



(IN REPLY REFER TO)

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

NOTICE OF DECISION

CERTIFIED MAIL-RETURN RECEIPT REQUESTED-7001 0320 0004 5948 0766

Ms. Georgia Tucker, Chairperson
Sycuan Band of Mission Indians
5459 Dehesa Road
El Cajon, California 92021

MAY 14 2002

Dear Ms. Tucker:

This is notice of our decision upon the Sycuan Band's application to have the below-described real property accepted by the United States of America in trust for the Sycuan Band of Mission Indians of California:

The land referred to herein is situated in the State of California, County of San Diego, and is described as follows:

Parcel A:

Parcel 3 of Parcel Map No. 4978, filed in the Office of the County Recorder of San Diego County, August 5, 1976, as File No. 76-251076 of Official Records being a subdivision of a portion of Section 12, Township 16 South, Range 1 East, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to Government Survey.

Parcel B:

An easement for road and utility purposes over that certain 60.00 foot wide strip of land lying within the land shown on the parcel map referred to in Parcel A above and designated thereon as "Proposed 60.00 foot private road easement, Sycuan Road.

Excepting therefrom any portion thereof lying within Parcel A above.

Parcel C:

Parcel 4 of Parcel Map No. 4978, in the County of San Diego, State of California, according to map thereof filed in the Office of the County Recorder of San Diego County on August 5, 1976.

Excepting that portion described as follows:

Beginning at the most northerly corner of said Parcel 4, said corner also being the intersection of the centerlines of Dehesa Road and Sycuan Road, as shown on said Parcel Map No. 4978, said corner being a point in the arc of a 875 foot radius curve, concave northerly, a radial line to said point bears South 19°47'23" East; thence westerly along the arc of said curve and along the center line of said Dehesa Road through a central angle of 13°22'53" a distance of 204.36 feet; thence

SYC 3482

South 83°35'30" West, along said center line 35.64 feet; thence leaving said center line South 06°24'30" East 240.00 feet; thence North 83°35'30" East to a point in the center line of said Sycuan Road, as shown on said Parcel Map No. 4978; thence northwesterly along said center line to the point of beginning.

The above-described real property is identified in San Diego County record as Assessor's Parcel Nos. 513-072-16-00 and 513-072-19-00, containing 82.85 acres, more or less.

Subject site is located north and adjacent to the existing boundaries of the Sycuan Indian Reservation and is commonly referred to as the "Lenore-Culmer" Property.

The regulations specify that it is the Secretary's policy to accept lands "in trust" for the benefit of tribes when such acquisition is authorized by an Act of Congress and (1) when such lands are within the exterior boundaries of the tribe's reservation, or adjacent thereto, or within a tribal consolidation area, or (2) when the tribe already owns an interest in the land, or (3) when the Secretary determines that the land is necessary to facilitate tribal self-determination, economic development, or tribal housing.

In this particular instance, the authorizing Act of Congress is the Indian Land Consolidation Act of 1983 (25 U.S.C. §2202 et seq). The applicable regulations are set forth in the Code of Federal Regulations, Title 25, INDIANS, Part 151, as amended. The proposed land acquisition is necessary for the Band to exercise governmental jurisdiction by consolidating its land to meet the Bands future housing needs, cultural purposes and further enhancing tribal self-determination. This acquisition falls within the land acquisition policy as set forth by the Secretary of Interior.

On March 26, 2001, by certified mail, return receipt requested, we issued notice of, and sought comments regarding the proposed fee-to-trust application from the California State Clearinghouse, Office of Planning and Research; Greg Smith, San Diego County Assessor; Dianne Jacob, Chairperson, San Diego County Board of Supervisors; Ms. Sara J. Drake, Deputy Attorney General, State of California; Robert Shuman, Deputy Legal Affairs Secretary, Office of the Governor of California; Honorable Duncan Hunter, U.S. House of Representatives; Honorable Charlene Zettel, California Legislature; County of San Diego, Office of Planning and Land Use; San Diego Treasurer and Tax Collector; Bob Goralka, Department of Public Works, San Diego County; Ms. Catherine Saubel, Chairperson, Los Coyotes Band of Cahuilla Mission Indians; Mr. Allen E. Lawson, Chairperson, San Pasqual Band of Mission Indians; Mr. Ben Scerato, Chairperson, San Ysabel Band of Mission Indians; Mr. Howard Maxcy, Chairperson, Mesa Grande Band of Diegueno Mission Indians; Mr. John Currier, Chairperson, Rincon Band of Mission Indians; Mr. Howard Maxcy, Chairperson, Mesa Grande Band of Diegueno Mission Indians; Mr. Leroy J. Elliott, Chairperson, Manzanita Band of Diegueno Mission Indians; Ms. Rebecca Maxcy, Chairperson, Inaja Band of Diegueno Mission Indians; Mr. Kenneth Meza Sr., Chairperson, Jamul Indian Village; Mr. Jack Musick, Chairperson, La Jolla Band of Luiseno Mission Indians; Ms. Gwendolyn Parada, Chairperson, La Posta Band of Diegueno Mission Indians; Mr. Robert Smith, Chairperson, Pala Band of Luiseno Mission Indians; Mr. Benjamin Magante, Chairperson, Pauma Band of Mission Indians; Mr. Clifford M. LaChappa, Chairperson, Barona Group of the Capitan Grande Band of Mission Indians; Mr. Ralph Goff, Chairperson, Campo Band of Diegueno Mission Indians; Mr. Harlan Pinto, Chairperson, Cuyapaipe Band of Diegueno Mission Indians; and Mr. Steve TeSam, Chairperson, Viejas (Baron Long) Band of Mission Indians.

