



U.S. Department of the Interior
Bureau of Land Management
California Desert District
Palm Springs-South Coast Field Office



Draft Environmental Impact Statement

**Proposed Land Exchange
between
Bureau of Land Management
and
Agua Caliente Band of Cahuilla Indians**

August 2014

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DRAFT ENVIRONMENTAL IMPACT STATEMENT

Proposed Land Exchange
between
Bureau of Land Management
and
Agua Caliente Band of Cahuilla Indians

Lead Agency: United States Department of the Interior
Bureau of Land Management
California State Office
California Desert District
Palm Springs-South Coast Field Office

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Abstract: The Bureau of Land Management proposes to exchange certain federal lands for properties owned by the Agua Caliente Band of Cahuilla Indians. The selected public lands (5,799 acres) and offered Tribal lands (1,470 acres) occur within the Santa Rosa and San Jacinto Mountains National Monument. This draft Environmental Impact Statement (EIS) describes and analyzes alternatives based on varying amounts of public lands to be exchanged for Tribal lands, as well as the no action alternative. The purpose of the exchange is to promote effective and efficient management of the public and Tribal lands by reducing the extent of “checkerboard” landownership, thereby providing the BLM and the Tribe with more logical and consistent land management responsibility in the Monument.

Comments: Written comments must be received by the National Monument Manager no later than 90 days after publication in the *Federal Register* of a Notice of Availability of the draft EIS for public review and comment. Comments may be submitted via U.S. Postal Service or other delivery service to the address above, via FAX to (760) 833-7199, or via electronic mail to AguaCalienteExchange@blm.gov. Verbal comments will not be accepted.

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EXECUTIVE SUMMARY

INTRODUCTION

The Bureau of Land Management (BLM) is a federal agency responsible for managing the public lands in accordance with federal law, regulation, and policy in order to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations. The BLM now proposes to exchange certain of these public lands in the Santa Rosa and San Jacinto Mountains National Monument (Monument) for lands owned by the Agua Caliente Band of Cahuilla Indians (Tribe), also within the Monument. The Federal Land Policy and Management Act of 1976 provides that public lands or interests therein may be disposed of by exchange where it is determined that the public interest will be well served by making that exchange, provided that when considering public interest, full consideration shall be given to better federal land management and the needs of state and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife, and it is found that the values and the objectives which federal lands or interests to be conveyed may serve if retained in federal ownership are not more than the values of the nonfederal lands or interests and the public objectives they could serve, if acquired.

This draft Environmental Impact Statement (EIS) is intended to inform the public about environmental consequences of the proposed land exchange and, after having evaluated public comments regarding this draft EIS, help BLM officials make a decision that is based on an understanding of these consequences. It is now being circulated for public review and comment. **Written comments must be received by the BLM no later than 90 days following publication in the *Federal Register* of a Notice of Availability of the draft EIS for public review and comment.** Comments will be incorporated into the final EIS, as appropriate. The BLM Palm Springs-South Coast Field Manager is delegated to issue a decision on the proposed land exchange.

Purpose and Need

The purpose and need for the proposed land exchange is to improve opportunities for the use or protection of public lands and to promote their effective and efficient management. It would reduce the extent of “checkerboard” landownership by consolidating BLM and Tribal land bases, thereby providing for more logical and consistent land management responsibility in the Monument.

Issues Addressed

The following issue categories have been established in response to public comments and agency input presented during the public scoping process that occurred in 2012:

- purpose and need for the proposed land exchange
- conformance with statutes, regulations, policies, plans, and management strategies

- development of alternatives and mitigation measures
- public access to trails
- protection of threatened and endangered species
- potential development of exchanged lands

Twenty-two (22) specific issue questions in these categories were identified for examination in this draft EIS:

1. Purpose and Need for the Proposed Land Exchange

How would the proposed land exchange and alternatives facilitate effective management of federal and Tribal lands through consolidation of lands and a reduction of checkerboard land ownership, particularly with respect to sections 16 and 36, T.4S. R.4E.? Conversely, how would continuation of current management as expressed in a no action alternative adversely affect the management of federal and Tribal lands?

How would the proposed land exchange and alternatives support the resource preservation goals identified in the Indian Canyons Master Plan and enhance implementation of the Tribal Habitat Conservation Plan?

How would the proposed land exchange and alternatives support the conservation of resource values in the project area?

2. Conformance with Statutes, Regulations, Policies, Plans, and Management Strategies

How do the proposed land exchange and alternatives conform to the Federal Land Policy and Management Act of 1976; the Santa Rosa and San Jacinto Mountains National Monument Act of 2000; the Omnibus Public Land Management Act of 2009; Secretarial Order No. 3308 regarding management of the National Landscape Conservation System (November 15, 2010); the BLM's 15-Year Strategy for the National Landscape Conservation System (2010-2025); BLM Manual 6220 regarding management of national monuments, national conservation areas, and similar designations (July 13, 2012); and the BLM-California's five-Year Strategy for National Conservation Lands (2013-2018), particularly with respect to protection of the resource values for which the Monument was designated?

How do the proposed land exchange and alternatives conform to the BLM's California Desert Conservation Area (CDCA) Plan, as amended, particularly with respect to the land tenure exchange and sale criteria described in the CDCA Plan Amendment for the Coachella Valley which establish that land exchanges and sales may be considered if they would, in part, result in a net benefit to conservation areas (which include the Santa Rosa and San Jacinto Mountains National Monument, and the Santa Rosa and San Jacinto Conservation Area established through the Coachella Valley Multiple Species Habitat Conservation Plan), not remove rare species nor their habitat, and not divest of public domain lands in a manner which eliminates a significant public benefit?

How does the Tribe's suspension of consultation with the U.S. Fish and Wildlife Service to acquire a section 10(a) permit under the Endangered Species Act for the Tribal Habitat Conservation Plan affect analyses in the EIS?

How would the disposal of section 36, T.5S. R.4E., within which the BLM determined through its CDCA Plan Amendment for the Coachella Valley that certain public lands were eligible for designation as a national wild and scenic river, conform to the plan amendment and be consistent with statutory requirements to protect the values which comprise the basis for the eligibility determination?

3. *Development of Alternatives and Mitigation Measures*

Will alternatives be developed that identify mitigation in the form of reserved federal rights or interests for public access to the exchanged lands, as well as variations of properties to be included in the exchange, such as BLM's retention of sections 16 and 36, T.4S. R.4E.?

Could conditions be incorporated in the title deed such that specific areas in the exchange parcels acquired by the Tribe will not be developed in order to protect Peninsular bighorn sheep and other species?

What are the advantages and disadvantages of ongoing coordinated management of the proposed exchange lands as would occur under the no action alternative?

4. *Public Access to Trails*

How would the management of lands acquired by the Tribe, pursuant to the Indian Canyons Master Plan and Tribal Habitat Conservation Plan, affect current and future public use and enjoyment of existing trails, acknowledging Tribal sovereignty over the lands it manages and the absence of a regulatory mechanism for public involvement in future decision-making processes?

How would the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan be affected by the proposed land exchange and alternatives, particularly with respect to the public's access to trails that comprise the identified trail system, and construction of the proposed Garstin to Thielman perimeter trail and its use by hikers with dogs?

How will the qualitative characteristics of trails affected by the proposed land exchange and alternatives, such as aesthetics, variety, steepness, condition, and ecology that establish a trail's importance to the public, be addressed in the EIS?

How will the BLM ensure that the inventory of trails affected by the proposed land exchange and alternatives is complete for purposes of environmental analysis, including trails that have not previously been mapped but are currently used?

How would opportunities to hike cross-country and on "social" trails (i.e., trails established by use, not construction) be affected by the proposed land exchange and alternatives?

How would current and future levels of trail use be affected by the proposed land exchange and alternatives?

5. *Protection of Threatened and Endangered Species*

How would the proposed land exchange and alternatives support recovery of Peninsular bighorn sheep and protect its designated critical habitat, as well as support recovery of the desert tortoise, least Bell's vireo, and southwestern willow flycatcher, particularly considering foreseeable future management of the exchanged lands?

Upon exchanging lands as proposed or under one of the alternatives, how would Peninsular bighorn sheep and designated critical habitat be affected by recreational trail access, particularly during the lambing and water stress seasons?

How would the effects of climate change be addressed as it relates to the BLM's responsibility to provide for the recovery of threatened and endangered species?

6. *Potential Development of Exchanged Lands*

How would the proposed land exchange and alternatives affect potential development on the exchanged parcels, i.e., would the potential for development overall be increased, decreased, or remain the same?

How will potential development of the eastern portion of section 36, T.4S. R.4E., upon acquisition by the Tribe be addressed in the EIS, acknowledging the potential for development of private lands in the adjacent section (section 31, T.4S. R.5E.)?

Acknowledging Tribal sovereignty over lands managed by the Agua Caliente Band of Cahuilla Indians and the absence of a regulatory mechanism for public involvement in future decision-making processes, how will the EIS address potential future changes to the Indian Canyons Master Plan which, in part, establishes a framework for guiding conservation efforts and development, as well as address changes in land use allocations under the Tribal Habitat Conservation Plan that could increase or decrease levels of development and conservation through modification of the development/conservation ratios, particularly in the Mountains & Canyons Conservation Area?

Responses and/or analyses pertaining to these issue questions are addressed in this draft EIS.

ALTERNATIVES

The alternatives identified for the proposed land exchange are based on the extent of the selected public lands that may be exchanged for the offered Tribal lands, pending completion of land appraisals and the land value equalization process. For analysis purposes, the proposed action consists of three scenarios. Implementation of scenario one would result in up to 4,015 acres of public lands being transferred to the Tribe, with the BLM acquiring up to 1,470 acres of Tribal lands. Scenario two would result in up to 4,656 acres of public lands being transferred, with the BLM acquiring up to 1,470 acres of Tribal lands. Scenario three would result in up to 5,799 acres of public lands being transferred, with the BLM acquiring up to 1,470 acres of Tribal lands.

A preferred alternative is also identified that is more closely aligned with the purpose and need for the land exchange than the proposed action, particularly scenario three. It would result in up to 5,291 acres of public lands being transferred to the Tribe, with the BLM acquiring up to 1,470 acres of Tribal lands. While it represents the BLM's likely choice for a decision at this time, the

agency's final decision may or may not be the preferred alternative, depending on public input, additional information received during the public comment period for this draft EIS, and outcome of the land value equalization process.

A no action alternative is presented as a requirement of the regulations promulgated by the Council on Environmental Quality for implementing the National Environmental Policy Act. While the no action alternative does not respond to the purpose and need for the action, it provides a useful baseline for a comparison of environmental effects and demonstrates the consequences of not meeting the need for the action.

ENVIRONMENTAL CONSEQUENCES

The existing condition and trend of various elements of the human environment are described in chapter three of this draft EIS. Only those environmental elements determined to be potentially impacted by the proposed action or alternatives, or identified through scoping as significant issues to be analyzed in depth, are carried forward for further analysis in chapter four; such environmental elements are recreation resources, threatened and endangered animal species, BLM sensitive animal species, wild and scenic rivers, and lands with wilderness characteristics. Elements that would not be potentially impacted or were not identified through scoping as significant issues are not analyzed in chapter four. These include air quality, areas of critical environmental concern, climate change, cultural resources, energy, environmental justice, farmlands, floodplains, health and safety risks to children, invasive/nonnative species, minerals, Native American concerns, natural sound/human noise, threatened and endangered plant species, BLM sensitive plant species, visual resource management, wastes, water resources, wetlands/riparian zones, wilderness, and wildland fire management.

A summary of the anticipated impacts to recreation resources, threatened and endangered animal species, BLM sensitive animal species, wild and scenic rivers, and lands with wilderness characteristics is provided below. The reader is directed to chapter four of this draft EIS for a complete description of potential impacts.

Recreation Resources

Implementation of the proposed action, preferred alternative, or no action alternative would not affect trail-based opportunities for non-motorized recreation (hiking, mountain biking, and horseback riding) in the project area. Access to about 12.1 miles of existing trails on the selected public lands and offered tribal lands would essentially be the same under all alternatives. Opportunities for cross-country travel, however, would vary by alternative: it would be greatest under the no action alternative and least under scenario three of the proposed action, though no empirical data are available to indicate the extent to which such opportunities are actually realized, and a decision whether these opportunities on public lands will continue to be available is pending. Opportunities for accessing the selected public lands and offered Tribal lands with dogs, irrespective of the proposed land exchange, are limited. Such opportunities are expected to remain limited.

Threatened and Endangered Animal Species

Implementation of the proposed action, preferred alternative, or no action alternative would not be likely to adversely affect Peninsular bighorn sheep, least Bell's vireo, southwestern willow flycatcher, or desert tortoise or designated critical habitat for these species, nor would

implementation of the proposed action or an alternative action be likely to adversely affect their essential or modeled habitat. Total conservation of the selected public lands and offered Tribal lands would be about 96 to 97 percent under all alternatives, thereby providing a high level of protection for the four listed species in the project area.

BLM Sensitive Animal Species

Conservation of modeled habitat for the burrowing owl—the only designated BLM sensitive animal species on public lands selected for the proposed land exchange—would occur at a high level (ranging from 96 to 99 percent of modeled habitat), whether under the proposed action, preferred alternative, or no action alternative.

Wild and Scenic Rivers

The segment of Palm Canyon located on public lands in section 36, T.5S. R.4E., was identified in BLM’s California Desert Conservation Area Plan Amendment for the Coachella Valley (2002) as eligible for designation as a National Wild and Scenic River. Such eligibility would continue under scenario one of the proposed action and the no action alternative whereupon section 36 would be retained by the BLM, but extinguished under scenarios two or three of the proposed action or the preferred alternative whereupon section 36 would be transferred to the Tribe.

Land with Wilderness Characteristics

A wilderness characteristics inventory of public lands contiguous to the offered Tribal lands, but not selected for the proposed land exchange, was conducted during preparation of the draft EIS. Preliminary findings and conclusion indicate these public lands possess wilderness characteristics. Implementation of the proposed action or preferred alternative would increase the size of one of two Wilderness Inventory Units, thereby increasing the extent of public lands with wilderness characteristics.

THE COLLABORATIVE PLANNING PROCESS

The public’s first formal indication of the proposed land exchange occurred upon enactment of the Santa Rosa and San Jacinto Mountains National Monument Act of 2000, which specifically provides that in support of the cooperative management agreement between the BLM and the Agua Caliente Band of Cahuilla Indians, public lands acquired with amounts allocated under the Land and Water Conservation Fund Act of 1965 may be exchanged with the Tribe without further authorization by law.

Three years later (2003), the Proposed Santa Rosa and San Jacinto Mountains National Monument Management Plan identified the specific parcels of public and Tribal lands that are now being considered for exchange; there have been no additions or subtractions to the selected public lands or offered Tribal lands since then.

In 2008, a Notice of Exchange Proposal was published in *The Desert Sun* newspaper regarding the proposed land exchange. The notice stated that the purpose of the land exchange is to consolidate the ownership of federal lands within the Santa Rosa and San Jacinto Mountains National Monument and to transfer certain lands to the Tribe, expecting to complete a series of exchange transactions to transfer all lands described in the notice. Interested parties were invited

to submit comments concerning the proposed land exchange and provide notice of any liens, encumbrances, or claims on the lands involved. No comments or notices were received.

Environmental assessment CA-060-0010-0005, which addressed environmental effects of the proposed land exchange between the BLM and the Tribe, was released for public review and comment on July 27, 2010. Comments were received from 144 individuals, ten organizations, and three governmental entities. Based on public comments and upon further internal review, it was determined that preparation of an environmental impact statement is necessary to address potentially significant effects of the proposed land exchange.

On February 10, 2012, the BLM published a notice in the *Federal Register* regarding its intent to prepare an environmental impact statement for the proposed land exchange between the BLM and the Tribe (77 FR 7179). The notice announced the beginning of the scoping process, invited public participation, and described how the time and place of public scoping meetings would be announced. It explained that the BLM was soliciting public input on the issues and impacts to be addressed in the EIS, as well as the extent to which those issues and impacts would be analyzed. The notice identified how written comments could be submitted by email or regular mail, indicating that all comments must be received no later than 30 days after the last public scoping meeting.

Following publication of the notice of intent to prepare an EIS, public scoping meetings were held at two locations in Palm Springs, California, on March 22 and 27, 2012: the Agua Caliente Spa Hotel and the BLM Palm Springs-South Coast Field Office, respectively. Approximately 75 people attended the first public scoping meeting on March 22, 2012; about 50 people attended the second meeting on March 27, 2012. Oral comments were provided by 24 individuals, six of whom represented non-governmental organizations. In addition, the BLM received scoping comment letters and email messages from 62 individuals, five of whom represented non-governmental organizations and two who represented governmental entities.

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CHAPTER ONE **INTRODUCTION**

1.1 Introduction

The Bureau of Land Management (BLM), California Desert District, Palm Springs-South Coast Field Office, is preparing an environmental impact statement (EIS) to address a proposed land exchange between the BLM and the Agua Caliente Band of Cahuilla Indians (Tribe). This land exchange was first *formally* considered when the BLM and the Tribe entered into an agreement in 1999 to coordinate and cooperate in the management of public lands within and outside the external boundaries of the Agua Caliente Indian Reservation (ACIR) within the then-proposed Santa Rosa and San Jacinto Mountains National Monument (Monument).¹ This cooperative agreement provided the foundation for a memorandum of understanding entered into between the BLM and the Tribe, also in 1999, to jointly identify opportunities to exchange public land parcels within the ACIR for nonfederal lands outside the ACIR, provided that all exchange parcels are within the Santa Rosa and San Jacinto Mountains.

Project location

Public and Tribal lands identified for the proposed land exchange are entirely within the Santa Rosa and San Jacinto Mountains National Monument (see Figure 1), located in southern California approximately 100 miles east of Los Angeles. The Monument runs northwest to southeast along the edge of the Coachella Valley and its nine cities: Palm Springs, Cathedral City, Rancho Mirage, Indian Wells, Palm Desert, La Quinta, Indio, Coachella, and Desert Hot Springs. Public lands and lands owned by the Agua Caliente Band of Cahuilla Indians proposed for exchange are situated within the Palm Canyon area of the Monument, generally south and west of Palm Springs. These lands, characterized by their mountainous quality, occur on the western flank of the Santa Rosa Mountains and the eastern flank of the San Jacinto Mountains.

The Monument was established on October 24, 2000, upon enactment of Public Law 106-351 (Santa Rosa and San Jacinto Mountains National Monument Act of 2000, Title 16 of the United States Code [U.S.C.] section 431 et seq.), in order to preserve the nationally significant biological, cultural, recreational, geological, educational, and scientific values found in the Santa Rosa and San Jacinto Mountains, and to secure now and for future generations the opportunity to experience and enjoy the magnificent vistas, wildlife, landforms, and natural and cultural resources in these mountains, and to recreate therein (section 2(b) of the Act). The BLM currently manages approximately 97,000 acres of public lands within the 280,000-acre Monument. The remaining lands are managed by the U.S. Forest Service, State of California, Agua Caliente Band of Cahuilla Indians, local municipal jurisdictions, and private landowners.

The Agua Caliente Indian Reservation was established through executive orders issued in 1876 and 1877, which withdrew even-numbered sections in T.4S. R.4E., T.4S. R.5E., and T.5S. R.4E.

¹ “Public lands” means any land and interest in land owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts, and Eskimos (Federal Land Policy and Management Act of 1976, section 103(e)). Tribal trust lands, allotted trust lands, and fee lands within the Agua Caliente Indian Reservation are not public lands.

from public ownership to create the ACIR;² sections 16 and 36 and tracts for which the title had passed out of the United States Government were excepted from the withdrawal and, therefore, excluded from the ACIR. The ACIR is technically limited to those lands previously designated by executive orders; only Congress can now modify reservation boundaries.

