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October 8, 2009

Mr. Patrick O'Mallan  
U. S. Bureau of Indian Affairs  
2800 Cottage Way  
Sacramento, CA 95825

**Re: Notice of Availability and Public Open House Announcement for the  
Draft Environmental Assessment (EA) for the Sycuan Band of the Kumeyaay Nation  
Fee-to-Trust Draft EA (SCH# 2009091026), San Diego County, California**

Dear Mr. O'Mallan:

The California Department of Fish and Game (Department) has reviewed the above-referenced draft Environmental Assessment (EA) dated September 8, 2009. The Department offers the comments and recommendations below to assist the U.S. Bureau of Indian Affairs (BIA) in avoiding or minimizing potential impacts to biological resources from the proposed action. The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA; Sections 15386 and 15381, respectively) and is responsible for ensuring appropriate conservation of the state's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (CESA, Fish and Game Code 2050, *et seq.*) and other sections of the Fish and Game Code (e.g., 1600 *et seq.* and 3500 *et seq.*). The Department also administers the statewide NCCP Program (Fish and Game Code 2800, *et seq.*). On March 17, 1998, the Department issued a 2835 Natural Community Conservation Planning (NCCP) permit for the San Diego South County Multiple Species Conservation Program (MSCP). The MSCP establishes a multiple species conservation program to minimize, mitigate and monitor habitat loss and the incidental take of covered species in association with activities covered under the permit. The MSCP also incorporates monitoring, adaptive management and reporting; thus, it requires much more than standard mitigation ratios. (See also <http://www.dfg.ca.gov/habcon/nccp>). Most of the area surrounding the proposed BIA annexation is located within San Diego County's adopted MSCP, which is part of the larger southern California coastal sage scrub NCCP region. The MSCP was also approved by the U.S. Fish and Wildlife Service as a Habitat Conservation Plan (HCP).

The proposed project involves two major components; 1) Fee-to-Trust Annexation to convey 30 parcels of land owned in-fee title by the Sycuan Band of the Kumeyaay Nation (Tribe) and located in the County of San Diego (approximately 1,966 acres, including the developed Sycuan Resort, Sloan Canyon, Smith Ranch, and Starr Ranch) to the Bureau of Indian Affairs (BIA) to federal Tribal reservation trust status; and 2) Completion of the Tribal Project. Following the Fee-to-Trust transfer, Tribal Project would include: a) the construction of permanent facilities for the Tribe's annual Traditional Gathering and Pow-Wow event (Pow-Wow); b) construction of a secondary access road for the Reservation; c) the construction of additional housing for Tribal members; d) construction of other facilities to foster the Tribe's economic development and recreational opportunities; and, e) implementation of a comprehensive Tribal Natural and Cultural Resources Management Plan (RMP). The proposed Fee-to-Trust parcels are located

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within the County of San Diego's adopted Multiple Species Conservation Program (MSCP) planning area and the Planning Boundary for the Federal San Diego National Wildlife Refuge (NWR).

The Department has several main concerns related to the potential impacts the proposed action may have on biological resources in the area. Our comments are intended to provide direction on how the proposed Fee-to-Trust annexation, Tribal Project and RMP could be updated to address the Department's concerns about the consistency of the proposed action with existing State and federal conservation programs and commitments, including the County's adopted MSCP. The Department's concerns are as follows: 1) how the proposed annexation would effect the County's adopted MSCP and related state and federal permits, including conservation goals and monitoring requirements; 2) potential direct and indirect effects to adjacent conserved MSCP and other open space lands; 3) potential direct and indirect impacts to MSCP wildlife movement corridors; 4) full analysis and disclosure of potential direct (e.g., habitat loss) and indirect impacts (e.g., lighting, hydrology) to species and supporting habitats, including potential impacts to arroyo toad and migratory/nesting birds; 5) consistency of the proposed Tribal projects and proposed RMP with the County's adopted MSCP and related state and federal permits; and, 6) potential alternatives that would maximize the project's consistency with the County's MSCP. To enable Department staff to adequately review and comment on the proposed action we recommend the following information, where applicable, be included in any subsequent environmental documents and/or decision-making for the proposed action:

#### **1. Consistency with the County's MSCP: Proposed Annexation**

The Department commends the Tribe's commitment as part of the proposed action to mitigate biological impacts consistent with the County's MSCP through the implementation of the proposed RMP (Sections 1.2.1, 3.5.2 and Appendix A of the EA). Under the adopted MSCP, this means far more than just offsetting impacts at a prescribed set of mitigation ratios. It also includes a long-term commitment for biological mitigation, ensuring regional connectivity, land use protections (e.g., easement recordation), data sharing/reporting, land management, habitat and species monitoring and adaptive management (County of San Diego, 1997-1998 and SANDAG, 1998).

