



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

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In Reply Refer To:  
FWS-06B0010-09FA0050

OCT 08 2009

### Memorandum

To: Regional Director, Bureau of Indian Affairs  
Sacramento, California

From: Field Supervisor, Carlsbad Fish and Wildlife Office  
Project Leader, San Diego National Wildlife Refuge Complex  
Carlsbad, California

Subject: Environmental Assessment Comments, Proposed Sycuan Reservation "Fee-to-Trust Development Project"

We have reviewed the Environmental Assessment (EA) for the proposed conveyance of 30 parcels (approximately 1966 acres) owned in fee title by the Sycuan Band of the Kumeyaay Nation (Tribe) of California to Federal trust status. In addition, we met with representatives from your agency and the Tribe on September 29, 2009, to discuss the project. The fee title lands include the developed Sycuan Resort, Sloan Canyon, Smith Ranch, and Starr Ranch; collectively referred to as the "project site" in the EA. The proposed project (Tribal Project) that would follow the fee-to-trust transfer involves several elements, including the implementation of a comprehensive Tribal Natural and Cultural Resources Management Plan (RMP), the construction of permanent facilities for the Tribe's annual Traditional Gathering and Pow Wow event (Pow Wow); construction of a secondary access road for the Reservation; the construction of additional housing for Tribal members, and the construction of other facilities to foster the Tribe's economic development and recreational opportunities. As indicated in the EA, transferring these 30 parcels into Federal trust status would restore Tribal control and administration to part of the Tribe's aboriginal territory. The Tribal Project is located within the County of San Diego's Multiple Species Conservation Program (MSCP) planning area and the Planning Boundary for the San Diego National Wildlife Refuge (NWR). We look forward to working with you and your staff to develop an alternative that meets the needs of both the Tribe and the County's MSCP.

The primary concern of the U.S. Fish and Wildlife Service (Service) is the protection of public fish and wildlife resources and their habitats. Our agency has legal responsibility regarding migratory birds and anadromous fish. We are also responsible for administering the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). We are providing the following comments and have enclosed additional specific comments in keeping with our agency's mission to work with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people.



The Service has three main concerns related to the potential impacts the Tribal Project may have on natural resources in the area, including: 1) how the Tribal project may affect the MSCP; 2) potential indirect effects to adjacent lands owned by the San Diego NWR; and 3) potential impacts to arroyo toad. We think these concerns can be addressed by redesigning a few of the proposed development components. In addition, we would like to work with you to better define the long-term strategy for the “holding areas”. In particular, it would be helpful to distinguish those areas that will be conserved consistent with MSCP from those areas that may be developed in the future. My staff is available to help you and the Tribe identify these areas. Our concerns with the project, as currently proposed, are further described below.

Our first concern with the proposed Tribal Project and the fee-to-trust transfer involves the potential impacts to the MSCP. Although the EA acknowledges the MSCP, it does not fully analyze the project in light of the goals and objectives of the MSCP. The EA commits to mitigating the proposed development consistent with the MSCP; however, the MSCP is more than just a set of mitigation ratios. We appreciate that the Tribe’s commitment to these mitigation measures is voluntary and are providing the following comments to further clarify the goals and objectives of the MSCP and how your plan could be modified to address our concerns regarding consistency with the MSCP.

To provide a context for our comments, the following is a quick summary of the MSCP. On March 17, 1998, we issued a section 10(a)(1)(B) permit pursuant to the Act for the San Diego County Multiple Species Conservation Plan (MSCP). The MSCP establishes a multiple species conservation program to minimize and mitigate habitat loss and the incidental take of covered species in association with activities covered under the permit.

The goal of the MSCP is to assemble a regional preserve (172,000 acres) that addresses multiple habitat needs and the preservation of native vegetation communities. The regional preserve will encompass core habitat areas and linkages in conjunction with existing Public/Quasi-Public lands to provide for the long-term conservation of 85 “covered species.” The MSCP identifies cores and linkages to be assembled, biological issues and considerations for purposes of reserve assembly, and species-specific objectives. Integral to the MSCP conservation strategy is the permittees’ obligation to monitor and manage the reserve in perpetuity for the benefit of covered species.

The MSCP specifies a variety of other conservation measures that will be implemented by the permittees in association with “covered activities” (e.g., development projects, roads, and other infrastructure) to ensure impacts to covered species are avoided, minimized, and/or mitigated. These measures include compliance with policies and guidelines to protect sensitive plant communities and associated covered species [e.g., Narrow Endemic Policy (County Subarea Plan section 4.2.4)].

It is the responsibility of each permittee to ensure that covered activities (e.g., development approvals) are consistent with the MSCP in terms of assembling the MSCP reserve system and to ensure other relevant policies and procedures are implemented according to the plan. The permittees are required to make findings on a project-by-project basis that actions under their discretion demonstrate consistency with the MSCP.