Robert R. Copper, Deputy Chief Administrative Office, County of San Diego, responded with a letter dated March 30, 2001, objecting to the acceptance into trust by the United States of America for the Sycuan Band of Mission Indians. This letter stated:

"The County of San Diego is extremely concerned and wishes to express opposition to this application. By Resolution (No. 94-1 15) dated March 29, 1994 and again by unanimous vote on November 1, 2000, the San Diego County Board of Supervisors has stated opposition to the taking of additional land into trust and has urged the Secretary of the Interior to decline to designate as "tribal land" newly-purchased land acquired for the purpose of Indian gaming and related uses. When these lands are taken into trust, gaming facilities are expanded outside of existing reservations at an intensity that is not compatible with the surrounding area. The impact on residents of adjacent communities exceeds anything that could have been reasonably anticipated. Impacts are related not only to land use compatibility, but to traffic generation, noise, visual impacts and a host of other resources. As the specific intended use of the land is not clearly stated in the application and the land may be used for gaming related uses, the County of San Diego is opposed to this application and urges denial of the request.

Additional reasons for County's opposition

1. Current Zoning

The two parcels are located in the (1) Residential Land Use Designation of the San Diego County General Plan and are zoned A72, General Agriculture with minimum lot sizes of 1 and 2 acres. The (1) Residential Designation promotes low-density residential uses as the principal and dominant use, but also provides for agricultural uses. Civic uses may be consistent with this Designation if these uses tend to support the local population. The A72 zone is intended to create and preserve areas for low-density residential uses and for the raising of crops and animals. This zoning regulation is typically 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.

The Notice states that the land will be used for "cultural purposes and additional future housing needs." For clarity, the intended uses of the property should be specifically stated and not generalized. A general project description does not allow either agencies or the concerned public to provide "sufficient data that would enable an analysis of the potential impacts on local government" as is the stated intent of the Notice.

Given this vague description and the uncertainty of what might constitute "cultural purposes", the County has determined that the intended use is not consistent with the current General Plan and zoning. This determination is based on the assumption that "cultural purposes" does not include residential or agricultural uses and could include a gaming-related, commercial or civic use. Most commercial or civic uses are not allowed by zoning. A limited number of these uses are allowed only upon issuance of a Major Use Permit to ensure that the location, size and design will not adversely affect or be materially detrimental to the County General Plan, adjacent uses, residents, buildings, structures and natural resources. If the land is taken into trust, the County will lose its jurisdiction over this property and cannot insure that the proposed use, whether gaming-related or not, will be consistent with the General Plan, zoning, uses and character of the subject and adjacent properties. If the use is gaming related, the incompatibility with

adjacent land and the numerous impacts created by gaming-related uses have been detailed in the County's "Report on the Potential Impacts of Tribal Gaming on Northern and Eastern San Diego County" dated November 1, 2000. If the parcels are used for future housing, this use may be consistent with the current General Plan and zoning provided that the housing is single-family residences on lots at least one or two acres in size.

2. Lack of Contiguity

The subject parcels are not contiguous to the existing Sycuan Reservation boundaries. In fact, the parcels are approximately one mile away. This appears to be inconsistent with Federal annexation guidelines and acceptance of these parcels into trust will set a precedent for piecemeal annexation. As with any annexation, acceptance of non-contiguous parcels is inconsistent with logical service patterns and will inhibit the ability to provide essential services such as fire protection. In California, State law does not allow non-contiguous annexations because they do not provide for planned, orderly and efficient service delivery and development patterns. In creating an island, the amount of land adjacent to the Reservation is increased and thus heightens the potential for conflicts with neighboring property. In addition, this action could increase pressure on the intervening land to eventually annex as well.

3. Environmental Impacts

The two proposed parcels are environmentally sensitive and future development could result in significant impacts. The western portion of the parcels is located within a floodplain. Development in the floodplain can lead to loss of life and property, health and safety hazards, increased runoff, erosion and sedimentation that can affect up-and downstream property, loss of wetlands and loss of sensitive wildlife habitat. The parcels also contain numerous oak trees that are considered sensitive and valuable biological resources by the State and local resource agencies. Loss of or impacts to these oaks could result in additional significant impacts.

In addition, the proposed annexation may not be consistent with the County of San Diego Multiple Species Conservation Program (MSCP), a regional plan that encourages the preservation of lands with high connectivity and biological value. The proposed parcels are located within the Metro-Lakeside-Jamul Segment of the County's MSCP Subarea Plan. As mentioned above, portions of the proposed acquisition site support Coast Live oak woodland and wetlands. These habitats and vegetation types are considered sensitive due to their historical losses and the high potential for rare plants and animals to be present within the habitat. The County is concerned that the proposed development will not avoid areas with sensitive habitats and species to a level that will meet the requirements outlined in the MSCP.