The draft EA acknowledges that the proposed action would remove 30 parcels from local and State jurisdictions. The EA and Fee-to Trust documentation must fully analyze and disclose that many of the proposed Fee-to-Trust parcels are identified as being within the Pre-Approved Mitigation Area (PAMA) for the County of San Diego's MSCP (Figure 1). The PAMA delineates areas that the Wildlife Agencies have identified as necessary to assemble the MSCP preserve and meet the County's Subarea Plan conservation goals. MSCP identifies this property as a key regional linkage for numerous covered species while simultaneously providing core areas for several sensitive biological resources. The site is known to support several pairs of federally threatened California gnatcatchers (*Polioptila californica*) and a significant population of federally endangered arroyo toads (*Anaxyrus californicus*). High levels of conservation in this area are critical to the recovery of these species. Moreover, the adopted South County MSCP of the County's Implementing Agreement (IA) with the federal and state governments requires that future federal actions such as the Section 7 and related Biological Opinion(s) required for the project (See Section 1.6 of the EA) shall be based on, and be consistent with, the MSCP.<sup>1</sup>

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<sup>1</sup> Section 9.8 (Other Regulatory Permitting) of the adopted South County MSCP provides that, "[t]he USFWS shall rely on and shall utilize the EIR/EIS prepared in conjunction with the MSCP and Subarea Plan as the NEPA environmental document for such permits and approvals and for any other approval process subject to its jurisdiction or involvement with regard to impacts to Covered Species subject to Incidental Take..." (See also 9.19, Annexation of Lands)."

The environmental document (e.g., Section 4.9) should be updated to include an analysis as to how the proposed annexation may result in potential conflicts with the existing South County MSCP, including effects to MSCP conservation targets, effects on existing conserved open space (see below), fragmentation of habitat, effects on wildlife movement corridors, etc. The loss of these targeted MSCP lands that are identified in the existing South County MSCP should be avoided. The Department believes that development of these areas as proposed would result in a significant land use and biological impact (potentially unmitigable without appropriate offsetting measures) that must be adequately disclosed/analyzed in the EA (e.g., Section 4.5 [Biological Resources]).

Section 3.5.2 (Regulatory Setting/Local Regulations). The EA should be revised to incorporate CESA (Fish and Game Code Sections 2050 *et. seq.*) into the background MSCP discussions.

## **2. Conserved Lands**

Based on the EA and HMP, it appears that the project documentation and related analysis does not include the most current San Diego County conserved lands, which shows existing conserved MSCP and other lands both immediately north and south (in some cases abutting) of the proposed project area (e.g., Otay-Sweetwater unit of the San Diego National Wildlife Refuge). To provide for regional context, the EA (e.g., Section 3.5.2/Local Regulations) should be expanded to include a full discussion of the MSCP (See USFWS comment letter) and a figure at an appropriate scale should be included in the document that shows the proposed Fee-to-Trust lands with the existing conserved lands and the County's PAMA for the adopted South County MSCP. Most of the adjacent property in the area has been conserved as open space (with no residential development potential): there is no residential development potential under existing County zoning.

