



County of San Diego

LAND USE AND ENVIRONMENT GROUP

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2800 Cottage Way, Room W-2820
Sacramento, CA 95825

FINAL EA COMMENTS, PROPOSED SYCUAN FEE-TO-TRUST PROJECT

Dear Ms. Dutschke:

The County of San Diego (County) received the Notice of Availability (Notice) from the Bureau of Indian Affairs (BIA) for the Final Environmental Assessment (EA) for the Proposed Sycuan Band of the Kumeyaay Nation (Sycuan Band) Fee-to-Trust (FTT) Acquisition on August 17, 2011. The Notice states that the August 2011 Final EA for the proposed trust acquisition is reduced from the previously proposed 30 parcels totaling 1,966.14 acres in the August 2009 Draft EA, to 21 parcels totaling approximately 1,357.47 acres, by the United States for the Sycuan Band. The reduced impact of the proposed land transfer is still of significant size and concern, as the 21 parcels (Assessor Parcel Numbers 521-010-01, 520-091-06, 520-091-07, 521-010-04, 516-011-19, 516-021-03, 516-021-02, 516-020-20, 516-010-04, 516-011-11, 516-011-14, 516-011-15, 516-011-13, 516-011-18, 516-011-05, 516-011-20, 515-050-43, 512-110-14, 517-031-17, 516-020-19 and 516-011-09), collectively referred to in the Notice as the Sycuan Property, is located in the unincorporated area of San Diego County near an urban area that is home to the Sycuan Resort as well as safety and environmental concerns.

This letter is to provide written comments for the Final EA. The County also provided extensive comments related to the Draft EA in a letter dated October 7, 2009, for which the Final EA provides some responses. The County is a political subdivision of the State of California responsible for the governance, health and welfare of the people of San Diego County. The County's comments relate to issues within our statutory responsibilities and impacts of the proposed action in addition to the criteria for evaluating FTT applications under the Indian Reorganization Act, 25 U.S.C.465 (IRA). The County is opposed to the proposed action to take the land into trust for a variety of reasons, which this letter will outline.

The County regards Alternative C, the No Action Alternative, as the most viable of the options presented in the Final EA. Under the No Action Alternative, the Sycuan Property would not be placed into federal trust and the land would remain under the jurisdiction of the County of San Diego. Under this alternative the Sycuan Band would be able to move forward to implement the Revised Natural and Cultural Resources Management Plan (NRMP) and provide Tribal housing, seek County approval of the new secondary access road, and construct permanent Pow Wow grounds, the Outdoor Event Center, and equestrian center.

Alternative C, the No Action Alternative, is necessary to avoid the potential environmental impacts associated with the Mitigated Proposed Project in Alternative A or the reduced intensity Alternative B.

The County supports the efforts of the Sycuan Band with respect to consultation under Section 7 of the Federal Endangered Species Act (FESA) (16 USC 1536 (c)) with the U.S. Fish and Wildlife Service (USFWS) to formulate the reduced-impact Mitigated Proposed Action to reduce environmental impacts from the proposed project developments. Removing nine parcels totaling 608.67 acres from the original FTT application to be sold and then managed by the Kumeyaay-Diegueno Land Conservancy (KDLC) as permanent conserved open space resolves some previous issues. However, there is no enforceable agreement between the KDLC and USFWS for conservation of the land.

The County believes that an Environmental Impact Statement (EIS) should be prepared to fully assess the project and potential impacts, including to evaluate the possibility that these lands may not be conserved in perpetuity, or require that an enforceable agreement be required that the lands be so conserved. These nine parcels are located within Sloan Canyon along the Sweetwater River primarily upstream of Sloan Canyon, which is within a Pre-Approved Mitigation Area (PAMA) designated under San Diego County's Multiple Species Conservation Program (MSCP), for which the USFWS issued a Section 10 permit under the Federal Endangered Species Act (ESA).

While some concerns have been addressed by reducing the size of the proposed land transfer from 30 parcels totaling approximately 1,966.14 acres to 21 parcels totaling approximately 1,357.47 acres, many major issues remain for this very large proposed action as outlined below.

I. Ongoing Violations of Reclamation Plan: Notice of Impending Civil Penalties

Page 3.2-2 of the Final EA states that the Sycuan Band has completed the reclamation and restoration activities begun by the previous operator of the mine pursuant to the 1997 Biological Opinion issued by the USFWS. While USFWS requirements may have been met, the County requirements for Reclamation under 90-001 have not been met. A Notice of Impending Civil Penalties Assessment dated August 18, 2011 (see Attachment A) was sent to the Sycuan Tribal Development Corporation for on-going violations associated with the Sloan Canyon Mine. Five violations of both state and local regulations were described in the letter along with four required corrective measures with specific dates by which to resolve each violation. The Sloan Canyon Road Mine has violations including operating without required financial assurances and outstanding reclamation requirements within Reclamation Plan 90-001 that remain unfulfilled. Failure to comply with any of the deadlines within the letter will result in Civil Penalties being assessed against the Sycuan Tribal Development Corporation. If Civil Penalties are not paid, the County may record a lien against the property. The first deadline was for a Financial Assurance Cost Estimate that ensures restoration of the site can be done in complete compliance with Reclamation Plan 90-001. The deadline was August 31, 2011 to complete this task and as of the date of this letter, the financial assurance cost estimate has not been received by the County.

II. Concerns Not Addressed in the Final EA

The following comments are not appropriately addressed in the revised Final EA for the reduced impact project:

A. Land Resources: Riding and Hiking Trails

- 1) The location of trails should be coordinated with the County's Department of Parks and Recreation. Exhibit L of Specific Plan Amendment (SPA 88-007), calls for the establishment of a trail easement. The County and the Dehesa community request this easement be established, though not necessarily in the location shown in Exhibit L. Reclamation Plan RP 90-001 states dedication of such an easement should have occurred one year following completion of mining activities. The County considers the mining site to be abandoned. No easement has yet been established and it appears none is intended with the proposed FTT action.
- 2) The EA and the NRMP should enumerate all conditions of MUP (P74-068W1) and Reclamation Plan (RP90-001) and show how each condition is being addressed by the proposed action. The NRMP is more closely related to USFWS's Biological Opinion and not related enough to the County permit. The RP 90-001 calls for restoration of the lands per the approved reclamation plan and dedication of a trail. The proposed action will not reclaim lands according to the Reclamation Plan nor provide for a trail. Also, the NRMP states that two desilting basins will not be constructed even though this is a condition of the MUP P94-068W1. Justification and alternatives means of fulfilling these requirements is needed. This may require a hydraulic study or some alternative means of substantiating any changes. These conditions of the MUP and Reclamation plan were imposed to address the environmental issues associated with the former mining site. To change these conditions, further environmental review of the significant effect on the human environment must be completed through the preparation of an EIS.
- 3) One of the goals in the NRMP is to *"limit impacts...from hiking and riding trails that were designated prior to the Tribe acquiring the land."* "Limiting" appears to be the same as "excluding" in the context of trails. This is contrary to the requirements of the existing Reclamation Plan RP 90-001 which requires dedication of a trail easement after mining has ceased. Mining ceased in 2003 and the County has requested an easement be identified and dedicated and requests this condition remain if the proposed fee-to-trust action goes forward.
- 4) Discussion of the effects of the proposed project should include reference to the Community Trails Master Plan (CTMP), which is the implementing document for the County Trails Program described in the Public Facilities Element of the County of San Diego General Plan. The CTMP contains adopted individual community trails and pathway plans.

Communities participating in the CTMP are doing so because they have reached a consensus on the importance of recreational trails in their area and have expended considerable time and effort in formulating community trails plans. The Crest/Dehesa/Granite Hills/Harbison Canyon Community Trails and Pathways Plan identifies proposed trail corridors within or adjacent to the site and pathways along major public access streets. A community staging area is also proposed at Dehesa Road and Sloan Canyon Road. A map of the trail system should be included in the "List of Figures".

The EA should include an analysis of any potential conflicts with or impacts to these proposed public trails and pathways and propose mitigation. The impacts to trails and pathways can be analyzed under different components of the EA, including Socioeconomic Conditions, Lifestyle and Cultural Values, Community Infrastructure, Resource Use Patterns, Recreation, Transportation Networks and Land Use Plans.

- 5) Two County regional trails, Sweetwater River and Loop Trail and the state's historic California Riding and Hiking Trail come together in this area. This connection is critical to the countywide regional trails system. These trails are on the adopted community trails plan and the regional trails map. The dedication of the trail is a condition of the Reclamation Plan for the project's Major Use Permit. The Reclamation Plan condition regarding trails state, in part, as follows:

"Not later than one year following completion of extractive operations, the landowner shall dedicate the ultimate recreational trails in the approximate location shown on Exhibit L of the Sloan Canyon S and Company/Sweetwater Project amended Specific Plan SPA 88-007....."

The mining operation ceased December 31, 2003 as per the "2004 Mining Operation Report" submitted by the operator at the time, Vulcan Materials Co. These trail easements still have not been dedicated to the County. They are necessary to make the connection between Sweetwater River and Loop Trail to the California Riding and Hiking Trail and maintaining this trail connection is vital to the County regional trail system and for multiple community trail links.

- 6) The project proposes to restrict access to Sloan Canyon Road. Sloan Canyon Road is a publicly maintained road and there is an existing and proposed public trail along Sloan Canyon Road starting at Dehesa Road. The existing California Riding and Hiking Trail traverses south towards Beaver Hollow and north towards Alpine. Restricting public access along Sloan Canyon Road would restrict access to the public trail. The EA should address the environmental consequences of these restrictions and trail impacts.

B. Traffic and Circulation

- 1) The Final EA provides limited information regarding the uses at the proposed Outdoor Event Center. It states that 30 events annually can occur at the Outdoor

Event Center but the size and scope of these events is not defined. There also is no mechanism in place to limit the number and size of these events in the future.

- 2) The Final EA provides limited information regarding events at the Pow Wow Grounds. It is stated that one large annual event with more limited uses during the year but information regarding the size and scope of the events is not provided. The traffic study has also shown that temporary traffic control should be provided during events at the Pow Wow. Traffic control permits from the County are required to implement traffic control measures on County roads.
- 3) The Final EA states that the Sycuan Band will pay the County's traffic impact fee to mitigate cumulative traffic impacts on Dehesa Road and Jamacha Road. The amount of these contributions however is not identified. It should also be noted that fair share ("proportional share") contributions alone do not fully mitigate a direct impact. The EA [Executive Summary (Table ES-1, Pg.ES-26) and Section 5.0 Mitigation Measures, Pg.5-17)] identifies direct traffic impacts to:
 - Dehesa Road from Granite Hills Drive to Willow Glen Drive; and
 - Dehesa Road from Willow Glen Drive to Harbison Canyon Road
- 4) The Final EA states that the Sycuan Band will provide additional right turn lanes at the Dehesa Road/Willow Glen Drive and Dehesa Road/Harbison Canyon Road intersections. Additional information is needed for the County to issue permits for these improvements, such as conceptual striping plans, needed right of way acquisition, environmental review and engineering design for the right turn lanes however is not provided at this time.
- 5) The County Department of Public Works reviewed the proposed "secondary access road" traveling east from Sloan Canyon Road near Dehesa Road and noted that it did not clearly show connection with Sycuan Road on the Reservation. It is critical that the alternate access road connect to Sycuan Road or one of its tributaries to provide needed fire access and civilian evacuation options in wildfire and other emergencies, for the benefit of all tribal and non-tribal land occupants of the area. Of the fire/life safety factors addressed by the local and state regulations identified above, the most critical fire and life safety issue on both sides of tribal boundaries is connecting roads for fire-fighting access and emergency evacuation. Wildfire does not respect jurisdictional borders.
- 6) Sloan Canyon Road is currently a dirt road. Depending on the number of trips and types of uses taking access from Sloan Canyon Road, improvements to Sloan Canyon Road to improve fire access may be warranted.