Should you, however, consider granting Sycuan's request, the County urges you to condition the approval of the request on the following conditions:

Sycuan must continue to work with its neighbors and their representative, the Crest/Dehesa/Harbison Canyon/Granite Hills Community Planning Group, and the County of San Diego Board of Supervisors in preparing a Master Plan for the new in-trust properties and in ensuring that proposed uses do not negatively impact resources, quality of life and infrastructure of the surrounding area; and

"Any approval of future land uses be conditioned on the successful negotiation of Agreements between the Sycuan Tribe and the County to ensure that any significant impacts to roads and other resources are adequately mitigated".

The Sycuan Band responded to Robert R. Copper's letter dated March 30, 2001, with a letter dated May 1, 2001. The Band's comments were as follows:

"We have received a copy of the March 30, 2001 letter to the Bureau of Indian Affairs from San Diego County's Deputy Chief Administrator, Robert R. Copper, commenting on our applications to have the United States accept title to the Big Oak, Lenore and Culmer properties in trust for the Sycuan Band of Kumeyaay Indians ("Sycuan"). Set forth below are our responses to Mr. Copper's letter.

By way of an initial general response, we would note that Mr. Copper's comments, and the San Diego County Board of Supervisors' resolutions to which he refers, are premised upon the assumption that Sycuan intends to use the subject acquisitions for gaming purposes. In fact, these acquisitions are not intended to be used for gaming purposes, and Sycuan's application does not constitute a request that the Secretary authorize use of the lands for gaming purposes.

Sycuan seeks to have these lands accepted into trust status because acquisition of suitable additional lands in trust is critical to Sycuan's survival as a tribal community. The original Sycuan Indian Reservation was established in 1876, and the trust patent subsequently was issued pursuant to the Mission Indian Relief Act in order to provide Sycuan with a permanent home. As originally established, the Sycuan Indian Reservation consisted of 640 acres, much of which is on the steep, arid slope of Sycuan Mountain; that portion of the Reservation is not usable for agricultural, residential or commercial use.

Much of the original Sycuan Reservation's usable acreage (approximately 230 acres) long ago was allotted to individuals, with the result that Sycuan has only approximately 30% of useable tribal land available on the original Sycuan Reservation for economic development and/or housing for Sycuan's growing population. On its limited tribal lands, Sycuan has built its government center, fire department, health clinic, library, day care facility, WASC accredited learning center (which includes the Mountain Empire Unified School District Hillside High School satellite campus) and other critical units of its government. The recently acquired Bradley property also is being used primarily for governmental purposes, including administrative offices and for a satellite campus of DQ University. Indeed, Sycuan has so little tribal land available for use or development that Sycuan was forced to build its gaming facility on land leased from allottees (several of the allottees of the land on which the Casino is located are not even members of Sycuan).

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the allottees
tribal or non.*

The usable allotments all have been used for residential purposes, and little or no space is available on existing allotments to accommodate Sycuan's growing population. If Sycuan cannot acquire additional trust lands in proximity to its existing trust land base,

its members will be unable to live on their own Reservation, seriously eroding the cohesiveness of the community. San Diego County's opposition to the proliferation or expansion of tribal gaming facilities elsewhere cannot justify preventing future generations of tribal members from living as a cohesive community on reasonably proximate tribal trust lands.

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We will now proceed to address specific assertions made in Mr. Copper's letter:

1. "Current zoning:" Sycuan needs these lands to provide housing and other opportunities and services for its growing population. Sycuan has been, and intends to be, self-sufficient in providing municipal services to its lands; indeed, Sycuan's fire department already provides emergency fire and ambulance services to the non-Indian community in areas outside the boundaries of the Sycuan Reservation, and would continue to be the first-response agency for the Culmer and Lenore properties, and probably for Big Oak as well.

Mr. Copper's request at page 2, ¶2, for greater specificity regarding Sycuan's intended uses of the lands ("cultural purposes and additional future housing needs") is unreasonable. Sycuan needs these lands for housing and a variety of cultural purposes, which include ceremonial, subsistence, spiritual and even recreational purposes. As Sycuan's population increases, these needs may change over time. What is most important in terms of the County's concerns is what Sycuan will not be doing with the lands: conducting gaming. What also is important is that Sycuan has been forthright in providing information to the local community and has fully responded to the community's requests for information about Sycuan's plans for its existing and future trust lands.

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The lands most likely to be affected by anything Sycuan does on the Culmer and Lenore properties are lands that Sycuan already owns. Therefore, the County's concerns about possible inconsistencies between Sycuan's intended use of these lands and the County's General Plan are unsupported. Even though Big Oak is more distant from the Sycuan Reservation than either the Culmer or Lenore properties, very little non-tribal land, and very few people, would likely be affected by either any changes from the historic uses of Big Oak or higher-density use than is now authorized under the County's General Plan.