The undeveloped fee-owned lands are currently 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 the federally threatened coastal California gnatcatcher (*Polioptila californica californica*) and a significant population of endangered arroyo toads (*Anaxyrus californicus*).

As stated in the EA, conveyance of the fee title land to Tribal Trust would remove the subject lands from local and State jurisdictions. The proposed Tribal Project and any future development within the fee-to-trust lands would not be subject to MSCP requirements. Removal of local and State jurisdictions likely would preclude the permittees from fully implementing their obligations under the MSCP, particularly in terms of assembling the preserve and implementing species-specific conservation requirements for covered species. Lands targeted for preserve assembly would not be monitored or managed for the benefit of covered species. The loss of lands subject to the MSCP represents a significant impact and needs to be adequately addressed.

The EA includes some analysis of direct impacts to listed species and habitats, but does not contain an analysis of potential impacts to the MSCP, nor does it include a long term commitment to conserve the "holding areas". Components of the Tribal Project that are of most concern include the Dehesa Road housing, the RV Park, and the Sloan Canyon Road Olive Grove housing.

As a result of cumulative impacts throughout the area, there is currently a chokepoint for wildlife movement across Dehesa Road between Sloan Valley Road and Dehesa Valley. Deer and other wildlife have been observed crossing Dehesa Road, just west of the elementary school (Figure 2). 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 Resource Management Plan includes a goal to maintain viable wildlife corridors; the EA should include an analysis of how the Tribal Project may impact wildlife corridors and consider alternatives that would avoid and minimize the impacts. We can provide technical assistance to help redesign these components of the Tribal Project to maintain this important regional wildlife corridor.

We have several concerns regarding the proposed Sloan Canyon Olive Grove housing and its potential impacts to arroyo toad and the adjacent San Diego NWR. The EA includes an estimate of the direct impacts from the proposed housing; however, the EA does not include information regarding other project features such as upgrades to Sloan Canyon Road, nor does it adequately address potential impacts to arroyo toads and adjacent conserved lands, including the refuge.

With regards to arroyo toads, in addition to using the stream course for breeding, the toads also require the adjacent uplands for foraging and estivation. Upland habitats used by toads during both the breeding and non-breeding seasons include alluvial scrub, coastal sage scrub, chaparral, grassland, and oak woodland (Griffin *et al.* 1999; Service 2001). The Sloan Canyon Olive Grove housing is located in close proximity to the Sweetwater River which supports a population of arroyo toads. As shown in Figure 3.2-1 and Table 3.2 of the EA, the site is composed of predominately well drained sandy soils, ideal habitat for the arroyo toad. Areas that are used by juveniles consist primarily of sand or fine gravel bars with varying amounts of large gravel or cobble with adjacent stable sandy terraces and oak flats. Subadults and adults may range widely into the surrounding uplands, and has been observed moving approximately 1.6 km (1 mi) within a stream reach and up to 1.1 km (0.7 mi) away from the stream, into native upland habitats (Holland and Goodman 1998; Sweet 1992) or agricultural areas (Griffin *et al.* 1999).

The EA contains no analysis of the potential direct impacts of the Olive Grove housing on the arroyo toad, nor the potential indirect effects from increased traffic, runoff, sedimentation, and fragmentation. Furthermore, the Sweetwater River within Sloan Canyon is one of only two drainages in the County's Subarea Plan that supports a major population of arroyo toads. Arroyo toads are considered a narrow endemic in the County's plan which requires avoidance to the maximum extent practicable. We included the arroyo toad as a covered species on the County's Incidental Take permit, based in part on the proposed conservation of the population of arroyo toads in Sloan Canyon. In addition, the Recovery Plan identifies the Sweetwater River as one of the populations that should be protected and managed as part of the Southern Recovery Unit (USFWS 1999).

Although the San Diego NWR abuts the proposed trust acquisition boundary to the south in the vicinity of McGinty Mountain, to the east along Sloan Canyon, and to the north near the intersection of Dehesa Road and Willow Glen Drive (see Figure 3), no mention of the Refuge is included within the draft EA. The San Diego NWR was established to contribute to the recovery of endangered, threatened, and rare species and support native biodiversity in southwestern San Diego County; contribute to the development of a regional preserve under the MSCP; and provide potential opportunities for compatible wildlife-dependent recreation. Achievement of the conservation objectives of the MSCP and the goals of the San Diego NWR requires that adequate measures be taken to ensure the protection of the habitat quality within the Region's conserved lands, as well as to preserve functional habitat corridors that will provide for wildlife connectivity and aid in native species dispersal.