As previously stated, the environmental document (e.g., Section 4.9) should be updated to include an analysis of how the proposed annexation may result in potential conflicts with the existing conserved open space and other similar land uses in the area by removing lands from the County's MSCP targets, fragmenting habitat and wildlife corridors, necessary brush management areas and creating indirect effects from the proposed Tribal land uses. Removing these lands from local and State jurisdictions means that the proposed Tribal Project (and any future development within the Fee-to-Trust lands) would not be subject to MSCP requirements. Furthermore, the annexation would preclude the County from fully implementing its obligations under the MSCP, particularly in terms of assembling the preserve and implementing species-specific conservation requirements for covered species. For example, lands targeted for reserve assembly would not be monitored or managed for the benefit of covered species by the County. As another example, developing residential and other proposed uses within existing targeted MSCP lands (or adjacent to existing conserved land that would remain in the County's jurisdiction) could result in significant edge effects from landscaping, lighting, drainage, domestic pets, uncontrolled access, etc.

## **3. Wildlife Corridors**

It appears that the EA and related documents do not adequately address potential impacts to MSCP wildlife corridors, including the critical regional wildlife corridor between the northern part of the Otay-Sweetwater refuge (north of Dehesa Road) and Sloan Canyon. Currently, this area is recognized as a regional chokepoint for wildlife movement between Sloan Valley Road and Dehesa Valley; many animals currently use the at-grade crossing of Dehesa Road just west of the elementary school (CBI, 2003b).

The Department believes that the proposed RV area may also significantly impact this same MSCP regional wildlife corridor directly and/or indirectly due to habitat fragmentation and/or an increase in traffic on Dehesa Road from related housing and Tribal development (See Section

5, Tribal Project Components). The EA must fully disclose all direct and indirect impacts to these MSCP wildlife corridors. Any substantial loss of wildlife corridor width, length, cover and function in this core area of the MSCP would be considered significant by the Department. Where impacts would be significant to wildlife, the Department recommends avoidance per the County's MSCP and/or appropriate mitigation (including possible land exchange) where impacts clearly cannot be avoided.

In addition, where new roads are proposed within or adjacent to wildlife corridors (e.g., the secondary access road housing), wildlife crossings (e.g., culverts/bridges) should be incorporated into new/improved roadways, where feasible (See Section 5, Tribal Project Components). If they are not feasible, the environmental document should clearly state why they are not and provide other proven measures to ensure that wildlife movement is not significantly impacted by the proposed action.

#### **4. Impacts to Habitat and Species**

##### A. Vegetation Mapping

Based on a review of the County's biological guidelines (County of San Diego, 2006), it appears that some of the habitat mapping for coastal sage scrub (CSS) and non-native grassland (NNG) is understated. It appears that some of the areas mapped as disturbed would qualify as non-native grassland or CSS (See Section 3.5.4 and Table 5-1). As background, under the County of San Diego's MSCP, impacts to non-native grassland that is occupied by burrowing owls (*Athene cunicularia*) is mitigated at no less than a 1:1 ratio. Unfortunately, non-native grassland under the MSCP was not adequately conserved; therefore, cumulative losses of this habitat type and the associated grassland species (e.g., BUOW) are considered potentially significant. The vegetation mapping, in particular for CSS and NNG, should be updated for the proposed action (preferably using the County's guidelines if the intent is for the RMP to be consistent with the MSCP), including the areas within the proposed Tribal development areas (Section 3.5.5). In addition, the EA should include information and mapping on any recent fires in the area (e.g., 2003 Cedar Fire) and incorporate the analysis into the environmental document.

##### B. Species Accounts (Section 3.5.5)

Based on the information included in the EA and appendices, it appears that many of the listed species surveys (e.g., least Bell's vireo, quino checkerspot butterfly, California gnatcatcher, arroyo toad, southwestern willow flycatcher) are more than two years old (e.g., circa 2005-2006).

Table 3.5-11 should be expanded to include all of the MSCP "covered species" in order to better assess potential impacts to the MSCP. See also page 3.5-32 and the discussion on "State and other listed species." In addition, the locations of all sensitive flora and faunal species should be shown on the project impact map, including the cactus wren (*Campylorhynchus brunneicapillus*).

**CALIFORNIA GNATCATCHER:** The environmental documents for the proposed action should fully disclose how any development along Dehesa Road and other areas would impact California gnatcatcher (*Polioptila californica/CAGN*) known to occur in this core area of the MSCP, including preserve design (See also Section 5, Tribal Project Components).