Mr. Copper's reference, in the last two sentences of paragraph 2 on page two, to the County's November 1, 2000 "Report on the Potential Impacts of Tribal Gaming on Northern and Eastern San Diego County" is peculiar, because the staff of San Diego County's Chief Administrative Officer recently notified the County Board of Supervisors that the report in question is fundamentally flawed and that the statistics in the report are wrong. We understand that the report is being completely rewritten. To assist in that process, Sycuan has responded to a request for information about its gaming facility from the office of the County's Chief Administrator.

2. "Lack of Contiguity:" Mr. Copper's assertions about the location of the properties are incorrect as to the facts and the law. Both the Culmer and Lenore properties are contiguous with the existing boundaries of the Sycuan Reservation; Big Oak, which Sycuan bought seven years ago, is approximately 3/4 of a mile from

the Reservation.

Mr. Copper has no real basis for his purported concerns about the inconsistency of these acquisitions with "logical service patterns," because Sycuan already provides more services to these lands than does the County, and Sycuan's acquisition of jurisdiction over the lands will further reduce any existing burdens that these lands place upon County services and resources. For example, as already noted, Sycuan already provides fire and ambulance service to all three properties, usually reaching Big Oak well ahead of the nearest Fire Protection District units. Moreover, before Sycuan acquired Big Oak, that property was the location of activities that regularly required major responses from the San Diego County Sheriff's Department, and surrounding residents regularly were kept in a state of fear. Sycuan bought the property in part to eliminate the problems on the property, and Sycuan has succeeded in that objective.

This acquisition is not like other annexations under State law, in that this acquisition is intended to further important federal and tribal interests. Sycuan seeks only to meet the needs of its members in ways that improve, rather than degrade, the entire area. If, at some point in the future, Sycuan seeks to acquire and convey into trust any intervening lands, each such application will be evaluated on its own merits at that time, and no precedent is set by this application.

3. Any development proposed for these lands will be subject to a full environmental review in accordance with all applicable laws. As part of the preparation of the environmental assessment for this application, all three properties were inspected by the BIA's natural resources officer, and Phase I environmental studies were completed. Based upon these studies, the sites as proposed to be acquired in trust have been determined to be categorically exempt from further environmental review.

Mr. Copper's demand that granting Sycuan's request be conditioned upon Sycuan's continuing to work with its neighbors and their representatives, as well as the Board of Supervisors, in preparing a master plan and ensuring that proposed uses do not negatively impact the surrounding area, and that approvals of future uses be conditioned on the negotiation of mitigation agreements between Sycuan and the County ignores several critical facts. First, Sycuan has been cooperating with the local planning group for the surrounding community for many years, and the level of that cooperation continues to increase, as evidenced by the signing on November 11, 2000 of a unique Memorandum of Understanding between Sycuan and the local planning group.

Mr. Copper's letter overlooks Sycuan's continuing efforts to conduct its relations with the surrounding non-Indian community in a manner befitting a responsible government, San Diego Board of Supervisors Chairperson Dianne Jacob, in whose district the subject lands are located, acknowledges Sycuan's efforts; her letter to that effect, dated February 1, 2000, is attached for your reference. Any future land use that is different from its current use would be subject to this MOU. In addition, any future use that is different than what is articulated in our application is subject to an additional public review and comment period, just as are these applications.

Responsible?

Mr. Copper's concerns about Sycuan's willingness to enter into agreements with the County to mitigate traffic impacts similarly are unfounded. On September 25, 2000, Sycuan and the Dehesa Unified School District executed an agreement for funding, design and construction of improvements to Dehesa Road and the Dehesa Elementary School campus near the Reservation; this agreement, under which Sycuan will contribute an estimated \$247,700 toward the project, was approved by the County Board of Supervisors on September 27, 2000, and was executed for the County on October 9, 2000.

In addition, Sycuan recently purchased a new radar speed-display trailer at a cost of \$20,000.00, to be operated by the California Highway Patrol to improve road safety. Sycuan was pleased to unveil the speed trailer at a press conference with San Diego County Supervisor Dianne Jacob, and others from the local community. These contributions are consistent with Supervisor Jacob's recognition of Sycuan's demonstrated commitment to a strong relationship with the surrounding non-Indian community. Sycuan's government looks forward to future public safety and improvement projects in partnership with the County, the local planning group, state agencies and others in the surrounding community.

Given the history of relations between San Diego County and its Indian tribes, the County's comments on Sycuan's request are not surprising, even as they are disappointing. Indeed, had Mr. Copper contacted Sycuan as part of the government-to-government relationship that Sycuan is trying to develop with the County before submitting his letter, we believe that most of Mr. Copper's concerns would have been addressed and resolved."