In order to address the above traffic and circulation concerns, the County requests that the Sycuan Band enter into a binding Intergovernmental Cooperative Agreement with the County to include the following items:

- Size scope and frequency of events at the Outdoor Event Center. (If the number or size of the events increase in the future the cooperative agreement could be revised to address)
- Size scope and frequency of events at the Pow Wow Grounds (If the number or size of the events increase in the future the cooperative agreement could be revised to address)
- Proposed intersection improvements at the Dehesa Road/Willow Glen Drive intersection.
- Proposed intersection improvements at the Dehesa Road/Harbison Canyon Road intersection.
- Tribal share contributions toward traffic impacts to Dehesa Road and Jamacha Road
- Proposed new driveway/road access improvements to Dehesa Road (including traffic control for Pow Wow Grounds Events)
- Proposed new driveway/road access improvements to Sloan Canyon Road
- Secondary/fire access improvements to Sloan Canyon Road

C. Inconsistency with General Plan and Zoning

The EA includes an analysis from the previous General Plan. On August 3, 2011, the County Board of Supervisors adopted the General Plan Update, which is a comprehensive update to the original General Plan that applies to all unincorporated areas within San Diego County. The Update also included changes to the Zoning Ordinance and Community and Subregional Plans. The information below is based on the General Plan Update, as adopted on August 3, 2011. The proposed project is not consistent with the General Plan Update, Community Plan, and Zoning as detailed in the following comments:

1) General Plan

Of the approximate 1,357 acres proposed for the FTT, approximately 986 acres have been designated as Specific Plan Area, with the remaining 371 designated as either Semi-Rural 10 (SR-10) or Rural Lands 40 (RL-40).

Specific Plan Area (SPA)

The FTT proposes to acquire approximately 986 acres within either the Singing Hills or Conrock/Fenton Specific Plan Areas.

- Singing Hills — The FTT does not propose any new development within the Singing Hills SPA. The Singing Hills Specific Plan has been fully built out; therefore, additional proposed development would require a General Plan Amendment if the land is not taken into trust.
- Conrock/Fenton — The FTT proposes to construct 20 housing units on lots ranging from 0.3 to 0.5 acres, an equestrian center, and an outdoor events center with parking for approximately 75 vehicles and approximately 15 Recreational Vehicle (RV) parking spaces within the Conrock/Fenton SPA. This SPA recognizes the approved Specific Plan which only provides for

extraction of the aggregate sand resource of the Sweetwater River. Any proposal for other uses requires a General Plan Amendment if it remained in the County's jurisdiction, including the economic condition report on the sand extraction project.

Semi-Rural 10 (105 acres)

The SR-10 designation is a slope-dependant designation that allows for one residential dwelling unit per every ten acres in areas with slopes under 25% and one dwelling unit per 20 acres for areas with slopes of 25% or greater. Within the area designated SR-10, the Sycuan Band proposes to construct 15 single family housing units on lots ranging from 0.3 to 0.5 acres, and a secondary access road. The EA is not consistent with the General Plan designation, which, when accounting for steep slope would only allow seven to eight dwelling units.

Rural Lands 40 (266 acres)

The Rural Lands 40 designation allows for one single family dwelling unit per 40 acres. The densities are intended to reflect and preserve the rural agricultural, environmentally constrained, and natural "backcountry" areas of the County. Residential development within the Rural Lands category is typically not served by either municipal water and or municipal sewer systems. The RL-40 designation would only allow for six dwelling units within a 240 acre area; however, the FTT proposes to construct 15 dwelling units on lots that range from 0.3 to 0.5 acres, along with an outdoor event center with permanent facilities for cultural events. Therefore, the EA is not consistent with the General Plan designation.

2) Zoning

S-80 (Open Space)

The Singing Hills SPA is zoned S-80. This zone is intended to provide for appropriate controls for land generally unsuitable for intensive development. Typically, the S-80 Use Regulations would be applied in both urban and rural environments to hazard or resource areas, public lands, recreation areas, or lands subject to open space easement or similar restrictions. Uses permitted within the S-80 Use Regulations include those having a minimal impact on the natural environment, or those compatible with the hazards, resources, or other restrictions on the property. Various applications of the S-80 Use Regulations with appropriate development designators can create or protect areas of very large residential parcels, agricultural areas, recreation areas, or limited use areas having identified hazards or resources. The EA is consistent with the County's Zoning Ordinance since it does not propose any new development within this zone.

S-88 (Specific Planning Area)

The Conrock/Fenton SPA is zoned S-88. The S-88 Use Regulations are intended to accommodate SPAs shown on the General Plan or on those lands

for which a Specific Plan has been adopted by the Board of Supervisors pursuant to the Government Code. Application of the S-88 Use Regulations can create an unlimited variety of land uses in conformance with the General Plan. A General Plan Amendment would be required for the uses proposed in the EA since the project is currently inconsistent with this zone.

A-72 (General Agricultural)

The areas designated SR-10 and RL-40 by the General Plan are zoned A-72. The residential uses proposed by the Sycuan Band would be appropriate in this zone; however, the proposed parcel sizes are much smaller than the two-acre (SR-10) and eight-acre (RL-40) minimum lot sizes allowed by the zone. Therefore, a Conservation Subdivision or a Planned Residential development would be required to achieve the residential development patterns discussed in the EA to comply with the County's Zoning Ordinance.

The outdoor event/cultural facility discussed in the EA would require a Major Use Permit (MUP) under the A-72 zone. The County would require that the proposed development demonstrate that it is compatible with existing adjacent development.

The A-72 Use Regulations are intended to create and preserve areas for the raising of crops and animals. Processing of products produced or raised on the premises would be permitted as would certain commercial activities associated with crop and animal raising. Typically, the A-72 Use Regulations would be applied to areas distant from large urban centers where the dust, odor, and noise of agricultural operations would not interfere with urban uses, and where urban development would not encroach on agricultural uses. With a General Plan Amendment, the uses proposed by the FTT would be consistent within this zone.

Portions of the property have an "F" Special Area Designator (Floodplain). The purpose of the "F" Special Area Designator is to protect the public health, safety and welfare and reduce the financial burden on the County and its inhabitants and property owners by eliminating or reducing the need for the construction of flood control channels, dikes, dams and other flood control improvements that would be required if scattered and unplanned development is permitted to occur. A floodplain designator is applied to properties within San Diego County not planned for channelization which are subject to inundation under 100-year frequency flood conditions. No building or structure should be placed, erected, constructed, altered or enlarged within the area subject to the "F" Area Designator except in accordance with such regulations. The EA does not provide enough information to indicate whether the project complies with the "F" Special Area Designator.

3) Community Plan

The FTT is located in the Crest / Dehesa / Harbison Canyon / Granite Hills Subregional Community Plan. Review of policies that directly apply to the

development proposed by the FTT is provided below. Each of these policies has been categorized as being inconsistent or requiring more information.

- Policy Land Use (LU) 1.1.16 Require development within or changes to plans for the two Specific Plan Areas located at the western end of Dehesa Valley to provide for uses that are compatible with the rural lifestyle of Dehesa.
- More information is needed to determine if the FTT complies with this policy. The EA should indicate how it would comply with this policy.
- Policy LU 2.1.1 Discourage the extension of sewers into the planning area to limit inducing growth and high density development.

The FTT is inconsistent with this policy. The new residential development would be served by both imported water and sewer, which would be inconsistent with this policy and these areas are outside of the Rural Villages.

The County requests that an EIS be prepared which contains a commitment by the Sycuan Band to solicit input from the Crest / Dehesa / Harbison Canyon / Granite Hills Community Planning Group before finalizing the design of structures, signage, and lighting on the project area.

III. Environmental Consequences Justify need for EIS

Based on review of the reduced FTT, the County believes that the environmental consequences of the proposed project may be significant and justify the preparation of an Environmental Impact Statement (EIS). A project of this scope and undertaking justifies a more detailed evaluation of the environmental consequences and alternatives than is provided in the reduced impact Final EA. For all development in the County, including County capital projects, a thorough environmental analysis is prepared to fully evaluate the project and mitigate impacts.

The County's Land Use and Environment Group has developed guidelines for determining significance that are used to determine the impacts of environmental consequences in the unincorporated portions of the County. The guidelines also provide mitigation options for addressing significant impacts. To assure that all impacts from the project are adequately analyzed, the County urges the use of these guidelines in preparation of all environmental sections of an EIS. The guidelines are available on the County Department of Planning and Land Use website. In addition, the County encourages the Sycuan Band to hire consultants from the County approved list for all environmental subject areas.

Below is a summary of the general issues and specific concerns with the Final EA.

A. Land Resources

- 1) The BIA should consult with the State of California, Department of Conservation, Office of Mine Reclamation as the project site is still subject to Reclamation Plan RP 90-001.
- 2) Recreational Vehicle (RV) Park: The proposed action intends to install RV parking spaces in a location that requires reclamation per Reclamation Plan RP 90-001. This reclamation plan is still in force and the County has been requesting that reclamation begin in accordance with the Reclamation Plan 90-001. The EA must discuss this conflict and how the issue will be resolved.
- 3) The No Action Alternative should include acknowledgement of the need to reclaim disturbed mining areas according to Reclamation Plan 90-001.
- 4) Major Use Permit 74-068-01 expires in 2017, but the site is currently considered abandoned and in need of reclamation. It is stated the Sycuan Band currently manages the areas where mining occurred pursuant to an Interim Management Plan. The County does not recognize this interim plan and considers the site abandoned and in need of reclamation. The EA must discuss this conflict and how the issue will be resolved.
- 5) General Information: A review of the EA indicates that the proposed project may have potential adverse impacts with vectors associated with the equestrian facility. A vector is any insect or other arthropod, rodent, or other animal of public health significance capable of causing human discomfort, injury, or capable of harboring or transmitting the causative agents of human disease. To ensure the project would not substantially increase human exposure to vectors that are capable of transmitting significant public health diseases or creating nuisances, a Vector Management Plan should be completed. Guidelines for completing the Vector Management Plan can be found at: http://www.sdcounty.ca.gov/dplu/docs/Vector_Report_Formats.pdf. Additional County Guidance with regard to addressing vector issues is available at http://www.sdcounty.ca.gov/dplu/docs/Vector_Guidelines.pdf. The County Department of Environmental Health Vector Control Program is available to provide assistance and technical oversight in completing the plan.

