents, and each of them, knew that they were false at the time they were made.
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18 6. **The true facts are:** **(a)** the CHNMS *enjoys no broad public support* that conforms to
19 law and regulation. What is absolutely required, by federal regulation, is that any support
20 claimed for the CHNMS represent and reflect a "broad range of interests", not merely
21 environmentalists, supporters of environmentalists, "*environmental NGO's and environmental*
22 *government entities*" (e.g., the Sierra Club, the California Coastal Commission, *etc.*) and that by
23 *whatever means* support is measured for the CHNMS, *that it fairly reflects* that "broad range of
24 interests" found in the community at large (e.g., ranchers, farmers, fishermen, cattlemen, coastal
25 property owners, oil and gas operators, *etc.*) *see*, 15 C.F.R. § 922(c)(7)⁴. Thus, the required
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⁴ Implementing the relevant provisions of 16 U.S.C. 1431, et seq., Pub.L. 106-513.

1 "broad range of interests" supporting the CHNMS doesn't exist and never existed, *please also*
2 *see*; OPCC letter dated December 16th, 2016—attached as Exhibit "G"; **(b)** the support of the
3 Salinan Tribe for the CHNMS, does not exist and has been disavowed by the Tribe; **(c)** the
4 support of the Santa Ynez Band of Chumash Indians for the CHNMS does not (and did not) exist
5 and has been especially disavowed by the Tribe's legal officer, Attorney Sam Cohen.
6

7 **7. CHNMS Fatally Defective.** **(a)** Because the CHNMS acceptance included only
8 support of environmentalists (and their supporters), and because the claimed support fails to
9 include all, or very nearly all, coastal property owners within, and immediately adjacent to, over
10 sixty miles of proposed CHNMS coastline, the 'acceptance' of the CHNMS into the national
11 inventory fails to reflect a broad range of interests. Thus acceptance of the CHNMS is, in that
12 respect, and under those circumstances, fatally defective and cannot be cured. This has direct and
13 immediate environmental implications, all well known to Respondents. **(b)** Within ONMS West
14 Coast Region, two principal marine sanctuary units operate; Monterey Bay NMS and Channel
15 Islands NMS. The tidal area between the two NMS encompasses one of the few remaining
16 pristine coastal stretches left along California's central coast. The pristine nature of these coastal
17 lands (*please see*; Brinkman letter, Exhibit "F") is due almost entirely to four factors; (i) private
18 ownership⁵; (ii) common-sense, (iii) conscientious landowner stewardship and (iv) the difficulty
19 of direct public access. It is very significant that none of the owners of these pristine coastal
20 lands support the CHNMS. The CHNMS proposes to destroy these pristine areas by mandating
21 public access.
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26 ⁵ Even a superficial comparison of coastal areas managed under private ownership with areas exclusively managed by county,
27 state and federal agencies show a hideous degradation of environmental quality in government managed areas. A ready example
28 may be found in tide pool quietus due to the impacts of simple personal care products such as sunscreens and cosmetics (the
etiology of which is not well understood, nor are the impacts of nanoparticle scrubbers common in many body care products). In
fact, many researchers and investigators seek coastline access in these areas of private ownership primarily because they are so
well managed and because they are virtually free of the principal toxic contaminant—millions of poorly managed and often
uncontrolled people—thus these tidal areas, researchers claim, *are healthy and virtually pristine* (*see*; Letter, Brinkman, Ecology
Consultants to Farberow, Hollister Ranch—March 3, 2015, Exhibit "F", hereto.).

1 **VIOLATIONS OF LAW, REGULATION & POLICY**

2 -A-

3 **Title 18, UNITED STATES CODE, § 1001**

4 **-Statements or entries generally-**

5 (a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction
6 of the executive, legislative, or judicial branch of the Government of the United States,
7 knowingly and willfully—

- 8 (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
9 (2) makes any materially false, fictitious, or fraudulent statement or representation; or
10 (3) makes or uses any false writing or document knowing the same to contain any
11 materially false, fictitious, or fraudulent statement or entry;

12 shall be fined under this title, imprisoned not more than 5 years or, if the offense involves
13 international or domestic terrorism (as defined in section 2331), imprisoned not more than 8
14 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or
15 section 1591, then the term of imprisonment imposed under this section shall be not more than 8
16 years.