**CACTUS WREN:** The environmental documents for the proposed action should analyze and fully disclose how any development along Dehesa Road would impact cactus wren, a state species of special concern and NCCP target species (*Campylorhynchus brunneicapillus/CACW*) known

to occur in this core area of the MSCP, including preserve design (See also Section 5, Tribal Project Components).

**ARROYO TOAD:** The Department cannot concur with the draft EA conclusion at this time that no potential habitat for arroyo toad, a California Species of Concern, occurs within the development envelopes without inclusion of analysis of potential upland habitat use by arroyo toad, in addition to the breeding habitat within the river (See Section 3.5.5). Also, it is the Department's understanding that federal critical habitat for AT was re-designated on April 13, 2005 (70 FR 19562). The EA should fully disclose potential direct and indirect impacts. Based on the EA, it appears that the proposed Tribal housing along Olive Grove Road would occur in an area of disturbed habitat that is located between designated arroyo toad mitigation sites and linked regionally to areas of habitat of high importance to arroyo toad. The Department believes that any development at this location could potentially directly (sever connection) and/or indirectly (lighting, stream hydrology and water quality) disrupt this local and regionally important habitat linkage. (See Figure 9 of the draft RMP). In addition, the environmental document must clearly outline the proposed action's nexus with mitigation obligations associated with past activities on the proposed Fee-to-Trust lands (e.g., sand mining and the past mitigation requirement for 11.6 acres of off-site arroyo toad habitat and 25 acres of restored habitat along south shore of Lake Emma). If these past mitigation areas are proposed for impacts under the proposed action (direct or indirect) and cannot be avoided, then mitigation for the loss of this past mitigation should be added to the proposed action's current mitigation requirements (i.e., double-mitigation).

**HERMES COPPER BUTTERFLY:** Although not currently listed or covered, the Hermes Copper butterfly (*Lycaena hermes*) should be addressed in the environmental document for the project. Hermes copper is an extremely rare species whose range is restricted to San Diego County and has been documented in the vicinity of Sloan Canyon. The locations of all hermes copper and host plants (*Rhamnus crocea*/spiny redberry) should be shown on the project impact map and analyzed in the environmental document.

**DEAN'S MILK-VETCH:** According to the County's MSCP (County of San Diego, 1997/Table 4-4), critical populations of Dean's milk-vetch (*Astragalus deanei*) are designated within the proposed Fee-to-Trust lands. The environmental documents should analyze any proposed direct or indirect impacts to these critical populations within and outside County MSCP-PAMA lands.

**SLENDER-POD JEWELFLOWER:** According to the County's MSCP (County of San Diego, 1997/Table 4-4), critical populations of Slender-pod jewelflower (*Caulanthus stenocarpus*) are designated within the proposed Fee-to-Trust lands. The environmental document should analyze any proposed direct or indirect impacts to these critical populations within and outside County MSCP-PAMA lands.

### C. Other Sensitive Species and Habitats

Seasonal variations in use by fauna in the project area should be addressed in the environmental documentation and proposed RMP. Recent, focused, species-specific surveys, conducted consistent with MSCP regional monitoring efforts and at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable should be included in the impact analysis and factored into the RMP. Acceptable species-specific survey procedures should be developed based on the regional MCSP in consultation with the Department and the U.S. Fish and Wildlife Service.

The Department's Biogeographic Data Branch in Sacramento should be contacted at (916) 322-2493 to obtain current information on any previously reported sensitive species and habitats, including Significant Natural Area identified under Chapter 12 of the Fish and Game Code.

Also, any Significant Ecological areas (SEAs) or Environmentally Sensitive Habitats (ESHs) or any areas that are considered sensitive by the local jurisdiction that are located in or adjacent to the project area should be addressed in the impact analysis and factored into the RMP.

#### D. Fully Protected Species

Limited discussion in the EA was provided regarding the occurrence of white-tailed kite (*Elanus leucurus*), golden eagle (*Aquila chrysaetos*), or southern bald eagle (*Haliaeetus leucocephalus leucocephalus*), all of which are fully-protected state species, or specific species of bats within the project corridor (e.g., proximity to known roost sites and foraging areas with dry washes) and the overall affect to altering behavioral patterns from the proposed action. Fully Protected species may not be taken or possessed at any time and no state licenses or permits may be issued for their take except for collecting these species for necessary scientific research and relocation of the bird species for the protection of livestock (Fish and Game Code Sections 3511, 4700, 5050, and 5515). The environmental documents should fully disclose potential direct and indirect impacts to state fully protected species.