Both the Land Resources and Biological Resources sections of the draft EA should acknowledge the relationship of the Refuge to the proposed trust acquisition boundary. Potentially significant

indirect impacts(e.g., increases in overall disturbance, noise, lighting, unrestrained pets) to the wildlife and habitat resources protected within the Refuge should be described for the current development proposals, as well as for potential future uses in areas currently designated as “holding areas”. Of particular concern are the potential indirect effects of the proposed Olive Grove housing area and future proposals for development in the portions of the holding area located within the upper edges of the Sweetwater River riparian corridor south to the proposed trust acquisition boundary. The need for wildlife connectivity between the areas north and south of Dehesa Road and through the upper portions of Sloan Canyon should also be addressed.

We recognize that portions of the proposed fee-to-trust lands are already developed (e.g. golf course, club house) and would not contribute to the MSCP. However, the undeveloped Sloan Canyon parcels within PAMA are expected to contribute to MSCP preserve assembly and the conservation of covered species. To minimize impacts to the MSCP and prior to finalizing the EA, we would like to work with you and the Tribe on other alternatives to the proposed fee-to-trust land conveyance. Such alternatives include limiting the conveyance to the existing golf course/country club and proposed development bubbles (with modifications as described above). Another alternative that could be considered is to delineate those areas to that will be conserved consistent with MSCP up front, rather than including them within the “holding areas”.

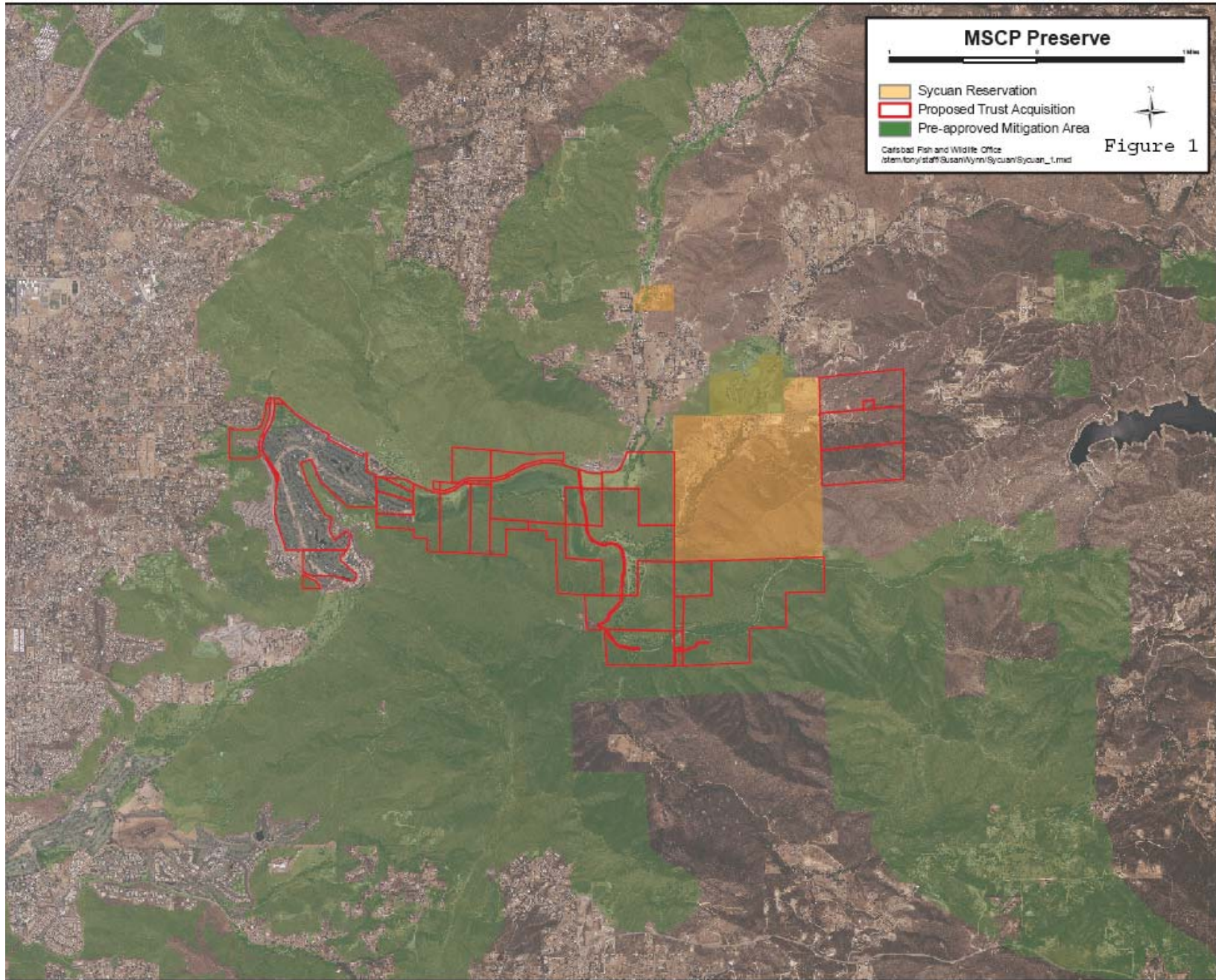
Alternative B of the Tribal Project addresses many of our concerns related to the development footprints, although the RV Park would need to be modified to maintain the north south wildlife corridor. If Alternative A remains as the preferred alternative, we recommend that an Environmental Impact Statement be prepared, given the potential significant environmental consequences that may result from the proposed Tribal Project. Specific comments on the EA are included as Enclosure 1. We have not had time to review the attached appendices. Of particular interest to us is the Natural Resources Management Plan. We would like to work with you on the RMP and the proposed project and are available to provide technical assistance to help ensure that the project is consistent with the goals and objectives of MSCP.