17 (b) Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for
18 statements, representations, writings or documents submitted by such party or counsel to a judge
19 or magistrate in that proceeding.

20 (c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a)
21 shall apply only to—

- 22 (1) administrative matters, including a claim for payment, a matter related to the
23 procurement of property or services, personnel or employment practices, or support
24 services, or a document required by law, rule, or regulation to be submitted to the
25 Congress or any office or officer within the legislative branch; or
26 (2) any investigation or review, conducted pursuant to the authority of any committee,
27 subcommittee, commission or office of the Congress, consistent with applicable rules of
28 the House or Senate. (emphasis added)

29 **Discussion.** There is no question that the submission and acceptance of the CHNMS by
30 NOAA ONMS is a 'matter' within the 'jurisdiction' of the executive branch of government
31 (§1001(a)). There is also little question that maintaining the CHNMS in the national inventory is
32 a 'use' of a 'writing or document' (§ 1001(a)(3)). With respect to knowledge that the document

1 contained a materially false, fictitious or fraudulent statement or entry, Respondents have already
2 admitted to that knowledge. With respect to willfulness, Respondents claim that they have no
3 duty to do anything to correct the matter and will continue to exercise their authority to maintain
4 the fraudulent CHNMS in the national inventory.
5

6 **Conclusion.** Mr. Douros knew that the documents he maintained, relied upon, and
7 utilized in his representations and discussions with local governments and elected official
8 contained false, fictitious and fraudulent statements in violation of 18 U.S.C. 1001 and the
9 Secretary's Code of Ethical Conduct, *see*; Headnote 'D', ¶¶ 8, 11 and 14, *infra*.
10

11 **-B-**

12 **TITLE 18 UNITED STATE CODE § 1905**
Disclosure of confidential information generally

13 Whoever, being an officer or employee of the United States or of any department or
14 agency thereof, any person acting on behalf of the Federal Housing Finance Agency, or agent
15 of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311-
16 1314), or being an employee of a private sector organization who is or was assigned to an
17 agency under chapter 37 of title 5,

18 publishes, divulges, discloses, or makes known in any manner or to any extent not
19 authorized by law any information coming to him in the course of his employment or
20 official duties or by reason of any examination or investigation made by, or return, report
21 or record made to or filed with, such department or agency or officer or employee
22 thereof, which information concerns or relates to the trade secrets, processes,
23 operations, style of work, or apparatus, or to the identity, confidential statistical data,
24 amount or source of any income, profits, losses, or expenditures of any person, firm,
25 partnership, corporation, or association; or permits any income return or copy thereof or
26 any book containing any abstract or particulars thereof to be seen or examined by any
27 person except as provided by law;

28 shall be fined under this title, or imprisoned not more than one year, or both; and shall be
removed from office or employment. (emphasis added)

1 • NOAA will offer government-to-government consultation **at the earliest practicable**
2 **time it can reasonably anticipate that a proposed policy or initiative may have tribal**
3 **implications.** The tenets of tribal consultation require early notification, early
4 opportunities for technical briefings/discussions, and an opportunity for formal input in
5 the Federal process to the extent practicable and consistent with Federal law.
6 Consultation should occur early enough in the decision-making process to allow for
7 flexibility and modification of NOAA actions while meeting required timelines.
8 Although consultation need not occur at every step of the Federal decision-making
9 process, it should always occur at the earliest time practicable, well before a final policy
10 or regulatory decision with tribal implications is made.

11 • A consultation process is a **formal means of communication** between NOAA and the
12 government of a Federally-recognized Tribe, **and is understood by both NOAA and**
13 **that Tribe to be a government-to-government meeting.** Consultation reflects the
14 United States' recognition of the sovereignty of Federally-recognized Tribes and
15 implements the government-to-government relationship between the sovereigns.
16 Consultation is used to exchange information, deliberate, and address Federal policies
17 that have tribal implications. **Consultation is not a format for consensus decision-**
18 **making; rather, it is a process for the Federal government to consider the**
19 **sovereignty, rights, and resources of Indian Tribes during the development of**
20 **Federal policies or actions.**

21 • Examples of actions with the potential to require consultation with Tribes include but
22 are not limited to:

- 23 • A policy or action that will have effects within a reservation or
24 Alaska Native village.
- 25 • A policy or action that may impact tribal trust resources or the
26 rights of a Federally-recognized Tribe.
- 27 • A policy or action affecting a facility or entity owned or operated
28 by a tribal government.
- **A policy or action that affects Tribes, tribal governments, or a**
Tribe's traditional way of life.
- **A policy or action that affects Tribes Traditional and Cultural**
Properties or Traditional Use Areas (all emphasis added)

29 **Discussion.** There is only one federally recognized tribe of Chumash Indians in
30 California—the *Santa Ynez Band of Chumash Indians*. Departmental policy requires official
31 government-to-government consultations in matters that may have tribal implications. The use of
32 the name "Chumash", and the identification, designation, federal administration and management
33 of coastal Chumash cultural resources, are all, government-to-government policy issues

1 contemplated by NOAA 13175 policies. Notwithstanding these facts, ONMS West Coast
2 Regional Director William Douros who had *immediate 13175 policy responsibility*, deliberately
3 ignored departmental policy, choosing instead to consort with a known drug smuggler, convicted
4 felon and Chumash poseur Fred Collins (aka Lone Wolf) who claimed to be the "tribal
5 administrator" for a non-existent "sovereign tribal government" called the Northern Chumash
6 Tribal Council, Inc. (NCTC).
7

8 Of course, the most obvious reason for Mr. Douros refusing to engage in formal legal
9 government-to-government consultation is that any such consultations would have quickly
10 exposed to the rest of the United States government (U.S. Department of Interior, Bureau of
11 Indian Affairs; U.S. Department of Justice, *etc.*) the fact that the NCTC, the CHNMS and its
12 phony nominator, Fred Collins are complete frauds.
13

14 Worse, such consultations would also quickly disclose that it was Mr. Douros who hand-
15 picked Mr. Collins to front an illegal scheme to defraud and thereafter bilk the public out of
16 substantial sums of money to support a non-existent phony tribal government and an equally
17 phony Chumash Heritage National Marine Sanctuary—all very well thought out. Collins was
18 Douros' straw man and a convenient stalking horse for the Sierra Club, to evade the law and
19 avoid the real Chumash Indians, and thus obscure the true nature of the phony CHNMS. So, the
20 last thing Durous wanted was to enter into any formal government-to-government consultation
21 with the Santa Ynez Band of Chumash Indians—the *very last thing*. The likely result is, for
22 obvious reasons, Mr. Douros would have been relieved of his duties as the Western Regional
23 Director of ONMS.
24
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26 **Conclusion.** Regional Director William Douros' failure or refusal to engage in formal
27 government-to-government consultations was all about *control*, whose straw man was in power,
28

1 and sadly—diminishing or taking the dignity, property and cultural resources of the *Santa Ynez*
2 *Band of Chumash Indians* in their struggle to provide decently for their people. Douros fully
3 intended to make the phony NCTC the 'new face' of Chumash power in California. His actions
4 and inactions are in violation of NOAA 13175 policy and the Secretary's code of ethical
5 conduct, *see*; Headnote 'D', ¶¶ 8, 11 and 14, *infra*.

7 -D-
8 **OFFICE OF THE GENERAL COUNSEL**
9 **UNITED STATES DEPARTMENT OF COMMERCE**
10 **GENERAL ETHICAL PRINCIPLES**

- 11 1. Public service is a public trust, requiring employees to place loyalty to the
12 Constitution, the laws and ethical principles above private gain.
- 13 2. Employees shall not hold financial interests that conflict with the conscientious
14 performance of duty.
- 15 3. Employees shall not engage in financial transactions using nonpublic Government
16 information or allow the improper use of such information to further any private interest.
- 17 4. An employee shall not, except as permitted in ethics regulations, solicit or accept any
18 gift or other item of monetary value from any person or entity seeking official action
19 from, doing business with, or conducting activities regulated by the employee's agency,
20 or whose interests may be substantially affected by the performance or non-performance
21 of the employee's duties.
- 22 5. Employees shall put forth honest effort in the performance of their duties.
- 23 6. Employees shall not knowingly make unauthorized commitments or promises of any
24 kind purporting to bind the Government.
- 25 7. Employees shall not use public office for private gain.
- 26 **8. Employees shall act impartially and not give preferential treatment to any private**
27 **organization or individual.**
- 28 9. Employees shall protect and conserve Federal property and shall not use it for other
than authorized activities.
10. Employees shall not engage in outside employment or activities, including seeking or
negotiating for employment, that conflict with official Government duties and
responsibilities.
- 11. Employees shall disclose waste, fraud, abuse, and corruption to appropriate**
authorities.