Jim Battin, Senator, California Legislature, responded with a letter dated April 2, 2001, supporting the acceptance into trust by the United States of America for the Sycuan Band of Mission Indians. This letter further stated:

"The SBMI has owned these properties, in some cases, for more than 7 years. Historically, the tribe has had a very small reservation, more than half of which is unusable due to steep slopes. The addition of these lands will allow the SBMI to provide the housing that is in critically short supply for tribal members and their families

In an unprecedented move, the SBMI has entered into discussions with the locally elected planning group to define a process for future discussions on these lands and other issues of mutual importance. In fact, the tribe has signed a memorandum of agreement with the local planning group agreeing that any future uses of the land different than current uses will be thoroughly discussed and negotiated with the community

In addition to coordinated planning with the local community, the Sycuan Band is committed to charitable endeavors. The tribe has a long history of charitable giving, as well as significant contributions to the local community. A donation of \$250,000 has been donated for improvements to Dehesa Road, \$20,000 for the California Highway Patrol speed trailer to decrease speeding and increase traffic safety along local roads, and many contributions have been made to local schools and activities for kids.

"I urge your approval for these lands. Thank you for your attention to this matter and please contact me if I may be of further assistance."

Charlene Zettel, Assembly Woman, California Legislature, responded with a letter dated April 11, 2001, supporting the acceptance into trust by the United States of America for the Sycuan Band of Mission Indians. This letter further stated:

"The SBMI has owned these properties, in some cases, for more than seven years. The addition of these lands will act as a catalyst for the SBMI to provide housing that is in short supply for tribal members and their families."

I am supportive of this project because the SBMI are working with the locally elected planning group. The tribe's dedication to the community is evident by the signing of a memorandum of agreement with the local planning group agreeing that any future uses of the land different than current uses will be thoroughly negotiated with the community."

I urge your approval of the SBMI's application. Thank you for your attention to this request."

Bill Horn, Chairman, San Diego County Board of Supervisors, responded with a letter dated April 17, 2001, supporting the acceptance into trust by the United States of America for the Sycuan Band of Mission Indians. This letter further stated:

"I understand the Sycuan Band of the Kumeyaay Nation has applied for trust status for the Big Oak, Lenore and Culmer properties. While the County of San Diego has a policy regarding applications for trust, I wanted to take a moment and share my thoughts with you on these matters."

Sycuan has owned these properties, in some cases, for more than 7 years. Historically, the tribe has had a very small reservation, more than half of which is unusable due to steep slopes. The addition of these lands will allow Sycuan to provide the housing that is in critically short supply for tribal members and their families."

In an unprecedented move, Sycuan has entered into discussions with the locally elected planning group to define a process for future discussions on these lands and other issues of mutual importance. In fact, the tribe has signed a memorandum of agreement with the local planning group agreeing that any future uses of the land different than current uses will be thoroughly discussed and negotiated with the community. As I understand, this MOA is unprecedented in Indian country."

Sycuan is committed to charitable endeavors. The tribe has a long history of charitable giving, as well as significant contributions to the local community. Sycuan has signed an MOA with the County to pay for improvements to Dehesa Road at a cost of \$250,000. Just recently they donated \$20,000 to the California Highway Patrol for a speed trailer to decrease speeding and increase traffic safety along local roads. And many contributions have been made to local schools and activities for kids totaling millions of dollars."

I urge you to consider all the facts when considering these applications. Thank you for your attention to this matter and please contact me if I may be of further assistance".

Duncan Hunter, Congressman, United States House Representatives, responded with a letter dated June 22, 2001, supporting the acceptance into trust by the United States of America for the Sycuan Band of Mission Indians. This letter further stated:

"This letter is written to convey, through you, my appreciation for the community involvement and cooperation offered by the Sycuan Band of Mission Indians to the residents of the areas surrounding the Sycuan Reservation. In particular, their efforts to include the residents in the land use planning for the Big Oak, Lenore and Culmer properties is commendable.

The Sycuan Tribe has shown many times they are good neighbors, providing many needed services to the citizens of their neighborhood and they have indicated every intention to continue that track. There is no doubt that by continuing mutual cooperation and dialog, all will agree upon an equitable solution to the land use questions facing them today. Such interaction will undoubtedly enhance the efforts of the Sycuan Band of Mission Indians to incorporate the Big Oak, Lenore and Culmer properties into their land trust.

I would also like to thank you and your staff for the many hours of work you have provided in attempting to resolve the questions surrounding this property incorporation. Your guidance and expertise has been an invaluable tool for all the concerned parties. I am certain your work is appreciated by everyone.

Should my staff or I be able to assist you in any way, please contact my office any time."

Pursuant to 25 CFR 151.10 and 151.11, the following factors were considered in formulating our decision: (1) need of the tribe for additional land; (2) the purpose for which the land will be used (3) impact on the State and its political subdivisions resulting from removal of the land from the tax rolls; (4) jurisdictional problems and potential conflicts of land use which may arise; (5) whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of land in trust status; (6) whether or not contaminants or hazardous substances may be present on the property; and (7) the location of the land relative to state boundaries and its distance from the boundaries of the tribe's reservation. Accordingly, the following analysis of the application is provided.

Factor 1 – Need for Additional Land

The Sycuan Indian Reservation now consists of a total of 701.36 acres, with 379.54 acres in tribal ownership and the balance in individual ownership (allotted). Suitable residential and other development sites within the reservation are limited due primarily to the topography. The tribal lands are comprised primarily of mountainous terrain with variations of rolling to steep hillsides, and the North Fork Sweetwater River (mostly dry riverbed) crosses the reservation. The fact that the Sycuan Band lacks land suitable for development is evidenced by the Band's present use of allotted lands for tribal facilities. The Band has had limited success in negotiating for tribal purchase of individually owned property, or interests therein, within the reservation.