Authority for the proposed land exchange

Land exchanges are generally conducted under authority contained in sections 102, 205, 206, and 207 of the Federal Land Policy and Management Act of 1976 (FLPMA, 90 Stat. 2743; 43 U.S.C. 1715, 1716, and 1717). FLPMA was amended in 1988 by the Federal Land Exchange Facilitation Act (FLEFA, 102 Stat. 1087). FLEFA contains provisions to facilitate and expedite land exchanges by establishing uniform rules and regulations for appraisals, and procedures and guidelines for resolution of appraisal disputes. (BLM 2005b)

FLPMA sections 205, 206, and 207, as amended, establish five requirements for land exchanges. The requirements are:

- Acquisitions pursuant to this section shall be consistent with the mission of the department involved and with applicable departmental land-use plans (section 205(b)).
- The public interest will be well served by making that exchange (section 206(a)).
- The Secretary of the Interior may accept title to any nonfederal land or interests therein in exchange for such land, or interests therein which he finds proper for transfer out of federal ownership and which are located in the same state as the nonfederal land or interest to be acquired (section 206(b)).
- The values of the lands exchanged shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary of the Interior as the circumstances require so land as payment does not exceed 25 percent of the total value of the lands or interests transferred out of federal ownership. The Secretary shall try to reduce the amount of payment of money to as small an amount as possible (section 206(b)).
- No tract of land may be disposed of under this Act, whether by sale, exchange, or donation, to any person who is not a citizen of the United States, or in the case of a corporation, is not subject to the laws of any state or of the United States (section 207).³

Specific to the proposed land exchange between the BLM and the Tribe, section 6(e) of the Santa Rosa and San Jacinto Mountains National Monument Act of provides:

² Throughout this draft EIS, “Township” and “Range” are abbreviated “T” and “R,” respectively, in descriptions of land locations, while their respective cardinal locations of “South” and “East” are abbreviated as “S” and “E.” All such descriptions relating to the proposed land exchange are in reference to the San Bernardino Base and Meridian.

³ Although FLPMA does not define “person,” applicable regulations do. In accordance with 43 CFR Part 2200—Exchanges: General Procedures—a *person* is “any individual, corporation, or other legal entity legally capable to hold title to and convey land” (43 CFR § 2200.0-5(r)). Whereas the Tribe is neither an individual nor a corporation, it is a legal entity that can legally hold title to land in fee (and convey such land), distinct from that held in trust by the federal government for the benefit of a tribe (see Penobscot Indian Nation v. Key Bank of Maine, et al., 112 F. 3d 538, U.S. Court of Appeals, First Circuit, May 5, 1997). Fee land, whether held by a tribe or private entity, is subject to state and federal law. As such, FLPMA (through the regulations at 43 CFR Part 2200) is applicable and does not prohibit the exchange of federal land with the Tribe. (Solicitor 2001)

- In order to support the cooperative management agreement in effect with the Tribe as of the date of the enactment of this Act, the Secretary of the Interior may, without further authorization by law, exchange lands which the BLM has acquired using amounts provided under the Land and Water Conservation Fund Act of 1965 with the Tribe. Any such land exchange may include the exchange of federally owned property within or outside the boundaries of the Monument for property owned by the Tribe within or outside the boundaries of the Monument.

Section 1.6 of this draft EIS addresses conformance of the proposed land exchange with statutes, regulations, policies, plans, and management strategies, including FLPMA and the Monument's establishing legislation.

Organization of this draft EIS

Chapter one of this draft EIS addresses the following: why preparation of an EIS is necessary to address the proposed land exchange (section 1.2); purpose and need for the proposed action (section 1.3); issues raised by the public to be addressed in the EIS, as well as responses to the public's issue questions (section 1.4); public comments not construed as issues (section 1.5); conformance of the proposed land exchange with statutes, regulations, policies, plans, and management strategies (section 1.6); and land use classification and valid existing rights (section 1.7). Chapter two describes three alternatives for the proposed land exchange, including the BLM's preferred alternative and the no action alternative. Chapter three describes the affected environment for the project area. Chapter four describes potential direct, indirect, and cumulative effects associated with each alternative. Chapter five discusses public participation during the EIS process, and identifies the preparers of this document. Acronym definitions, references, maps, and appendices follow chapter five.

1.2 Determination of Need to Prepare an Environmental Impact Statement

On July 27, 2010, the BLM released environmental assessment (EA) CA-060-0010-0005 for public review and comment; this EA addressed environmental effects of the proposed land exchange between the BLM and the Tribe. A high level of controversy was stimulated by the proposal; comments were received from 144 individuals, ten organizations, and three governmental entities. Based on public comments and upon further internal review, it was determined that preparation of an EIS is necessary to address potentially significant effects of the proposed land exchange.⁴ In reaching this determination, consideration was given to location of the proposed action within the Santa Rosa and San Jacinto Mountains National Monument; its proximity to the Palm Canyon Creek National Wild and Scenic River and potential disposal of public lands determined as eligible for designation as a Wild and Scenic River; the designation of certain public lands proposed for exchange as critical habitat for the endangered Peninsular

⁴ Title 40 CFR Parts 1500-1508 constitute the Council on Environmental Quality's regulations for implementing the procedural provisions of NEPA. The regulations at § 1501.4 identify factors to be considered by a federal agency when determining whether to prepare an EIS (versus an EA or a categorical exclusion). The regulations at § 1508.27 define "significantly" as used in NEPA; its use requires considerations of both context—meaning that the significance of an action must be analyzed in several contexts such as society as a whole, the affected region, the affected interests, and the locality—and intensity, which refers to the severity of impact.

bighorn sheep; and the absence of a regulatory mechanism for public participation in future decision-making processes affecting lands transferred to the Tribe.

Change in circumstances since release of the environmental assessment

When environmental assessment CA-060-0010-0005 was released in 2010 for public review and comment, the land exchange was anticipated to require multiple transactions, or phases, for the Tribe to acquire the entirety of public lands selected for the exchange because it was deemed likely that additional lands would need to be purchased by the Tribe in order to equalize land values;⁵ such purchases were not expected to occur before the first phase of the exchange was initiated. Since then, the Tribe decided it will not purchase additional lands if needed to acquire all the selected public lands. Instead, the land exchange will be considered complete once land values are equalized through an agreed-upon procedure regarding the order in which the selected public lands are considered in the value equalization process (see section 2.2).

As a consequence, the extent of public lands to be exchanged may be reduced if the *relative* estimated value of the combined public lands compared to that of the combined Tribal lands has not substantially changed since 2003 when estimates of value were first identified in “Supplement to the Agreement to Initiate Assembled Land Exchange between the Bureau of Land Management and the Agua Caliente Band of Cahuilla Indians” (BLM and ACBCI 2003). While *actual* land values may have changed over the last decade, the *relative* value between the selected public lands and the offered Tribal lands is of primary importance in this land exchange, i.e., whether the combined value of the public lands is less than, equal to, or more than the combined value of the Tribal lands.

This change in circumstances is reflected in the proposed action and alternatives. Three scenarios of the proposed land exchange (proposed action) are presented, each describing different amounts of the selected public lands that may be exchanged for the offered Tribal lands depending on the outcome of the land value equalization process. The preferred alternative describes yet one more configuration of public lands that may be exchanged (see sections 2.2 and 2.3).

1.3 Purpose and Need

The underlying purpose and need to which an agency is responding in proposing alternatives, including the proposed action, must be specified in the environmental impact statement (Title 40 of the Code of Federal Regulations [CFR] § 1502.13). Generally, these alternatives respond to a problem or opportunity described in the purpose and need statement, thereby providing a basis for eventual selection of an alternative in a decision (BLM 2008a).

The purpose and need for land exchanges, in general, is to improve opportunities for the use or protection of public lands and to promote their effective and efficient management, provided that the public interest will be served by making such exchanges. The purpose of the proposed land exchange between the BLM and the Tribe is to reduce the extent of “checkerboard” landownership, and facilitate effective and efficient management of public and Tribal lands by consolidating the respective land bases. It would provide the BLM and the Tribe with more

⁵ The BLM generally uses the term “value” with respect to lands considered in an exchange proposal. This is primarily because section 206 of FLPMA and the land exchange regulations at 43 CFR Part 2200 use the term “value.” However, in many cases, “price” may be a more accurate word and is preferred by some appraisers.

logical and consistent land management responsibility in the Santa Rosa and San Jacinto Mountains National Monument. For the Tribe, the exchange would support the resource preservation goals of its Indian Canyons Master Plan (ICMP: ACBCI 2008) and implementation of its Tribal Habitat Conservation Plan (THCP: ACBCI 2010) by placing certain public lands within the external ACIR boundary under Tribal management. The purpose and need for the proposed land exchange is further addressed in section 1.4(a) of this draft EIS.

BLM responsibilities regarding the disposal of public lands

The BLM is a federal agency within the U.S. Department of the Interior responsible for managing the public lands in accordance with federal law, regulation, and policy in order to sustain the health, diversity, and productivity of the these lands for their use and enjoyment by present and future generations. Section 206 of the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1701 et seq.), the BLM’s “organic act,” provides that public lands or interests therein may be disposed of by exchange where it is determined that the public interest will be well served by making that exchange, provided that when considering the public interest, full consideration is given to better federal land management and the needs of state and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife, and it is found that the values and objectives which federal lands or interests to be conveyed may serve if retained in federal ownership are not more than the values of the nonfederal lands or interests and the public objectives they could serve if acquired.

Decision to be made

The BLM will decide whether to exchange public lands for lands owned by the Agua Caliente Band of Cahuilla Indians, and if an exchange is to occur, the extent and location of these public lands. This draft EIS—prepared in compliance with the National Environmental Policy Act of 1970 (NEPA, 42 U.S.C. 4321 et seq.), the Council on Environmental Quality’s (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR Parts 1500-1508), and the BLM’s NEPA Manual Handbook H-1790-1 (BLM 2008a)—is intended to inform the public about environmental consequences of the proposed land exchange and, after having evaluated public comments regarding this draft EIS, help BLM officials make a decision that is based on an understanding of these consequences.

1.4 Issues Addressed

The issues described below have been identified for analysis in this draft environmental impact statement. These issues were developed with input from BLM staff and management, from comments submitted by members of the public regarding BLM’s environmental assessment CA-060-0010-0005 (see Appendix H); from comments provided during public scoping, which occurred in March 2012 in advance of preparing this draft EIS (see scoping report, Appendix I); and upon coordination with the Tribe’s staff.

Issues are presented in six subject categories. Responses to questions regarding issues that are not subject to environmental analysis, and therefore would not be addressed in chapter four (“Environmental Consequences”) of this draft EIS, are provided below.⁶ Where responses are

⁶ While many issues may arise during scoping, not all of the issues raised warrant analysis in an EIS. Issues raised through scoping are analyzed only if (1) necessary to make a reasoned choice between alternatives, i.e., the issue relates to how the proposed action or alternatives respond to the purpose and

addressed by environmental analysis in chapter four, it is so indicated. Since the issue questions identified below are derived, in part, from public comments submitted for BLM’s environmental assessment CA-060-0010-0005, responses thereto constitute formal responses to concerns raised regarding analyses contained in the EA.

a. Purpose and Need for the Proposed Land Exchange

(i) Issue question:

How would the proposed land exchange and alternatives facilitate effective management of federal and Tribal lands through consolidation of lands and a reduction of checkerboard land ownership, particularly with respect to sections 16 and 36, T.4S. R.4E.? Conversely, how would continuation of current management as expressed in a no action alternative adversely affect the management of federal and Tribal lands?

Response:

This issue question is preeminent since it addresses the reasons for initiating a land exchange between the BLM and the Tribe. To begin, a discussion about ratios of public-nonpublic land interfaces, or boundaries, to acres managed by the BLM may assist the reader to better understand how consolidating land ownership improves opportunities for the use or protection of public lands and promotes their effective and efficient management. With respect to consolidation, these ratios provide a quantitative comparison of alternatives that, in conjunction with qualitative assessments, speak to the purpose and need for the proposed land exchange.⁷

The selected public lands for the proposed land exchange, totaling about 5,799 acres, comprise 10 blocks or “islands” of public lands that are noncontiguous with other public lands, and one block (section 36, T.4S. R.4E.) that is contiguous with public lands not proposed for exchange. These blocks range in size from approximately 20 acres (one of three small blocks in section 18, T.4S. R.4E.) to about 1,280 acres (sections 16 and 21, T.5S. R.4E., combined as one block, and sections 29 and 32, T.5S. R.4E., combined as another block, each containing about 1,280 acres). Most of these public land blocks are intermingled with Tribal lands (Tribal reserves and allotted trust parcels).

The total length of public-nonpublic land interfaces, or boundaries, for the 10 blocks of public lands that are noncontiguous with other public lands is approximately 32 miles. These 10 blocks contain about 5,291 acres, or 8.3 square miles. To provide perspective, a typical township is comprised of 36 sections of land totaling about 23,040 acres, or about 36 square miles. If under the jurisdiction of the BLM in its

need, and (2) if significant, i.e., the issue is associated with a significant direct, indirect, or cumulative impact, or where analysis is necessary to determine the significance of impact (BLM 2008a).

⁷ The tables in Appendix J—Acres, Perimeters, and Consolidation: Public and Tribal Lands—provide the basis for this discussion regarding consolidation of public lands and how the proposed land exchange and alternatives yield different ratios of public-nonpublic land interfaces to acres managed by the BLM.

entirety and completely surrounded by nonpublic lands, the public-nonpublic land interfaces of this single 36-square-mile block of public lands total 24 miles in length, or about one mile of boundary per 960 acres. By comparison, the public-nonpublic land interfaces of the 10 blocks herein at issue are about 33 percent longer—32 miles—than the interfaces of a consolidated township, yet the total acreage of the selected public lands within them is about 23 percent of that for a consolidated township. Hence, the ratio of the public-nonpublic land interface mileage to acres of the selected public lands (excluding section 36, T.4S R.4E.) is about one mile of boundary per 165 acres, or approximately one-sixth the acreage per mile of boundary of that for a consolidated township.⁸

Why is checkerboard or intermingled landownership a problem?

In general, as the extent of checkerboard or intermingled landownership increases—which usually coincides with greater lengths of jurisdictional interfaces per acre—so does the difficulty for any one entity to effectively and efficiently manage their lands. Whether it affects how habitat for wildlife species is protected or how access to trails is governed, different “rules” for intermingled lands can be contradictory and, therefore, may adversely affect the achievement of identified goals and objectives, whether now or in the future. For example, the management of public lands designated as critical habitat for an endangered species is subject to the federal Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), and the regulations promulgated therefrom, including the requirement for consultation with the U.S. Fish and Wildlife Service (USFWS) for any action that “may affect” the listed species, or action that may adversely modify critical habitat. Intermingled nonpublic lands, however, may be subject to different statutes and regulations. Both the short-term and long-term management of these different jurisdictional lands, as a result, may be inconsistent and could adversely affect species recovery efforts. As another example, lack of consistency in how non-motorized recreational access is governed for trails spanning multiple jurisdictions not only lends confusion to the recreationist, it creates difficulty for the jurisdictional entities to effectively manage such access, including enforcement where restrictions apply and dissemination of information about recreational opportunities.

These management challenges may be overcome commensurate to the degree that policies and plans pertaining to the intermingled lands are consistent with one another. Even where such policies and plans are substantially consistent, however, coordinated management to address resource concerns can require increased staff time, thereby decreasing overall staff productivity, and result in delayed responses that could exacerbate threats to resource conditions. But consistency of policies and plans is not always possible, especially where the applicable statutes and regulations establish dissimilar management approaches for the various jurisdictions. Therefore, managing fewer miles, rather than more miles, of public land boundaries and

⁸ Public lands in section 36, T.4S. R.4E., which comprise the 11th block of public lands selected for the proposed land exchange, are not discussed at this point because unlike the other 10 blocks of selected public lands that are completely surrounded by nonpublic lands, these adjoin public lands not selected for exchange with the Tribe. Including them in the discussion here would dramatically complicate the comparison being made with a consolidated township. These lands, however, are addressed at a later point.

interfaces with nonfederal lands generally presents fewer, rather than more, management challenges.

Threats to resource integrity emanating from adjacent nonpublic lands:

Maintaining the integrity of natural and cultural resources on public lands may also depend on the types of use that occur now or may occur in the future on the contiguous nonpublic lands. For example, where off-highway vehicle activities are enjoyed on nonpublic lands but such activities are restricted or not allowed on the contiguous public lands, occurrences of vehicular trespass on public lands are more likely than otherwise might be expected. The result of such trespass could be resource degradation and higher costs of management to prevent vehicle incursions. Where adjacent nonpublic lands have been developed as residential areas, the potential for resource degradation from vehicular or other incursions is similarly increased, again leading to higher management costs to protect the public lands.

Are such threats of concern relative to the public lands selected for exchange with the Tribe? It depends on their location. Most of these public lands and the contiguous nonpublic lands are located in rugged, mountainous terrain. Consequently, the potential for incursions by motorized vehicles or as related to adjacent residential or commercial development is currently low and is anticipated to remain low in the future; the terrain itself restricts such activities. However, there is potential for vehicular and other incursions onto public lands in sections 16 and 36, T.4S. R.4E., from possible residential or commercial development where “developable” nonpublic, non-Tribal lands are contiguous with these public lands. The northeastern portion of section 16 is within and adjacent to the floor of Tachevah Canyon where development is possible, though would be quite challenging due to the need for significant new flood control facilities.

On the other hand, section 31, T.4S. R.5E., which is contiguous with public lands in section 36, T.4S. R.4E., lends itself to development due to its rolling terrain; a proposal for residential and commercial development on these private lands was once proposed, but rejected by voters in Palm Springs. As circumstances change, new proposals for development could occur, and the potential for unauthorized incursions onto the adjacent public lands would once again be elevated. Should the BLM dispose of section 36, T.4S. R.4E., which contains scattered development possibilities in its eastern half, it could increase the potential for development-related incursions into the adjacent sections containing public lands if it were to be developed (particularly if the contiguous private section 31, T.4S. R.5E., should also be developed). However, such incursions would be limited given the rugged mountainous terrain that lays between the eastern portion of section 36 and the public lands to the south (section 1, T.5S. R.4E., and section 6, T.5S. R.5E.), which are not included in the proposed land exchange.

If threats to resource conditions on public lands are unlikely to emanate from the contiguous nonpublic lands in this rugged, mountainous terrain—except perhaps with respect to sections 16 and 36, T.4S. R.4E., and the nonpublic lands contiguous thereto—the purpose and need for the exchange may appear questionable. However, one must consider more than potential threats to the public lands selected for the land exchange; one must also consider potential threats to the public lands not proposed

for exchange but adjacent to the offered Tribal lands, and how the exchange would change the level of threat.

Section 7, T.5S. R.5E., one of two parcels offered by the Tribe, is contiguous with three sections of public lands not selected for exchange (sections 6, 8, and 18, T.5S. R.5E.). Clearly, section 7 is developable property given its gently undulating terrain (when compared to much of the local area’s mountainous slopes); it is where Michael Dunn in the 1960s proposed residential and commercial development, and for which he initiated construction of a road to provide access to the project (commonly known today as “Dunn Road”).⁹ While project construction was not initiated, the road was not completed, and numerous obstacles would need to be overcome for development to occur (e.g., the establishment of utilities and other infrastructure), these lands continue to present development opportunities as long as they are not held in public ownership.¹⁰ Hence, the potential remains for development-related incursions to occur on the contiguous public lands. Acquisition of section 7 by the BLM through the proposed land exchange would eliminate the potential for such incursions.

Consolidation of public lands resulting from the proposed land exchange

Here is what the proposed land exchange would achieve with respect to consolidation of public lands: First, upon transferring the 10 blocks of noncontiguous public lands and one block of contiguous public lands (as described above) to the Tribe, the BLM would no longer have management responsibility for them, substantially reducing the extent of public-nonpublic land interfaces within the external boundaries of the Agua Caliente Indian Reservation and alleviating potential management challenges inherent to checkerboard landownership in this area.¹¹ Second, immediately east of the ACIR where the BLM would acquire lands offered by the Tribe, the land exchange would create one contiguous block of public lands where now there are four noncontiguous blocks of public lands; these public lands are separate from those selected for the land exchange. Whereas the public-nonpublic land interfaces/boundaries of the four noncontiguous blocks total approximately 47 miles surrounding about 12,636 acres of public lands—with blocks ranging in size from about 480 acres to 10,293 acres—acquisition of the offered Tribal lands (1,470 acres)

⁹ The City of Palm Springs annexed 32 square miles of the Santa Rosa Mountains along the Dunn Road in 1972, and zoned it for a population of 40,000 people. This area was referred to as “Palm Springs Atajo,” which included section 7 as a focus of development.