B. Water Resources

Section 4.3.1 of the EA indicates up to 62.4 acre-feet of water would be needed if all tribal projects are implemented. It is possible that groundwater could be used for all of these activities. The County evaluates sustainable yield through the County Groundwater Ordinance as well as the California Environmental Quality Act (CEQA). The County Guidelines for Determining Significance – Groundwater Resources (website: <http://www.sdcounty.ca.gov/dplu/docs/GRWTR-Guidelines.pdf>) provide measurable standards for determining when an impact to groundwater resources would be considered significant and suggest the use of these Guidelines to provide an adequate analysis. The Guidelines were designed to provide a tiered evaluation of groundwater resources, which ultimately determine the sustainable yield for a given project. As a first step, the locations of each production well should be

discussed, and the anticipated amount of pumping that would be expected to occur from each well. An analysis of well interference to County groundwater user's wells should be analyzed in an EIS. A 5 year projection of drawdown should be performed using standard hydrologic methods (taking into account the project demand of the project). The project of drawdown would provide an estimate of impacts to off-site wells as a result of the pumping of 62.4 acre-feet per year for five years (similar to a severe drought scenario where no recharge occurs during a five-year period). In the County Guidelines, the County assumes the following is a significant impact regarding offsite well interference in fractured rock basins: *"As an initial screening tool, offsite well interference will be considered a significant impact if after a five year projection of drawdown, the results indicate a decrease of 20 feet or more in the offsite wells. If site-specific data indicates water bearing fractures exists which substantiate an interval of more than 400 feet between the static water level in each offsite well and the deepest major water bearing fracture in the well(s), a decrease in saturated thickness of 5% or more in the offsite wells would be considered a significant impact."*

C. Wastewater Management

- 1) Project impacts on off-site wastewater infrastructure were not evaluated. Conclusion on pg 4.10-3 of Final EA – *"Given the size of the proposed OWD collection, treatment and disposal system, the amount of wastewater estimated to be generated if all of the proposed developments in Alternative A are completed represent an approximate 1.6 percent increase to existing service by OWD, therefore will not adversely affect services provided to existing wastewater customers"* is not substantiated by engineering analysis. The following previous comments on the Draft EA are still applicable to the Final EA:
 - a. The EA provides an inadequate analysis of project wastewater flows from existing uses and potential future uses. The project proposes to receive sanitary sewer service from the Otay Water District (OWD). The District is dependent on conveyance capacity in the Spring Valley Sanitation District's Spring Valley Interceptor system and treatment and disposal capacity in the City of San Diego's metropolitan wastewater system. The OWD has existing capacity rights in these systems through agreement. A more detailed flow analysis is required to determine availability in and impacts to the OWD, the Spring Valley Sanitation District and the City of San Diego existing and planned wastewater facilities. This analysis should include the availability of contract, physical and infrastructure capacity in all affected systems.
 - b. Since sanitary sewer service will be provided by specific agencies subject to Board of Supervisor's Policy I-107, the EA should address the implications of the project on the surrounding area and wastewater service districts. If the project is taken into Trust, these protections will be lost and the environmental consequences must be addressed. This Policy limits connections to the OWD and the Spring Valley Sanitation District sewer systems.

D. Biological Resources

- 1) The Final EA has eliminated the Olive Grove Housing proposal and also scaled down the Dehesa Road Housing and Recreational Vehicle Park proposals. Based on this reduction, a wildlife corridor has been provided which provides a connection from the land to the north of the proposed project and the nine parcels to the south of the project site which will be conserved and managed by the KDLC. While the project has been revised to include an on-site wildlife corridor, additional information regarding the functionality of this corridor should be provided in an EIS to substantiate the conclusion that this corridor will preserve the existing wildlife movement occurring through the site. No data was provided indicating where movement currently exists through the site. The EIS should consider current movement patterns through the site as well as movement patterns that would be expected with the proposed development of the site and determine whether existing movement patterns would be compromised. In addition, while a wildlife corridor is reflected on the maps submitted for this plan, there is no assurance that this corridor will remain in open space in perpetuity, and no assurance that it will function as an open space wildlife corridor in later years. Without adequate assurance that the corridor will be protected in perpetuity, the EIS should evaluate the possibility that this wildlife corridor will no longer be available, and the possible consequences to the County's MSCP which calls for a corridor to be functioning into the future. In addition, although the nine parcels to the south which connect to the corridor are to be managed by a conservancy, there is no guarantee that they will be managed in perpetuity, as there is no enforceable agreement between the conservancy and USFWS for conservation of the land. The EIS should evaluate the possibility that these lands will not be conserved in perpetuity, or require that an enforceable agreement be required that the lands be so conserved.
- 2) The Final EA indicates that 150-foot safety buffers will be provided around the development envelopes. While the EA indicates that these buffer areas are included within the revised development footprints, Figures 2-1 b. and 2-1c. of the revised EA show housing footprints within less than 150-feet of the development footprint boundaries. The revised EA should clearly specify where these 150-foot safety zones are located and provide compensatory mitigation for any additional fire clearing that may be required outside of the currently proposed development footprints.
- 3) An EIS should be prepared which provides specific analysis regarding indirect biological impacts from the proposed development (e.g.: increased human access, increased predation or competition from domestic animals, pests or exotic species, and increasing noise and/or nighttime lighting such as lighting along the secondary access road and nighttime events in the Pow Wow grounds). The analysis should address indirect impacts, particularly at the edge of proposed development adjacent to existing open space or other natural habitat areas, to levels that would likely harm sensitive species over the long term or harm the function of the corridors.

- 4) Page 1-1 of the Final EA states that nine parcels totaling 608.67 acres will be sold to and managed by the KDLC. It is the County's understanding, and the Biological Opinion states, that the parcels will be purchased by the USFWS and the California Department of Fish and Game's Wildlife Conservation Board (CDFG WCB) and dedicated in fee title to the KDLC. The EA should be revised to accurately describe the financial exchange for the nine parcels.
- 5) The County commends the Sycuan Band on its proposed NRMP for the Reservation. The proposed NRMP is consistent with the County's MSCP goals and objectives. The County's MSCP concerns have been addressed in the EA, Responses to Comments, the USFWS's Biological Ordinance (BO), and the NRMP.
- 6) The FTT land bisects a large area of habitat designated as PAMA by the MSCP. Preservation of land within the PAMA is intended to create an interconnected regional preserve for conserving habitat, biological diversity, and genetic exchange within and among populations of plants and animals. As discussed in the EA, the Sycuan Band will conserve a north-south wildlife movement corridor that is 1,000 feet wide at its widest point along the Sweetwater River. Other habitat will remain after development of the proposed facilities and will serve as other locations for wildlife to move north-south; however, according to the EA, development beyond what is described in the EA is envisioned by the Sycuan Band. Per the EA, the land that remains undeveloped after the proposed project is built may be developed in the future or may be used as mitigation for future development by the Sycuan Band. The County urges the Sycuan Band to reconsider future development plans that would impact other north-south habitat connections. Such connectivity would benefit the high concentration of sensitive species on, and to the north and south of, the Reservation.

E. Cultural Resources

- 1) The EA failed to include the Cultural Resources Technical Report. The EA makes statements that cultural resources are not eligible for inclusion in the National Register of Historic Places, but there is no supporting evidence within the EA as to how these determinations were made. Impacts (both direct and indirect) to cultural resources must be identified and an assessment that is supported by facts and analysis as to whether the cultural resources are significant must be included. According to the BIA, the Sycuan Band must grant permission before the technical report can be released to the County; therefore the County is requesting permission for the release of these documents.
- 2) Section 4.6 of the Final EA identifies new archaeological sites recorded within the project area by the use of temporary numbers. These sites should be recorded at the South Coastal Information Center and the Trinomial/Primary Numbers used to identify these cultural resources should be used within the report.

F. Land Use and Agriculture

- 1) Page 4.9-1 of the Final EA states that the proposed developments would be compatible with surrounding land uses in that there are residential and recreational land uses on or near the Sycuan property. The EA should include the necessary review and analysis to substantiate this conclusion. As noted, much of the Sycuan property is operated under adopted Specific Plans and Major Use Permits. These planning tools are the assurances that the existing operations are compatible with surrounding land uses and do not result in land use impacts. The EA should include a review of the limitations and conditions within the Specific Plan and Major Use Permits, determine how the loss of these land use controls may result in environmental consequences and determine what specific operating limitations may be necessary to assure continued compatibility. In addition to compatibility with the Plans, the analysis should address compatibility with existing and planned land uses surrounding the project site as well. This is particularly important for the new uses that would currently require a new review for land use compatibility, such as new uses on the Sycuan Resort, the Outdoor Events Center, Lake Emma recreational uses, the Recreational Vehicle Park and the Equestrian Center.
- 2) The proposed uses at the Pow-Wow Grounds would currently require approval of a Major Use Permit to provide for the accommodation of this use that have special site or design requirements, operating characteristics and potential environmental consequences on surroundings. The EA does not currently include any analysis of the physical and operational aspects of the Pow Wow Grounds or of the existing or planned surrounding land use to support the conclusion that the Pow Wow Grounds should not affect uses on adjacent parcels. To adequately analyze land use compatibility, the EA should complete a compatibility analysis similar to the findings required for the granting of a Major Use Permit found in Section 7358 of the San Diego County Zoning Ordinance.
- 3) Page 4.9-1 states that *"the proposed Outdoor Events Center/ RV Spaces, Equestrian Center, Pow-Wow Grounds and low-density housing are in accordance with the general subregional land uses, therefore there are no significant impacts from land uses under the Mitigated Proposed Action to the subregional plan."* The EA is inadequate as it does not indicate how the uses conform to the subregional plan.
- 4) The EA does not provide adequate information relating to indirect or cumulative impacts of the loss of agricultural lands. Indirect and cumulative impacts analyses identify growth inducing effects that could significantly affect surrounding agricultural properties, and the additive effects of other projects' impacts to agricultural resources. An EIS should be completed to address this inadequacy.
- 5) Page 3.9.9 indicates that the *"the Sycuan Property contains prime farmland, farmland of local importance and grazing land, according to the Farmland Mapping and Monitoring Program (FMMP)"* The EA is inadequate as the on-site

loss of agricultural resources is not fully addressed. A Local Agricultural Resource Assessment model should be completed to determine the importance of the agricultural resources, and mitigation measures would be needed should the proposed development result in direct and/or indirect impact to the agricultural resources onsite and/or offsite. Further analysis and review is necessary; therefore, an EIS should be prepared to address the direct and indirect impacts related to this potentially significant impact.

- 6) If historical agricultural operations are identified on the FTT properties, then an analysis should be completed to address the use of fertilizers, pesticides, and petroleum-based products in conjunction with the historical agricultural operation. The use of these substances may have left residual chemicals in the soils. A Phase I and partial Phase II Environmental Site Assessment should be conducted to identify the effects of the land, of using such products, assuming the historical agricultural operation did not employ 100 percent organic farming techniques.