We appreciate the opportunity to comment on the proposed project and look forward to working closely with your agency to resolve these issues. For information on the MSCP or questions regarding this letter, please contact Susan Wynn or Kathleen Brubaker of this office at (760) 431-9440. For information on the San Diego NWR, please contact Vicki Touchstone at (760) 930-0168.

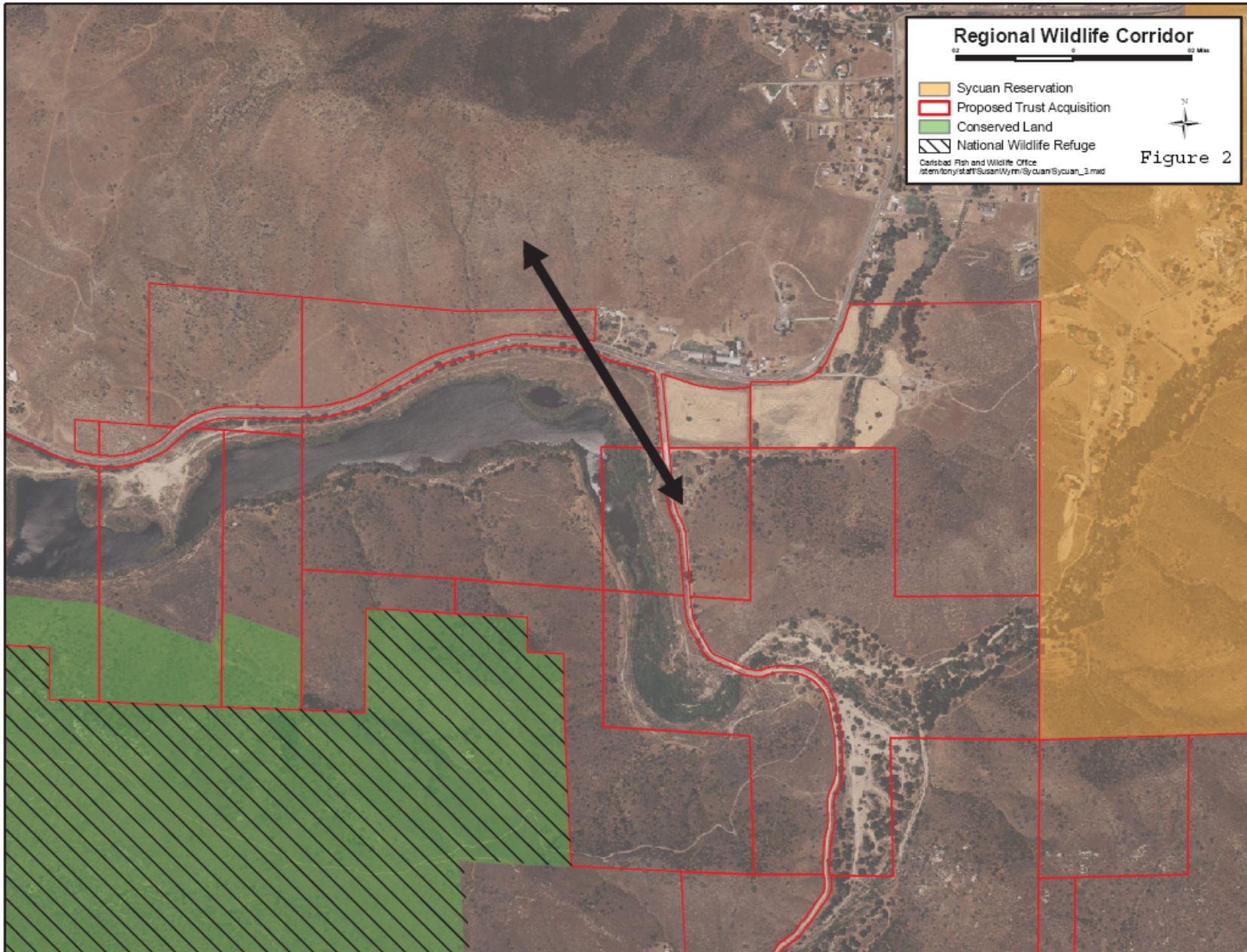
## References Cited

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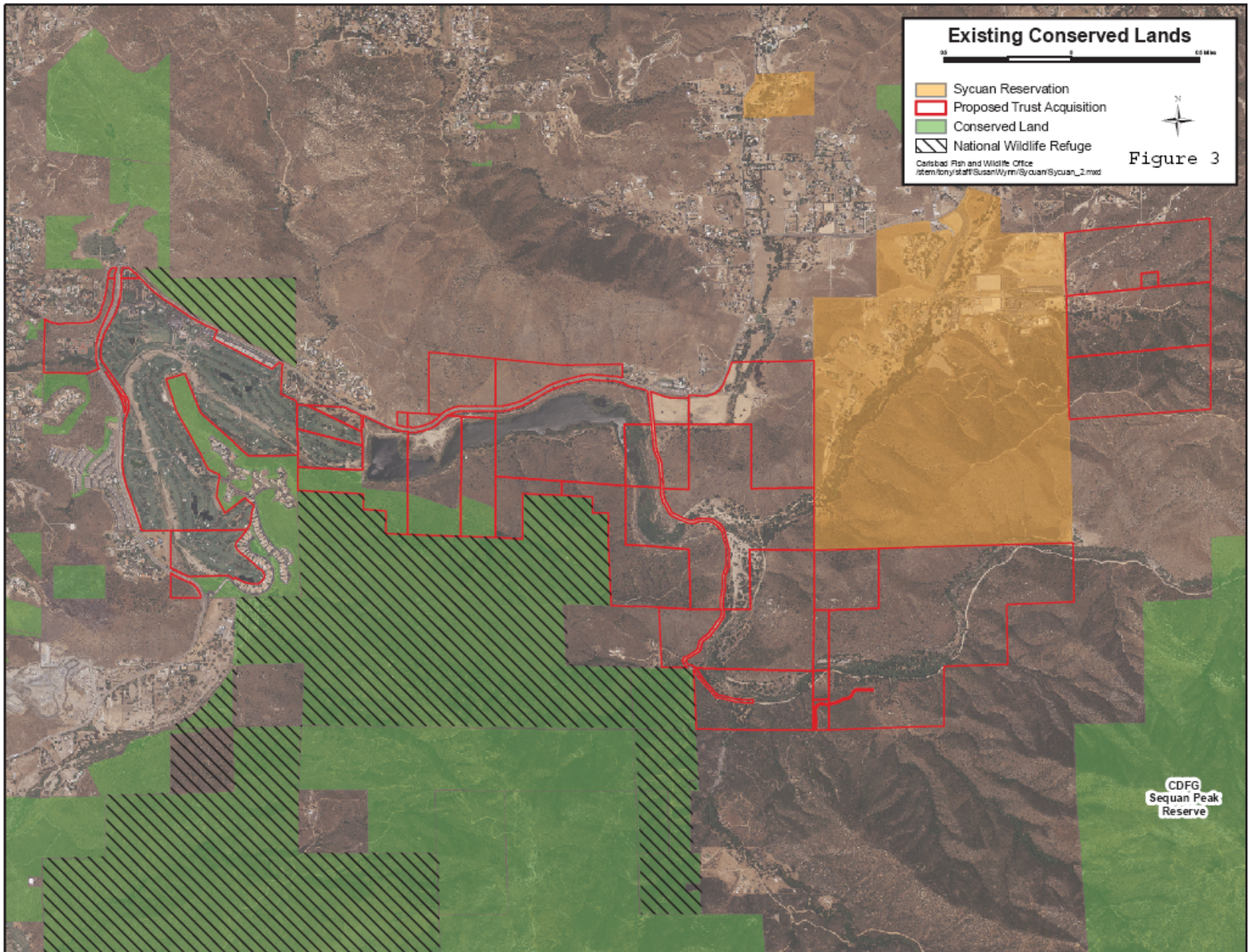












## ENCLOSURE 1

### **Specific Comments EA Sycuan Reservation Proposed Fee-to-Trust San Diego County, California**

#### Page 1-6, Section 1.6

In addition to consulting with us pursuant to Section 7 of the Endangered Species Act, we also recommend you work with our refuge staff to address concerns with how the proposed project may affect the adjacent San Diego National Wildlife Refuge.

#### Page 2.4, Section 2.1.2 Housing

The project description should describe whether access roads need to be improved, where the utilities would be located, and whether fuel modification is needed and where.

#### Page 3.5-3, Section 3.5.2 Local Regulations

This section should be expanded to include a full discussion of the MSCP as described above in our letter. The MSCP is more than a set of mitigation ratios. In addition, a map should be included in the document that shows the existing conserved lands as well as the Pre-approved Mitigation Areas (Preserve) for the County's subarea plan.