¹⁰ In accordance with section 3(b) of the Santa Rosa and San Jacinto Mountains National Monument Act of 2000, nothing in the establishment of the Monument affects any property rights of any Indian reservation, any individually held trust lands, any other Indian allotments, any lands or interests in lands held by the State of California, any political subdivision of the State of California, any special district, or the Mount San Jacinto Winter Park Authority, or any private property rights within the boundaries of the Monument. Therefore, proposals for the development of section 7 would be subject only to the rules and regulations of the applicable governing jurisdiction, and not be limited in any manner by virtue of its location within the Monument.

¹¹ The only public lands remaining under BLM management within the ACIR would be about 537 acres in section 1, T.5S. R.4E. These public lands acquired by the BLM in 2010 are not identified for potential exchange with the Tribe.

would create a single block of public lands consisting of approximately 14,106 acres and reduce the public-nonpublic land interfaces to about 42.9 miles in length, thereby changing the ratio of public-nonpublic land interface mileage to public land acreage from one mile per 225 acres (no action alternative) to one mile per 329 acres, a 46 percent increase in acres managed per mile of interface.¹²

Depending on appraised value of the selected public lands and the offered Tribal lands, however, and since no additional lands will be purchased by the Tribe if necessary to complete the proposed land exchange, some selected public lands may remain in public ownership once land values have been equalized following the process described in section 2.2, thereby yielding a different ratio of public-nonpublic land interface mileage to public land acreage. For example, the BLM's preferred alternative specifically excludes section 36 from the land exchange (see section 2.3). If section 36 is retained by the BLM, which could also occur under the proposed action consequent to the land value equalization process, the single block of public lands resulting from acquisition of the offered Tribal lands would increase from approximately 14,106 acres (under the proposed action) to 14,614 acres, and the public-nonpublic land interfaces would concomitantly increase to about 45.6 miles, thereby establishing a ratio of one mile of public-nonpublic land interfaces per 320 acres of public land for the consolidated block. Although the BLM's retention of section 36 suggests that protection of public lands may be reduced since the ratio of public-nonpublic land interfaces to acres managed would decrease from one mile per 329 acres to one mile per 320 acres, the difference is small (a change of approximately 2.7 percent). The increase in size of the consolidated block of public lands would likewise be small (about 3.6 percent). However, the BLM's retention of section 36 maximizes the size of a consolidated block of public lands consistent with the purpose and need for the proposed land exchange and avoids creating a new "island" of Tribal lands, thereby potentially exacerbating management issues associated with checkerboard landownership.¹³

If additional public lands selected for the proposed land exchange are retained by the BLM as a result of the land value equalization process described in section 2.2, the ratio of public-nonpublic land interfaces to public lands would further change. If the BLM retained all Category 2 and 3 lands (totaling 1,784 acres, or about 31 percent of the 5,799 acres of selected public lands), the ratio would be one mile of public-nonpublic land interfaces per 297 acres of public lands. This may be the most likely scenario *if* the relative value of the selected public lands compared to the offered Tribal lands as determined through the land value appraisal (to be forthcoming) is consistent with estimated land values provided in "Supplement to the Agreement to

¹² Since the purpose and need for the proposed land exchange is to consolidate public and Tribal lands in order to provide more logical and consistent land management responsibility in the Santa Rosa and San Jacinto Mountains National Monument, consideration must be given to any public and Tribal lands that, as a result of the exchange, would form contiguous blocks of land under a single jurisdiction, rather than consider only the selected public lands and offered Tribal lands for this purpose.

¹³ Whereas the Tribe's acquisition of public lands in section 36 would consolidate these 508 acres with approximately 30 acres of nonfederal lands that are located in the adjoining section (sec. 35, T.4S. R.4E) and subject to provisions of the THCP, this consolidation would not form a larger block with other Tribal lands, thereby maintaining an "island" of lands under Tribal jurisdiction (albeit larger in size).

Initiate Assembled Land Exchange Between the Bureau of Land Management and the Agua Caliente Band of Cahuilla Indians” (BLM and ACBCI 2003). According to the Supplement, the estimated value of BLM Category 1 lands in 2003 was \$1,414,000, while the estimated value of the offered Tribal lands at that time was \$1,360,000, a difference of \$54,000 or about four percent.¹⁴ If this *relative* value remains about the same, as to be determined through the appraisal, the land exchange would be considered complete upon the exchange of BLM Category 1 lands for the offered Tribal lands; equalization would be finalized either through a cash payment to the BLM (since the value of the public lands exceeds the value of the Tribal lands) or subtracting public lands from the exchange.

On the other hand, if the *relative* value has changed since 2003 such that the offered Tribal lands have gained more value than the selected public lands, BLM Category 2 lands may be added to Category 1 lands to complete the exchange. In this scenario whereby the BLM would retain all Category 3 lands (totaling 1,143 acres, or about 20 percent of the selected public lands), the ratio of public-nonpublic land interface mileage to acres of public lands would be one mile per 308 acres.

Summary

The extent of public and Tribal land consolidation and the ratio of miles of public-nonpublic land interfaces to acres of public lands are dependent on the outcome of the land value equalization process which determines the extent of the selected public lands to be exchanged for the offered Tribal lands. These ratios range from 1:225 for the no action alternative to 1:297 for the potentially likely alternative described above, 1:320 for the preferred alternative, and 1:329 for the proposed action, differences of about 32 percent, 42 percent, and 46 percent, respectively (compared to the no action alternative). Consolidation ranges from 14 blocks of public lands under the no action alternative to one block under the preferred alternative.¹⁵

Although most of the selected public lands and offered Tribal lands would be managed in much the same manner both before and after completion of the proposed land exchange, a clear public benefit derived from the exchange relates to the BLM’s acquisition of section 7, T.5S. R.5E., in that it would permanently eliminate development potential for residential and/or commercial purposes in this section. While near-term development is unlikely, future development is not altogether precluded if the property remains in nonpublic ownership.

¹⁴ The estimated values provided in the supplement were based on the most recent appraisal information at the time, but may not have reflected then-current market value for exchange purposes.

¹⁵ To reiterate and emphasize, the ratios of public-nonpublic land interfaces/boundaries to consolidated public land acreages consider public lands selected for the proposed land exchange *and* non-selected public lands that are or would become consolidated upon acquisition of the offered Tribal lands.

(ii) Issue question:

How would the proposed land exchange and alternatives support the resource preservation goals identified in the Indian Canyons Master Plan and enhance implementation of the Tribal Habitat Conservation Plan?

Response:

The Indian Canyons Master Plan 2007 update, approved in May 2008, identifies the following objectives related to the goal of preserving and restoring cultural, natural, and scenic values: (1) avoidance, protection, and restoration of sensitive cultural sites; (2) protection and restoration of natural resources consistent with the Tribal Habitat Conservation Plan; (3) preservation of non-impacted desert and mountain views; (4) prohibition of development that is not compatible with the natural and cultural resources of the Indian Canyons, or does not meet the objectives of the Heritage Park; and (5) minimization of impacts associated with increased visitation (ACBCI 2008).

The boundary of the Indian Canyons planning area does not include any public lands selected for the proposed land exchange. But certain of these selected public lands are identified in the ICMP as land acquisition priorities. Specifically, public land sections 16, 21, and 27, T.5S. R.4E., are identified as level two priority acquisitions; and public land sections 5, 29, 32, and 36, T.5S. R.4E., are identified as level three priority acquisitions. Level two acquisitions are important in expanding and linking existing Tribal reserve boundaries, while level three acquisitions are typically located in rugged terrain and possess very limited development potential. Upon acquiring these properties and creating a contiguous block of Tribal lands, management effectiveness and efficiency is enhanced, thereby better facilitating accomplishment of the Tribe's goals and objectives identified in the ICMP. In essence, the proposed land exchange would enhance the management of Tribal lands under the ICMP in much the same manner as described above for public lands upon consolidation of lands and reduction of checkerboard landownership (see issue question a(i)).

Similarly, the proposed land exchange would enhance implementation of the Tribal Habitat Conservation Plan by consolidating lands under Tribal jurisdiction, thereby improving opportunities for the use or protection of Tribal lands and promoting their effective and efficient management.

(iii) Issue question:

How would the proposed land exchange and alternatives support the conservation of resource values in the project area?

Response:

A detailed response to this issue question is provided in section 4.2.2.1.1 of this draft EIS. To summarize, the proposed land exchange and alternatives are consistent with or exceed conservation goals of the BLM's governing land use plan and the Tribe's governing habitat conservation plan. Conservation of lands acquired by the BLM would occur at the 99 percent or greater level (as prescribed by the agency's land use

plan—the California Desert Conservation Area Plan Amendment for the Coachella Valley, BLM 2002a), while conservation of lands acquired by the Tribe would occur at the 96.2 percent level, which is greater than prescribed for lands currently subject to the THCP (ACBCI 2010). Overall conservation of the combined BLM and Tribal lands in the project area would remain about the same under all alternatives (about 88 percent).

b. Conformance with Statutes, Regulations, Policies, Plans, and Management Strategies

(i) Issue question:

How do the proposed land exchange and alternatives conform to the Federal Land Policy and Management Act of 1976; the Santa Rosa and San Jacinto Mountains National Monument Act of 2000; the Omnibus Public Land Management Act of 2009; Secretarial Order No. 3308 regarding management of the National Landscape Conservation System; the BLM’s 15-Year Strategy for the National Landscape Conservation System, 2010-2025; BLM Manual 6220 regarding management of national monuments, national conservation areas, and similar designations; and the BLM-California’s Five-Year Strategy for National Conservation Lands, 2013-2018, particularly with respect to protection of the resource values for which the Monument was designated?

Response:

See section 1.6, *Conformance with Statutes, Regulations, Policies, Plans, and Management Strategies*.

(ii) Issue question:

How do the proposed land exchange and alternatives conform to the BLM’s California Desert Conservation Area (CDCA) Plan, as amended, particularly with respect to the land tenure exchange and sale criteria described in the CDCA Plan Amendment for the Coachella Valley which establish that land exchanges and sales may be considered if they would, in part, result in a net benefit to conservation areas (which include the Santa Rosa and San Jacinto Mountains National Monument, and the Santa Rosa and San Jacinto Conservation Area established through the Coachella Valley Multiple Species Habitat Conservation Plan), not remove rare species or their habitat, and not divest of public domain lands in a manner which eliminates a significant public benefit?

Response:

See section 1.6, *Conformance with Statutes, Regulations, Policies, Plans, and Management Strategies*.

(iii) Issue question:

How does the Tribe’s suspension of consultation with the U.S. Fish and Wildlife Service to acquire a section 10(a) permit under the Endangered Species Act for the Tribal Habitat Conservation Plan affect analyses in the EIS?

Response:

On July 27, 2010, when the BLM released environmental assessment CA-060-0010-0005 addressing the proposed land exchange for public review and comment, the THCP was in draft form pending completion of consultation with the U.S. Fish and Wildlife Service. In October 2010, the Tribe informed the USFWS that consultation is to be indefinitely suspended for the THCP. This circumstance does not affect analyses in this EIS for the following reasons:

As expressed in the final rule revising designated critical habitat for Peninsular bighorn sheep (74 FR 17288, April 14, 2009), the USFWS acknowledges that fish, wildlife, and other natural resources are better managed under Tribal authorities, policies, and programs than through federal regulation wherever possible and practicable. When the Tribal Council approved the THCP on November 2, 2010, it committed to manage Tribal lands consistent with the identified goals and objectives of the habitat conservation plan and in accordance with the stated actions therein. That the Tribe suspended consultation with the USFWS does not change its commitment to conservation management under the approved THCP. Based on the Tribe's inherent sovereign authority to manage and regulate land use and resources within the reservation, and pursuant to the U.S. Fish and Wildlife Service's Native American Policy (USFWS 1994), and Joint Secretarial Order No. 3206 regarding American Indian tribal rights, federal-tribal trust responsibilities, and the Endangered Species Act of 1973 (Offices of the Secretaries of Commerce and the Interior 1997), the USFWS gives deference to and supports tribal resource management policies and implementation activities such as those set forth in the THCP.

U.S. Fish and Wildlife Service's Native American Policy:

Through this policy, the USFWS established its commitment to support the rights of Native Americans to be self-governing, and further support the authority of Native American governments to manage, co-manage, or cooperatively manage fish and wildlife resources, and to protect their federally recognized authorities.

Joint Secretarial Order No. 3206:

The joint Secretarial Order issued by the Secretary of Commerce and the Secretary of the Interior pursuant to the Endangered Species Act (ESA) clarifies the responsibilities of the component agencies, bureaus, and offices of the two departments when actions taken under authority of the ESA and associated implementing regulations affect, or may affect, Indian lands, tribal trust resources, or the exercise of American Indian tribal rights. Through the order, the Secretaries recognize that Indian tribes are governmental sovereigns with inherent powers to make and enforce laws, administer justice, and manage and control their natural resources. An appendix to the order states, "the Service shall, *upon the request of an Indian tribe* [emphasis added] or the [Bureau of Indian Affairs], cooperatively review and assess tribal conservation measures for sensitive species (including candidate, proposed and listed species) which may be included in tribal resource management plans." Hence, just as the USFWS may be requested by a tribe to review and assess tribal conservation measures, the request can be withdrawn; cooperative review and assessment of tribal conservation measures is not mandated.

(iv) Issue question:

How would the disposal of section 36, T.5S. R.4E., within which the BLM determined through its California Desert Conservation Area Plan Amendment for the Coachella Valley that certain public lands were eligible for designation as a National Wild and Scenic River, conform to the plan amendment and be consistent with statutory requirements to protect the values which comprise the basis for the eligibility determination?

Response:

The CDCA Plan Amendment for the Coachella Valley (BLM 2002a) commits the BLM to manage public lands within one-quarter mile of Palm Canyon Creek (i.e., the canyon bottom) within section 36, T.5S. R.4E., in such manner as to protect its free-flowing characteristics; protect, and to the degree practicable enhance, the outstandingly remarkable values (ORVs) which contribute to its eligibility; and ensure that its tentative classification as “scenic” will not be affected before a determination of its suitability or non-suitability as a Wild and Scenic River can be made by the U.S. Congress. The plan amendment identifies Palm Canyon’s ORVs as providing habitat for several federal and state listed endangered species and state species of special concern, and containing a prehistoric trail and several archaeological sites significant in Cahuilla oral history.

However, the plan amendment, while having determined the eligibility of public lands in section 36 as a National Wild and Scenic River and having identified protective measures pending a determination of suitability or non-suitability, also acknowledges that public lands may be exchanged with the Tribe to support the existing cooperative agreement with the BLM. While such disposal would preclude its designation as a National Wild and Scenic River, disposing of public lands containing an eligible Wild and Scenic River segment is not prohibited by statute or regulation. Upon acquisition of section 36 by the Tribe, protection and enhancement of river values therein would be addressed through implementation of the THCP, as well as terms of the cooperative agreement entered into between the BLM and the Tribe (BLM and ACBCI 1999a).

Effects of the proposed land exchange and alternatives with respect to eligibility of public lands in section 36 as a Wild and Scenic River are further described in section 4.2.3.

c. Development of Alternatives and Mitigation Measures

(i) Issue question:

Will alternatives be developed that identify mitigation in the form of reserved federal rights or interests for public access to the exchanged lands, as well as variations of properties to be included in the exchange, such as the BLM’s retention of sections 16 and 36, T.4S. R.4E.?

Response:

The regulations at 43 CFR § 2200.06(i) provide that the public interest may be protected through the use of reserved rights or interests in the federal lands to be exchanged, as appropriate. As described in the BLM’s Land Exchange Handbook H-2200-1, it is the BLM’s policy that deed use restrictions, covenants, and reservations be kept to an absolute minimum and used only where needed to protect the public interest. Further, mitigation in the form of deed restrictions on public land conveyed into nonpublic ownership, in general, should only be used where required by law or executive order, and clearly supported by the environmental documentation. The policy additionally constrains the use of reservations to those supported by the public benefit determination process and fully considered in the appraisal process. (BLM 2005b) An alternative that reserves federal rights or interests for public access to lands acquired by the Tribe is evaluated for appropriateness in section 2.5(b) of this draft EIS.

Regarding the development of alternatives that provide variations of public lands to be included in the exchange, it is not warranted in this circumstance (except for development of the BLM’s preferred alternative as discussed below and described in section 2.3). The rationale for this conclusion is as follows:

A range of alternatives explores alternate means of meeting the purpose and need for the action, i.e., the purpose and need statement helps define the range of alternatives to be analyzed. In determining the alternatives to be considered, the emphasis is on what is *reasonable* rather than *desirable* from the standpoint of an applicant or other interested party; whether an alternative is reasonable can only be defined in reference to the purpose and need for the action. (BLM 2008a)

As previously discussed, the purpose and need for the proposed land exchange between the BLM and the Tribe is to reduce the extent of “checkerboard” landownership, thereby facilitating more effective and efficient management of public and Tribal lands by consolidating the land base for each jurisdiction (see sections 1.3 and 1.4(a)). This consolidation would provide both the BLM and the Tribe with more logical and consistent land management responsibility in the Monument. Since all public lands identified for potential exchange are located within the external boundaries of the Agua Caliente Indian Reservation, and all Tribal lands identified for exchange are located outside these boundaries, implementation of the proposed land exchange (excluding section 36, T.4S. R.4E., as reflected in the preferred alternative) would achieve the stated purpose and need.

Considering that alternatives must be designed to meet the purpose and need for the proposed land exchange, therefore, the reader might logically conclude that *any* combination of the selected public lands would be appropriate by virtue of being identified in the proposed action (excepting section 36, T.4S. R.4E.), particularly since an exchange of all the selected public lands is not likely since the 2003 estimated value for these public lands exceeds the estimated value of the offered Tribal lands, and the Tribe decided to not purchase additional lands in order to acquire all the selected public lands. Consequently, it would appear reasonable to identify various combinations of the selected public lands that equate in value to the offered Tribal lands. One must ask, however, whether developing multiple

alternatives with various permutations of the selected public lands provides the decision-maker and the public a clear basis for choice among options.

Again, it is important to emphasize what is *reasonable* in identifying alternatives with respect to the purpose and need for the proposed land exchange, and not what may be *desirable* in light of other concerns. At the heart of the issue question being addressed here is future public access to trails located in sections 16 and 36, T.4S. R.4E. While it may be desired by some to develop an alternative or alternatives that exclude these sections in order to retain management of the trails thereon by the BLM, the purpose and need for the land exchange is not to ensure or enhance access for recreational purposes. Nor is the purpose and need to preserve habitat for Peninsular bighorn sheep. If one or the other of these desires had been identified as the purpose and need for the land exchange, the range of alternatives would be different than as herein described.

To reiterate, would multiple alternatives with various permutations of the selected public lands provide a clear basis for choice among options? Not likely. With respect to consolidating the land base for the BLM and the Tribe, any one alternative would not be substantially different from another. Given current circumstances—the precise extent of selected public lands that may be exchanged is currently unknown pending conclusion of the land appraisal process to occur after release of this draft EIS for public review and comment—the most viable option for addressing the equalization of land values at this time is to follow an agreed-upon sequence for considering public lands in the value equalization process. This sequence is identified in section 2.2. Accordingly, environmental analyses in this draft EIS address environmental effects as they relate to the sequential equalization process, though primarily in relative terms since the extent of selected public lands to be ultimately exchanged for the offered Tribal lands cannot be determined until the appraisal process has been concluded.