G. Public Services

- 1) The project area is primarily in the San Diego Rural Fire Protection District (SDRFPD). The shift from FTT lands will reduce tax revenues used to support SDRFPD services. It is acknowledged that Sycuan Fire Department will formally assume primary responsibility for this area, and will continue to provide assistance to neighboring fire agencies. However, the reduction of revenue to SDRFPD will negatively affect an already over-extended coverage capability.
- 2) Portions of the project area are greater than a 20 minute emergency travel time from SDRFPD. Elimination of this area from the SDRFPD jurisdictional boundary makes it more difficult to generate adequate funding for fire and emergency services, and to site a future fire station within a reasonable travel time for emergency service delivery.
- 3) Over the years, the County has enjoyed a good partnership with the Sycuan Reservation Fire Department. This has included some emergency coverage of the County areas surrounding the subject property, both within and outside fire protection districts. The County encourages formalization of that through an agreement between the County and the Sycuan Band to insure continuity of fire and emergency medical services to that area, for our mutual benefit. Reciprocal agreements as discussed in Section 7.5.2 of the EA (Cooperative Fire Management) should be formalized with the San Diego County Fire Authority as well as maintained with SDRFPD.
- 4) The project is currently in designated "Wildland Urban Interface" area, and State Responsibility Area. It is ranked as "Very High" Fire Severity Zone – the highest risk category. If these parcels were to remain under the jurisdiction of the County of San Diego, they would be subject to the Public Resources Code, CCR Title 14 "SRA Fire Safe Regulations", the County Building Code and the County Consolidated Fire Code, which establish minimum fire safety standards for fire

fighter emergency access and civilian evacuation, vegetation management in proximity to people and access, building resistance to wildfire ignition and water supply for firefighting, and related issues.

- 5) Wildfire is a major on-going threat to all people. According to County maps, in the last ninety years a major wildfire burned through portions of this specific area in 1950, 1970, 1977, 1981, 1982 and 2003. That makes the native vegetation ("fuel") for much of the site among the oldest in the County. Wildfires would be expected to be of extreme intensity due to density and age of the fuel.
- 6) The EA indicates that in general terms, safety priorities will be supported by the Sycuan Band under Federal regulations. (It commits, for example, to providing a minimum 2500 GPM fireflow to the new areas.) To the extent these safety priorities are maintained, safety of the residents, and of guests to the Reservation area will be protected to the extent considered by fire experts to be the current appropriate level for wildland fire areas.
- 7) The County reviewed the proposed "secondary access road" traveling east from Sloan Canyon Road near Dehesa Road and noted that it did not clearly show connection with Sycuan Road on the Reservation. It is critical that the alternate access road connect to Sycuan Road or one of its tributaries to provide needed fire access and civilian evacuation options in wildfire and other emergencies, for the benefit of all tribal and non-tribal land occupants of the area. Of the fire/life safety factors addressed by the local and state regulations identified above, the most critical fire and life safety issue on both sides of tribal boundaries is connecting roads for fire fighting access and emergency evacuation. Wildfire does not respect jurisdictional borders.

H. Solid Waste / Recycling:

1) Construction and Demolition Recycling

It is recommended that all construction projects, including permanent facilities, roads, housing units, and other facilities recycle 90% of all inert material such as concrete and asphalt, and 70% of all other types of debris.

It is also recommended that project managers develop a detailed Waste Management Plan describing how the construction and demolition debris will be handled. Reusing materials onsite or salvaging them for reuse is considered the highest and best use. If this is not possible, it is recommended that the project manager source separate materials onsite to achieve the highest recycling percentages. If source separation is not possible, materials may be sent to be processed at one of the region's mixed construction and demolition (C&D) facilities.

To best record recycling efforts, it is recommended that a daily log of all materials disposal and recycling be kept onsite.

C&D recycling resources, including a sample Waste Management Plan, are available on the county website at www.sdcounty.ca.gov/dpw/recycling/cdhome.html

A list of construction and demolition recycling facilities is available at http://www.sdcounty.ca.gov/reusable_components/images/dpw/recyclingpdfs/CDGuideEnglish.pdf

2) Composting and Mulching

It is recommended that when land is cleared for development that topsoil is preserved and reapplied or that soil is amended with compost to ensure soil fertility. When land clearing, it is also recommended that materials such as landscape trimmings, land grubbing materials, unwanted plant matter be mulched and/or composted.

The use of a composting system at the permanent facilities and recreation centers, either in-vessel or open-air system, should be considered to reduce landfill disposal of food waste and other organic materials generated onsite. In addition to reducing waste management costs, composted materials can be used to conserve water and to build healthy soils, which reduce the need for fertilizer and pesticide use.

3) Space Allocation for Recycling

For new construction in housing developments and commercial units, it is recommended that there be equal volume and convenience allocated for recycling receptacles as that for waste. It is recommended that all properties have adequate space to accommodate bin and/or cart storage for their waste and recyclable materials separately.

I. Noise

- 1) The EA did not include an acoustical report to address the project. In addition, the EA is inadequate in evaluation of the environmental consequences to residential areas in the vicinity of the proposed expansion. The County believes that the preparation of a more detailed analysis in an EIS is needed to address noise issues.
- 2) An EIS should be prepared which includes a thorough site-specific noise study by a qualified acoustical consultant familiar with local regulations to demonstrate compliance to the County's General Plan (Noise Element) and the applicable sections of the County's noise regulations (36.404, 36.408, 36.409, 36.410, and 36.411). Refer to the County's Guidelines for noise and vibration in determining significant of these potential impacts.
- 3) In Section 3.11.2, San Diego County Ordinances, this section should include the Section 36.404 General Sound Level Limits within the County Code Noise

Ordinance to specifically address the County's sound level limits for operational facilities and on-going activities associated with the EA.

- 4) In Section 4.11.1, Construction Noise, the County 75 dBA requirement for the operations of construction equipment shall be evaluated at the property line where an existing occupied structure is located. The construction noise calculations should be revised to evaluated levels at the property line of existing occupied structures as the most conservative noise evaluation and not at the existing structure location. Additionally, information regarding construction phasing, duration of construction equipment operations should be disclosed.
- 5) The EA must reference a figure illustration, showing the locations of the property lines of existing occupied structures in relation to the proposed operations of construction equipment. Subsequent to this figure illustration, table calculations should be included to show the projects construction noise levels at these property lines.
- 6) In Section 4.11.1, Traffic, noise calculations must demonstrate that project related traffic does not increase noise levels at existing County noise sensitive receptors to over 10 dBA Community Noise Equivalent Level (CNEL). The EA does not evaluate the existing decibel CNEL at these existing noise sensitive receptors and does not disclose the project related noise level increases to these residences.
- 7) In Section 4.11.1, Outdoor Event Center/RV Spaces, the operations associated with the Outdoor Event Center have not been disclosed. All noise generating activities associated with this center including (but not limited to) wedding events, celebratory activities, public announcement systems, generator units, etc. must be evaluated. Operational facilities within unincorporated area of the county should demonstrate consistency with the County Code Noise Ordinance, Section 36.404 which governs sound levels at the property lines.
- 8) In Section 4.11.1, Housing, the EA does not include noise calculations to the potential noise exposure levels to the proposed 20 residential units. Proposed noise sensitive land uses within unincorporated area of the county should demonstrate these receptors would not be exposed to noise levels exceeding 60 dBA CNEL for single family residences and 65 dBA CNEL for multi-family. The EA fails to properly evaluate the future CNEL noise levels at these proposed units.
- 9) In Section 4.11.1, Star Ranch Housing, the EA does not include noise calculations to the potential noise exposure levels to the proposed 15 residences. Proposed noise sensitive land uses within unincorporated area of the county should demonstrate these receptors would not be exposed to noise levels exceeding 60 dBA CNEL for single family residences. The EA fails to properly evaluate the future CNEL noise levels at these proposed units.

- 10) In Section 4.11.1, Pow-Wow Grounds, all noise generating activities associated with this use must be evaluated. Operational facilities within unincorporated area of the county should demonstrate consistency with the County Code Noise Ordinance, Section 36.404 which governs sound levels at the property lines.
- 11) In Section 5.10.1, the third bullet states "*All powered equipment will comply with applicable local. . . regulations. . .*". An EIS should be prepared to properly evaluate the project related construction equipment operations by addressing the comments above, and include additional noise mitigation measures (if applicable).
- 12) In Section 5.10.2, the first bullet references 82 decibels (dBA), 15 minute Equivalent Sound Level (Leq) threshold for the proposed operation facilities associated with the EA. This reference threshold is incorrect as it applies to impulsive noise activities such as (but not limited to) a gunshot, an explosion, noise generated from construction equipment, etc. Proposed operational facilities such as the outdoor event center, equestrian center, and pow wow grounds must be evaluated in relation to the property line. Operational facilities within unincorporated area of the county are subject to the property line sound level requirements within the County Noise Ordinance, Section 36.404.

J. Hazardous Materials

The EA should address how gasoline use and storage at the Sycuan Resort would be controlled if existing regulation by the County Department of Agriculture Weights and Measures and Air Pollution Control District is lost should the land convert to Trust. The agencies responsible and regulations to be followed should be included. This subject is discussed in the 2011 Response to Comments, Section 12-93.

K. Visual Resources

- 1) The Visual analysis does not include adequate information or data to support the conclusions in the EA. The EA should include information on the proposed development, including grading, site design, landscaping, parking, lighting, and architecture, to determine if the project will be consistent with the existing rural residential development in the community in the area. More detail, including photographs, should also be provided to document the existing character.
- 2) The project falls within the County of San Diego's Zone B Lighting Regulations, according to current ordinances and regulations (County of San Diego Light Pollution Code Sec. 59.101, County of San Diego Zoning Ordinance Section 6320 6322 and 6324, Title 24 (state), and County of San Diego General Plan, Conservation Element. The County recommends that all night lighting conform to the Crest / Dehesa / Harbison Canyon / Granite Hills Subregional Community Plan. The County mandates for Zone B Lighting are for fully shielded, low pressure sodium lamps or fully shielded lamps, 4050 lumens or below.

- 3) A Landscape Plan should be prepared using native vegetation and conforming to the Crest/Dehesa/Harbison Canyon/Granite Hills Subregional Plan to reduce the potential visual impacts from the proposed project to nearby residents.

L. Air Quality

- 1) The Climate Change Analysis for Alternative A should be updated. The Mitigated Proposed Action to include a quantitative analysis that estimates the percent reduction associated with the project's Climate Change mitigation measures. Although the project is not subject to the County's environmental & land use regulations, the Final EA should disclose additional information so the public can better assess the project's environmental impact. The Climate Change section should reference the County's Interim Approach to Climate Change, which identifies a 900 metric ton screening threshold criteria. The EA should be revised to explain that the County requires projects which exceed 900 metric tons CO₂e, to reduce GHG emissions 33% below a "business as usual" scenario. The EA should identify and disclose the GHG reductions that will be attained with the projects proposed Climate Change mitigation measures.
- 2) The project description in the EA should indicate all proposed activities for Lake Emma. If additional sources of air pollutants are proposed (boating, jet skis, etc.), an EIS should be prepared which includes an evaluation of the resulting emissions to determine if the project would result in a significant impact to Air Quality.
- 3) As previously requested in the County's 2009 comments, the EA does not include local meteorological or emission data for this area of San Diego County. Using local data is necessary to ensure the emissions' impacts of the project upon San Diego County - specifically in that region's microclimate - are addressed in a scientifically defensible manner. For example, the region in which the proposed project is to be located experiences the highest levels of ambient ozone in San Diego County and yet that is not considered.
- 4) The EA does not include an evaluation of whether the projects emissions would result in a violation or contribute substantially to an existing air quality violation of the California Ambient Air Quality Standards. An EIS should be prepared which evaluates whether the project would result in emissions that would violate an air quality standard or contribute substantially to an existing or project air quality violation. For example, the San Diego County Air Basin (SDCAB) is classified as non-attainment for Ozone (O₃), PM₁₀, and PM_{2.5}. An EIS should evaluate the emissions of PM₁₀, PM_{2.5}, CO, Lead and Lead Compounds and Volatile Organic Compounds (VOC) resulting from the proposed project.
- 5) The EA does not indicate whether the project would conflict with or obstruct the implementation of the San Diego Regional Air Quality Strategy (RAQS) and/or applicable portions of the State Implementation Plan (SIP). An EIS should evaluate the projects potential impacts on the implementation of the RAQS and SIP.