In addition, this section references the RMP and states that the Tribe's intent is to be consistent with the goals and standards of the MSCP. However, according to the RMP, most of the land would be placed in a "holding area". The RMP defines "holding areas" as a static preservation zone, protected from adverse impacts through passive management. It states that these areas may be converted to Developed Areas or Conservation Areas through implementation of the guidelines. The RMP states that impacts to these lands would require mitigation, but it is not clear what the long term commitment is for these lands. MSCP envisioned the majority of these lands to be conserved and actively managed and monitored.

#### Page 3.5-7, Section 3.5.4 Vegetative Communities and Wildlife

Disturbed habitat – The EA does not include a definition for non-native grassland, nor is this habitat type mapped. Non-native grassland does provide habitat for numerous species in the County (e.g., foraging habitat for raptors). We recommend that the areas mapped as disturbed be re-examined to determine if they should have been mapped as grassland rather than disturbed. The County of San Diego currently requires project proponents to map habitat types consistent with the San Diego Regional Holland Code Classification system. The County's definitions of disturbed and non-native habitats are as follows:

- Disturbed Land (Holland 11300) – Disturbed land includes areas in which the vegetative cover comprises less than 10 percent of the surface area (disregarding natural rock outcrops) and where there is evidence of soil surface disturbance and compaction from previously legal

human activity; or where the vegetative cover is greater than 10 percent, there is soil surface disturbance and compaction, and the presence of building foundations and debris (e.g., irrigation piping, fencing, old wells, abandoned farming or mining equipment) resulting from legal activities (as opposed to illegal dumping). Vegetation on disturbed land (if present) will have a high predominance of non-native and/or weedy species that are indicators of surface disturbance and soil compaction, such as Russian thistle (*Salsola tragus*), telegraph weed (*Heterotheca grandiflora*), horehound (*Marrubium vulgare*), and sow-thistle (*Sonchus oleraceus*). Although non-native grasses may be present on disturbed land, they do not dominate the vegetative cover. Examples of disturbed land include the following activities, if preformed under legal means: recently graded firebreaks, graded construction pads, construction staging areas, off-road vehicle trails, and old homesites.

- Non-native grassland (Holland 42200) – Non-native grassland is a mixture of annual grasses and broad-leaved, herbaceous species. Annual species comprise from 50 percent to more than 90 percent of the vegetative cover, and most annuals are non-native species. Non-native grasses typically comprise at least 30 percent of the vegetation, although this number can be much higher in some years and lower in others, depending on land use and climatic conditions. Usually, the annual grasses are less than 1 m (3 ft) in height, and form a continuous or open cover. Emergent shrubs and trees may be present, but do not comprise more than 15 percent of the total vegetative cover. Characteristic non-native grassland species include foxtail chess (*Bromus madritensis* ssp. *rubens*), riggut grass (*Bromus diandrus*), wild oats (*Avena* spp.), fescues (*Vulpia* spp.), red-stem filaree (*Erodium cicutarium*), mustards (*Brassica* spp.), lupines (*Lupinus* spp.) and goldfields (*Lasthenia* spp.), among others. This definition is consistent with non-native grassland definitions in conservation plans adopted by other jurisdictions within San Diego County.

#### Page 3.5-8

Sloan Canyon BO – Although the reclamation plan may have included activities east of the Sloan Canyon Bridge, the biological opinion only addressed the phases west of the bridge. Therefore, all of the measures identified in the biological opinion need to be implemented. We did not consult on the reclamation plan, rather our consultation was with the Corps of Engineers (Corps) and focused on the impacts that were being authorized by Corps permit number 95-20244-TCD. As described in the project description, only Phases 1 and 3-8, which encompass the 180-acre portion of the mine situated between Sloan Canyon Road and the Sycuan Resort (referred to as the Singing Hills Golf Course in the biological opinion), were addressed in the biological opinion (see page 2 of the biological opinion, identified as Appendix A in the Resource Management Plan). This section of the EA should be updated to accurately reflect the biological opinion.

#### Page 3.5-11, Section 3.5.5, Habitats within Proposed Development Envelopes

This summary should be updated based on the re mapping of the vegetation communities as described above.

#### Page 3.5-26, Section 3.5.5, Special-status species

Federally Listed Species – We disagree with the conclusion that no potential habitat occurs within the development envelopes, there is no analysis of upland habitat use by arroyo toad.  
San Diego Thornmint – Critical habitat was proposed on March 14, 2007 (72 FR 11946).  
San Diego Ambrosia – Critical habitat was proposed on August 27, 2009 (74 FR 44238).

Page 3.5-27, Table 3.5-11

This table should be expanded to include all of the MSCP “covered species”. In addition, although not listed or covered, Hermes copper butterfly (*Lycaena hermes*) should also be included in the document. It is an extremely rare species whose range is restricted to San Diego County. This species has been documented in the vicinity of Sloan Canyon. MSCP includes a list of Critical Populations of Covered Species (Table 4-4 of the MSCP and Attachment D of the BMO), which require avoidance under the MSCP. Two critical populations are designated within the proposed fee-to-trust lands, including Dean’s milk-vetch (*Astragalus deanei*) and Slender-pod jewelflower (*Caulanthus stenocarpus*). The County of San Diego did not receive coverage for Dean’s milk-vetch, however, this species is a rare species in the County.