#### E. Migratory Birds

Impacts to migratory wildlife affected by this action should be fully evaluated, including proposals to remove/disturb native vegetation and other nesting habitat for native birds. All migratory non-game native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.3). Sections 3503, 3503.5 and 3513 of the California Fish and Game Code prohibit take of birds and their active nests, including raptors and other migratory non-game birds as listed under the MBTA. As mentioned previously, Fish and Game Code Sections 3511, 4700, 5050, and 5515 regulate fully protected state species (37 total).

The proposed action (particularly disturbances to vegetation) should take place outside of the general avian breeding season (January 15 to August 15) generally defined by the Wildlife Agencies (i.e., U.S. Fish and Wildlife Service and California Department of Fish and Game) to avoid take (including disturbance which would cause abandonment of active nests containing eggs and/or young). To avoid any direct and indirect impacts to raptors and/or any migratory birds, the environmental document and RMP should include a measure stating that,

“Grubbing and clearing of vegetation that may support active nests and construction activities adjacent to nesting habitat, should occur outside of the breeding season (January 15 to August 15). If removal of habitat and/or construction activities is necessary adjacent to nesting habitat during the breeding season, the Tribe shall retain an bona-fide, locally experienced and permitted biologist and/or bio-monitor (herein “qualified biologist or bio-monitor”) to conduct/report a pre-construction survey to determine the presence or absence of non-listed nesting migratory birds on or within 100-feet of the construction area, Federally- or State-listed birds (e.g., southern willow flycatcher, least Bell’s vireo) on or within 300-feet of the construction area, and nesting raptors within 500-feet of the construction area. The pre-construction survey should be conducted within 10 calendar days prior to the start of construction, the results of which must be submitted to the BIA and wildlife agencies for review and approval prior to initiating any construction activities. If nesting birds are detected by the qualified biologist, the following buffers should be established: 1) no work within 100-feet of a non-listed nesting migratory bird nest, 2) no work within 300-feet of a listed bird nest, and 3) no work within 500-feet of an active raptor nest. However, these buffer widths may be reduced by the qualified biologist depending on site-specific conditions (e.g. the width and type of screening vegetation between the nest and proposed activity) or the existing ambient level of activity (e.g., existing level of human activity within the buffer distance). If construction must take place within the recommended buffer widths above,

the Tribe should contact the BIA and Wildlife Agencies to determine the appropriate buffer. A qualified bio-monitor shall be present on-site during all initial grubbing and clearing of vegetation to ensure that perimeter construction fencing is being maintained and to minimize the likelihood that nests containing eggs or chicks are abandoned or fails due to construction activity. A qualified bio-monitor shall also perform periodic inspections of the construction site during all major grading to ensure that impacts to sensitive plants and wildlife are minimized. These inspections should take place once or twice a week, depending on the sensitivity of the resources. The qualified bio-monitor shall send weekly monitoring reports to the BIA and wildlife agencies immediately if clearing is done outside of the permitted project footprint.

#### F. Lighting

The draft environmental document has limited discussion concerning the environmental effects of the artificial night lighting (ANL) on biological resources within the project area from the Tribal Project and related development, especially within or adjacent to MSCP wildlife corridors and conserved open space. The project-specific and cumulative extent/degree of impacts to specific species within the project area is lacking. As background, species' behaviors are tied to light and darkness in daily and seasonal life cycles. The ecological effects of ANL can be profound and are increasing over time. The direct illumination and the sky glow (i.e., light pollution) created by ANL disrupt important behaviors and physiological processes with significant ecological consequences (Longcore and Rich, 2004). Species using natural open within or adjacent to the designated Sloan Canyon South County MSCP core area/corridor would be subjected to increased nocturnal levels of light and may be adversely impacted in the areas of orientation/disorientation and reproductive behaviors. For example, ANL can affect bird behavior, migration, and physiology. Both temporary and permanent changes to the illumination of an area may affect amphibian reproduction, foraging, predator avoidance, and social interaction (Buchanan, 2002).