The Sycuan Band is committed to the principle of self determination and at the same time is working with the local planning agencies. On January 18, 1996, the Sycuan Band enacted a Resolution committing itself "to work cooperatively on a government to government basis with the County of San Diego and the Bureau of Indian Affairs to identify and solve local planning and land use management issues.

The proposed acquisition is for 82.85 acres and the site is located immediately north and contiguous to the existing Sycuan Reservation exterior boundaries. The Band has no immediate plans to change the current land use; however, due to improved employment opportunities, tribal members are returning to the Reservation and the Band intends on eventually meeting all the future additional housing needs to accommodate its members and future generations. It is our determination that the Sycuan Band has an established need for additional land to facilitate tribal housing, cultural purposes and self-determination.

Factor 2 - Proposed land Use

The Sycuan Band of Mission Indians of California anticipates that the land will continue to be used for both cultural purposes and additional future housing needs. The Band has no immediate plans to change the current land use. The property currently has four existing single-family dwellings that are currently occupied by tribal members, a barn, a warehouse and corrals on the property.

Factor 3 -- Impact on State and Local Government's Tax Base

The annual San Diego County property taxes on the Lenore-Culmer Property for the tax year beginning July 1, 2001 were \$24,875.06. The tax statements indicate that these sums are distributed primarily for school bonds, water districts, water authority charges, the local water standby/availability fund and the County mosquito/rat control fund. If the property is accepted into federal trust status, the property would be removed from the County's taxing jurisdiction. The Sycuan Tribe responded by stating the following contributions to off-set impacts:

1. "Contribution to the local school district. In the past five years, the Band has contributed more than \$20,000 to the Dehesa School District to defray the cost of the annual sixth grade field trip. The Band also will be contributing more than \$150,000 toward the cost of road safety improvements at the Dehesa Elementary School. In addition, the Band also donated \$15,000 for computer and other equipment to the Joan McQueen Middle School. All these schools are located outside the reservation. Because many tribal children and children of Casino employees attend these schools, if the property is accepted into trust, the local School District may be eligible to receive Impact Aid funds pursuant to P.L. 81-874 based upon Indian students residing on trust land or for any students whose parent(s) work(s) on Indian trust lands. On reservation, during the past four years, the Band has spent about \$350,000 in connection with the establishment and operation of an on-reservation satellite campus of DQ University, an accredited two-year college.
2. Fire and Ambulance services. The Band maintains a fully-equipped fire department and ambulance service that is staffed around the clock by eighteen trained firefighters, paramedics and emergency medical technicians, working in three platoons over three shifts. The ambulance is staffed by one firefighter/paramedic and one firefighter/EMT. The fire engine is an assessment engine, meaning that it is

staffed by at least one firefighter/paramedic. The Tribal Fire Department provided advance life support, and has a response time of five minutes or less within the Dehesa/Harbison Canyon area; that is a significantly shorter response time than can be provided by the San Diego Rural Fire Protection District, with which the Tribal Fire Department has an automatic aid agreement. The Sycuan Fire Department also provides wildland fire suppression services in concert with the California Department of Forestry and Fire Protection, the U.S. Forest Service and other reservations in San Diego County. The Tribal Fire Department also maintains an ambulance in a rural area of northern San Diego County, at no cost to the County. The value to the County of these services is in the hundreds of thousands of dollars per year; the value to those whose lives have been saved by the prompt and skilled response of the Tribal Fire Department is beyond measure. The main source of funding for these services is the Band's gaming facility. Also, if State or local agencies incur costs for wildland fire suppression on trust lands, reimbursement of those costs is available through the Bureau of Indian Affairs.

3. Other community services. The Band's health center had 10,366 patient visits in 1999; many of those visits were by persons who do not reside on the reservation. With an annual budget of about \$1,300,000, the health center had revenues of about \$745,000 including \$47,500 from San Diego County for alcohol and drug treatment programs. The Band made up the shortfall with gaming revenues. The Band serves not only Tribal members and other Indians under contracts with the Indian Health Service, but also numerous non-Indians, including residents of the Dehesa Valley. The Band also maintains a child-care center that serves both Tribal members and numerous non-Indians. The Band also maintains its own library.
4. Payments for any additional utility services that may be extended to the Lenore-Culmer Property will be the sole responsibility of the Band.
5. Other tax revenues to the State and local governments. The Casino's off-reservation vendors charge State sales taxes on all of the Casino's off-reservation purchases. Other than the Casino, there are no retail facilities on the Sycuan Reservation; thus, Sycuan Tribal members purchase almost all of the goods and services that they require off the reservation, where they pay sales taxes in which San Diego County and other local governments participate. The Band is one of the largest employers in east San Diego County, with approximately 1,150 non-Indian gaming and non-gaming employees, all of whom are subject to State income tax, and who spend their wages in communities that collect sales taxes. In addition, the Casino deals with approximately 800 outside vendors, most of whom are located within San Diego County; these vendors and their employees pay State and local taxes on their profits, their wages and their expenditures. These expenditures amount to tens of millions of dollars each year, to the substantial benefit of the State of California, the County of San Diego and numerous municipalities within that County.
6. Reductions in dependency on public assistance. Operation of the Sycuan Casino has eliminated unemployment and welfare dependency on the Sycuan Reservation, saving San Diego County a substantial amount of money. The County has realized even more significant savings in welfare and other social service costs from the reduction in unemployment and welfare dependency among the hundreds of non-Indians employed at the Sycuan Casino.