Page 3.5-30, Arroyo Toad

The scientific name for arroyo toad is now *Anaxyrus californicus*. With regards to critical habitat, it was re-designated on April 13, 2005 (70 FR 19562) and much of San Diego County, including the Sweetwater River was excluded. We are currently revising this rule and anticipate releasing a new proposed rule in the immediate future. This section should be updated to include a discussion of arroyo toad use of uplands, in addition to the breeding habitat within the river. As an example, the biological opinion for the mining operation (Appendix A of the RMP) describes the results of arroyo toad surveys for that project which included several observations of arroyo toads in the adjacent uplands (700 feet from the river) as well as crossing Sloan Canyon Road (see page 10 of the biological opinion).

Page 3.5-31

Revised critical habitat was published in the Federal Register on December 19, 2007 (72 FR 72010) for the gnatcatcher.

Page 3.5-32, State and other listed species

This section should be expanded to include a discussion of MSCP “covered” species. In addition, we recommend including Hermes Copper butterfly. See comments above regarding Table 3-5.

Page 4.3-2, Water supply and groundwater

We have not had an opportunity to review Appendix D; however, we are concerned with the proposal to pump ground water to supply the proposed Sloan Canyon Road/Olive Grove housing. Ground water pumping could alter the surface water within the Sweetwater River, which could negatively affect arroyo toad breeding habitat.



Page 4.5-1, Section 4.5, Biological Resources

This section should include several additional significance criteria. There should be an evaluation of the potential for the project to have a substantial adverse effect to MSCP as well as on native habitats and adjacent conserved lands.

Page 4.5-1, Section 4.5.1, Habitats/vegetation communities

It is unclear what the ultimate mitigation will be. The document includes a list of acreage and proposed mitigation ratios but then states that these will only be applied if the Tribe has not adopted the Resource Management Plan. The RMP does not include any ratios, nor is the location of the mitigation for the proposed Tribal Project identified. Without this information, it is hard to determine if the proposed impacts have been adequately offset

Page 4.5-4 Section 4.5.1 Least Bell's vireo

This paragraph is about least Bell's vireo, yet the third sentence references southwestern willow flycatcher.

Page 4.9-1, Section 4.9, Land Use

This section does not discuss the compatibility of the proposed developments in light of the fact that much of the adjacent property has been conserved as open space. So, although the underlying zoning may allow for residential and recreational uses, the actual use is for habitat and wildlife conservation. This section should be updated to include an analysis of the potential conflicts with the existing land use in the area. In addition, the Natural and Cultural Resources Management Plan states that the plan currently does not anticipate the creation of any new trails. It is unclear from the EA and the plan what, if any, trails are currently established within the planning area and where new equestrian uses will be directed. It is also unclear where potential trail users from the RV park would recreate and what types of uses (e.g., biking, hiking) would be generated as a result of this use. The County of San Diego has been working with the San Diego NWR to identify potential trail alignments that would accommodate the County's regional trail system, including connections to the California Riding and Hiking Trail. We encourage the Tribe's participation in future trail discussions, as a future alignment across a portion of the proposed trust acquisition could provide benefits to all parties.

In the Project Description section of the EA, there is discussion of the potential closure of Sloan Canyon Road to public access, but no analysis of this proposal is included elsewhere in the document. One of the only access points into the McGinty Mountain portion of the San Diego NWR for fire, law enforcement, refuge management, and public use is via Sloan Canyon Road; therefore, any discussion to limit access on Sloan Canyon Road should also include representatives from the San Diego NWR.

Page 5-6, Section 5.5, Biological Resources

It is unclear what mitigation is proposed. The document commits to follow the ratios listed in Table 5-1 which are consistent with the County's Biological Mitigation Ordinance (BMO), unless the Tribal Resource Management Plan (RMP) has been adopted, in which case the mitigation would occur according to that document. Unfortunately, the draft RMP does not

include any guidance on mitigation ratios. Also missing is information on where the mitigation would occur.

#### Page 5-7 Table 5-1 Habitats/Vegetation Mitigation Ratios

Non-native grassland needs to be added to this table to replace the disturbed habitat row. In the County of San Diego, non-native habitat is mitigated at a .5:1 to 1:1 ratio, depending on whether burrowing owls are present. Non-native grassland was not adequately conserved as part of MSCP; therefore, the cumulative impacts to this habitat type and the associated grassland species are potentially significant.