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1 12. Employees shall satisfy in good faith their obligations as citizens, including all just
2 financial obligations, especially those—such as Federal, State, or local taxes—that are
3 imposed by law.

4 13. Employees shall adhere to all laws and regulations that provide equal opportunity for
5 all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

6 **14. Employees shall endeavor to avoid any actions creating the appearance that they**
7 **are violating the law or the ethical standards set forth in ethics regulations. Whether**
8 **particular situations create an appearance that the law or these standards have been**
9 **violated shall be determined from the perspective of a reasonable person with**
10 **knowledge of the relevant facts.**

11 **Discussion.** From the perspective of reasonable persons with knowledge of the relevant
12 facts (OGC ¶ 14, *supra*), we can say without reservation that: (i) William Douros gave
13 preferential treatment (OGC ¶ 8, *supra*) to a convicted drug smuggler and fraudster, (ii) favored
14 a phony, non-existent "tribal council" (OGC ¶ 8, *supra*) **over** the issues, concerns and very real
15 needs of the legitimate, federally recognized Santa Ynez Band of Chumash Indians, (iii)
16 maintained and utilized documents he knew to be fraudulent and deceptive and in violation of
17 the criminal laws of the United States and of the State of California (Headnotes 'A' & 'B', *supra*),
18 and (iv) thereafter crassly flaunted his unethical and criminal conducted in the face of local
19 governments up and down the coast of California, (v) while bragging to officials of this Society
20 that a *marine sanctuary* is far more important than the wrongdoing of any one person(s), namely
21 himself, Fred Collins and the Sierra Club.

22 **Conclusion.** Regional Director William Douros has an affirmative duty to comply with
23 the Secretary's Code of Ethical Conduct in all respects. He has an affirmative duty to avoid any
24 action or inaction that would create the appearance that his conduct is unlawful, unethical or
25 offensive to the community at large and, more particularly, to those who are directly affected by
26 his administration of marine sanctuaries. Director Douros failed to discharge his duty.

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1 -V-
2 **REQUEST FOR HEARING**

3 Complainants respectfully request that the Secretary of Commerce grant an opportunity
4 to be heard on the issues raised by this Complaint and to present oral testimony and such other
5 and further evidence as may serve to more fully inform the Secretary as to the facts with respect
6 to the relief requested below.
7

8 -VI-
9 **REQUEST FOR RELIEF**

10 Complainants reasonably relied upon Respondents' false statements until such time as the
11 true facts, at substantial expense, were discovered. Accordingly, Complainants respectfully
12 request that the Secretary grant relief, as follows: (a) with respect to the fraudulent *Chumash*
13 *Heritage National Marine Sanctuary* (CHNMS), that the Secretary order the CHNMS
14 permanently withdrawn from consideration as a National Marine Sanctuary and removed from
15 the national inventory; (b) with respect to ONMS DOC 13175 policy and the *Santa Ynez Band of*
16 *Chumash Indians* (SYBCI), that the Secretary direct ONMS to engage SYBCI tribal government
17 officials in formal government-to-government consultations to identify and locate Chumash
18 lands and cultural resources situated in the California counties of Santa Barbara, San Luis
19 Obispo, and Ventura and for the purpose of extending the sovereign administration of the SYBCI
20 tribal government over those Chumash lands and cultural resources as may be determined to be
21 lying within, or adjacent to, DOC NOAA ONMS jurisdictional boundaries; (c) with respect to
22 existing marine sanctuaries as may be presently administered by the Western Regional Office of
23 ONMS and its Director, William Douros, that the Secretary issue an order temporarily
24 suspending *any administrative action* likely to adversely impact private property and/or fisheries,
25 cattle ranching, farming, animal husbandry, oil exploration, and/or the administration of ports,
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