In addition to these direct and indirect offsets of the loss of an insignificant portion of the County's property tax base, the Band has contributed generously to, and participated in the activities of, numerous County-area charities and other organizations, including the Arthritis Foundation, the American Heart Association,

the American Lung Association, the San Diego Food Bank, Mothers Against Drunk Driving, Boys and Girls Clubs, Rotary, Chambers of Commerce and other organizations. The Band annually contributes about \$350,000 to charities and fundraising events.”

The impact on the State and local governments tax base is minimal. Given the Band's above-mentioned contributions, we agree that the impacts of the acquisition are more than offset by the Band's contributions to the local community.

Factor 4 - Jurisdictional Problems/Potential Conflicts

Tribal jurisdiction in California is subject to P.L. 83-280, therefore, there will be no change in criminal jurisdiction. The Tribe will assert civil/regulatory jurisdiction. As evidenced by letters from Chairman Bill Horn, San Diego County Board of Supervisors, Charlene Zettel, Assemblywoman California Legislature, Jim Battin, Senator, California Legislature, and Congressman Duncan Hunter, United States House Representatives, the Sycuan Band has worked with the surrounding community on issues such as transportation, groundwater, land use and impacts on the environment. The Sycuan Band has met with the Crest/Dehesa/Granite Hills/Harbisson Canyon Subregional Planning group and the San Diego County Board of Supervisors regarding environmental and economic issues.

Given the Band's efforts to work with the County and the local government to mitigate jurisdictional issues and the proposed use for this acquisition, it is our determination that any jurisdictional problems and/or potential conflicts will be minimal.

Factor 5 – Whether the BIA is equipped to discharge the additional responsibilities

The Bureau of Indian Affairs has a trust responsibility for all lands held in trust by the United States for Tribes. This acquisition anticipates no change in land use. Any additional responsibilities resulting from this transaction will be minimal. As such, the Bureau of Indian Affairs is equipped to administer any additional responsibilities resulting from this acquisition.

Factor 6 – Whether or not contaminants or hazardous substances are present

In accordance with Interior Department Policy (602 DM 2), we are charged with the responsibility of conducting a site assessment for the purposes of determining the potential of, and extent of liability for, hazardous substances or other environmental remediation or injury. The record includes a negative Level 1 “Contaminant Survey Checklist” reflecting that there were no hazardous materials or contaminants.

Factor 7 – The location of the land relative to state boundaries and its distance from the boundaries of the tribe's reservation

The proposed acquisition does not cross any state boundaries and is in the same county as the Sycuan Band's existing trust land base. The subject property is located immediately north and adjacent to the Band's existing Reservation.

We conclude that the need for future additional housing associated with the transfer of the subject property in trust for the benefit of the Sycuan Band of Mission Indians is essential for the Band's future growth and overall self-determination.

National Environmental Policy Act Compliance

An additional requirement, which has to be met when considering land acquisition proposals, is the impact upon the human environment pursuant to the criteria of the National Environmental Policy Act of 1969 (NEPA). The BIA's guidelines for NEPA compliance are set forth in Part 30 of the Bureau of Indian Affairs Manual (30 BIAM), Supplement 1. Within 30 BIAM Supplement 1, reference is made to actions qualifying as "Categorical Exclusions," which are listed in part 516 of (Interior) Department Manual (516 DM 6, Appendix 4). The actions listed therein have been determined not to individual or cumulatively affect the quality of the human environment, and therefore, do not require the preparation of either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). A categorical exclusion requires a qualifying action, in this case 516 DM 6, Appendix 4, Part 4.4.I, Land Conveyance and Other Transfers of interests in land where no change in land use is planned. A categorical exclusion for the Lenore-Culmer property was approved on April 10, 2001, and compliance with NEPA has been completed.

Conclusion

Based on the foregoing, we at this time issue notice of our intent to accept the subject property into trust. Subject acquisition will vest title in the United States of America in trust for the Sycuan Band of Mission Indians in accordance with the Indian Land Consolidation Act of January 12, 1983 (25 U.S.C. §2202).

Should any of the below-listed known interested parties feel adversely affected by this proposed decision, an appeal may be filed within thirty (30) days of your receipt of this notice with the Interior Board of Indian Affairs, U.S. Department of the Interior, 801 N. Quincy Street, Suite 300, Arlington, Virginia 22203, in accordance with the regulations in 43 CFR 4.310-4.340 (copy enclosed).

