

Dehesa Valley Community Council, Inc.
P.O. Box 1631
El Cajon, CA 92022
protectdehesa@aol.com

September 8, 2011

United States Department of the Interior
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825

**Final Environmental Assessment Comments, Proposed Sycuan Reservation
“Fee to Trust Development Project”**

The Dehesa Valley Community Council, Inc. thanks you for this opportunity to make comment on the EA submitted by the Sycuan. The Dehesa Valley Community Council requests that a full environmental impact study be required, as there appears to be errors and omissions as explained below in the current EA that raises serious concerns over justifying acceptance of this property in-trust. Further we request public scoping hearings on the proposed application, and that all of the 1,357.47 acres be processed as an off reservation acquisition under 25CFR 151.11. This would give greater weight to local government and the citizens.

The recent Environmental Assessment submitted to the Pacific Regional Office of the BIA for 1,357.47 acres (21 parcels) has been modified. Nine parcels, approximately 608 acres in Sloan Canyon were removed by Tribe from the original fee-to-trust application. These nine parcels will be sold to and managed by the KDLC (subject to fee-to trust action) as permanent conserved open space. The removal of these parcels deletes a portion of highly sensitive habitat from the development project. However, there are areas listed as “preservation area” that are still available for future development or to serve as on-site mitigation. Some of these lands are sensitive habitat (i.e. east side of Sloan Canyon Road) and should be examined. Further development on trust land is not limited due to ability to preserve through mitigation. There appears to be a sincere effort to conserve open space. The Dehesa Valley Community Council requests that in addition to the land being sold and managed by the KDLC, restrictions are placed on the deeds to these parcels to ensure the land remains as permanent open space.

The Sloan Canyon Sand Plant’s original “sand mining permit” required a “rehabilitation plan” and included a “Recreation Element” that went with the purchase of the property by Sycuan. The “Reclamation Plan” was negotiated by the Community, Conrock and the County in 1972 to off set the impacts of the sand mining operation. The Recreation Trails Element plan requires “non-motorized trails” be dedicated to the County, at cessation of mining operations, within one year after the County establishes a “Trails Program”. This program is now in effect. (Recreational Trails Element page 62 & 63). We understand that the mining operation was stopped for environmental reasons before completion. However, the original permit does not indicate the necessity of the completion of Phase I and II for the reclamation plan to be “triggered”. Simply the curtailment “for a period of one year or more of surface mining” is enough. The Tribe claims to have not formally abandoned sand mining.

Thus, whether the property is taken or not taken into trust there is still the possibility of sand mining without the promised reclamation plan to be triggered. This requires further analysis and demonstrates the need for an EIS.

The use of Sloan Canyon Road for a trail is unacceptable, as the road is narrow, has sharp turns and steep hills with no safe line of site. The road is a public road and used frequently by site seers without regard for the safety of non-motorized users. The Historic California Riding and Hiking Trail is actively used and celebrated its 50th anniversary in 1995. This trail connects to the proposed Sloan Canyon Trail, Sweetwater Regional Trail and the Pacific Crest Trail, servicing the general public who use non-motorized trails. With the addition of the equestrian facility at the corner of Sloan Canyon Rd and Dehesa Rd. there will be additional usage of the trail system. USFWS does utilize trail systems within their jurisdiction and there is a need to maintain safe connections through further analysis. The lack of analysis of the trail systems within the jurisdiction of the USFWS demonstrates the need for a full EIS.

Traffic impact studies do not adequately mitigate affects around Dehesa School, school bus stops and activities at the various venues being added to the Community. Using the bike paths along Dehesa Road (classified as LOS F), as a non-motorized trail, is not safe. At last count there were approximately 15,000 cars using Dehesa Road daily with the bike path being as narrow as 24" in some places on blind corners. This bike path is also utilized as part of a 40 mile Olympic training circuit. The lack of comprehensive traffic mitigation further demonstrates the need for a full environmental impact statement before the Department of the Interior takes a final federal action on these parcels.

Sycuan states that there are 138 members on or near the reservation, 65 under the age of 16, 66 between 16 and 64 and 7 over the age of 64. There are 40 homes on the reservation and 30 on various trust properties acquired since 2001. This application will add an additional 50 homes. North of Dehesa Road the housing development is scheduled for 20 units with a single access road. However, Figure 2-1c shows a second access point for the two most eastern homes, with no access to "single, controlled access point". There is no slope analysis of this area. Final road and pad design would be only approved by Sycuan's Planning Department. If homes are placed as in "Big Oak", we can expect to see heavy cutting into the hillsides. The same would be true within the "Smith Ranch".