However, one alternative (as already mentioned) *is* reasonable when measured against the purpose and need statement. This alternative would not have been construed as reasonable until 2010 when the BLM acquired the majority of property in section 1, T.5S. R.4E.; this property is contiguous with public lands in section 36, T.4S. R.4E., which is one of the selected public land parcels identified for the proposed land exchange, and public lands in section 6, T.5S. R.5E., which is not included in the exchange. Section 6, in turn, is also contiguous with section 7, T.5S. R.5E., which consists of Tribal property offered in the exchange. Since the disposal of public lands in section 36 would create an island of Tribal lands (in combination with a very small piece of Tribal fee lands in section 35) and reduce the potential size of a consolidated block of public lands from approximately 14,533 acres to about 14,026 acres upon implementation of the proposed land exchange (see response to issue question a(i)), an outcome which is inconsistent with the purpose and need for the proposed land exchange, an alternative that excludes section 36 from the land exchange is warranted (see section 2.3).

(ii) Issue question:

Could conditions be incorporated in the title deed such that specific areas in the exchange parcels acquired by the Tribe will not be developed in order to protect Peninsular bighorn sheep and other species?

Response:

As previously described (see the response to issue question c(i)), the regulations at 43 CFR § 2200.06(i) provide that the public interest may be protected through the use of reserved rights or interests in the federal lands to be exchanged, as appropriate. Such interests may relate to the recovery of endangered Peninsular bighorn sheep and sustaining populations of other wildlife species. The BLM's policy with respect to incorporating deed restrictions on federal lands to be conveyed, however, substantially limits when such restrictions may be utilized. An alternative mandating the Tribe to refrain from developing any acquired public lands is evaluated for appropriateness in section 2.5(b).

(iii) Issue question:

What are the advantages and disadvantages of ongoing coordinated management of the proposed exchange lands as would occur under the no action alternative?

Response:

The purpose and need statement for the proposed land exchange between the BLM and the Tribe describes advantages realized from the exchange, thereby also addressing disadvantages of not undertaking it as would occur under the no action alternative (which “defaults” to a coordinated management approach consistent with the cooperative agreement of 1999; see sections 1.3 and 1.4(a) above). Environmental consequences of the no action alternative are further described in chapter four of this draft EIS.

d. Public Access to Trails

(i) Issue question:

How would the management of lands acquired by the Tribe, pursuant to the Indian Canyons Master Plan and Tribal Habitat Conservation Plan, affect current and future public use and enjoyment of existing trails, acknowledging Tribal sovereignty over the lands it manages and the absence of a regulatory mechanism for public involvement in future decision-making processes?

Response:

The Indian Canyons Master Plan (ACBCI 2008), which was developed to include the Indian Canyons Heritage Park, and the Tribal Habitat Conservation Plan (ACBCI 2010) represent commitments by the Tribe to manage lands under its jurisdiction in a manner prescribed by the plans. With respect to the management of trails and public access to them, the ICMP acknowledges that trails are key in connecting the Indian

Canyons to surrounding state and federal lands, and that the opportunity provided to visitors to explore large tracts of land, whether on horseback or on foot, make the area a desirable destination for trail users. The THCP reinforces the Tribe's mission with regard to trails, it being that in partnership with local and governmental agencies, the Tribe will maintain and manage trails in a manner that (1) results in minimal impact upon the environment; (2) protects scenic, cultural, and historic values; (3) conserves resources; and (4) provides safe and adequate trails for the user.

According to the THCP, trails under the management of the Tribe will be kept open and managed under provisions of the Tribe's trails management plan, the ICMP, the cooperative agreement with the BLM, and the THCP. The Tribe's trails management plan (ACBCI 2010, Appendix D) primarily addresses trail maintenance and design, rather than establishing prescriptions that govern access. The ICMP provides limited guidance regarding access for non-motorized recreation. The cooperative agreement with the BLM likewise does not specifically address how opportunities for recreation are to be afforded or constrained. Hence, the THCP constitutes the Tribe's primary voice in how trail access is to be governed on the public lands acquired under the land exchange. In accordance with the THCP, the following restrictions currently apply to users of the Indian Canyons: an admission fee is charged, hours of operation are limited, dogs and other pets are prohibited, hiking is allowed on designated trails only (no cross-country travel), no bicycles or motorized vehicles are allowed on trails, and no overnight camping is permitted.

Conversely, access to trails on the selected public lands is free, hours of access are not limited, bicycles are allowed, and cross-country (off trail) travel is permitted, whether on foot, bicycle, or horse, though dogs are likewise prohibited. Opportunities for bicycle and cross-country travel, however, may change if and wherever the BLM retains the public lands proposed for exchange. As a cooperator in development of the multi-jurisdictional trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan (CVAG 2007), the BLM may issue a decision that is generally consistent with management prescriptions established through the trails plan.¹⁶ Accordingly, bicycle access to certain trails or trail segments on public lands in section 36, T.4S. R.4E., would be prohibited, consistent with a decision by the City of Palm Springs' Parks and Recreation Commission to prohibit bicycles on nonfederal segments of the Araby, Garstin, and Shannon Trails. However, bicycle access would continue to be allowed on the Berns, Thielman, and Wild Horse Trails, which also traverse section 36.¹⁷ Whether cross-country travel on

¹⁶ The BLM and the Tribe are not signatories to the CVMSHCP, which applies only to nonfederal and non-Tribal lands. Instead, the management of trails by the BLM and the Tribe is subject to their respective approved management plans. While the BLM may issue a decision for public lands that is generally consistent with management prescriptions established through the trails management plan element of the CVMSHCP, the final outcome of the decision making process is unknown. The decision will be based on environmental analysis provided in, and public response to, the applicable NEPA document.

¹⁷ Pursuant to authority vested in the City of Palm Springs' Parks and Recreation Commission (as provided by section 12.72.030 of the City's municipal code), and in accordance with a resolution of December 8, 1992, by the Commission, bicycle travel on the Araby, Berns, Garstin, and Shannon Trails is prohibited to avoid potential conflicts with horseback riders, thereby enhancing safety for both mountain bikers and equestrians. However, the BLM may allow bicycles on public land segments of the Berns Trail

the selected public lands will continue to be allowed or be prohibited is undetermined.

The primary concerns raised by the public regarding management of trails on public lands acquired by the Tribe regard whether a fee will be charged for the use of these trails, whether hours or seasons of access will be limited, and whether bicycles will be allowed, particularly with respect to trails located in sections 16 and 36, T.4S. R.4E. (The predominance of “official” trails on the selected public lands—about 64 percent of total trail mileage on these lands, or 6.2 of 9.7 miles—occurs within sections 16 and 36.) Simply stated, will access to trails on public lands change upon approval of the proposed land exchange?

A management agreement entered into between the BLM and the Tribe in November 2009 was intended to alleviate public concerns about access to trails in sections 16 and 36 upon their acquisition by the Tribe (see Appendix H, environmental assessment CA-060-0010-0005). Through this agreement, the Tribe “agrees that [sections 16 and 36] remain accessible and subject to the reasonable use and enjoyment by the general public.” Further, the Tribe “may adopt rules and regulations for the use and enjoyment of [trails in these sections],” and that “any such rules and regulations adopted shall conform to and be consistent with the policies and guidelines set forth in the Indian Canyons Master Plan and the Tribal Habitat Conservation Plan, and with similar measures now in effect regarding existing Tribal Reserves.”

Appropriately, the Tribe did not commit to forever managing trails on the acquired public lands in a manner consistent with current BLM management; the BLM itself makes no such commitment for managing public lands. Changing circumstances could result in a change of management prescriptions, consistent with the adaptive management approach adopted by the Tribe in its THCP. Likewise, the BLM, if it were to retain the selected public lands identified for the proposed land exchange, could restrict hours or seasons of access if warranted to protect the values for which the Monument was designated, and could prohibit bicycles if warranted to protect resources and/or public safety. Decisions regarding such restrictions would require conformance with statutory and regulatory requirements—e.g., preparation of an appropriate NEPA document—and would be consistent with the BLM’s adaptive management approach. Whether the BLM could charge a fee, however, is governed by the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801 et seq.), which permits the BLM to charge a standard amenity fee at a “National Conservation Area,” but charging such a fee is unlikely given other constraints established by the statute.¹⁸

contrary to the City’s prohibition since the vast majority of the trail occurs on public lands and the prohibition may not be warranted. The BLM would coordinate with the City to modify its restriction for the small segment of the trail occurring on nonfederal lands.

¹⁸ The Santa Rosa and San Jacinto Mountains National Monument is located within the California Desert Conservation Area (CDCA), which was designated by Congress in 1976 through the Federal Land Policy and Management Act. Whether the CDCA would be considered a “National Conservation Area” consistent with the Federal Lands Recreation Enhancement Act for purposes of charging fees has not been ascertained.

Nevertheless, the 2009 agreement begs the question of what would immediately happen regarding public access to trails upon the Tribe's acquisition of public lands in sections 16 and 36.

Would a fee be charged for the use trails in these parcels? Not likely for the following reasons: (1) The charging of a fee would be inconsistent with the manner in which the Tribe manages trails outside the Indian Canyons Heritage Park. For example, portions of the Skyline Trail are located in sections 18 and 20, T.4S. R.4E., which comprise Tribal reserves within the Agua Caliente Indian Reservation, yet the Tribe does not charge a fee for the use of this trail.¹⁹ The Dry Wash, East Fork, East Fork Loop, Fern Canyon, Jo Pond, Palm Canyon, Vandeventer, West Fork, and Wild Horse Trails are located on Tribal reserve and Tribal fee lands in sections 13, 14, 15, 22, 23, 24, and 28, T.5S. R.4E., and sections 7 and 19, T.5S. R.5E. (the latter two sections of which comprise the offered Tribal lands in the proposed land exchange), yet the Tribe does not charge a fee for their use as well.²⁰ (2) While the agreement indicates that rules and regulations adopted for the use of trails in sections 16 and 36 would conform to and be consistent with the policies of the ICMP, these sections occur outside the planning area for the ICMP, as well as outside the land acquisition areas identified by the ICMP. Therefore, implementation of the ICMP policies in sections 16 and 36 would not likely occur. (3) Logistical constraints work against the charging of fees for trail use in sections 16 and 36. Typically, fees are most easily collected where the managing entity controls the trailhead or trailheads. Collecting fees where another entity controls trailheads, and where trails connect with other trails outside the managing entity's control, is problematic. Such circumstances exist for trails in sections 16 and 36.

Upon acquisition of sections 16 and 36 by the Tribe, would the hours or seasons of public access to trails be restricted in the same manner as access is currently restricted to the Indian Canyons Heritage Park? For the same reasons described above regarding the charging of fees, an hourly or seasonal restriction is unlikely. Enforcement of such restrictions would be particularly problematic given the opportunities for access to these trails from adjacent non-Tribal properties.

Would bicycles be prohibited on trails in sections 16 and 36 upon acquisition of these sections by the Tribe? It is reasonable to assume that bicycle access to segments of the Araby, Garstin, and Shannon Trails where they traverse public lands in section 36, T.4S. R.4E., would be prohibited upon acquisition of these lands by the Tribe, consistent with a decision by the City of Palm Springs' Parks and Recreation Commission to prohibit bicycles on nonfederal segments of these trails. The BLM decision in this regard is pending, though likely as described in the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan

¹⁹ The Skyline Trail also traverses public lands in section 16, T.4S. R.4E., though it is not contiguous with segments of the trail on Tribal lands in sections 18 and 20.

²⁰ Fees for use of trails in these sections would only be charged when the public accesses the Indian Canyons Heritage Park from the north through the toll booth. Alternative access to these trails from the east or south would not result in users being charged a fee.

(CVAG 2007). However, bicycle access would continue to be allowed on the Berns, Thielman, and Wild Horse Trails, which also traverse section 36, consistent with the BLM’s current and planned management decisions pertaining to them.²¹

Perhaps public concerns about trail access on any lands acquired from the BLM are best addressed by the Tribe on a webpage site developed specifically in response to frequently asked questions about the proposed land exchange (ACBCI 2012). In responding to the question, “will access to these trails change once the exchange takes place,” the Tribe commits that it “will manage the trails in the same manner [as the BLM],” and that “changing or curtailing public access to the trails is not feasible or practical.” With respect to fees, the Tribe, while acknowledging that it would have the right to charge access fees, recognizes that “the feasibility of doing so with so many access points would make it difficult.” It is reasonable to assume, therefore, that upon approval of the proposed land exchange, the Tribe would not require a fee for the use of trails on lands acquired from the BLM, would not restrict hours of access to these trails, and would not prohibit bicycles where such access is currently allowed on these lands, except where needed for consistency with restrictions imposed by the City of Palm Springs for trails in section 36, T.4S. R.4E.

An analysis regarding the effects of Tribal management of public lands and the trails located thereon acquired through the proposed land exchange is contained in chapter four of this draft EIS.

(ii) Issue question:

How would the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) be affected by the proposed land exchange and alternatives, particularly with respect to the public’s access to trails that comprise the identified trail system, and construction of the proposed Garstin to Thielman perimeter trail and its use by hikers with dogs?

Response:

The multi-jurisdictional trails management plan element of the CVMSHCP identifies a system of trails in the Santa Rosa and San Jacinto Mountains Conservation Area (which was established through the CVMSHCP), within which certain trails or trail segments are subject to management prescriptions established by the plan. Such prescriptions are applicable to signatory jurisdictions of the CVMSHCP only, which include neither the BLM nor the Tribe. The BLM intends to issue a separate decision for the management of trails on public lands within the conservation area.²² Tribal

²¹ BLM’s environmental assessment CA-060-0010-0005, released for public review and comment on July 27, 2010, indicated that bicycles would be prohibited on lands acquired by the Tribe consistent with the THCP. This assertion was subsequently deemed by the Tribe as erroneous.

²² While the CVMSHCP, including the trails management plan for the Santa Rosa and San Jacinto Mountains Conservation Area, was approved in October 2008 upon issuance of permits to its signatories by the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife, the BLM has yet to issue its separate decision for trails management. While the intent is to establish consistency in the management of trails across multiple jurisdictions to the greatest extent practicable, some differences may remain consequent to the BLM’s decision.

lands are not subject to the CVMSHCP.

This system includes trails or trail segments located on public lands selected for exchange: Araby, Berns, Garstin, Indian Potrero, Jo Pond, Palm Canyon, Shannon, Skyline, Thielman, and Wild Horse Trails. If all selected public lands were transferred to the Tribe, these trails or trail segments would be managed consistent with the ICMP and THCP, not the CVMSHCP. While certain aspects of trails management are the same or similar under these plans, some differences may continue to exist, such as those affecting opportunities for cross-country travel and camping.²³ Conversely, trails on lands offered by the Tribe under the land exchange, which include segments of the Dunn Road Trail, East Fork Loop Trail, and Wild Horse Trail, would be added to the system of trails subject to the multi-jurisdictional trails management plan element of the CVMSHCP for which the BLM would issue its separate decision. Ultimately, effects of the proposed land exchange on the system of trails subject to the trails management plan element of the CVMSHCP depends on whether some or all of the public lands selected for the exchange will be transferred to the Tribe. Impacts to the trail system as a consequence of the proposed land exchange and alternatives are addressed in chapter four of this draft EIS.

The trails management plan element of the CVMSHCP addresses construction of the Garstin to Thielman perimeter trail (anticipated to be named the Frank Bogert Trail upon construction), which would be available for use by hikers with leashed dogs. This trail, in connecting the Garstin and Thielman Trails, would traverse public lands in section 36, T.4S. R.4E., which are identified for exchange, and public lands in the adjoining section 1, T.5S. R.4E., which are not included in the exchange proposal. Two aspects of trail management are pertinent with respect to the issue question: the development of new trails and access with dogs on Tribal lands. New trails, per se, are not prohibited on Tribal lands, but their development must be consistent with goals and objectives identified in the ICMP and THCP. With respect to construction of the proposed Garstin to Thielman perimeter trail and uses thereof, the ICMP states, “An extensive trail system currently exists in the Indian Canyons and surrounding lands, [therefore] at this time expansion of trails is not considered necessary; however, future proposals for new trails that provide connectivity to adjacent public lands should consider management prescriptions established for those lands through the Trails Management Plan for the Santa Rosa and San Jacinto Mountains.” Since the proposed trail would provide connectivity to adjacent public lands and use of the trail by hikers with leashed dogs is prescribed in the trails management plan element of the CVMSHCP, it is reasonable to conclude that upon acquisition of public lands in section 36 by the Tribe, construction of the Garstin to Thielman perimeter trails and its use by hikers with dogs may be approved by the Tribe. The effects of the proposed land exchange in this regard are addressed in chapter four of this draft EIS.

²³ As indicated in the response to issue question d(i), the Tribe has asserted that upon acquisition of the selected public lands, it will manage trails in the same manner as did the BLM, and that changing or curtailing public access to trails is not feasible or practical. This assertion was made in full recognition of management policies and guidelines established in the ICMP and THCP. However, changing circumstances could result in a change of management prescriptions, consistent with the adaptive management approach adopted by the Tribe in its THCP, as well as by the BLM in its land use plan.

(iii) Issue question:

How will the qualitative characteristics of trails affected by the proposed land exchange and alternatives, such as aesthetics, variety, steepness, condition, and ecology that establish a trail's importance to the public, be addressed in the EIS?

Response:

To address these trail characteristics in the EIS would require the BLM to methodically characterize each of the many trails on public lands in this manner, for only by doing so could an analysis be constructed that compares the relative values of each trail in light of its characteristics, hence its "importance." Only then could the BLM determine whether the proposed land exchange would transfer trails of greater importance to the Tribe when compared to the BLM's acquisition of trails that may be of even greater, equal, or lesser importance.

Is this approach to environmental analysis reasonable? No. The matrix of trail characteristics for every trail would be extremely complex and not lend itself to a meaningful evaluation of relative "importance," particularly since the factors identified in the issue question possess different degrees of importance when weighed by different trail users. For example, where aesthetics and ecology of the Garstin Trail may be of the most value to one individual who likes to sightsee and study nature, the trail's steepness and condition may be of greatest value to another individual who uses the trail primarily for exercise. Instead, it is sufficient to acknowledge that trails on public lands included in the proposed land exchange are important to the public for a variety of reasons. This acknowledgement is consistent with the Monument's establishing legislation in which Congress affirmed that the Santa Rosa and San Jacinto Mountains contain nationally significant recreational values.

(iv) Issue question:

How will the BLM ensure that the inventory of trails affected by the proposed land exchange and alternatives is complete for purposes of environmental analysis, including trails that have not previously been mapped but are currently used?

Response:

The revision process for the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan, which was initiated in 2012, includes a comprehensive inventory of trails on federal and nonfederal lands (except Tribal lands) in the Santa Rosa and San Jacinto Mountains Conservation Area (which was established under the CVMSHCP).²⁴ This inventory utilized an analysis of aerial

²⁴ While the CVMSHCP inventory of trails attempted to capture all trails, including social trails, on BLM-managed lands and on lands under the jurisdiction of signatories to the CVMSHCP, no such attempt was made for Tribal lands since they are not subject to provisions of the CVMSHCP. The inventory of trails on Tribal lands, therefore, is limited to all official trails as depicted in *Indian Canyons Trail Guide* (ACBCI n.d.) and a few, but certainly not all, social trails. Should the BLM acquire the offered Tribal lands as proposed, the inventory will be expanded to include all social trails on the acquired lands.

imagery employing Geographic Information System (GIS) computer software, as well as on-the-ground verification. While not all inventoried “social” trails may ultimately be included in the system of approved trails, they are nonetheless addressed in chapter four of this draft EIS. Figure 5a depicts the inventoried trails. During the public review and comment period for this draft EIS, any trails identified by the public as having been overlooked and therefore not included in the inventory will be considered during preparation of the final EIS.

(v) Issue question:

How would opportunities to hike cross-country and on “social” trails (i.e., trails established by use, not construction) be affected by the proposed land exchange and alternatives?