Any notice of appeal to the Board must be signed by the appellant or the appellant's legal counsel, and the notice of the appeal must be mailed within 30 days of the date of receipt of this notice. The notice of appeal should clearly identify the decision being appealed. If possible, a copy of this decision should be attached. Any appellant must send copies of the notice of appeal to: (1) the Assistant Secretary of Indian Affairs, U.S. Department of Interior, 1849 C Street, N.W., MS-4140-MIB, Washington, D.C. 20240; (2) each interested party known to the appellant; and (3) this office. Any notice of appeal sent to the Board of Indian Appeals must certify that copies have been sent to interested parties. If a notice of appeal is filed, the Board of Indian Appeals will notify appellant of further appeal procedures.

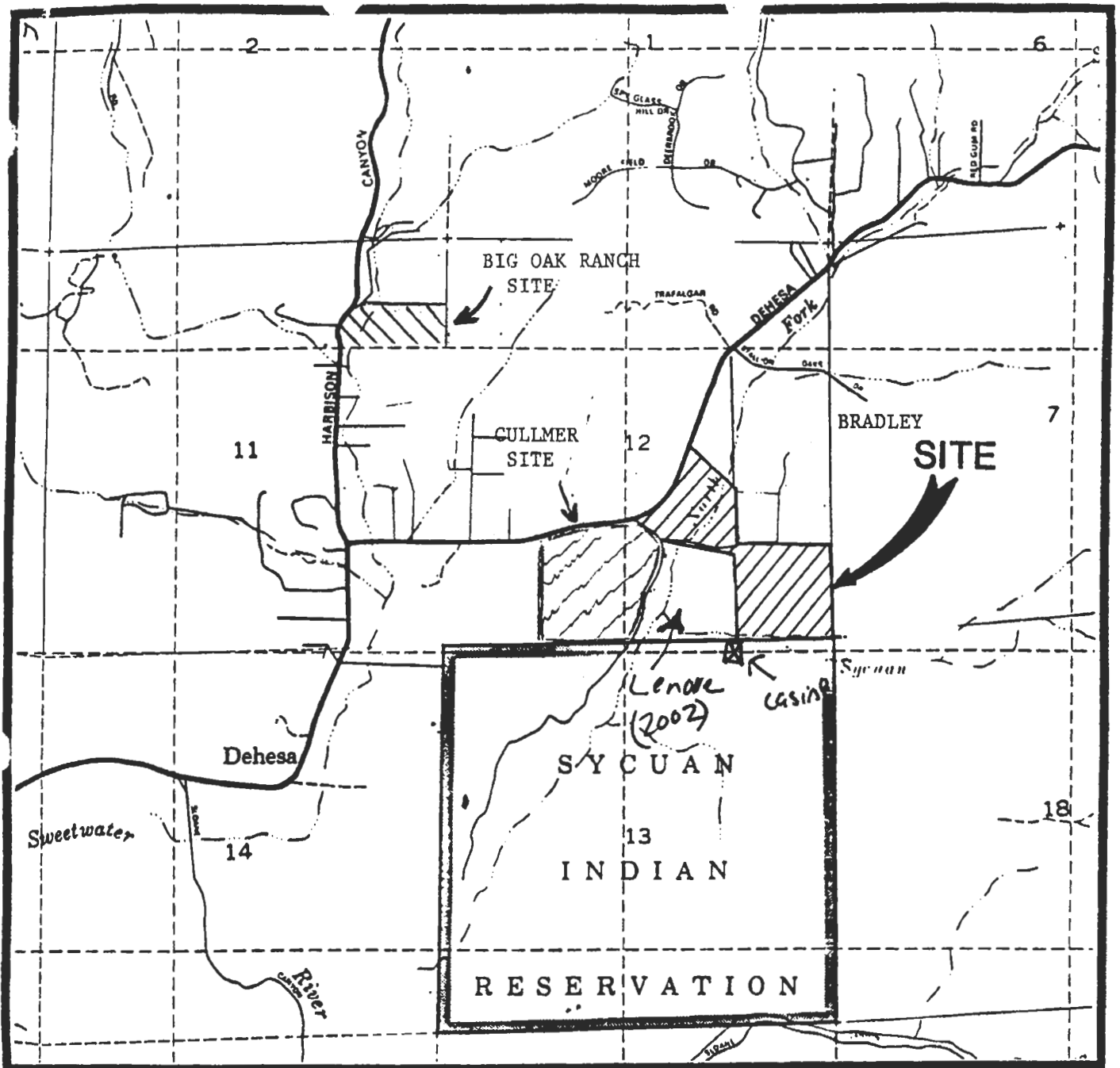
If no appeal is timely filed, further notice of a final agency action will be issued by the undersigned pursuant to 25 CFR 151.12(b).

Sincerely,

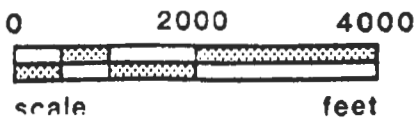
Acting


Regional Director

Enclosure



BASE MAP: Aerial-Foto Map Book, 1986-87, page 14J
Original by Aerial Graphics.



RESORTS WEST/DEHESA	
Figure 1	
SITE LOCATION MAP	
Project No. 4891474-01	 LEIGHTON and ASSOCIATES INCORPORATED