Based on the location of the proposed action within the Sloan Canyon MSCP core area/corridor and the potential effects from ANL, additional analysis should be included in the environmental document to address the potential project-related direct and indirect effects of lighting on listed/MSCP covered wildlife for areas with sensitive habitats that would be exposed to increased levels of artificial lighting from Tribal Project development. The evaluation should include areas inside and outside the immediate project footprint that would be directly or indirectly exposed to increased levels of light above existing ambient background levels and a discussion of the mitigation measures to reduce or avoid those impacts as identified by cooperating agencies.

### **5. Tribal Project Components**

Many of the proposed impacts to implement the Tribal Plan (e.g., RV Park, housing along Dehesa and Olive Canyon Roads) are proposed within MSCP core areas and/or the County's Pre-approved Mitigation Area (PAMA) of the MSCP. The EA should provide specific analysis on how these specific projects would directly and indirectly impact listed/covered species (e.g., California gnatcatcher and southwestern arroyo toad), sensitive habitat and important regional wildlife corridor and linkages.

#### **A. Sloan Canyon Olive Grove**

The Department is concerned that this project component would have potentially significant direct and/or indirect impacts to arroyo toad in the Sweetwater River/Sloan Canyon area and the adjacent San Diego NWR, which are core areas of the San Diego County MSCP and is one of only two drainages in the plan area that supports arroyo toad. We are concerned that the development would result in direct impacts by severing an important wildlife corridor, as well as indirect impacts from other project requirements including fuel/brush management, road

improvements, hydrology and impacts to adjacent conserved federal, State and local lands. The EA should be revised to fully disclose all potential direct and indirect impacts from proposed housing on the arroyo toad, including potential indirect effects from increased traffic/roadkill, runoff, utility installation, sedimentation, and fragmentation in both upland aestivation and river breeding areas (page 2.4 Section 2.1.2 Housing and Section 5.5.2). Arroyo toads are considered a "narrow endemic" species in the County's plan, which means that measures to avoidance impacts must be incorporated into the project to the maximum extent practicable. Under the County's MSCP and BMO, avoidance and minimization to the maximum extent practicable of arroyo toad impacts within 1 kilometer of riparian suitable habitat is required (County of San Diego, 2009). The arroyo toad was included as an MSCP covered species on the County's federal and State Incidental Take permit based, in part, on the proposed conservation of the population of arroyo toads in Sloan Canyon.

### **B. Dehesa Road Housing**

The proposed Dehesa Road housing on the north side of Dehesa Road and the proposed RV Park on the south side of the road will completely block this north-south regional corridor and sever the connection between conserved lands to the north and south. The proposed RMP includes a goal to include an analysis of how the Tribal Project may impact this wildlife movement corridor and consider alternatives that would avoid and minimize the impacts. This should occur now, as part of the proposed action, with the result clearly disclosed in the environmental document. Included should be potential direct and direct impacts to known California gnatcatcher and cactus wren in the area from Tribal Project development, including impacts to wildlife movement from the proposed secondary access road (See C below).

### **C. Secondary Access Road Housing**

The Department recommends that a more biologically sensitive road design for the secondary access road be included in the proposed action, if access cannot be restricted to Dehesa Road. If a road must be sited in this location, the environmental document should clearly disclose why other locations/designs were not feasible and incorporate measures to reduce the potential for roadkill (e.g., wildlife crossings, signage, directional fencing, etc.). This should occur now, as part of the proposed action, with the result clearly disclosed in the environmental document.

### **D. Brush/Fuel Management**

Impacts to sensitive habitats and species from any required brush management required by the proposed action should be included in the EA analysis, including quantification of the acreage and required mitigation. In addition, to minimize impacts to natural habitats and MSCP areas, the Department recommends the proposed action include a requirement that, "prior to any brush management, the Tribe shall require that all structures are built with fire deterrent measures (e.g., boxed eaves, fire rated windows, sprinkle red, etc. to minimize the amount/extent of any required brush management into natural open space."