#### Page 5-8, Section 5.5.2, Special-Status Species

There is no mention of any proposed mitigation measures for the arroyo toad. Issues that should be addressed are potential road-kill from the increased traffic to the Olive Grove housing as well as the direct and indirect impacts to the upland arroyo toad habitat. The County of San Diego's BMO requires avoidance and minimization to the maximum extent practicable of impacts within 1 kilometer of riparian habitat which supports or is likely to support arroyo toad. Measures to consider that would minimize impacts and offset unavoidable impacts to arroyo toads include:

1. Construction within arroyo toad breeding habitat will take place **outside** of the arroyo toad breeding season (defined as March 15-July 31). Construction within arroyo toad upland estivation habitat will take place **during** the arroyo toad breeding season (defined as March 15-July 31).
2. Impacts to arroyo toad upland habitat will be offset through the preservation of suitable arroyo toad upland habitat at a 1:1 ratio. Impacts to arroyo toad breeding habitat will be offset through the preservation of occupied arroyo toad breeding habitat at the appropriate wetland mitigation ratios.
3. Arroyo toad exclusion fencing will be installed around the perimeter of all work areas within potential arroyo toad habitat prior to construction. The purpose of the fence is to exclude arroyo toads from the work sites. Such fencing will consist of woven nylon netting, approximately 2 feet in height, attached to wooden stakes. Prior to installing the fencing, a narrow trench approximately 1 to 2 inches in depth will be excavated and the fence buried, to prevent burrowing beneath the fence. All fencing materials (i.e., mesh, stakes, etc.) will be removed following construction. Ingress and egress of construction equipment and personnel will be kept to a minimum, but when necessary, equipment and personnel will use a single access point to the site. This access point will be as narrow as possible and will be closed off by exclusionary fencing when personnel are not on the project site.

4. Prior to construction activities, but after exclusionary fencing has been installed, at least six surveys for arroyo toads will be conducted within the fenced area by a Service-approved biologist. Surveys will be conducted during appropriate climatic conditions and during the appropriate time of day or night to maximize the likelihood of encountering arroyo toads. If climatic conditions are not appropriate for arroyo toad movement during the surveys, a qualified biologist may attempt to illicit a response from the arroyo toads, during nights (i.e., at least one hour after sunset) with temperatures above 50 degrees Fahrenheit, by spraying the project area with water to simulate a rain event. If arroyo toads are found within the project area they will be captured and translocated, by the biologist, to the closest area of suitable habitat. The biologist will coordinate with appropriate property owners and with the Service to determine a specific translocation site prior to moving any arroyo toads. The date, time of capture, specific location of capture (using Geographic Positioning Systems), approximate size, age, and health of the individual will be recorded and provided to the Service, within 2 weeks of the translocation, in both hard copy and digital format.
5. The applicant will submit, in writing, the names, any permit numbers, résumés, and at least three references (of people who are familiar with the relevant qualifications of the proposed biologist), of all biologists who might need to handle, move, or monitor arroyo toads for the proposed project. This information will be submitted to the Service for approval at least 15 days prior to the initiation of any arroyo toad surveys. Proposed activities will not begin until an authorized biologist has been approved by the Service.
6. The applicant will ensure that the following conditions are implemented during project construction:
  - a. Employees will strictly limit their activities, vehicles, equipment, and construction materials to the fenced project footprint;
  - b. To avoid attracting predators, the project site will be kept as clean of debris as possible. All food related trash items will be enclosed in sealed containers and regularly removed from the site;
  - c. Pets of project personnel will not be allowed on the project site;
  - d. Disposal or temporary placement of excess fill, brush or other debris will not be allowed in waters of the United States or their banks;
  - e. All equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities will occur in designated areas outside of waters of the United States within the fenced project impact limits. These designated areas will be located in previously compacted and disturbed areas to the maximum extent practicable in such a manner as to prevent any runoff from entering waters of the United States, and will be shown on the construction plans.

Fueling of equipment will take place within existing paved areas or designated fueling areas designed to contain fuel drips greater than 100 feet from waters of the United States. Contractor equipment will be checked for leaks prior to operation and repaired as necessary. "No-fueling zones" will be designated on construction plans and/or within the stormwater pollution prevention plan.

7. Construction activities will be prohibited immediately following significant rainfall events when the toad may be active in upland areas.
8. During the arroyo toad breeding season (March 15-July 1), project-related vehicle travel and construction activities will be limited to daylight hours as arroyo toads would be found on roadways primarily at night.
9. A monitoring biologist approved by the Service shall be onsite at least once per week during project construction to ensure compliance with all conservation measures. The biologist must be knowledgeable of arroyo toad biology. The permittee shall submit the biologist's name, address, telephone number, and work schedule on the project to the Service prior to initiating project impacts. The biologist shall perform the following duties:
  - a. Report any violation to the Service within 24 hours of its occurrence.
  - b. The biological monitor shall also submit a final report to the Service within 60 days of project completion that includes: as-built construction drawings with an overlay of habitat that was impacted and preserved, photographs of areas to be preserved, and other relevant summary information documenting that authorized impacts were not exceeded and general compliance with all conservation measures.