- 6) The EA does not include an analysis of the project impacts on sensitive receptors. An EIS should be prepared which includes an analysis of whether there are any significant risks to sensitive receptors (residents, schools, hospitals, resident care facilities, or day-care centers) from the proposed project on- and off-site. If there are sensitive receptors located nearby, a Health Risk Assessment (HRA) should also include an analysis of whether the project would result in a significant health risk resulting from the disturbance of soils that may be contaminated from previous pesticide exposure. The HRA should also include an analysis of whether the project would result in an exposure to Toxic Air Contaminants (TACs) resulting in a maximum incremental cancer risk greater than 1 in 1 million without application of Toxics-Best Available Control Technology or a health hazard index greater than one would be deemed as having a potentially significant impact.
- 7) The EA does not adequately analyze the cumulative air quality impacts resulting from the project. An EIS should evaluate whether the project may have a cumulatively considerable impact on air quality if emissions of concern from the proposed project, in combination with the emissions of concern from other proposed projects or reasonably foreseeable future projects are in excess of the National or California Ambient Air Quality Standards.
- 8) The EA does not include an analysis of whether the project would either generate objectionable odors or place sensitive receptors next to existing objectionable odors, which could affect a considerable number of persons or the public. An EIS should be prepared which includes an analysis of the odors resulting from the proposed equestrian center and incorporate mitigation measures as necessary.

IV. Loss of Property, Sales and other Tax Revenues – Current and Future Assessments

In FY2010/11 the County collected \$509,354.94 in taxes and special assessments as levied on the 21 parcel Sycuan Property. While the Final EA proposes a reduced size trust acquisition, it remains a very large property totaling approximately 1,357.47 acres, currently under the jurisdiction of the County. The FY2010/11 value of land and improvements for the 21 parcels was \$41,310,090.00.

A table is shown on the following page that provides a summary of the valuation and associated taxes and special assessments collected on the Sycuan Property in FY2010/11 by Assessor Parcel Number (APN).

APN	LAND	IMPROVEMENTS	TOTAL VALUE	SPECIAL ASSESSMENTS	2010 TAXES
512-110-14-00	755,000.00	0.00	755,000.00	64.96	8,808.38
515-050-43-00	18,570,000.00	5,720,000.00	24,290,000.00	21,536.70	290,079.64
516-010-04-00	610,000.00	0.00	610,000.00	1,194.88	7,938.84
516-011-05-00	843,000.00	0.00	843,000.00	850.04	10,169.98
516-011-09-00	25,000.00	0.00	25,000.00	52.34	328.72
516-011-11-00	671,000.00	0.00	671,000.00	1,311.80	8,730.16
516-011-13-00	98,266.00	0.00	98,266.00	145.60	1,231.98
516-011-14-00	954,000.00	0.00	954,000.00	2,266.60	12,813.72
516-011-15-00	940,000.00	0.00	940,000.00	1,837.06	12,229.40
516-011-18-00	349,000.00	0.00	349,000.00	629.00	4,487.42
516-011-19-00	108,000.00	0.00	108,000.00	213.66	1,407.66
516-011-20-00	843,000.00	0.00	843,000.00	632.30	9,952.24
516-020-19-00	1,835,000.00	15,000.00	1,850,000.00	2,395.92	22,848.96
516-020-20-00	2,724,000.00	0.00	2,724,000.00	5,372.00	35,487.72
516-021-02-00	613,000.00	0.00	613,000.00	941.14	7,718.28
516-021-03-00	3,018,000.00	0.00	3,018,000.00	4,584.12	37,950.22
517-031-17-00	1,269,000.00	0.00	1,269,000.00	2,512.68	16,542.36
520-091-06-00	493,497.00	21,596.00	515,093.00	1,919.50	7,614.20
520-091-07-00	15,117.00	0.00	15,117.00	62.10	229.22
521-010-01-00	469,741.00	43,193.00	512,934.00	1,920.24	7,591.08
521-010-04-00	306,680.00	0.00	306,680.00	1,804.20	5,194.76
TOTAL	\$35,510,301.00	\$5,799,789.00	\$41,310,090.00	\$52,246.84	\$509,354.94

It is significant to note that the 21 parcel Sycuan Property has increased in value in FY2011/12. The current reassessed value of the Sycuan Property is now \$52,133,864, which will result in approximately 26% higher tax revenues to be collected in FY2011/12. This annual loss will continue to be further compounded based on the assessed value of the property projected in future years and future development of the property. In addition, this current application in combination with other approved and pending applications for local Tribal Nations has a cumulative fiscal impact on the County that should be analyzed as part of any BIA application that proposes to acquire land currently under the jurisdiction of the County.

This action will result in over a half million dollar annual loss of taxes and special assessment revenues for the County, other local agencies, schools and the state. The loss of tax revenue that is collected for several agencies may affect public services in the area. Tax revenues are currently collected on the 21 parcels for the County General Fund, the County Library, County Lighting Zone A, County Flood Control, County Vector Control, Rural Fire Protection District, San Miguel Fire Protection District, Cajon Valley Elementary School, Dehesa Elementary School, Grossmont High School, Grossmont-

Cuyamaca College, County Office of Education, Educational Revenue Augmentation Fund, Grossmont Healthcare District, Greater San Diego Resource Conservation District, Otay Water District, Padre Dam Municipal Water District and San Diego County Water Authority. A table is shown below that provides a breakdown of property tax distribution for the 21 parcel Sycuan Property in FY2010/11.

DISTRIBUTION	1%	VOTER-APPROVED DEBT	SPECIAL ASSESSMENTS	TOTAL
County General Fund	\$57,811.82	\$0.00	\$0.00	\$57,811.82
County Library	11,155.06	0.00	0.00	11,155.06
County Lighting-Zone A	0.00	0.00	383.34	383.34
County Flood Control	3,415.49	0.00	0.00	3,415.49
County Vector Control	0.00	0.00	407.98	407.98
Rural Fire Protection District	2,847.62	0.00	1,000.00	3,847.62
San Miguel Fire Protection District	25,409.79	0.00	0.00	25,409.79
Cajon Valley Elementary	1,708.27	396.38	0.00	2,104.65
Dehesa Elementary	80,635.88	0.00	0.00	80,635.88
Grossmont High	111,754.50	24,550.51	0.00	136,305.01
Grossmont -Cuyamaca College	42,339.94	12,099.70	0.00	54,439.64
County Office of Education	9,874.78	0.00	0.00	9,874.78
Educational Revenue Augmentation Fund	50,753.50	0.00	0.00	50,753.50
Grossmont Healthcare District	7,253.23	5,432.20	0.00	12,685.43
Greater San Diego Resource Conservation	128.84	0.00	0.00	128.84
Otay Water District	4,482.20	0.00	0.00	4,482.20
Padre Dam Municipal Water District	2,154.38	0.00	21,215.08	23,369.46
Metropolitan Water District	0.00	1,528.30	15,598.34	17,126.64
San Diego County Water Authority	1,375.71	0.00	13,642.10	15,017.81
TOTAL	\$413,101.01	\$44,007.09	\$52,246.84	\$509,354.94

The Sycuan Resort, formerly the Singing Hills Country Club, is located at 3007 Dehesa Road, which is located in the Sycuan Property on APN 515-050-43. This parcel was valued at \$24,290,000.00 in FY2010/11 with \$290,079.64 in taxes and assessments collected. In FY2011//12 the parcel has been reassessed and valued at \$33,678,653.00. The Sycuan Resort includes a 100 room hotel including 18 luxury suites, two 18-hole golf courses, and executive course, private putting green, 11 lighted tennis courts, a club house, two swimming pools, fitness center, full service spa, dining, a lounge, snack shop, conference and banquet rooms, and a retail golf shop.

Another consequence of the removal of parcels from the local governmental jurisdiction is the loss of unrealized development and the potential loss of sales tax revenue generated on the properties. The Sycuan Resort on the Sycuan Property includes commercial activities for which the taxes are currently collected. If the property is moved to trust the County can no longer use a portion of the sales tax revenue to fund programs and services which benefit the community impacted by such development activity.

The County does not receive sales tax revenue from commercial activities on lands taken into trust; yet the County remains responsible for addressing on-going off-site impacts associated with use of these commercial parcels. Further, tribes are not required to pay Transient Occupancy Tax (TOT) for hotels and resorts. The Sycuan Resort is one of the County's larger hotel establishments contributing \$170,493.07 of TOT revenue in FY2010/11, \$94,316.48 in FY2009/10, \$184,666.78 in FY2008/09, and \$238,693.94 in FY2007/08.

The Final EA provides response that *"The Tribe had offered in 2006 to establish a mitigation fund into which it would pay annually no less than the total of the taxes paid for the 30 parcels at the time of the transfer of the Sycuan Property into trust. The Tribe made this offer to the County in a Memorandum of Understanding (MOU) which it provided to the County for review and comment in September of 2006. Subsequently, representatives of the Tribe and the County met in January of 2007 to discuss the MOU and other concerns of the County, with additional correspondence sent to the County after the meeting. However, the County has never provided any written or oral response to the Tribe's proposed MOU, therefore the Tribe is no longer considering it."*

The County did receive a draft agreement on September 23, 2006 and did respond to a Sycuan representative by email on November 9, 2006 stating that the proposed agreement was incomplete, in that it lacked specificity and firm commitments.

County representatives also met with Sycuan representatives on February 17, 2010 to discuss impacts from the loss of taxes, as well as other concerns for this very large trust application. However, issues remained outstanding based on environmental concerns. On March 22, 2010, Sycuan representatives and County staff met as a Trails Subcommittee to discuss trails issues. Sycuan representatives said they were meeting with wildlife agencies next day and that they would provide County staff with supplemental environmental documents and set up a field visit. The agreed upon site visit with Sycuan representatives was not scheduled by Sycuan representatives to tour the property and discuss concerns. On April 12, 2010 County staff provided Sycuan representatives with County Assessor's office calculations of taxes and assessments for the FTT properties and a map showing the County-maintained public roads. On April 28, 2010, Sycuan representatives provided a memo to the County summarizing contributions to the County by the Sycuan Band in relation to the FTT and the EA. On May 12, 2011, the County confirmed that figures were reasonable and again provided road maps to Sycuan representatives. It is the County's understanding that discussions ended because there was no site visit to resolve the trail issues. The County felt that both parties exchanged agreed upon information and achieved all but one deliverable, the site visit to see the trails.