### **G. Natural and Cultural Resources Management Plan (RMP)**

The EA states (Section 3.5.2) that the Tribe's intent is for the proposed RMP to be consistent with the goals and standards of the County's MSCP. However, based on a review of the RMP, the majority of the proposed Fee-to-Trust lands would be placed in a static "preservation zone/holding area," (refer to Figure 9 of the RMP) which would effectively have passive management; moreover, these areas may be converted to Developed Areas or Conservation Areas through the RMP. The adopted MSCP envisioned these areas for long-term conservation and adaptive management/monitoring. The Department strongly believes that development of these lands or conversion to other non-conservation uses (as currently proposed) would be inconsistent with the adopted MSCP, unless functionally equivalent lands with no net loss in acreage were added back into the regional preserve. The Department further recommends that the environmental document and RMP should be clear on the long-term commitment for



biological mitigation, along with the necessary measures to ensure regional connectivity, land use protections (e.g., easement recordation), data-sharing/reporting, land management, habitat and species monitoring and adaptive management (County of San Diego, 1997-1998 and SANDAG, 1998) for all proposed Fee-to-Trust lands within the South County MSCP. Having this information and commitment by the BIA and Tribe would be one way to help demonstrate that the proposed RMP would be consistent with the County's MSCP.

Regarding mitigation, the EA includes a list of acreages and proposed mitigation ratios (Table 4.5-1) but then concludes that these only apply if the Tribe has not adopted the RMP (See Section 4.5.1 of the EA). This effectively renders the final mitigation ratios and ultimate acreage unknown in terms of the location and relationship with MSCP wildlife corridors. Without this information included in the environmental document, the Department believes that the EA must conclude that the proposed action would have a substantial adverse effect on the adopted San Diego MSCP, and related federal and State permits (Sections 4.5.1 and 5.5).

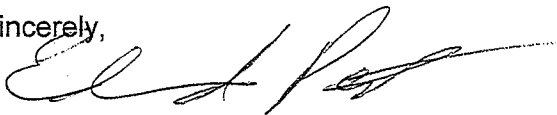
The habitat evaluation of the RMP should be based on a reserve design that is consistent with the regional MSCP and its wildlife connections/corridors (County of San Diego, 1998/Figure BLANK). Tribal land use and site planning, including the evaluation of areas not important to the MSCP regional reserve design, the need for infrastructure, accessibility, etc., should be located outside the PAMA and be buffered following the reserve design step. If absolutely unavoidable in areas within or adjacent to the PAMA, any Tribal development should occur on those areas that have the least long-term biological value from the regional MSCP preserve design (i.e., existing golf course, club house and roads). For instance, areas within or adjacent to PAMA that have connected, unfragmented habitat (that may be disturbed or burned) should not be considered less valuable solely because habitats may be somewhat degraded, especially for the California gnatcatcher and cactus wren, where lands can be restored to enhance habitat value (e.g., along Dehesa Road on south-facing slope located east of Singing Hills golf course). This is especially true where an adopted regional MSCP Plan identifies areas, such as Sloan Canyon, as core/PAMA areas. Furthermore, the RMP should not prioritize infrastructure and other land use elements (e.g., proximity to existing infrastructure and accessibility) over natural resource and ecological principles.

#### **H. Alternatives to Maximize MSCP Consistency**

The Department recognizes that portions of the proposed Fee-to-Trust lands consist of developed lands (e.g., existing roads, golf course, and club house). We recommend that these existing land uses be maximized for Tribal development before impacting undeveloped land, in particular MSCP targeted lands. To be consistent with the County's MSCP, the proposed action should avoid impacting any undeveloped or restorable land within or adjacent to the Sloan Canyon PAMA parcels that are anticipated to contribute to the MSCP reserve assembly and function. To this end, the Department strongly recommends that the environmental document include an alternative that would limit the proposed Fee-to-Trust land conveyance to the existing developed areas with little or no habitat/species value (e.g., existing roads, golf course, club house) and/or possibly areas outside the adopted PAMA if absolutely necessary.

The Department appreciates the opportunity to comment on the Sycuan Fee-to-Trust Annexation and look forward to working with your agency to resolve these issues. If you have any questions regarding this letter, please contact Randy Rodriguez at (858) 637-7100.

Sincerely,



Edmund Pert  
Regional Manager  
South Coast Region

## References

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