Water and sewage sources are listed as to what is available, but there is no commitment as to the use of other than local ground water. The equestrian center is proposed to house 30 horses, with only "water, sewer and electrical utilities which could be extended". Homes built (construction) on land in trust, deletes all the benefits and requirements associated with public development. The lack of a commitment to the use of public water and sewage sources raises concerns over ground water overdraft and well interference to nearby residents. Moreover, without a commitment to public sewage sources, there is a potential impact to water quality in the immediate area. Greater scrutiny must be given to the proposed project if it is to rely upon ground water and septic.

Sycuan wants to continue the existing Resort with no immediate proposed changes. However, with the land in trust, there is nothing to prevent changes. It is reasonable to request at minimum a five year business plan associated with this resort. While the Tribe has no "immediate proposed changes" it is relevant to local planning to have an idea about the Tribe's future land use and/or proposed expansions for this resort. We all share the resources of this area, whether it is air, water or transportation circulation. A tribal business plan would allow for future planning needs.

The Sycuan Band of the Kumeyaay Nation/BIA OLES, Deputation Agreement, Mandatory Public Law 280 Indian Country states " The Sycuan Band of the Kumeyaay Nation has enacted Resolution number 2005-0013, which authorizes the Sycuan Band of the Kumeyaay Nation Chairman Daniel Tucker to enter into this Agreement on the Tribe's behalf and also authorizes the Sycuan Band of the Kumeyaay

Nation/Sycuan Tribal Police Department tribal law enforcement officers, under a BIA Special Law Enforcement Commission (SLEC) issued through the Secretary of the Interior, to enforce federal laws in Indian country." Sycuan Police do not have any jurisdictions on public roads, unless they are in active pursuit from the reservation.

The EA contains factual errors that require correction. Figures 1 (Area Covered by the Natural and Cultural Resources Management Plan) through Figure 15 (Habitat Valuation in the Plan Area), excluding Figures 6, 7 and 14, indicate the northeast corner of Dehesa and Harbison Canyon Roads as being Tribal Trust Land. This is also true with Exhibit A and B within Appendix A. There has been an application, but withdrawn.

The Sycuan Tribe has demonstrated its success off of the reservation by diversifying its holdings and venues. It is not clear what the immediate need of the Tribe is for taking fee land into trust. Sycuan already exercises control over these parcels. Sycuan's web site states: "STDC has been busy with development projects in downtown San Diego and National City, purchasing the historic US Grant, beginning a capital management firm and becoming boxing promoters with Ringside Promotions by Sycuan." They also own a multi-million dollar, tax free enterprise, the Sycuan Casino. In January, 2011 Sycuan reported their monthly headcount was 406,980, down from previous months. This is a successful tribe that appears to be seeking a significant financial benefit of a tax exemption that is detrimental to Dehesa Valley School District, County of San Diego and the State of California. Sycuan has funds to develop property owned by the Tribe without putting it in-trust.

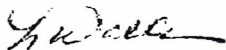
Finally, in a response letter to The Honorable Duncan Hunter from United States Department of the Interior, Carl J. Artman states, "We understand that the Dehesa Community is very unhappy with what it is calling the "bait and switch" tactic employed by the Tribe. Although we understand the community's concern,

"...once land is taken into trust, the Department is not authorized to reconsider its decision because land cannot be taken out of trust without congressional authorization. In addition, current land acquisition regulations in 25CFR Part 151 do not authorize the Department to impose restrictions on a Tribe's future use of land which has been taken into trust".

While the current land acquisition regulations in 25 CFR do not authorize the Department to impose restrictions on a tribe's future use of land, 25 CFR 1.4 (b) does authorize the Secretary of the Interior or his authorized representatives to adopt and make applicable in specific cases or in specific geographic areas local and state laws, codes or ordinances regulating the use of Indian property. In this instance, regulating development on these sensitive lands to comply with local water, sewage and zoning ordinances is in the best interests of the Tribe, its next door neighbors and the regional area.

In closing the Dehesa Valley Community Council, Inc. again requests a full Environmental Impact Study, as there are too many errors in the EA to justify accepting this property in-trust, requests public scoping hearings on the proposed application, and that all of the 1,357.47 acres be processed as an off reservation acquisition under 25CFR 151.11. This would give greater weight to local government and the citizens.

Sincerely,



Lory Walls, President
Dehesa Valley Community Council, Inc.