V. Development and Impacts to Surrounding Communities

The Sycuan Property is contiguous with the Sycuan Reservation and is located near the incorporated City of El Cajon and many unincorporated communities in east San Diego County. The Sycuan Property is near the Sycuan Casino and includes the established commercial establishment of the Sycuan Resort. The County is concerned that the infrastructure needed to support the development may impact the environment and

necessary services. When these lands are taken into trust, the impacts of gaming and other uses of the property are expanded outside of existing reservations at an intensity that may not be compatible with the surrounding area. The impact on residents of adjacent communities may exceed what could have been reasonably anticipated, and can occur without the traditional land use planning process and opportunity for comment that local governments provide their residents. Impacts can occur not only due to incompatible land uses, but also can occur due to traffic generation, groundwater capacity and a host of other sensitive biological resources.

Development on the parcels, including expanding casino or hotel center related activities in particular, should require the Sycuan Band to enter into an Intergovernmental Cooperative Agreement with the County of San Diego to mitigate off reservation impacts that would result from any planned or future proposed development.

VI. Need Of The Tribe for Additional Land

The regulations implementing the IRA (25 CFR § 151.10(b), require the U.S. Department of Interior (DOI) to evaluate the need of the Sycuan Band for additional land. The Sycuan Band currently has 817 acres in trust and this proposed action more than doubles the land holdings. The Sycuan Reservation is located in an urban area with many economic benefits. The Final EA provides response to the comment that "*Tribe has been too economically successful to need additional land brought into trust*". The response that "*the diverse economic development activities on Tribal lands, both existing and proposed (including the Sycuan Casino, Sycuan Resort, Outdoor Event Center/ RV Spaces) require a consistent and integrated management strategy that can only be achieved through uniform Tribal jurisdiction over the land that hosts these activities*" does not justify the need for the FTT. Proposed development of the Sycuan Property may be implemented under the County jurisdiction, which will ensure that public services and impacts are appropriately mitigated.

While the County appreciates the Sycuan Band's commitment to conserved open space, and efforts to foster the Sycuan Band's economic development, provide Tribal housing and recreational opportunities. However, The County opposes the expansion of tribal lands and Indian gaming activities where mitigation for resulting impacts are not sufficiently addressed. The Sycuan Band's objectives for the Sycuan Property can be accomplished under existing land use jurisdiction. The reduced impact proposed FTT is still significant in size and impact, including the loss of over a half a million dollars annually in taxes and assessments. The Sycuan Property is also home to one of the County's bigger hotels contributing approximately \$170,000 annually in TOT.

The County also has a policy to oppose efforts that impede local land use authority. The cumulative fiscal impact of all proposed trust applications on the County and other local agencies should be analyzed and mitigated. The current application in combination with other applications has significant cumulative impacts that should be evaluated as part of any BIA application that proposes to acquire land currently under the jurisdiction of the County. The loss of tax revenue may negatively impact public services in the affected areas and communities. This loss is calculated based on the current property value at the time property is moved into trust, which does not capture the true loss in future years assessed valuation.

Development of the property may exacerbate impacts on services needs, and appropriate analysis through an EIS and mitigation for potential impacts in the surrounding area such as fire safety, emergency response, public safety, traffic, available water supply, air quality, stormwater, noise, habitat restoration or other biological impacts.

The County values good government-to-government relations with the Sycuan Band to ensure delivery of efficient services and improved quality of life for respective residents and the community. It is necessary to balance environmental preservation and economic development needs, capture the loss of taxes and assessments, both current and future, and mitigate potential impacts on services and the quality of life in local communities. It is important that the Sycuan Band continue discussions with the County to lessen impacts to the community relating to traffic and circulation, the environment and public safety, and to mitigate these impacts through a binding agreement.

Thank you for the opportunity to comment on the Final EA and this proposed FTT action, and for your consideration of the County's concerns. If you have any questions, please contact Teresa Brownyard, Tribal Liaison at (619) 685-2287.

Respectfully,



SARAH E. AGHASSI
Deputy Chief Administrative Officer

Attachments:

- Attachment A - Notice of Impending Civil Penalties Assessment dated August 18, 2011
- Attachment B - Sections from the County of San Diego Zoning Ordinance

cc:

- Honorable Chairman Daniel J. Tucker, Sycuan Band of the Kumeyaay Nation
- Honorable Dianne Feinstein, United States Senate
- Honorable Barbara Boxer, United States Senate
- Honorable Darrell Issa, United States House of Representatives
- Supervisor Dianne Jacob, Second Supervisorial District, County of San Diego
- Secretary Ken Salazar, U.S. Department of the Interior
- Assistant Secretary Larry Echo Hawk, Indian Affairs, U.S. Department of the Interior
- Director Michael S. Black, Bureau of Indian Affairs
- Superintendent Robert Eben, Southern California Agency, Bureau of Indian Affairs
- Mr. Jonathan Renner, Legal Affairs Secretary, Office of the Governor
- Mr. Jacob Appelsmith, Senior Advisor to the Governor, State Capitol
- Department of Justice, Office of the Attorney General, Attn. Peter Kaufman
- Sid Morris, Director of Planning and Development, Sycuan Band of the Kumeyaay Nation
- Edmund Pert, Regional Manager, California Department of Fish and Game (South Coast Region)
- Karen Goebel, Assistant Field Supervisor, U.S. Fish and Wildlife Service (Carlsbad Office)
- Dan Silver, MD, Executive Director, Endangered Habitats League (EHL)

Ms. Amy Dutschke
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Page 27

- Crest-Dehesa Planning Group
- Dehesa Valley Community Council, Inc.
- Claudia Anzures, Chief Deputy County Counsel
- Richard Haas, Assistant Director, County Department of Planning and Land Use
- Teresa Brownyard, Tribal Liaison, County of San Diego

Attachment A

Notice of Impending Civil Penalties Assessment dated August 18, 2011



ERIC GIBSON
DIRECTOR

County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017

August 18, 2011

Sid Morris, Agent for Service
Sycuan Tribal Development Corporation
5469 Casino Rd.
El Cajon, CA 92019

NOTICE OF IMPENDING CIVIL PENALTY ASSESSMENT

Dear Mr. Morris:

The purpose of this letter is to notify you that the Director of the Department of Planning and Land Use will be assessing Civil Penalties against the Sycuan Tribal Development Corporation ("Sycuan") pursuant to sections 18.201 through 18.214 of the San Diego County Code of Regulatory Ordinances ("SDCCRO") should it fail to correct the violations that exist on its property known as "Sloan Canyon Mine CA Mine ID#: 91-37-0027" located near Dehesa Road and Sloane Canyon Rd..

Civil Penalties are issued at a daily rate for each day that the violation exists. For violations of SDCCRO or the San Diego County Zoning Ordinance ("SDCZO") County Code, the maximum daily civil penalty for each responsible person is \$1,000 per violation per day. The cumulative maximum civil penalty for any one violation is \$50,000 per responsible person in any 12 month period. For violations of the State Mining and Reclamation Act ("SMARA") the maximum daily civil penalty for each responsible person is \$2,500 per violation, per day. The cumulative maximum civil penalty for any one violation is \$125,000 in any 12 month period. The amount of Civil Penalties assessed will be based on the criteria included in Section 18.205 of the SDCCRO.

Sycuan was given previous opportunity to correct the violations on its property and failed to comply. Specifically, Sycuan was issued a Notice of Violation on June 25, 2010. As the property owner Sycuan is responsible for the violations that exist on the property.

**VIOLATIONS LOCATED AT "SLOAN CANYON MINE CA MINE ID#: 91-37-0027
LOCATED NEAR DEHESA ROAD AND SLOANE CANYON ROAD.**

The following violations of the San Diego County Code of Regulatory Ordinances (SDCCRO) and the San Diego County Zoning Ordinance (SDCZO), Surface Mining, and Reclamation Act of 1975 (SMARA), exist at your property:

1. Failure to comply with condition "E" of RP 90 -001 SDCZO 7703.
2. Failure to provide annual proof of financial assurances in violation of SDCCRO 87.707(d) and SMARA 2773.1(a).
3. Failure to provide financial assurances SDCCRO 87.707(c) and SMARA 2773.1(a).
4. Failure to dedicate recreational trails pursuant to condition "F" of RP 90-001, SDCZO 7703.
5. Failure to commence and complete reclamation of an abandoned mine SMARA 2727.1(h)(6).

REQUIRED CORRECTIVE MEASURES

You must immediately cease the violation(s) and complete all action necessary to resolve the violation to the satisfaction of the Department. Specifically, you must immediately:

1. Submit a financial assurance cost estimate ("FACE") by **August 31, 2011** that ensures restoration of the site can be done in complete compliance with RP 90-001.
2. Provide financial assurances to the County of San Diego to cover the cost to restore the site in compliance with RP 90-001 by **September 19, 2011**.
3. Provide a reclamation implementation schedule, approved by the County and in compliance with RP 90-001, by **September 19, 2011**.
4. Dedicate recreational trails in accordance with condition "F" of RP 90-001 by **October 18, 2011**.

FAILURE TO COMPLY

Failure to comply with any of the deadlines above will result in Civil Penalties being assessed against you. Should you fail to pay Civil Penalties, the County may record a lien against your property.

Notice of Impending Civil Penalty Assessment

August 18, 2011

If you have any questions concerning this letter, please contact me at (858) 495-5020 or via e-mail at pamela.elias@sdcounty.ca.gov.

A handwritten signature in black ink, appearing to read 'Pam Elias', written in a cursive style.

Pam Elias, Chief
Code Enforcement Division
Department of Planning and Land Use

Attachments:

Notice of Violation June 25, 2010



ERIC GIBSON
DIRECTOR

County of San Diego

DEPARTMENT OF PLANNING AND LAND USE SURFACE MINING ENFORCEMENT

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
ATTN: JIM BENNETT, MAIL STOP 0650

Sent Certified Mail

June 25, 2010

Mr. Sid Morris
Sycuan Tribal Development Corporation
5469 Casino Road
El Cajon, CA 92019

Subject: Sloan Canyon, RP 90-001, MUP 74-068W1
CA Mine ID#: 91-37-0027
Notice of Violation: Lack of Financial Assurance

Dear Mr. Morris:

This letter is to inform you that I have taken over surface mining enforcement duties for the County of San Diego. I look forward to working with you. Tom Hart has transferred to the Department of Public Works and will no longer be handling surface mining-related issues. Please send all future correspondence to my attention.

Please find attached a letter from the California Department of Conservation Office of Mine Reclamation (OMR) dated June 21, 2010. The letter states that the financial assurance mechanism contained within Tribal Resolution No. 2007-08 does not meet the requirements of the California Code of Regulations (CCR) Section 3806.3. Therefore, your site is operating without a financial assurance. Failure to annually provide a financial assurance is a violation of SMARA Section 2207(a)(9). Therefore, your operation is not in substantial conformance with SMARA.