Response:

It is important to acknowledge that management of “social” trails, whether by the BLM or the Tribe, differs from the management of “official” trails. *Official* trails in the context of the proposed land exchange are those identified by the BLM and the Tribe upon which some type of recreational use is appropriate and allowed either seasonally or year-round, and which have been inventoried and depicted on maps that are created or sponsored by the BLM or the Tribe. *Social* trails are those that developed informally from use (i.e., not constructed), and are not maintained or scheduled to be maintained by an agency.²⁵ They are typically associated with official trails, constituting shortcuts of switchbacks, trail braids (multiple paths deviating from but generally parallel to the main trail), or connectors between trails.

Generally, shortcuts of switchbacks and trail braids are deemed undesirable as they often result in adverse effects to soils, vegetation, and scenic quality. As staffing (including volunteers) and funding allow, these shortcuts and trail braids may be removed. Trail connectors, on the other hand, are evaluated with respect to their purpose and potential environmental effects; a decision is then made whether to retain the connector or remove it. Of the approximately 11.9 miles of trails on the selected public lands identified for the proposed land exchange, 9.7 miles are official and 2.2 miles are social. On the offered Tribal lands, about 2.4 miles of trail are official; mileage of social trails is undetermined.²⁶

Cross-country travel and “social” trails

Cross-country travel and the use of social trails are closely related. As previously indicated, the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan has been revised. While the plan that was approved in 2008 utilized the term “cross-country travel,” the revised plan refers to such activity as “off trail travel,” and defines it as hiking, mountain biking, horseback riding, or similar non-motorized conveyance off trails specifically identified as part of the approved trail system. Hence, the use of social trails constitutes off-trail (or

²⁵ These definitions of *official* and *social* trails are applicable throughout this draft EIS whenever such terms are used.

²⁶ Section 3.2.13 of this draft EIS describes the affected trails on public and Tribal lands.

cross-country) travel.

As required by the Tribe's THCP, hiking is allowed on designated trails only; no cross-country travel is allowed. In accordance with the trails management plan element of the CVMSHCP, off-trail (cross-country) travel on nonfederal lands subject to the trails management plan is prohibited from January 1 through September 30, and allowed from October 1 through December 31. Restrictions on off-trail travel on public lands in the Santa Rosa and San Jacinto Mountains will be determined through a separate decision issued by the BLM. Whether such restrictions will be consistent with the seasonal limitation under the trails management plan has not been determined.

Therefore, opportunities to hike off-trail, whether it includes the use of social trails or occurs where no trails exist, would be affected by the proposed land exchange to the extent that the BLM allows or restricts such travel on public lands selected for the exchange. If the BLM prohibits off-trail travel year-round on the subject public lands, then the proposed land exchange would have no effect on this activity, assuming the Tribe extends its cross-country travel prohibition to the acquired lands. If the BLM allows off-trail travel year-round, as is the current situation, or limits it to certain seasons, then opportunities for such travel would be reduced, again assuming the Tribe extends its cross-country travel prohibition to the acquired lands. Effects of the proposed land exchange on these opportunities are addressed in chapter four of this draft EIS.

(vi) Issue question:

How would current and future levels of trail use be affected by the proposed land exchange and alternatives?

Response:

For reasons identified above (see the response to issue question d(i)), the management of trails on lands acquired by the Tribe from the BLM is not anticipated to significantly change, if at all. If the management of trails remains the same, then levels of trail use would be dependent on factors other than a change in jurisdiction, such as increases or decreases in resident and visitor populations, shifts in recreational demands from non-motorized trail-based activities to something else (or vice-versa), increases or decreases in the population's discretionary income which could increase or decrease demand for local recreational opportunities, and so forth. In other words, current and future levels of trail use are predominantly dependent on factors other than those related to the proposed land exchange.

e. Protection of Threatened and Endangered Species

(i) Issue question:

How would the proposed land exchange and alternatives support recovery of Peninsular bighorn sheep and protect its designated critical habitat, as well as support recovery of the desert tortoise, least Bell's vireo, and southwestern willow flycatcher, particularly considering foreseeable future management of the exchanged lands?

Response:

The manner in which recovery actions for listed species and protection of critical habitat would occur on public lands acquired by the Tribe and on Tribal lands acquired by the BLM is addressed by applicable statutes and regulations, as well as applicable management plans for each jurisdiction. The effects of the proposed land exchange in this regard are described in chapter four of this draft EIS.

(ii) Issue question:

Upon exchanging lands as proposed or under one of the alternatives, how would Peninsular bighorn sheep and designated critical habitat be affected by recreational trail access, particularly during the lambing and water stress seasons?

Response:

Effects of recreational activities on Peninsular bighorn sheep and designated critical habitat are described in chapter four of this draft EIS.

(iii) Issue question:

How would the effects of climate change be addressed as it relates to the BLM's responsibility to provide for the recovery of threatened and endangered species?

Response:

There are likely more questions than answers regarding the effects of climate change on threatened and endangered species, particularly how climate change affects the BLM's statutory responsibility to provide for their recovery. Section 7(a)(2) of the federal Endangered Species Act of 1973 requires every federal agency to insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat. The proposed land exchange constitutes a federal action subject to requirements of the Endangered Species Act.

Regarding the effects of climate change on Peninsular bighorn sheep, it is suggested that incremental shifts in temperature and precipitation will result in a gradual reduction in the extent of suitable habitat for bighorn sheep, and as the climate warms and precipitation declines, the lower and upper elevations of suitable habitat shift upwards (Barrows and Murphy 2010). In light of these predictions, the effects of the proposed land exchange as it relates to climate change and listed species is described in chapter four of this draft EIS.

f. Potential Development of Exchanged Lands

(i) Issue question:

How would the proposed land exchange and alternatives affect potential development on the exchanged parcels, i.e., would the potential for development overall be increased, decreased,

or remain the same?

Response:

Changes in potential for development resulting from the proposed land exchange are addressed, in part, by responses to issue questions a(i) and b(i). To reiterate, the BLM would be transferring certain public lands with development potential to the Tribe (generally limited to a portion of the northeast quarter of section 16, T.4S. R.4E., and portions of the eastern half of section 36, T.4S. R.4E.), and acquiring certain lands with development potential from the Tribe (principally section 7, T.5S. R.5E.). While an acre-for-acre comparison of development potential could be used to determine if it would be increased, decreased, or remain the same, such comparison would have negligible value absent consideration of other factors as described below.

First, an analysis of development potential and its consequences must consider the type of development being contemplated, particularly with respect to characteristics of the selected public lands and the offered Tribal lands, neither of which is a broad, level expanse that lends itself to the full gamut of development options. Site characteristics, along with financial and physical viability for their modification, will, to a large extent, preclude certain types of development from occurring. In other words, properties with “potential for development” are not subject to a “one size fits all” consideration. While some portion of lands acquired by either the BLM or the Tribe may be suitable and feasible for certain kinds of development, they are not suitable and feasible for all kinds of development.²⁷

Second, proposals for development on either the public lands acquired by the Tribe or the Tribal lands acquired by the BLM are subject to applicable regulations, policies, and plans of the respective jurisdiction. Whether development occurs on public or Tribal lands, it is not an “anything goes” proposition. Development of Tribal lands acquired by the BLM would generally be limited to the kinds of multiple uses provided for by the Federal Land Policy and Management Act of 1976, except for location, entry, and patent under the public land mining laws or operation of the mineral leasing, geothermal leasing, and mineral materials laws, for which the federal lands were withdrawn under the Santa Rosa and San Jacinto Mountains National Monument Act of 2000, subject to valid existing rights. Are there any other “development” options that would not be allowed on these public lands as precluded by statute, regulation, or applicable land use plan? Conditionally, the answer is “yes,” though whether proposals for the development of public lands will be approved or denied cannot be determined in advance of processing applications for such development.²⁸

²⁷ As described in the response to issue question d(ii), the multijurisdictional trails management plan element of the CVMSHCP addresses the potential for construction of a trail connecting the Garstin and Thielman Trails. Such new trail would be construed as a reasonably foreseeable future action or “development,” though substantially different in nature from the common perception of what “development” entails, e.g., construction of buildings, roads, and related infrastructure.

²⁸ “Developments” on public lands in the context of this discussion may include, but are not limited to, roads, communication sites, electrical transmission lines, and similar facilities that could be authorized through a right-of-way grant. In general, developments such as individual residences, commercial business structures, and the like would not be permitted on the public lands at issue.

Statutory guidance provided in section 102(a)(8) of FLPMA is helpful in understanding how the BLM manages use, occupancy, and development of public lands: “The Congress declares that it is the policy of the United States that the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.” Any proposal for development of the public lands is subject to review in accordance with the National Environmental Policy Act.

Development of public lands acquired by the Tribe would be subject to preservation and management controls specified in the approved Land Use Ordinance for the Agua Caliente Indian Reservation, the Indian Canyons Master Plan, and the Tribal Habitat Conservation Plan. The ICMP and THCP allow for limited environmentally and culturally compatible development on the acquired lands; however, no development is foreseen at this time. Should development be proposed in the future, it will be subject to Tribal Environmental Policy Act (TEPA) review at the time it is proposed. As specified in the ICMP, the use of specific properties may be constrained and limited by access, compatibility with park uses, visual impact to park areas, preservation of cultural resources, preservation and protection of natural systems, maintenance of recreational uses, flood protection, and design compatibility. In accordance with THCP, a maximum of 15 percent of the habitat of “covered species” found in the Mountains and Canyons Conservation Area (which was established through the THCP) may be subject to ground disturbance, resulting in an overall minimum of 85 percent of such habitat being conserved, hence not developed.²⁹ Further, no disturbance would be allowed within a use area or defined linkage for Peninsular bighorn sheep, and certain lands adjacent to those areas would require specified levels of conservation. Projects would be sited to avoid to the maximum extent practicable impacts to wetlands or riparian areas, mesquite hummocks and thickets associated with riparian habitat, and habitat determined to be occupied by species including the least Bell’s vireo and southwestern willow flycatcher. Again, as with proposals to develop Tribal lands acquired by the BLM, restrictions on the type of development allowed are substantial.

However, public lands acquired by the Tribe would be subject to a greater level of protection with a lesser extent of development allowed. As specified in the THCP, no more than 221 acres of disturbance would be allowed if all 5,799 acres of public lands are acquired. Should fewer acres of public lands be acquired as a consequence of the land value equalization process, the extent of potential disturbance would be

²⁹ “Covered species” addressed for the Mountains & Canyons Conservation Area include Peninsular bighorn sheep (*Ovis canadensis nelsoni*), least Bell’s vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), summer tanager (*Piranga rubra cooperi*), yellow-breasted chat (*Icteria virens*), yellow warbler (*Dendroica petechial brewstri*), mountain yellow-legged frog (*Rana muscosa*), southern yellow bat (*Lasiurus ega [xanthinus]*), triple-ribbed milk-vetch (*Astragalus tricarinatus*), desert tortoise (*Xerobates* or *Gopherus agassizii*), burrowing owl (*Athene cunicularia*), and gray vireo (*Vireo vicinior*).

prorated, i.e., at least 96.2 percent of the acquired lands would be conserved, while no more than 3.8 percent may be developed.

In summary, ascertaining whether the proposed land exchange would result in decreased, increased, or no change in development potential has limited meaning given a lack of information about the types of development that may be proposed in the future, and whether such proposals would be consistent with applicable statutes, regulations, policies, and land use plans. Further, development is conditioned by numerous forces such as local and regional economic trends, population changes, labor markets, and so on; hence, the potential for development is an ever-changing variable. Nevertheless, such potential for development, as it relates to conservation, is described in section 4.2.2.1.1 because it generally provides the best metric to determine the extent to which various resource values may be maintained.

(ii) Issue question:

How will potential development of the eastern portion of section 36, T.4S. R.4E., upon acquisition by the Tribe be addressed in the EIS, acknowledging the potential for development of private lands in the adjacent section (section 31, T.4S. R.5E.)?

Response:

The extent to which future developments constitute potential environmental impacts is addressed in the cumulative effects analysis of an EIS. Such analysis considers the direct and indirect effects of a proposed action and alternatives together with the effects of other actions that have a cumulative effect. In other words, the cumulative effects analysis considers past actions, present actions, reasonably foreseeable actions, and the incremental effects of the proposed action and alternatives. Whereas potential development of public lands acquired by the Tribe would be considered a future action, does it constitute a reasonably foreseeable action in accordance with the National Environmental Policy Act, particularly with respect to the eastern portion of section 36, T.4S. R.4E.?

The cumulative effects analysis must include reasonably foreseeable future actions within the geographic scope and the timeframe of the analysis, and such actions cannot be limited to those that are approved or funded. Reasonably foreseeable future actions are those for which there are existing decisions, funding, funding proposals, or which are highly probable, based on known opportunities or trends. However, speculation about future actions is not required. (BLM 2008a)

As previously indicated, the Tribe has not expressed intent to develop any portion of the public lands it acquires from the BLM, including the eastern portion of section 36, T.4S. R.4E. Also as previously discussed, the Tribe has committed to managing the acquired lands consistent with the Indian Canyons Master Plan and the Tribal Habitat Conservation Plan, as applicable, which constrain development options on lands within the Mountains and Canyons Conservation Area. Since there is no existing proposal to develop the acquired lands, and there has been no commitment of resources to do so, such as funding, the cumulative effects analysis of this EIS will not address potential development of section 36, T.4S. R.4E., by the Tribe. Such speculation is not warranted.

(iii) Issue question:

Acknowledging tribal sovereignty over lands managed by the Agua Caliente Band of Cahuilla Indians and the absence of a regulatory mechanism for public involvement in future decision-making processes, how will the EIS address potential future changes to the Indian Canyons Master Plan which, in part, establishes a framework for guiding conservation efforts and development, as well as address changes in land use allocations under the Tribal Habitat Conservation Plan that could increase or decrease levels of development and conservation through modification of the development/conservation ratios, particularly in the Mountains and Canyons Conservation Area?

Response:

While the Tribe may change both the ICMP and THCP, thereby potentially changing the manner in which the public lands acquired by the Tribe are managed, the BLM may likewise amend applicable land use and/or implementation-level plans, consistent with laws and regulations, thereby changing the manner in which the Tribal lands acquired by the BLM are managed. The difference, as suggested by the issue question, regards public involvement in the decision-making process. Whereas the Tribal Council can make changes to the ICMP and THCP absent public involvement, the BLM, in conformance with the Federal Land Policy and Management Act, National Environmental Policy Act, and other relevant statutes, must provide for public participation in the decision-making process. The pertinent question, therefore, is whether this difference necessitates analysis in the EIS, i.e., would a discussion of the differences in plan approval processes provide an understanding of environmental consequences that would help the BLM to make a decision that protects, restores, and enhances the environment? No. While changes to plans are not uncommon in response to changing conditions as part of adaptive management, it would be entirely speculative to address how the plans would change and what might be the results of such changes, such as increased or decreased levels of development and conservation. Therefore, this EIS will not address potential future changes to either the ICMP or THCP.

1.5 Public Comments Not Construed as Issues

During the public scoping period in advance of preparing this EIS, the public expressed certain wants or opinions that are not construed as “issues” in accordance with the National Environmental Policy Act. For the purpose of analysis when preparing the EIS in conformance with the NEPA, *an issue*, as defined in BLM’s NEPA Handbook H-1790-1 (2008a):

- has a cause and effect relationship with the proposed action or alternatives;
- is within the scope of the analysis;
- has not been decided by law, regulation, or previous decision; and
- is amenable to scientific analysis rather than conjecture.

Public comments not construed as issues are described in the scoping report (see Appendix I).

1.6 Conformance with Statutes, Regulations, Policies, Plans, and Management Strategies

Statutes:

Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 et seq.). FLPMA constitutes the BLM’s “organic act,” thereby establishing the manner in which the public lands are to be managed, to include protecting the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; preserving and protecting certain public lands in their natural condition, where appropriate; providing food and habitat for fish and wildlife and domestic animals; and providing for outdoor recreation and human occupancy and use.

Sections 102 and 206 of the Act are particularly relevant to the proposed land exchange. In Section 102, Congress declares it is the policy of the United States that, in part, the public lands be retained in federal ownership, unless as a result of the land use planning procedure it is determined that disposal of a particular parcel will serve the national interest. Section 206 provides that a tract of public land or interests therein may be disposed of by exchange where the Secretary of the Interior determines that the public interest will be well served by making that exchange, provided that when considering the public interest the Secretary shall give full consideration to better federal land management and the needs of state and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife, and the Secretary finds that the values and the objectives which federal lands or interests to be conveyed may serve if retained in federal ownership are not more than the values of the nonfederal lands or interests and the public objectives they could serve if acquired. Whether the proposed land exchange between the BLM and the Tribe provides for better federal land management and serves the public interest is addressed in this draft EIS; such determination will be reflected in the record of decision.

Santa Rosa and San Jacinto Mountains National Monument Act of 2000, as amended (16 U.S.C. 431 et seq.). Section 4(c) of the Act provides that the Secretary of the Interior and the Secretary of Agriculture, consistent with the management plan to be prepared for the Monument and existing authorities, may enter into cooperative agreements and shared management arrangements with any person, including the Agua Caliente Band of Cahuilla Indians, for the purposes of management, interpretation, and research and education regarding resources of the Monument. Section 6(e) of the Act, in order to support the cooperative management agreement in effect with the Agua Caliente Band of Cahuilla Indians, provides that the Secretary of the Interior may, without further authorization by law, exchange lands which the BLM has acquired using funds provided under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 et seq.) with the Agua Caliente Band of Cahuilla Indians, and that any such land exchange may include the exchange of federally owned property within or outside the Monument boundaries for property owned by the Tribe within or outside the Monument boundaries.

As described in section 1.1 of this chapter, the BLM and the Tribe entered into a cooperative agreement in 1999 to coordinate and cooperate in the management of federal lands within and outside the external boundaries of the Agua Caliente Indian Reservation where it occurs within the then-proposed Santa Rosa and San Jacinto Mountains National Monument; this constitutes the cooperative agreement referenced in section 6(e) of the Act. The BLM and the Tribe also entered into a memorandum of understanding to clarify the government-to-government relationship that exists with respect to BLM lands that are within both the Agua Caliente Indian Reservation and

the then-proposed national monument, and establish a framework for cooperation concerning acquisition and exchange of non-trust Tribal lands. Some public lands selected for the proposed land exchange were acquired by the BLM using amounts provided under the Land and Water Conservation Fund Act. In accordance with the Act, these lands may be exchanged without further authorization by law.

Omnibus Public Land Management Act of 2009 (16 U.S.C. 7202 et seq.). Section 1852 of the Act amends section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) by designating an 8.1-mile segment of Palm Canyon within the San Bernardino National Forest as the Palm Canyon Creek National Wild and Scenic River to be administered by the Secretary of Agriculture as a wild river, and directs the Secretary to enter into a cooperative agreement with the Agua Caliente Band of Cahuilla Indians to protect and enhance river values. Section 1853 of the Omnibus Act amends section 2 of the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 by expanding the boundaries of the Monument.

Palm Canyon Creek Wild and Scenic River extends as far north as the boundary of section 36, T.5S. R.4E.; this section is comprised entirely of public lands and included in the proposed land exchange. Section 1852 of the Act did not designate any portion of section 36 as part of the Wild and Scenic River, nor did it direct the Secretary of the Interior to enter into the cooperative agreement between the Tribe and the Secretary of Agriculture to protect and enhance river values. (See section 1.4, issue question b(iv), regarding the BLM's eligibility determination for National Wild and Scenic River designation for public lands in section 36.) Should the BLM retain section 36 at the conclusion of the land exchange with the Tribe, the BLM would coordinate and cooperate in the management of the public lands contained therein in accordance with the cooperative agreement entered into between the BLM and the Tribe in 1999.

Expansion of the Monument boundary addressed in section 1853 of the Act does not affect the proposed land exchange since such expansion is not proximal to the project area.

Regulations:

Title 50, Code of Federal Regulations, Part 402: Interagency Cooperation—Endangered Species Act of 1973, as amended. The population segment of bighorn sheep occupying the Peninsular Ranges of southern California (*Ovis canadensis nelsoni*) was listed as endangered in 1998 pursuant to the Endangered Species Act of 1973 (63 FR 13134). In 2001, the U.S. Fish and Wildlife Service (USFWS) designated critical habitat for Peninsular bighorn sheep (66 FR 8650); the extent of designated critical habitat was revised in 2009 (74 FR 17288). Most public lands selected for the proposed land exchange are not currently designated as critical habitat (see Figure 6). No Tribal lands offered for the land exchange, as well as any Tribal lands contiguous with the selected public lands, are designated as critical habitat.