The County is currently holding bonds from two previous owners for roughly \$100,000. Each owner continues to pay monthly premiums on the bonds and have made multiple requests to release their bonds. This is an unfortunate situation for both former owners, since the County cannot release the bonds until a valid financial assurance mechanism is received from the Sycuan Tribe. Please post a valid financial assurance (using one of the approved methods indicated within the OMR letter dated June 21, 2010) by **September 25, 2010**. The financial assurance must be made payable to the County of San Diego and the Department of Conservation.

June 25, 2010

Please provide this office to my attention, by **August 1, 2010**, a copy of a current, up-to-date financial assurance calculation and estimate for reclamation of the site, as required by SMARA. After review and approval by the County, please post the financial assurance mechanism as required under SMARA. Information regarding financial assurances can be found on the State's web site as follows:
http://www.consrv.ca.gov/OMR/financial_assurances/index.htm.

I have also reviewed the letter you sent to Tom Hart dated May 12, 2010. You had requested delay on providing a detailed reclamation schedule until after you have had a chance to have discussion with the Fish and Wildlife Service (F&WS). You further stated that the results of those meetings would determine the type and pace of reclamation acceptable to the F&WS. In response, your request for deferring providing a detailed reclamation schedule is denied. Again, as previously requested, please provide a detailed reclamation schedule to my attention by **August 1, 2010**. The F&WS does not determine the type and pace of reclamation to occur. The specifications contained within Reclamation Plan 90-001 dictate the reclamation that is required for the site. Furthermore, the County, as lead agency is responsible for enforcing SMARA-related reclamation activities at the site. If you wish to change the reclamation requirements as contained within the Reclamation Plan, you would be required to apply with our Department for an amendment to your Reclamation Plan.

I look forward to your submittal of required items above within prescribed deadlines. For your convenience of tracking outstanding issues, a summary spreadsheet is included as an attachment. If you have any questions, please call me at (858) 694-3820 or e-mail: jim.bennett@sdcounty.ca.gov.

Sincerely,



Jim Bennett, Project Manager
Surface Mining Enforcement

e-mail cc: Kevin Doherty, Department of Conservation, Office of Mine Reclamation,
Compliance Section
Ms. Carroll L. LaGraffe, Hanson Aggregates
Sean Palmers, Volcan Materials Company

Attachments:

1. OMR letter to County of San Diego dated June 21, 2010
2. Outstanding Issues Spreadsheet for Sloan Canyon Mine



DEPARTMENT OF CONSERVATION

Managing California's Working Lands

OFFICE OF MINE RECLAMATION

801 K STREET • MS 09-06 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 323-9198 • FAX 916 / 445-6066 • TDD 916 / 324-2555 • WEB SITE conservation.ca.gov

June 21, 2010

VIA EMAIL: Jim.Bennett@sdcountry.ca.gov

Mr. Jim Bennett
County of San Diego
Department of Planning and Land Use
5201 Ruffin Road, Suite B,
San Diego, CA 92123

Dear Mr. Bennett:

FINANCIAL ASSURANCE MECHANISM, CALIFORNIA MINE ID #91-37-0027, SLOAN CANYON MINE

Thank you for your request for guidance with respect to the Sycuan Tribal Development Corporation's (the "Sycuan Band") legitimate use of an "Acceptance of Liability" for the Sloan Canyon Mine's Financial Assurance Mechanism (FAM).

As you are aware, the Surface Mining and Reclamation Act (SMARA) requires that all mines maintain a FAM that adequately covers the cost to the lead agency or state to reclaim the mine according to its reclamation plan. (Public Resources Code (PRC) Section 2773.1) These FAMs must be updated at least once each year. For non-governmental entities, the permitted mechanisms include: Surety Bonds; Trust Funds; and, Irrevocable Letters of Credit. For state, county, city, district or other political subdivisions, the following mechanisms may be used for surface mines owned and operated by state and local government entities: Pledge of revenue and Budget Set Aside. (PRC Section 2773.1(a) (1)) For Federal entities, State Mining and Geology Board regulations, Section 3806.3 provides for the use of an "Acceptance of Liability" as a FAM to secure the reclamation of a surface mine when the federal entity is responsible for performing reclamation.

Our office has reviewed the information submitted by the Sycuan Band consisting of a letter to Mr. Tom Hart dated May 12, 2010 and Tribal Resolution No. 2007-08 and determined, that the request to rely on an Acceptance of Liability as a FAM does not meet the requirements of California Code of Regulations (CCR) Section 3806.3. The



Mr. Jim Bennett
June 21, 2010
Page 2

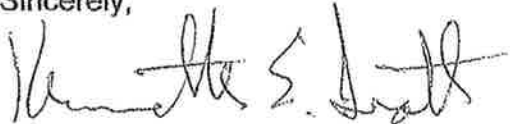
Sycuan Band relies upon the term "Federal entity" within CCR Section 3806.3 and believes that as a result of the Sycuan Band being federally recognized as a tribe that somehow it has become a "Federal entity." This interpretation strains the plain meaning of the term "Federal entity," which the Department understands to mean an actual Federal agency, department, commission, etc. The fact that the Sycuan Band has been federally recognized only serves to confirm the Sycuan Band's sovereignty.

As stated above, for non-governmental entity operators, financial assurance mechanisms must take the form of any one or a combination of the following (CCR Section 3803(a)):

1. Surety bonds;
2. Irrevocable letters of credit; or,
3. Trust funds.

In addition, the State Mining and Geology Board has prepared financial assurance guidelines that may provide additional information. Those guidelines can be found at <http://www.conservation.ca.gov/smgb/Guidelines/Pages/guidelines.aspx> . If you have questions regarding this matter, please contact me at (916) 323-9198.

Sincerely,



Kenneth E. Trott, Manager
Reporting and Compliance Unit

cc: Dennis O'Bryant, Assistant Director
Office of Mine Reclamation

Greg Tenorio, Counsel
CA Department of Conservation

Attachment B

Sections from the County of San Diego Zoning Ordinance

2720

A72 GENERAL AGRICULTURAL USE REGULATIONS

2720 INTENT.

The provisions of Section 2720 through Section 2729, inclusive, shall be known as the A72 General Agricultural Use Regulations. The A72 Use Regulations are intended to create and preserve areas for the raising of crops and animals. Processing of products produced or raised on the premises would be permitted as would certain commercial activities associated with crop and animal raising. Typically, the A72 Use Regulations would be applied to areas distant from large urban centers where the dust, odor, and noise of agricultural operations would not interfere with urban uses, and where urban development would not encroach on agricultural uses.

2722 PERMITTED USES.

The following use types are permitted by the A72 Use Regulations:

a. Residential Use Types.

Family Residential

b. Civic Use Types.

Essential Services

Fire Protection Services (see Section 6905)

Law Enforcement Services (see Section 6905)

c. Agricultural Use Types.

Horticulture (all types)

Tree Crops

Row and Field Crops

Packing and Processing: Limited

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 6268 (N.S.) adopted 4-14-82)

(Amended by Ord. No. 6654 (N.S.) adopted 9-21-83)

(Amended by Ord. No. 6782 (N.S.) adopted 5-16-84)

(Amended by Ord. No. 7741 (N.S.) effective 3-28-90 (Urg. Ord.))

(Amended by Ord. No. 9101 (N.S.) adopted 12-8-99)

(Amended by Ord. No. 9422 (N.S.) adopted 1-9-02)

(Amended by Ord. No. 10067 (N.S.) adopted 8-4-10)

2723 PERMITTED USES SUBJECT TO LIMITATIONS.

The following use types are permitted by the A72 Use Regulations subject to the applicable provisions of Section 2980. The number in quotes following the use type refers to the subsection of Section 2980 which applies.

a. Residential Use Types

Mobilehome Residential "18"

b. Commercial Use Types

Animal Sales and Services: Veterinary (Large Animals) "6"
 Animal Sales and Services: Veterinary (Small Animals) "6"
 Recycling Collection Facility, Small "2"
 Recycling Processing Facility, Wood and Green Materials "3"

c. Agricultural Use Types

Packing and Processing: Small Winery "22" (see Section 6910)
 Packing and Processing: Boutique Winery "22" (see Section 6910)
 Packing and Processing: Wholesale Limited Winery "22" (see Section 6910)

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
 (Amended by Ord. No. 5652 (N.S.) adopted 11-21-79)
 (Amended by Ord. No. 5935 (N.S.) adopted 11-19-80)
 (Amended by Ord. No. 6783 (N.S.) adopted 5-16-84)
 (Amended by Ord. No. 6924 (N.S.) adopted 2-20-85)
 (Amended by Ord. No. 8058 (N.S.) adopted 4-15-92)
 (Amended by Ord. No. 9940 (N.S.) adopted 6-18-08)
 (Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)
 (Amended by Ord. No. 10067 (N.S.) adopted 8-4-10)

2724 USES SUBJECT TO A MINOR USE PERMIT.

The following use types are allowed by the A72 Use Regulations upon issuance of a Minor Use Permit.

a. Civic Use Types.

Minor Impact Utilities
 Small Schools

b. Agricultural Use Types

Farm Labor Camps

c. Commercial Use Types.

Cottage Industries "17" (see Section 6920)

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
 (Amended by Ord. No. 5935 (N.S.) adopted 11-19-80)
 (Amended by Ord. No. 6654 (N.S.) adopted 9-21-83)
 (Amended by Ord. No. 7741 (N.S.) effective 3-28-90 (Urg. Ord.))
 (Amended by Ord. No. 7768 (N.S.) adopted 6-13-90)
 (Amended by Ord. No. 7964 (N.S.) adopted 8-14-91)
 (Amended by Ord. No. 8175 (N.S.) adopted 11-18-92)
 (Amended by Ord. No. 8271 (N.S.) adopted 6-30-93)
 (Amended by Ord. No. 9101 (N.S.) adopted 12-8-99)
 (Amended by Ord. No. 10003 (N.S.) adopted 8-5-09)
 (Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)

2725

2725 USES SUBJECT TO A MAJOR USE PERMIT.

The following use types are permitted by the A72 Use Regulations upon issuance of a Major Use Permit.

a. Residential Use Types.

Group Residential

b. Civic Use types.

Administrative Services
Ambulance Services
Child Care Center
Civic, Fraternal or Religious Assembly
Clinic Services
Community Recreation
Cultural Exhibits and Library Services
Group Care
Major Impact Services and Utilities
Parking Services
Postal Services

c. Commercial Use Types.

Agricultural and Horticultural Sales (all types)
Animal Sales and Services: Auctioning
Explosive Storage (see Section 6904)
Gasoline Sales
Participant Sports and Recreation: Outdoor
Transient Habitation: Campground (see Section 6450)
Transient Habitation: Resort (see Section 6400)

d. Agricultural Use Types.

Agricultural Equipment Storage
Animal Waste Processing (see Section 6902)
Packing and Processing: Winery
Packing and Processing: General
Packing and Processing: Support

e. Extractive Use Types.

Mining and Processing (see Section 6550)

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 6543 (N.S.) adopted 3-2-83)
(Amended by Ord. No. 6761 (N.S.) adopted 4-25-84)
(Amended by Ord. No. 6782 (N.S.) adopted 5-16-84)
(Amended by Ord. No. 6855 (N.S.) adopted 10-10-84)
(Amended by Ord. No. 9690 (N.S.) adopted 12-15-04)
(Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)

SPECIAL PURPOSE REGULATIONS

S80 OPEN SPACE USE REGULATIONS

2800 INTENT.

The provisions of Section 2800 through Section 2809, inclusive, shall be known as the S80 Open Space Use Regulations. The S80 Open Space Use Regulations are intended to provide for appropriate controls for land generally unsuitable for intensive development. Typically, the S80 Use Regulations would be applied in both urban and rural environments to hazard or resource areas, public lands, recreation areas, or lands subject to open space easement or similar restrictions. Uses permitted within the S80 Use Regulations include those having a minimal impact on the natural environment, or those compatible with the hazards, resources, or other restrictions on the property. Various applications of the S80 Use Regulations with appropriate development designators can create or protect areas of very large residential parcels, agricultural areas, recreation areas, or limited use areas having identified hazards or resources.

2801 SITE PLAN REVIEW REQUIRED.

All development within areas subject to the S80 Open Space Regulations shall require site plan review in accordance with the Site Plan Review Procedure commencing at Section 7150 and the following guidelines.

- a. Content of the Site Plan. A site plan required by this section shall contain such maps, plans, drawings, and sketches as are necessary to show the location, size and use of all proposed buildings and structures and their relationship to the significant physical features located on the development site.
- b. Relationship to Subdivision Ordinance. Any tentative map or tentative parcel map which is required by the Subdivision Ordinance shall be used to the maximum extent possible in satisfying the requirements of subsection "a" of this section.
- c. Standards and Criteria. The placement and siting of the proposed structures and buildings shall preserve the open space value of the development site, avoid degradation of the significant physical features located on the development site, and avoid hazards.

2802 PERMITTED USES.

The following use types are permitted by the S80 Use Regulations:

- a. Residential Use Types.
 - Family Residential
- b. Civic Use Types.
 - Essential Services
 - Fire Protection Services (see Section 6905)
- c. Agricultural Use Types.
 - Horticulture (All Types)
 - Tree Crops

Row and Field Crops
Packing and Processing: Limited

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 6654 (N.S.) adopted 9-21-83)
(Amended by Ord. No. 6782 (N.S.) adopted 5-16-84)

2803 PERMITTED USES SUBJECT TO LIMITATIONS.

The following use types are permitted by the S80 Use Regulations subject to the applicable provisions of Section 2980. The number in quotes following the use type refers to the subsection of Section 2980 which applies.

a. Commercial Use Types.

Recycling Collection Facility, Small or Large "2"
Recycling Processing Facility, Wood and Green Materials "3"

(Added by Ord. No. 6924 (N.S.) adopted 2-20-85)
(Amended by Ord. No. 8058 (N.S.) adopted 4-15-92)

2804 USES SUBJECT TO A MINOR USE PERMIT.

The following use types are allowed by the S80 Use Regulations upon issuance of a Minor Use Permit.

a. Civic Use Types.

Minor Impact Utilities
Small Schools

b. Agricultural Use Types

Farm Labor Camps

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 6654 (N.S.) adopted 9-21-83)
(Amended by Ord. No. 10003 (N.S.) adopted 8-5-09)

2805 USES SUBJECT TO A MAJOR USE PERMIT.

The following use types are permitted by the S80 Use Regulations upon issuance of a Major Use Permit.

a. Civic Use Types.

Administrative Services
Ambulance Services
Child Care Center
Civic, Fraternal or Religious Assembly
Clinic Services
Community Recreation
Cultural Exhibits and Library Services
Major Impact Services and Utilities
Parking Services
Postal Services

b. Commercial Use Types.

Automobile and Equipment: Parking
Explosive Storage (see Section 6904)
Participant Sports and Recreation: Outdoor

c. Extractive Use Types.

Mining and Processing (see Section 6550)

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 6782 (N.S.) adopted 5-16-84)
(Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)

S88 SPECIFIC PLANNING AREA USE REGULATIONS

2880 INTENT.

The provisions of Section 2880 through Section 2889, inclusive, shall be known as the S88 Specific Planning Area Use Regulations. The S88 Use Regulations are intended to accommodate Specific Plan areas shown on the San Diego County General Plan or on those lands for which a Specific Plan has been adopted by the Board of Supervisors pursuant to the Government Code. Application of the S88 Use Regulations can create an unlimited variety of land uses in conformance with the General Plan.

2882 PERMITTED USES.

Until a Specific Plan applicable to the property is adopted, the following use types are permitted by the S88 Use Regulations:

a. Residential Use Types.

Family Residential

b. Civic Use Types.

Essential Services

Fire Protection Services (see Section 6905)

c. Agricultural Use Types.

Horticulture (all types)

Tree Crops

Row and Field Crops

Packing and Processing: Limited

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 6654 (N.S.) adopted 9-21-83)

(Amended by Ord. No. 6782 (N.S.) adopted 5-16-84)

(Amended by Ord. No. 8581 (N.S.) adopted 9-20-95)

2883 PERMITTED USES SUBJECT TO LIMITATIONS.

Until a Specific Plan applicable to the property is adopted, the following use types are permitted by the S88 Use Regulations subject to the applicable provisions of Section 2980. The number in quotes following the use type refers to the subsection of Section 2980 which applies.

a. Commercial Use Types.

Recycling Collection Facility, Small or Large "2"

Recycling Processing Facility, Wood and Green Material "3"

(Added by Ord. No. 6924 (N.S.) adopted 2-20-85)

(Added by Ord. No. 8058 (N.S.) adopted 4-15-92)

(Amended by Ord. No. 8581 (N.S.) adopted 9-20-95)

2884

2884 USES SUBJECT TO A MINOR USE PERMIT.

Until a Specific Plan applicable to the property is adopted, the following use types are allowed by the S88 Use Regulations upon issuance of a Minor Use Permit.

a. Civic Use Types.

Law Enforcement Services.
Minor Impact Utilities

b. Agricultural Use Types

Farm Labor Camps

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 5935 (N.S.) adopted 11-19-80)
(Amended by Ord. No. 7768 (N.S.) adopted 6-13-90)
(Amended by Ord. No. 8175 (N.S.) adopted 11-18-92)
(Amended by Ord. No. 8271 (N.S.) adopted 6-30-93)
(Amended by Ord. No. 8581 (N.S.) adopted 9-20-95)
(Amended by Ord. No. 10003 (N.S.) adopted 8-5-09)

2885 USES SUBJECT TO A MAJOR USE PERMIT.

Until a Specific Plan applicable to the property is adopted, the following use types are permitted by the S88 Use Regulations upon issuance of a Major Use Permit.

a. Agricultural Use Types.

Packing and Processing: Winery
Packing and Processing: General
Packing and Processing: Support

b. Extractive Use Types.

Site Preparation

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 6761 (N.S.) adopted 4-25-84)
(Amended by Ord. No. 8581 (N.S.) adopted 9-20-95)

2887 SPECIFIC PLANS

If a Specific Plan has been adopted for property which is also subject to the S88 Specific Planning Area Use Regulations, any provisions of the Specific Plan relating to subjects contained in the Animal Regulations at Part Three (commencing at Section 3000), the Development Regulations at Part Four (commencing at Section 4000), the Special Area Regulations at Part Five (commencing at Section 5000), and/or the General Regulations at Part Six (commencing at Section 6000), of The Zoning Ordinance, shall prevail over The Zoning Ordinance regulations to the extent of any conflict between them.

(Added by Ord. No. 8581 (N.S.) adopted 9-20-95)

2888 SPECIAL PROVISIONS AND LIMITATIONS: S88 USE REGULATIONS.

- a. Prior to adoption of a Specific Plan, a Major Use Permit may be granted pursuant to the S88 Use Regulations to authorize, for a specified period of time, any use not involving a significant investment in buildings, structures, or other improvements. Alternatively, a Major Use Permit may be granted for any use pursuant to a bonded agreement in an amount sufficient to ensure the removal of all buildings, structures, and other improvements within a specified time and/or under specified conditions when the decision-making body finds that such agreement will carry out the intent of this Ordinance and is enforceable by the County.
- b. Following the adoption of a Specific Plan, any use set forth in the Specific Plan is permitted by the S88 Specific Planning Area Use Regulations.
- c. All uses established pursuant to an applicable Specific Plan shall be subject to all of the conditions and restrictions set forth in the Specific Plan, and said Specific Plan conditions and restrictions concerning uses shall prevail over The Zoning Ordinance regulations to the extent of any conflict between them.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 7935 (N.S.) adopted 6-19-91)

(Amended by Ord. No. 8506 (N.S.) adopted 3-1-95)

(Amended by Ord. No. 8581 (N.S.) adopted 9-20-95)

2889 CALIFORNIA COASTAL ZONE: AGRICULTURAL LAND.

A Specific Plan for any property subject to these use regulations which lies within the California Coastal Zone, and which is designated Agricultural Cropland on the Local Coastal Program Land Use Plan, shall, in addition to other applicable requirements, be prepared and approved in accordance with the provisions of this section.

- a. The Specific Plan shall cover all contiguous properties owned or under the control of the applicant.
- b. Approval of the Specific Plan shall be subject to a specific finding that continued exclusive agricultural use of the entire property is no longer feasible, or that allowing residential development on a portion of the property will enhance the feasibility of agricultural use of the remaining portions of the property.
- c. The Specific Plan shall show at least fifty percent of the land suitable for agriculture as reserved for agricultural use.
- d. Total dwelling units permitted by the Specific Plan shall not exceed the number obtained by multiplying the total acreage covered by the specific plan, exclusive of any wetland areas, by a density factor of 2.8.

- e. All development and other activities subject to the Specific Plan shall conform to the following:
1. All development shall be subject to the Planned Development Area Regulations commencing at Section 5800.
 2. All land shown as reserved for agriculture shall be permanently protected for such use by an appropriate restriction.
 3. Areas shown as reserved for agriculture shall, where feasible, be a minimum of forty contiguous acres in size.
 4. Development shall be located and clustered so as to avoid, to the degree possible, conflict with the continued agricultural use of land reserved for that purpose and, where feasible, shall be located adjacent to existing development or areas planned for development.
 5. To the degree feasible, development shall be concentrated on lands least suitable for agricultural production. Land best suited for agricultural production is defined as land containing Class I-IV soils on slopes of ten percent or less, and is either currently in agricultural production or has the potential for commercial production of food crops.
 6. Where feasible, buffer areas shall be established in the specific plan between agricultural lands and non-agricultural areas within and adjacent to the area covered by the specific plan. Uses within such buffer areas shall be limited to agricultural uses that do not require the application of pesticides or herbicides, or open space uses.
 7. Deeds for residential lots or dwelling units shall contain a clause stating that such lots or dwelling units are located in close proximity to lands reserved for agricultural use and that such use could result in some adverse impacts on such lots or dwelling units.
 8. No roads other than farm access roads shall be constructed across agricultural lands unless mitigation measures are provided that assure the continued long-term viability of agricultural uses.
 9. If land subject to the specific plan borders a lagoon, continuous bluff-top accessways or equivalent overlook areas shall be provided. Such accessways or overlooks shall be reserved for public use by dedication of easements as a condition of development approval.

(Added by Ord. No. 6743 (N.S.) effective 1-11-85)