The project area also provides habitat for three other listed species: least Bell's vireo (*Vireo bellii pusillus*), listed as endangered in 1986 (51 FR 16474); southwestern willow flycatcher (*Empidonax traillii extimus*), listed as endangered in 1995 (60 FR 10694); and desert tortoise (*Gopherus agassizii*), listed as threatened in 1990 (55 FR 12178). While critical habitat for these species was designated in 1994, 2013, and 1994, respectively (59 FR 4845, 78 FR 344, and 59 FR 5820), none occurs within the project area for the proposed land exchange.

In accordance with 50 CFR § 402.14, each federal agency shall review its actions to determine whether any action may affect listed species or critical habitat. If such a determination is made,

formal consultation is required, except if, as a result of the preparation of a biological assessment or informal consultation with the U.S. Fish and Wildlife Service, the federal agency determines, with the written concurrence of the Director of the USFWS, that the proposed action is not likely to adversely affect any listed species or critical habitat. The BLM will consult, as necessary, with the USFWS regarding the effects of the proposed land exchange on the four listed species herein described.

Title 36, Code of Federal Regulations, Part 800: Protection of Historic Properties. Section 106 of the National Historic Preservation Act, as implemented at 36 CFR Part 800, requires federal agencies to take into account the effects of their undertakings on historic properties. The State Protocol Agreement between the BLM California State Director and the California State Historic Preservation Officer (SHPO) defines the roles and relationships between the SHPO's office and the BLM under the National Programmatic Agreement. The protocol streamlines the Section 106 process by not requiring case-by-case consultation with the SHPO on most individual undertakings.

The BLM has determined that the proposed land exchange constitutes an undertaking as defined in 36 CFR Part 800, and has consulted with the SHPO regarding the potential adverse effect of the land exchange on historic properties pursuant to 36 CFR § 800.5(a). The BLM, the SHPO, and the Tribe agreed they would resolve any potential adverse effects of the undertaking on historic properties by developing a Historic Properties Management Plan (HPMP) for the affected properties (Begay 2008, available upon request). Implementation of the HPMP, which was approved by the BLM, the SHPO, and the Tribe, results in a determination of “no adverse effect” for the purposes of the land exchange.

Since the proposed land exchange is between the BLM and the Tribe, and such exchange is addressed through a cooperative agreement between these two parties, as well as by the Tribe's own Tribal Habitat Conservation Plan, formal consultation with the Tribe is considered as inherent in the exchange process and not requiring a separate undertaking. However, the Historic Properties Management Plan prepared for the proposed land exchange and approved in 2008 provides that consultation with other interested tribes be initiated upon identification of their affiliations with affected cultural resources; these interested tribes may own adjacent lands, may have occupied the region in aboriginal times, or may hold these lands sacred in oral history or belief. Consultation with these tribes regarding the proposed land exchange will continue during the public review and comment period for this draft EIS.

Policies:

BLM Manual 6220—National Monuments, National Conservation Areas, and Similar Designations. Approved in 2012, this manual provides policy guidance to the BLM for managing public lands that are components of the National Landscape Conservation System and have been designated by Congress or the President as national monuments, national conservation areas (NCAs), and similar designations. National program policies such as contained in BLM Manual 6220 are generally applicable to NLCS components to the extent they are consistent with the designating proclamation or legislation, other applicable law, and other BLM policy. The general principle for managing national monuments, national conservation areas, and similar designations is to conserve, protect, and restore nationally significant landscapes, as required under the Omnibus Public Land Management Act of 2009. With respect to the lands and realty program, Manual 6220 provides that the BLM will establish priorities for acquisition of lands and other interests within or adjacent to monument and NCA boundaries. In setting these priorities, lands

that will enhance the objects and values for which the areas were designated and lands with significant at-risk resources will be emphasized. Further, the BLM will strive to retain ownership of public land within monuments and NCAs, unless otherwise provided for in law.

The Santa Rosa and San Jacinto Mountains National Monument was designated in order to preserve the nationally significant biological, cultural, recreational, geological, educational, and scientific values found in the Santa Rosa and San Jacinto Mountains, and to secure now and for future generations the opportunity to experience and enjoy the magnificent vistas, wildlife, land forms, and natural and cultural resources in these mountains, and to recreate therein. As required by BLM Manual 6220, the BLM is to emphasize the acquisition of lands that enhance the values for which the Monument was designated to protect, and those with significant at-risk resources. For reasons previously discussed, the acquisition of Tribal lands offered under the proposed land exchange accomplishes these acquisition priorities when considered at the landscape level.

At the same time, the BLM's policy expressed in Manual 6220 is to retain ownership of public lands within monuments and NCAs unless otherwise provided for in law. Since the proposed land exchange between the BLM and the Tribe would dispose of public lands within the Santa Rosa and San Jacinto Mountains National Monument, seemingly in contradiction to the policy, are there laws that specifically address the disposal of public lands within the Monument?

Section 6 of the Monument's designating legislation, as previously indicated, provides that in order to support the cooperative management agreement in effect with the Agua Caliente Band of Cahuilla Indians as of the date of enactment of the statute, the Secretary of the Interior may, without further authorization by law, exchange lands which the BLM has acquired using amounts provided under the Land and Water Conservation Fund Act of 1965 with the Tribe, and that any such land exchange may include the exchange of federally owned property within or outside the boundaries of the Monument for property owned by the Tribe within or outside the Monument. It is important to note, however, that the land exchange is not mandated by the statute. Rather, it is a discretionary action by the BLM, subject to applicable laws and regulations governing federal actions and land exchanges. Nonetheless, it is apparent that Congress, by specifically addressing the cooperative agreement with the Tribe, was aware that it provided the foundation for entering into a memorandum of understanding addressing the opportunity for the Tribe to acquire federal lands pursuant to the authorities provided under section 206 of the Federal Land Policy and Management Act of 1976, as amended.

BLM Manual 6840—Special Status Species Management. The objectives of this policy are (1) to conserve and/or recover species listed under the Endangered Species Act (ESA) and the ecosystems on which they depend so that ESA protections are no longer needed for these species, and (2) to initiate proactive conservation measures that reduce or eliminate threats to BLM sensitive species to minimize the likelihood of and need for listing of these species under the ESA. Of particular relevance to the proposed land exchange, the policy addresses retention and disposal of public lands with respect to special status species management. Accordingly, the BLM shall retain in federal ownership those habitats essential for the conservation of any listed species, particularly those that are part of a broader, logical public land ownership management unit. The BLM may dispose of lands providing habitat for listed species, including critical habitat, but only following consultation with the U.S. Fish and Wildlife Service (USFWS) and upon a determination that such action is consistent with relevant law. (BLM 2008c)

Certain public lands selected for the proposed land exchange include modeled/essential and designated critical habitat for endangered Peninsular bighorn sheep (listed as endangered), and

modeled habitat for least Bell's vireo (listed as endangered), southwestern willow flycatcher (listed as endangered), and desert tortoise (listed as threatened). Certain public lands also contain modeled habitat for the burrowing owl, a BLM sensitive species. (Section 3.2.14 of this draft EIS describes the special status species that occur or may occur on the selected public lands; section 4.2.2 describes effects of the proposed action and alternatives on these species and their habitats.) Prior to issuing a decision whether and to what extent public lands will be exchanged for Tribal lands owned by the Agua Caliente Band of Cahuilla Indians, the BLM will consult with the USFWS in accordance with the regulations at 50 CFR Part 402.

Plans:

The BLM's planning regulations define the terms "conformity" or "conformance" to mean that a resource management action shall be specifically provided for in the plan, or if not specifically mentioned, shall be clearly consistent with the terms, conditions, and decisions of the approved plan or amendment (43 CFR § 1601.0-5(b)).

California Desert Conservation Area Plan, as amended. The California Desert Conservation Area Plan was approved in 1980, and has been regularly amended. Along with the Santa Rosa and San Jacinto Mountains National Monument Management Plan (see below), it establishes the framework for managing public lands within the Monument. The CDCA plan, where it addresses land tenure adjustments, declares that intermingled land ownership patterns in much of the CDCA make management difficult for the BLM and other federal agencies, as well as state and local agencies, Indian tribes, and private landowners. Selected land exchanges will be required to improve the opportunities for use or protection of all lands in the desert, and to promote effective management of public lands administered by the BLM.

The plan further states that land exchanges, acquisitions, and disposals are necessary for effective and efficient land management in the CDCA. Private or state-owned parcels within areas designated by the plan that are sensitive or unique will require acquisition through exchange or purchases, unless the management of those resources is assured by another appropriate agency or entity. Additionally, BLM-managed land mixed in with mostly private land is difficult to manage due to access problems, lack of identified boundaries, and cost efficiency. These isolated and scattered parcels (where they do not contain legally protected species of plants or animals and cultural artifacts or affect Native American cultural values) will eventually be disposed.

As described in section 1.3 ("Purpose and Need") and in response to issue question a(i) in section 1.4, the proposed land exchange would reduce the extent of "checkerboard" landownership, thereby facilitating more effective and efficient management of public lands through consolidation of the land base, and provide the BLM and the Tribe with more logical and consistent land management responsibility in the Monument.

California Desert Conservation Area Plan Amendment for the Coachella Valley. On December 27, 2002, the BLM approved the California Desert Conservation Area Plan Amendment for the Coachella Valley which (1) provides for multiple use and sustainable development of the public lands while making progress towards healthy, properly functioning ecosystems; (2) provides for the recovery of federal and state listed species; (3) manages sensitive species to avoid future listing; (4) provides recreational opportunities on public lands; (5) makes available mineral and energy resources on public lands; and (6) facilitates land management consistency, management effectiveness, and cost efficiency across jurisdictional boundaries through collaboration with local governments of the Coachella Valley, state and other federal agencies, Indian tribes, and

private entities.

Section 2.4.9 of the plan amendment establishes criteria to be applied in evaluating the suitability of land exchanges and sales. Land exchanges and sales may be considered if they would:

- facilitate effective and efficient management of conservation areas—the term “conservation areas” refers to areas with a special designation in order to protect biological resources, such as areas of critical environmental concern, wildlife habitat management areas, wilderness areas, the Santa Rosa and San Jacinto Mountains National Monument, and conservation areas established through the Coachella Valley Multiple Species Habitat Conservation Plan;
- be conducted in coordination with the local jurisdictions;
- would result in a net benefit to the conservation areas or divert intensive uses away from sensitive areas;
- not remove rare species nor their habitat, nor remove rare habitat types from conservation management;
- not remove eligible historic properties from conservation management; and
- not divest of public domain lands in a manner which eliminates a significant public benefit.

As previously described, not only would the proposed land exchange reduce the extent of “checkerboard” landownership, thereby facilitating more effective and efficient management of public lands in the Monument through consolidation of the land base, it would change the configuration of development potential in the Monument, principally by bringing section 7, T.5S. R.5E., into public ownership—it was in this section that Michael Dunn proposed substantial residential and commercial development—and shifting development potential to areas more peripheral to the Monument’s core, i.e., portions of the eastern half of section 36, T.4S. R.4E., and a portion of the northeast corner of section 16, T.4S. R.4E., both of which could be acquired by the Tribe. However, the Tribe would manage these properties in a manner consistent with the Tribal Habitat Conservation Plan, and has not indicated any intent to pursue development of these parcels. Nevertheless, ensuring that certain lands located proximal to the center of a conservation area will not be developed for residential or commercial purposes enhances BLM’s ability to provide for long-term protection of wildlife habitat and other resource values on a landscape basis.

The proposed land exchange would not remove rare species or their habitat. Instead, habitat that is essential for the continued existence of Peninsular bighorn sheep, federally-listed in 1998 as endangered, would remain about the same (see chapter four, section 4.2.2.1.1), but with the shift in potential for development away from the center of recovery region number two in the northern Santa Rosa Mountains, implementation of recovery actions would be better facilitated.³⁰

³⁰ Recovery regions for Peninsular bighorn sheep are identified in Recovery Plan for Bighorn Sheep in the Peninsular Ranges, California (USFWS 2000). Recovery region one is located within the San Jacinto Mountains; recovery region two occurs north of State Highway 74 in the northern Santa Rosa Mountains. Although recovery plans delineate reasonable actions required to recover and/or protect listed species, they do not obligate cooperating or other parties to undertake specific tasks, and may not represent the views nor the official positions or approval of any individuals or agencies involved in the plan formulation other than the U.S. Fish and Wildlife Service. While the BLM is not obligated to implement provisions of recovery plans, it is BLM policy to incorporate objectives and actions identified in recovery plans into BLM documents, as appropriate (BLM 2008c).

Based on public comments provided at scoping meetings in 2012, however, the most controversial aspect of the proposed land exchange relative to conformance with the land tenure exchange and sale criteria described in the CDCA Plan Amendment for the Coachella Valley is whether and to what extent it divests public domain lands in a manner that eliminates a significant public benefit, particularly opportunities for non-motorized recreation on existing trails. While it is not anticipated that the exchange will substantially affect such opportunities, an analysis of impacts to recreation is described in detail in chapter four of this draft EIS.

Santa Rosa and San Jacinto Mountains National Monument Management Plan. Approved on February 5, 2004, the plan provides management guidance and identifies land use decisions to be implemented for the management of public lands in the Monument, including amendments to the CDCA Plan for specific program areas. One decision amending the BLM's CDCA Plan establishes a land acquisition strategy for the Monument. The following criteria were adopted to supplement existing BLM and Forest Service acquisition policies:

- *Strategic significance*. Agencies may have different priorities based on their specific missions. Among factors that may be significant to one agency or another are biological resource values such as lambing habitats or water sources for bighorn sheep, right-of-way needs for trails or other access purposes, geological values, and cultural resource values. The Coachella Valley Multiple Species Habitat Conservation Plan identifies the areas with high biological value and delineates trail alignments.
- *Threat level*. Areas within the Monument where there is a threat of development or a potential for a land use conflict are of high priority.
- *Opportunity*. Lands sometimes become available for acquisition through a tax sale agreement with the county tax collector. Other lands may be offered as a donation or sale at below market value if the owner wishes to seek tax credits or tax deductions. Such opportunities enable acquisitions to be made at relatively little cost.
- *Funding availability*. Various agencies have access to a number of funding sources that typically have restrictions as to where or for what purposes the funds can be used.

The management plan asserts that the proposed land exchange would provide the BLM and the Tribe with more logical and consistent land management responsibility in the Monument, and identifies the same federal lands for transfer to the Tribe as described in chapter two of this draft EIS. Further, as indicated by the response to issue question a(i) in section 1.4, the BLM's acquisition of section 7, T.5S. R.5E., constitutes a high priority acquisition which would eliminate a *potential* threat of development, though no such threat currently exists.

Coachella Valley Multiple Species Habitat Conservation Plan. On October 1, 2008, with issuance of permits by the U.S. Fish and Wildlife Service and the California Department of Fish and Game (now the California Department of Fish and Wildlife), the Coachella Valley Multiple Species Habitat Conservation Plan, which was prepared by the Coachella Valley Association of Governments, became operational. The plan provides a regional vision for balanced growth to meet the requirements of federal and state endangered species laws while promoting enhanced opportunities for recreation, tourism, and job growth. The plan established 21 conservation areas, which comprise six reserve management units; reserve management unit number six consists solely of the Santa Rosa and San Jacinto Mountains Conservation Area, which is completely contained within the Santa Rosa and San Jacinto Mountains National Monument. The habitat conservation plan also requires that reserve management unit plans be prepared for each reserve management unit to define specific management actions, schedules, and responsibilities.

The CVMSHCP includes a multi-jurisdictional trails management plan for the Santa Rosa and San Jacinto Mountains. Although the BLM is not subject to commitments made through the plan, it: (1) prepared the California Desert Conservation Area Plan Amendment for the Coachella Valley (2002) in tandem with the habitat conservation plan in order to provide the framework for those implementation actions which will support the landscape-level approach to conservation and provide for community needs; (2) participated as a cooperator in development of the trails management plan element of the habitat conservation plan; and (3) may utilize the environmental impact report/environmental impact statement prepared for the habitat conservation plan as the basis for its activity-level decision for the management of trails on public lands in the Santa Rosa and San Jacinto Mountains. As of the release date of this draft EIS for public review and comment, the BLM has not issued its decision for the federal lands component of the trails management plan, which includes trails on lands identified for exchange with the Tribe.

Based on analyses in this draft EIS and public comments submitted on such analyses, the BLM will determine whether the proposed land exchange would facilitate land management consistency, management effectiveness, and cost efficiency across jurisdictional boundaries. In particular, the BLM will focus attention on recovery of Peninsular bighorn sheep and public access to non-motorized trails for recreational purposes.

Management strategies:

BLM's 15-Year Management Strategy for the National Landscape Conservation System, 2010-2025. This strategy is organized into four major themes: (1) ensuring the conservation, protection, and restoration of NLCS values; (2) collaboratively managing the NLCS as part of the larger landscape; (3) raising awareness of the value and benefits of the BLM's NLCS; and (4) building upon BLM's commitment to conservation. The themes that most closely relate to the proposed land exchange are themes 1 and 2.

The strategy recognizes that the NLCS represents a small portion of the land managed by the BLM, and these special conservation areas must be managed within the context of the larger landscape managed by other federal, state, tribal, and local government entities. The 280,000-acre Santa Rosa and San Jacinto Mountains National Monument is one of mixed ownership with about 97,000 acres, or roughly 35 percent, managed by the BLM; hence, collaborative management among the various jurisdictions is necessary to achieve the purposes for which the Monument was established.

In order to foster more consistent, effective, and collaborative management of public lands within and outside the external boundaries of the Agua Caliente Indian Reservation where such lands occur within the Monument, the BLM and the Tribe entered into a cooperative management agreement in 1999 (BLM and ACBCI 1999a). The cooperative agreement provides the mechanism to coordinate land use planning, budget priorities, cooperative allocation of resources, and development of long-term resource management and programmatic goals between the BLM and the Tribe. The cooperative agreement additionally provides the foundation for a memorandum of understanding between the BLM and the Tribe pursuant to authorities provided under section 307(b) of the Federal Land Policy and Management Act of 1976, as amended. This MOU, also entered into between the BLM and the Tribe in 1999, provides the opportunity for the Tribe to acquire federal lands and establishes the framework for cooperation concerning the acquisition and exchange of Tribal non-trust lands (BLM and ACBCI 1999b). As the underlying foundation for the cooperative agreement and MOU is to enhance management effectiveness in furthering the purposes for which the Monument was established, the proposed land exchange is

consistent with the BLM's 15-year management strategy for the NLCS in this regard.

However, the critical reviewer, while recognizing the benefits derived from collaborative management between the BLM and the Tribe in addressing resource conservation on a landscape basis, may ask how the conservation objectives expressed in BLM's 15-year management strategy are achieved when certain public lands are no longer publically owned as would occur under the proposed land exchange. The answer has two parts: (1) the overall threat to resource values on a landscape basis would be reduced, and (2) the public lands transferred to the Tribe would be managed for conservation purposes.

- *Reduction of overall threat to resource values*

Threats to resource values principally emanate from the types of activities that alter the landscape, such as residential and commercial development. As these activities typically require grading of the land or other land-disturbing actions to accommodate buildings and infrastructure (such as roads and utilities), habitat for wildlife species and opportunities for recreation may be lost or reduced. Residential and commercial activities also can result in a variety of indirect impacts. For example, residential development along an urban-wildland interface may place humans closer to conservation lands identified for protection, the result of which is likely to be increased recreational use of these adjacent conservation lands. While recreational activities are usually of lesser environmental impact than the residential development itself, they are not completely benign. Increases of pedestrian activities emanating from the backyards of new residences can increase the potential for soil erosion where trails have not been developed, may affect vegetative cover due to trampling, and could adversely impact habitat use by wildlife species.

Hence, in considering the overall threat to resource values, one must evaluate the development capacity of the selected public lands and the offered Tribal lands identified for the land exchange. Under the exchange, would the BLM be transferring or acquiring lands with development potential? With the exception of a small portion of the northeast corner of section 16, T.4S. R.4E., and certain parts of the eastern half of section 36, T.4S. R.4E. (see discussion in the next paragraph), the public lands selected for exchange are mountainous with steep slopes that generally preclude residential and commercial development. By virtue of the topography itself, these lands are anticipated to remain as undeveloped elements of the natural landscape under Tribal ownership.

Proposals to develop private properties adjacent to sections 16 and 36 have surfaced in the past, but have not been approved for various reasons. If transferred to the Tribe, could portions of sections 16 and 36 be developed either as individual projects or in combination with adjacent development? While possible, there is no indication from the Tribe that such would occur. But potential for development at these locations must be considered in the context of conservation on a landscape basis, and whether the conservation objectives for the Santa Rosa and San Jacinto Mountains National Monument are better served by the land exchange than without it. To do so, one must consider the BLM's acquisition of the Tribal lands offered under the exchange.

As previously mentioned (see response to issue question a(i) in section 1.4), section 7, T.5S. R.5E., which is one of the properties offered by the Tribe, clearly possesses development potential. It was the site of a proposed residential and commercial development by Michael Dunn. While numerous obstacles would need to be overcome for development to occur in section 7, the potential will continue to exist while in nonfederal ownership. Therefore, one must weigh the

possibilities for development in both the near and far terms relative to public land disposal and acquisition when managing lands for the conservation, protection, and restoration of NLCS values. Under the proposed land exchange, development potential may be increased in sections 16 and 36, T.4S. R.4E., upon the transfer of public lands to the Tribe, though no reason to assume such development would occur is warranted, but decreased in section 7, T.5S. R.5E., upon its transfer to the BLM,³¹ though again, there is no reason to assume that development in section 7 would occur under Tribal ownership. Rather, it is the short- and long-term *potential* for development that is being considered here. Since section 7 is closer to the Monument's interior than sections 16 and 36, which are more peripheral, the "trade" of development potential under the proposed land exchange enhances the conservation of NLCS values when compared to no such exchange, i.e., protection of existing values can be more difficult where development is centrally located and incompatible indirect effects may radiate in all directions when compared to developments that are peripherally located where indirect effects principally emanate from only one or two directions.

- *Transferred lands managed for conservation purposes*

See response to issue question a(iii) in section 1.4 of this draft EIS: how would the proposed land exchange and alternatives support conservation of resource values in the project area?

BLM-California's Five-Year Strategy for National Conservation Lands, 2013-2018. BLM-California's five-year strategy tiers, or steps down, from the national 15-year management strategy discussed above. Actions to implement BLM-wide actions listed in the national strategy, as well as California-specific actions based on the national framework, are identified. BLM-California's five-year strategy advances the four main themes and priority goals developed in the national strategy. Specific to the theme of collaboratively managing the National Conservation Lands as part of the larger landscape, the BLM-California strategy, in promoting the adoption of a cross-jurisdictional approach to landscape-level conservation planning and management, directs agency staff to pursue the acquisition of inholdings within NLCS unit boundaries from willing sellers.

The proposed land exchange between the BLM and the Tribe would accomplish this directive upon acquisition of the offered Tribal lands, though not through a land sale, rather through an exchange. The BLM-California five-year strategy does not address land exchanges. The manner in which such an exchange enhances conservation on a landscape basis has been previously discussed.

Consistent with the five-year strategy, but well in advance of its development, the BLM entered into a cooperative agreement with the Tribe to coordinate and cooperate in management of federal lands within and outside the external boundaries of the Agua Caliente Indian Reservation where located within the then-proposed Santa Rosa and San Jacinto Mountains National Monument. This relationship provides for more consistent, effective, and collaborative

³¹ Lands acquired by the BLM would be administered as part of the Santa Rosa and San Jacinto Mountains National Monument, and subject to provisions of the applicable land use plan. The California Desert Conservation Area Plan Amendment for the Coachella Valley (BLM 2002a), which provides direction for the management of public lands in the Monument, requires that at least 99 percent of vegetative community types within Monument be conserved, thereby allowing no more than one percent disturbance to these vegetative communities. Hence, section 7, T.5S. R.5E., if acquired by the BLM, would be subject to this conservation requirement.

management of these lands, thereby achieving goals 2A and 2B of the five-year strategy: goal 2A is to emphasize an ecosystem-based approach to management of National Conservation Lands in the context of the surrounding landscape; goal 2B is to adopt a cross-jurisdictional, community-based approach to landscape-level conservation planning and management.

Other:

Secretarial Order No. 3308 regarding management of the National Landscape Conservation System (November 15, 2010). The Secretary of the Interior’s order sought to further the purposes of the Omnibus Public Land Management Act of 2009, which established the National Landscape Conservation System under the jurisdiction of the BLM in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations.

The order stated that it would remain in effect until its provisions are converted to a Departmental manual or until it is amended, superseded, or revoked, whichever comes first. The Secretarial Order ceased to be applicable to the Monument as of July 13, 2012, upon release of Departmental Manual 6220 addressing the management of BLM’s national monuments, national conservation areas, and similar designations.

1.7 Land Use Classification and Valid Existing Rights

Land use classification:

Public lands selected for the proposed land exchange are designated Multiple Use Class L (“Limited Use”) under the CDCA Plan, as amended. Class L protects sensitive, natural, scenic, ecological, and cultural resource values. Public lands designated as Class L are managed to provide for generally lower-intensity, carefully controlled multiple use of resources, while ensuring that sensitive values are not significantly diminished.³² The management of lands acquired by the BLM with respect to land use classifications is described in section 2.2 of chapter two.

Valid existing rights:

Federal land or interest in land should be conveyed with a minimum of encumbrances. All encumbrances authorized as rights-of-way, leases, permits, and/or easements affecting federal land that are part of an exchange proposal must be reviewed to determine the validity and continued need for the authorization. The BLM should terminate or modify, as appropriate, those authorizations which are no longer needed to serve the purposes for which they were established. If there is a continuing need for any encumbrance, the BLM should either convey the administration and ownership of the encumbrance to the acquiring party or retain federal

³² Multiple Use Guidelines for Class C (“Controlled Use” [wilderness]), Class L (“Limited Use”), Class M (“Moderate Use”), and Class I (“Intensive Use”) describe land-use and resource-management guidelines for 19 land uses and resources as they apply to each class. These land uses and resources are agriculture, air quality, water quality, cultural and paleontological resources, Native American values, electrical generation facilities, transmission and distribution facilities, communication sites, fire management, vegetation harvesting, land-tenure adjustment, livestock grazing, mineral exploration and development, motorized-vehicle access/transportation, recreation, waste disposal, wildlife species and habitat, wetland/riparian areas, and wild horses and burros.

ownership and administration of the authorization. The BLM may either convey lands out of federal ownership subject to a right-of-way or reserve to the U.S. the interest in the right-of-way. Conveyance subject to a right-of-way will transfer the administration of the right-of-way authorization to the new property owner, including the collection of rental income. Conveyance with a reservation to the U.S. provides for retention of federal control over the right-of-way for federal purposes, including the right to enforce the terms and conditions of the right-of-way, renew and extend the authorization, and to collect rental income. (BLM 2005b)

Selected public lands in sections 16 and 36, T.4S. R.4E., contain the following rights-of-way:

- CARI-004966 – Riverside County Flood Control and Water Conservation District: 2.572 acres, section 16, NENENE; issued May 15, 1964 (flood control levee)
- CARI-004693 – Desert Water Agency: 0.419 acre, section 36, lot; issued July 15, 1987 (water storage facilities)
- CACA-008578 – Robert Hope: 1 acre, section 36, lot; issued August 19, 1981 (unpaved parking lot)

As previously indicated, retention of public lands in the sections 16 and 36 by the BLM is a likely outcome of the land value equalization process described in section 2.2. Therefore, the manner in which the BLM addresses existing rights-of-way in these sections will not be determined until land appraisals have been completed and a proposed decision is formulated. If sections 16 and 36 are to be retained by the BLM, it would continue to administer these rights-of-way. If these sections are to be acquired by the Tribe, the BLM would consider whether to convey the administration and ownership of the encumbrances to the Tribe or retain federal ownership and administration of the authorizations.

No mining claims or other valid existing rights occur on the exchange lands.

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CHAPTER TWO **ALTERNATIVES**

2.1 Overview of Alternatives Subject to Detailed Analysis

This chapter presents the range of alternatives considered for the proposed land exchange between the Bureau of Land Management and the Agua Caliente Band of Cahuilla Indians. It includes three alternatives: the proposed action, preferred alternative, and no action alternative.

The proposed action reflects the potential for the transfer of all public lands selected for the land exchange described in the feasibility report (BLM 2001a) and the supplement thereto (BLM 2001b), the agreement to initiate an assembled land exchange (BLM and ACBCI 2002) and the supplement thereto (BLM and ACBCI 2003), the Santa Rosa and San Jacinto Mountains National Monument Management Plan (BLM and Forest Service 2003), and environmental assessment CA-060-0010-0005 (BLM 2010). The preferred alternative is identical to the proposed action, except that it eliminates all public lands in section 36, T.4S. R.4E., from the land exchange in order to better conform to the stated purpose and need for the land exchange. Figures 2a through 2c depict which public and Tribal lands may be exchanged under scenarios one through three of the proposed action; Figure 2d depicts the potential exchange of public and Tribal lands under the preferred alternative.

A no action alternative is presented as a requirement of the regulations promulgated by the Council on Environmental Quality for implementing the National Environmental Policy Act (40 CFR § 1502.14(d)). While the no action alternative does not respond to the purpose and need for the action, it provides a useful baseline for a comparison of environmental effects and demonstrates the consequences of not meeting the need for the action. (Figure 2e depicts the no action alternative.) However, selection of the no action alternative does not mean that a decision would not be made or that actions would not occur. If the BLM were to select the no action alternative, it would be making the decision to not undertake the proposed exchange of lands with the Agua Caliente Band of Cahuilla Indians. The retained public lands would continue to be managed in accordance with applicable statutes, regulations, policies, and land use plans. Lands retained by the Tribe that were acquired specifically to implement the proposed land exchange would be managed consistent with the Tribe's Land Use Ordinance, Indian Canyons Master Plan, and Tribal Habitat Conservation Plan.

2.2 Proposed Action (Proposed Land Exchange)

The proposed land exchange would result in the transfer of all or portions of the public lands described below, depending on appraised values, from the Bureau of Land Management to the Agua Caliente Band of Cahuilla Indians.¹ It is anticipated to be a single transaction assembled land exchange with one real estate closing and parcel values equalized under the provisions of 43 CFR § 2201.6.² Only the BLM parcels described in this proposed action will be considered for

¹ Land exchanges completed by the BLM are not on an acre for acre basis, rather they are completed on an equal value basis with differences in value between the federal and nonfederal lands equalized by either the addition or subtraction of lands or by a cash payment not exceeding 25 percent of the value of the federal lands involved in the land exchange (BLM 2005b).

² Environmental assessment CA-060-0010-0005 (BLM 2010) indicated that the proposed action would occur in two phases as a multiple transaction, assembled land exchange. The need for a second phase

exchange with the Tribe. Once the value of the properties is equalized, the exchange will have been completed. The order in which the selected public lands are considered in the equalization process, therefore, conditions the environmental analyses. Three scenarios of the proposed action, which reflect the equalization process described below, are analyzed in chapter four of this draft EIS; each scenario describes a different amount of the selected public lands that may be exchanged for the offered Tribal lands. For purposes of the value equalization process, the BLM parcels proposed for exchange fall into three categories:

BLM Category 1 parcels (totaling approximately 4,014.95 acres):

- T.4S. R.4E. section 17, W1/2NW1/4NE1/4, W1/2E1/2NW1/4NE1/4 (28.95 acres);
section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of lot 1, N1/2 of lot 2
(142.14 acres)
- T.5S. R.4E. section 5, lots 1-4, S1/2NE1/4, S1/2NW1/4, S1/2 (643.06 acres);
sections 16, 21, 27, 29, and 32, all (3,200.80 acres)

BLM Category 2 parcels (totaling approximately 641.25 acres):

- T.5S. R.4E. section 36, all (641.25 acres)

BLM Category 3 parcels (totaling approximately 1,142.78 acres):

- T.4S. R.4E. section 16, all (634.89 acres);
section 36, lots 1-4, W1/2NE1/4, W1/2SE1/4, E1/2SW1/4, SE1/4NW1/4,
N1/2SW1/4SW1/4, E1/2NW1/4SW1/4, SW1/4NW1/4SW1/4,
S1/2NW1/4NW1/4SW1/4 (507.89 acres)

Total acreage of all three BLM exchange categories = approximately 5,798.98 acres.

Tribal parcels identified for exchange (totaling approximately 1,470.00 acres):

- T.5S. R. 5E. section 7, all (656.29 acres);
section 19, all (649.50 acres);
section 20, W1/2W1/2 (164.21 acres)

How the exchange will be completed

Step 1:

The appraised value of BLM Category 1 parcels will be compared with the appraised value of the offered Tribal parcels. If their values are equal, then only BLM Category 1 parcels would be exchanged. No BLM Category 2 or 3 parcels would be included in the final exchange and the transaction would be complete. Category 2 and 3 parcels would remain under jurisdiction of the BLM. This potential outcome is analyzed in chapter four as *scenario one* of the proposed action.

Step 2:

If the appraised value of all BLM Category 1 parcels exceeds the value of the offered Tribal parcels, the amount of BLM Category 1 parcels may be reduced to the extent that their value is equal to the Tribal parcels, or a cash payment not exceeding 25 percent of the value of the federal

was predicated on a preliminary assessment that the estimated appraised value of the public lands selected for exchange exceeds the estimated appraised value of the Tribal lands offered in the exchange, therefore necessitating the acquisition of additional lands by the Tribe to complete the overall exchange. The acquisition of such additional lands, however, is not anticipated at this time; hence, the proposed land exchange will consist of a single transaction.

lands may be made by the Tribe to conclude the exchange, though equalization by subtracting public lands is preferred.

Step 3:

If the appraised value of all BLM Category 1 parcels is less than the appraised value of the offered Tribal parcels, the BLM Category 2 parcel would be added to the exchange in order to equalize values. If the total appraised value of BLM Category 1 and 2 parcels equals the appraised value of the Tribal parcels, the transaction would be complete. No further consideration would be given to an exchange of BLM Category 3 parcels; these parcels would remain under jurisdiction of the BLM. This potential outcome is analyzed in chapter four as *scenario two* of the proposed action. If the total appraised value of BLM Category 1 and 2 parcels exceeds the value of the Tribal parcels, the amount of BLM Category 2 parcels included in the exchange may be reduced so that the total parcel value is equal to the Tribal parcels, or a cash payment not exceeding 25 percent of the value of the federal lands may be made by the Tribe to conclude the exchange.

Step 4:

If the appraised value of all BLM Category 1 and 2 parcels is less than the appraised value of the offered Tribal parcels, BLM Category 3 parcels would be added to the exchange in order to equalize values. If the total appraised value of BLM Category 1, 2, and 3 parcels equals the appraised value of the Tribal parcels, the transaction would be complete. This potential outcome is analyzed in chapter four as *scenario three* of the proposed action. If the total appraised value of BLM Category 1, 2 and 3 parcels exceeds the value of the Tribal parcels, the amount of BLM Category 3 parcels included in the exchange may be reduced so that the total parcel value is equal to the Tribal parcels, or a cash payment not exceeding 25 percent of the value of the federal lands may be made by the Tribe to conclude the exchange. If the appraised value of the Tribal parcels exceeds the total value of BLM Category 1, 2, and 3 parcels, the amount of Tribal parcels included in the exchange may be reduced so that the total parcel value is equal to the federal parcels, or a cash payment not exceeding 25 percent of the value of the Tribal lands may be made by the BLM to conclude the exchange.

Development or other land disturbing activities are not proposed as part of this land exchange, nor are they reasonably foreseen.³ Future proposals on these lands would be reviewed in accordance with the National Environmental Policy Act, as well as other applicable laws, regulations, and policies. Lands acquired by the Tribe would be designated as Tribal reserve under the Tribe's Land Use Code for the Agua Caliente Indian Reservation and subject to the requirements of that code, and would be managed consistent with provisions of the Indian Canyons Master Plan and the Tribal Habitat Conservation Plan. The ICMP and THCP allow for limited environmentally and culturally compatible development on lands designated as Tribal reserve; however, no development is foreseen at this time. Should development be proposed in the future, it will be subject to Tribal Environmental Policy Act review at the time it is proposed.

³ The description of the proposed action must include the “likely” foreseeable future use of both the federal and nonfederal lands (BLM 2005b). Reasonably (or “likely”) foreseeable future actions are those for which there are existing decisions, funding, formal proposals, or which are highly probable, based on known opportunities or trends, but speculation about future actions is not required (BLM 2008a).

Management of acquired lands

Lands acquired by the BLM:

In accordance with the CDCA Plan Amendment for the Coachella Valley (BLM 2002), BLM-managed lands within conservation areas, which include all public lands within the Monument, are classified as Multiple Use Class L (“Limited Use”). The offered Tribal lands acquired by the BLM, however, would be considered “unclassified” until the CDCA Plan is amended to classify them as Multiple Use Class L; the CDCA Plan does not provide that acquired lands automatically assume the Multiple Use Class assigned to the contiguous public lands. Under the CDCA Plan, these acquired unclassified lands would be managed on a case-by-case basis. Therefore, the Multiple Use Class guidelines would not apply.

However, the acquired lands would, in fact, be managed consistent with Multiple Use Class L guidelines pending such classification, or at a level that affords even more protection. The U.S. Congress established the Santa Rosa and San Jacinto Mountains National Monument to preserve the nationally significant biological, cultural, recreational, geological, educational, and scientific values found in the Santa Rosa and San Jacinto Mountains and to secure now and for future generations the opportunity to experience and enjoy the magnificent vistas, wildlife, land forms, and natural and cultural resources in these mountains and to recreate therein. Section 6(d) of the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 provides that any land or interest in lands within the boundaries of the Monument that is acquired by the United States after the date of enactment of the Act (October 24, 2000) shall be added to and administered as part of the Monument. Section 3(a) of the Act requires that public lands in the Monument shall be managed to protect the resources of the Monument, and only those uses that further the purposes for the establishment of it shall be allowed.

Consequently, the management of lands acquired by the BLM from the Tribe, in compliance with statutory requirements, would be managed in a manner that is consistent with or exceeds the protective requirements under Multiple Use Class L guidelines.

Lands acquired by the Tribe:

The Indian Canyons Master Plan and Tribal Land Use Code designate the exchange lands as Tribal Reserve, which significantly limits development potential. The Land Use Code also assigns the Mountains and Canyons Overlay to the exchange lands. This overlay restricts development consistent with the preservation goals of the THCP, thereby assuring limited development potential which protects species identified in the THCP.

2.3 Preferred Alternative

The BLM’s preferred alternative is identical to the proposed action except that it eliminates all public lands in section 36, T.4S. R.4E., from the land exchange in order to better conform to the stated purpose and need for the land exchange. Lands considered for exchange under this alternative are limited to the following:

BLM Category 1 parcels (totaling approximately 4,014.95 acres):

- T.4S. R.4E. section 17, W1/2NW1/4NE1/4, W1/2E1/2NW1/4NE1/4 (28.95 acres);
section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of lot 1, N1/2 of lot 2
(142.14 acres)
- T.5S. R.4E. section 5, lots 1-4, S1/2NE1/4, S1/2NW1/4, S1/2 (643.06 acres);
sections 16, 21, 27, 29, and 32, all (3,200.80 acres)

BLM Category 2 parcels (totaling approximately 641.25 acres):

- T.5S. R.4E. section 36, all (641.25 acres)

BLM Category 3 parcels (totaling approximately 634.89 acres):

- T.4S. R.4E. section 16, all (634.89 acres)

Total acreage of all three BLM exchange categories = approximately 5,291.09 acres.

Tribal parcels identified for exchange (totaling approximately 1,470.00 acres):

- T.5S. R. 5E. section 7, all (656.29 acres);
section 19, all (649.50 acres);
section 20, W1/2W1/2 (164.21 acres)

In 2010, the BLM acquired a majority of section 1, T.5S. R.4E., which is contiguous with section 36, T.4S. R.4E., one of the selected parcels of public lands identified for the proposed land exchange. It is located within the external boundaries of the Agua Caliente Indian Reservation. In accordance with the memorandum of understanding between the BLM and the Tribe regarding acquisition and exchange of lands within the Santa Rosa and San Jacinto Mountains National Monument, approved October 13, 1999, the BLM agreed to consult with the Tribal Council on any proposed acquisition within the reservation and reject proposals unless they have been offered to the Tribe as candidates for acquisition. The Tribe was offered the opportunity by the landowner to acquire these properties, but declined. The BLM subsequently purchased these lands.

As described in the response to issue question c(i) in section 1.4 of this draft EIS, the transfer of public lands in section 36, T.4S. R.4E., to the Tribe would be inconsistent with the purpose and need for the action, i.e., rather than maximize the size of a consolidated block of public lands in order to enhance management effectiveness and efficiency, the transfer would reduce the potential size of a consolidated block of public lands from approximately 14,614 acres to about 14,106 acres upon implementation of the proposed land exchange, thereby possibly reducing management effectiveness and efficiency. The preferred alternative retains all public lands in section 36 in public ownership, which more closely aligns with the stated purpose and need for the land exchange. While it represents the BLM's likely choice for a decision at this time, the agency's final decision may or may not be the preferred alternative, depending on public input, additional information received during the public comment period for this draft EIS, and outcome of the land value equalization process.

The manner in which the land exchange would proceed to equalize appraised values of the parcels is the same as described for the proposed action, except public lands in section 36, T.4S. R.4E., would not be considered. The management of lands acquired by the BLM and the Tribe would also be the same as described for the proposed action.

2.4 No Action Alternative

The proposed action or the preferred alternative would not be undertaken; lands would not be exchanged between the BLM and the Tribe. Management and use of public lands would continue to be subject to applicable statutes, regulations, policies, and land use plans.⁴ Management and use of the Tribal parcels would be subject to the Tribe’s Land Use Code, Indian Canyons Master Plan, and Tribal Habitat Conservation Plan.⁵

2.5 Alternatives Considered but Eliminated from Detailed Analysis

As required by the regulations at 40 CFR § 1502.14, agencies shall briefly discuss the reasons for eliminating alternatives from detailed study. The following two alternatives, which were identified during the scoping process, will not be addressed in chapter four of this draft EIS for the reasons outlined below:

- a) Exclusion of sections 16 and 36, T.4S. R.4E., from the proposed land exchange

During the public scoping meetings conducted in March 2012, some members of the public proposed that an alternative excluding public lands in sections 16 and 36, T.4S. R.4E., from the proposed land exchange be addressed in the EIS. Concern was raised regarding the manner in which the Tribe would manage non-motorized trails in these sections, whether in the near or far term, and that decisions affecting public access to trails would be made without the public being afforded an opportunity to participate in the decision-making process. Uncertainty about such management and the public’s concern that the Tribe might restrict access or charge a fee for the use of trails was perceived as a potential loss of a significant public resource. Additionally, some participants in the scoping process raised concern about the Tribe possibly approving development in the eastern half of section 36, and identified such possibility as additional

⁴ Typically, a finding of unnecessary or undue degradation conditions the no action alternative, pursuant to 43 CFR § 3809.0-3(b). As described in § 3809.0-3(b), sections 302, 303, 601, and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) require the Secretary of the Interior to take any action, by regulation or otherwise, to prevent unnecessary or undue degradation of the federal lands, provide for enforcement of those regulations, and direct the Secretary to manage the California Desert Conservation Area under reasonable regulations which will protect the scenic, scientific, and environmental values against undue impairment, and to assure against pollution of streams and waters. It is important to acknowledge, however, that the purpose of the regulations at 43 CFR Subpart 3809 is to establish procedures to prevent unnecessary or undue degradation of the federal lands which may result from operations authorized by the mining laws (43 CFR § 3809.0-1). “Mining laws” means the Lode Law of July 26, 1866, as amended (14 Stat. 251); the Placer Law of July 9, 1870, as amended (16 Stat. 217); the Mining Law of May 10, 1872, as amended (17 Stat. 91); and all laws supplementing and amending those laws (43 CFR § 3809.0-5(e)). Upon enactment of the Santa Rosa and San Jacinto Mountains National Monument Act of 2000, federal lands and interests in lands within the Monument were withdrawn from location, entry, and patent under the public land mining laws, subject to valid existing rights (section 5(i)(1)(B)). Since no valid rights exist on the public lands selected for the proposed land exchange, concerns regarding unnecessary or undue degradation which may result from operations authorized under the mining laws are moot.

⁵ It is important to acknowledge that selection of the no action alternative does not mean that current management of the public and Tribal lands would be assured in either the short or long term. Should environmental or other circumstances change, modifications to the manner in which these lands are managed may be warranted.

rationale for excluding public lands in this section from the land exchange. This alternative is eliminated from detailed analysis in this draft EIS for the following reasons:

(i) Public concern regarding potential restrictions on access to trails focused on sections 16 and 36, T.4S. R.4E., due to the number and popularity of trails located in these sections. Section 16 contains a segment of the Skyline Trail (a.k.a. Cactus to Clouds Trail), which is of local and regional importance given the unique opportunity it provides to ascend more than 10,000 vertical feet as a day hike from Palm Springs to the summit of Mount San Jacinto. Public lands in section 36 contain segments of the Araby, Berns, Garstin, Shannon, Thielman, and Wild Horse Trails, which provide connectivity to other trails located to the east and south. The public raised lesser concern about potential restrictions on access to trails on other public lands identified in the proposed land exchange, which include segments of the Jo Pond, Indian Potrero, and Palm Canyon Trails in sections 21 and 36, T.5S. R.4E.

As discussed in the response to issue question d(i) in section 1.4 of this draft EIS, the Tribe is not likely to change current management of trails on public lands it acquires from the BLM in the near term. The development of an alternative that excludes certain public lands from an exchange proposal in response to speculation that the Tribe would restrict access to trails on these public lands or charge a fee for their use is not supported; hence, analyzing such an alternative is not warranted. However, both the BLM and the Tribe—whether the land exchange does or does not occur, or occurs in part—cannot commit to current management protocols. As resource conditions and visitor use change, there may be a need to modify the management of public access.

(ii) As indicated in section 2.1, an alternative has been developed that retains public lands in section 36, T.4S. R.4E., in public ownership, though not for reasons regarding the manner in which the Tribe would manage trail access upon acquisition. Although an alternative that excludes public lands in both sections 16 and 36 from the exchange proposal is not warranted for reasons described above, the preferred alternative, in excluding section 36, partially reflects the public's proposal.

b) Reservation of federal rights or interests

During the public scoping meetings conducted in March 2012, some members of the public also proposed that an alternative be developed that includes mitigation in the form of reserved federal rights or interests for public access to the exchanged lands, specifically to ensure continued public access by hikers, mountain bikers, and horseback riders to non-motorized trails on the selected public lands. As described in the response to issue question c(i) in section 1.4, it is the BLM's policy that deed use restrictions, covenants, and reservations be kept to an absolute minimum and used only where needed to protect the public interest. Further, mitigation in the form of deed restrictions on public land conveyed into nonpublic ownership, in general, should only be used where required by law or executive order, and clearly supported by the environmental documentation. The policy statement additionally constrains the use of reservations to those supported by the public benefit determination process and fully considered in the appraisal process.

Since changes to trail management under Tribal ownership are not anticipated in the near term as previously described, deed restrictions on the public lands conveyed to the Tribe are not clearly supported. Changes to the management of trails on the selected public lands are speculative. The Agua Caliente Band of Cahuilla Indians, in "Frequently Asked Questions about the BLM-Tribal

Land Exchange” (on-line posting), declares that it will manage trails on the acquired lands in the same manner as occurred prior to the exchange as changing or curtailing public access to them is neither feasible nor practical. Therefore, analysis of an alternative to reserve federal rights for public access through deed restrictions is not warranted.

The development of an alternative that reserves federal rights on public lands acquired by the Tribe to preclude future development occurring on them in order to protect Peninsular bighorn sheep and other species is also not warranted. Public benefits derived from adoption of such an alternative are nebulous considering that (1) the Tribe has committed to managing the acquired lands consistent with its Land Use Code, THCP, and ICMP, thereby providing for the conservation of resource values and limiting opportunities for development; (2) most of the selected public lands are not suitable for the types of development that could substantially affect natural and cultural resource values; (3) where the potential for development exists on the acquired lands, the Tribe has not indicated any intent to pursue development, so deed restrictions to preclude development would be based on pure speculation; and (4) “development” is variable and includes trail construction that could enhance public access, so precluding development in a programmatic fashion could have an adverse effect to the public, and attempts to limit a deed restriction to preclude only those activities that would not be of public benefit may prove to be a futile endeavor.

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CHAPTER THREE
AFFECTED ENVIRONMENT

3.1 Introduction

This chapter describes the existing condition and trend of elements of the human environment that may be affected by implementing the proposed action, preferred alternative, or no action alternative described in chapter two of this draft EIS. The term “human environment” broadly relates to biological, physical, social, and economic elements of the environment (40 CFR § 1508.14). These descriptions are defined and limited by the identified issues, and provide the basis for identifying potential impacts resulting from the alternatives (BLM 2008a). Descriptions of the affected resources or values should be no longer than is necessary to understand the effects of the alternatives; data and analyses shall be commensurate with the importance of the impact (40 CFR § 1502.15). For comparative purposes, the elements addressed here are the same as those addressed in environmental assessment CA-060-0010-0005 (BLM 2010) which comprised the initial NEPA document prepared for the proposed land exchange.

Only those environmental elements determined to be potentially impacted by the proposed action or alternatives, or identified through scoping as significant issues to be analyzed in depth, as indicated below in Table 3.1.1, are carried forward for further analysis in chapter four of this draft EIS (40 CFR § 1501.7(a)(2)). Elements which would not be potentially impacted or were not identified through scoping as significant issues are not further addressed.¹

Table 3.1.1: Environmental Elements and Potential Impacts

Environmental Element	Potential Impacts or Significant Issue (Yes/No)
Air Quality	No
Areas of Critical Environmental Concern	No
Climate Change	No
Cultural Resources	No
Energy (E.O. 13212)	No
Environmental Justice	No
Farmlands	No
Floodplains	No
Health and Safety Risks to Children	No
Invasive, Nonnative Species	No

¹ Implementation of the proposed land exchange or preferred alternative would constitute an administrative change of ownership only. Proposals for development or other projects that may result in direct, indirect, unavoidable adverse, or cumulative impacts to resource values on the exchange lands—other than a potential non-motorized trail connecting the Garstin and Thielman Trails in sections 36, T.4S. R.4E., and section 1, T.5S. R.4E., which is addressed in section 4.2.1—have not been identified by either the BLM or the Tribe. As indicated in section 1.4f(ii), reasonably foreseeable future actions are those for which there are existing decisions, funding, funding proposals, or which are highly probable, based on known opportunities or trends; speculation about future actions, however, is not required (BLM 2008a). Should projects be proposed on Tribal lands acquired by the BLM or on public lands acquired by the Tribe, they would be subject to the regulatory regimes of the applicable jurisdiction, which require analysis of potential impacts to resource values.

Environmental Element	Potential Impacts or Significant Issue (Yes/No)
Minerals	No
Native American Concerns	No
Natural Sound and Human Noise	No
Recreation Resources	Yes
<i>Special Status Species</i>	
Threatened and Endangered Animal Species	Yes
BLM Sensitive Animal Species	Yes
Threatened and Endangered Plant Species	No
BLM Sensitive Plant Species	No
Visual Resource Management	No
Wastes (solid and hazardous)	No
Water Resources (surface and ground)	No
Wetlands and Riparian Zones	No
Wild and Scenic Rivers	Yes
Wilderness	No
Lands with Wilderness Characteristics	Yes
Wildland Fire Management	No

3.2 Existing Condition and Trend of Environmental Elements

3.2.1 Air Quality

The Clean Air Act of 1970 (CAA) (42 U.S.C. 7401 et seq.) authorized the Environmental Protection Agency (EPA) to set air quality standards and regulate emissions of pollutants into the air to protect human health and the environment. The CAA authorized the EPA to achieve this objective by setting air quality standards of pollutant emissions for mobile sources (e.g., automobiles) and stationary sources (e.g., factories). Emissions controls and regulations developed to achieve the air quality standards are implemented in California through the EPA and California Air Resources Board. Regional air pollution control agencies (e.g., South Coast Air Quality Management District [SCAQMD]) are responsible for enforcement of regulations within their respective jurisdictions. By law, the SCAQMD has jurisdiction over businesses and other stationary sources, while the California Air Resources Board is responsible for reducing emissions from mobile sources.

The EPA has established National Ambient Air Quality Standards (NAAQS) for seven pollutants: carbon monoxide, nitrogen dioxide, particulate matter less than 10 microns (PM₁₀), particulate matter less than 2.5 microns (PM_{2.5}), ozone, sulfur dioxide, and lead). These standards are adopted to protect public health and welfare. States are allowed to adopt ambient air quality standards which are at least as stringent as the federal NAAQS. California has adopted standards more stringent than federal standards for some pollutants. Table 3.2.1.1 below lists both the California and federal ambient air quality standards.

Table 3.2.1.1: Ambient Air Quality Standards (SCAQMD 2012)

Pollutant	Averaging Time	California Standard, Concentration	Federal Standard (NAAQS), Concentration
Ozone (O ₃)	1 hour	0.09 ppm	
Ozone (O ₃)	8 hours	0.070 ppm	0.075 ppm [‡]
Suspended Particulate Matter (PM ₁₀)	24 hours	50 µg/m ³	150 µg/m ³
Suspended Particulate Matter (PM ₁₀)	annual	20 µg/m ³	
Suspended Particulate Matter (PM _{2.5})	24 hours		35 µg/m ³
Suspended Particulate Matter (PM _{2.5})	annual	12 µg/m ³	15 µg/m ³
Carbon Monoxide (CO)	1 hour	20 ppm	35 ppm
Carbon Monoxide (CO)	8 hours	9.0 ppm	9.0 ppm
Nitrogen Dioxide (NO ₂)	1 hour	0.18 ppm	100 ppb
Nitrogen Dioxide (NO ₂)	annual	0.030 ppm	0.053 ppm
Sulfur Dioxide (SO ₂)	1 hour	0.25 ppm	75 ppb
Sulfur Dioxide (SO ₂)	24 hours	0.04 ppm	
Lead	30 day	1.5 µg/m ³	
Lead	3-month rolling		0.15 µg/m ³
Visibility Reducing Particles	8 hours (10am – 6pm)	In sufficient amount such that the extinction coefficient is greater than 0.23 inverse kilometers at relative humidity less than 70 percent	
Sulfates-PM ₁₀ (SO ₄ ²⁻)	24 hours	25 µg/m ³	
Hydrogen Sulfide (H ₂ S)	1 hour	0.03 ppm	
Vinyl Chloride	24 hours	0.01 ppm	

ppm = parts per million by volume
 ppb = parts per billion by volume
 µg/m³ = micrograms per cubic meter.

Air basins are designated as in-attainment or non-attainment of the air quality standards for each air pollutant. Section 176 of the Clean Air Act requires any action on the part of a federal agency in a non-attainment area that does not meet one or more of the NAAQS for the criteria pollutants to conform to the state's plans to attain and maintain these standards (i.e., State Implementation Plans).

The SCAQMD operates air quality monitoring stations throughout its jurisdiction, including two within the Coachella Valley area of the Salton Sea Air Basin. One monitoring station (Palm Springs) is located immediately downwind of the densely-populated South Coast Air Basin; the second station (Indio) is located further downwind. A number of pollutants are monitored at these stations, including ozone, carbon monoxide, nitrogen dioxide, sulfates, and suspended particulates PM₁₀ and PM_{2.5}. The Coachella Valley portion of the Salton Sea Air Basin is a non-attainment area for ozone (O₃) under both California and federal standards, and PM₁₀ under California standards. Concentrations of the other pollutants in the Coachella Valley are below the state and federal standards. (SCAQMD 2012)

General conformity

On November 30, 1993, the EPA promulgated its rules for determining general conformity of federal actions with state air quality implementation plans (SIPs), as required by CAA Section 176(c). The State Implementation Plan is a statewide collection of regional documents that set forth the state's strategies for achieving the air quality standards. The various air pollution control and air quality management districts are responsible for preparing and implementing the portion of the SIP applicable to their respective air basins. The area of the proposed land exchange falls under the jurisdiction of the SCAQMD with responsibility for a portion of the Salton Sea Air Basin. Each air quality management district adopts rules, regulations, and programs to attain state and federal air quality standards, and appropriates money (including permit fees) to achieve these standards.

To demonstrate conformity with a regional SIP, a proposed action must clearly demonstrate that it does not:

- cause or contribute to any new violation of any standard in the area;
- interfere with provisions in the applicable SIP for maintenance or attainment of air quality standards;
- increase the frequency or severity of any existing violation of any standard; or
- delay timely attainment of any standard, any interim emission reduction, or other milestones for air quality included in the SIP.

The EPA has developed specific procedures for conformity determinations for federal actions, which include preparing an assessment of emissions associated with the action based on the latest and most accurate emissions estimating techniques.

Potential impacts

The proposed land exchange and alternatives would have no direct impact on air quality as no construction, other ground-disturbing activities, loss of ground cover, or utilization of pollutant-creating devices would occur as a direct result of the exchange. Future developments on the exchange parcels are speculative (see discussion in section 1.4(f)). Therefore, indirect impacts related to future developments of consequence to implementing the proposed land exchange or

preferred alternative cannot be foreseen. Should future projects be proposed on lands conveyed to the Tribe or the BLM, these projects would be individually reviewed and must conform to Tribal or federal regulations and land use plans, as applicable. Direct, indirect, unavoidable adverse, and cumulative impacts would be evaluated at that time.

Furthermore, because no air pollutants are anticipated as a consequence of transferring land ownership between the BLM and the Tribe, a determination of conformity of the federal action herein described with state air quality implementation plans, in accordance with CAA Section 176(c), is not required. The proposed land exchange and alternatives in and of themselves do not authorize any uses on the subject public or Tribal lands that generate air pollutants, such as motorized and non-motorized recreational use, vehicle travel, fires (including planned and unplanned ignitions), fire suppression, construction and maintenance of facilities and roads, and remedial earthwork and revegetation.

The potential for impacts to air resources, therefore, is not further addressed in chapter four of this draft EIS.

3.2.2 Areas of Critical Environmental Concern (ACECs)

As defined by the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the term “areas of critical environmental concern” means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards. The project area for the proposed land exchange is not located within or proximal to a designated ACEC.

Potential impacts

No direct, indirect, unavoidable adverse, or cumulative impacts to ACECs resulting from implementation of the proposed land exchange or an alternative action are anticipated given the absence of a designated ACEC within or proximal to the project area. The potential for impacts to ACECs, therefore, is not further addressed in chapter four of this draft EIS.

3.2.3 Climate Change

Atmospheric scientists have determined unequivocally that the earth’s climate is warming as concentrations of “greenhouse gases” increase in the atmosphere (Intergovernmental Panel on Climate Change 2013). These greenhouse gases include carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and other natural and manmade compounds. Under natural conditions, greenhouse gases are vital for maintaining global ambient temperatures within ranges suitable for life on earth. However, greenhouse gas emissions from human activities have steadily been increasing at an unprecedented rate, especially since 1950. Large quantities of greenhouse gas emissions decrease the amount of infrared or heat energy radiated from the earth back to space and thus alter the global temperature balance. Increased greenhouse gas concentrations in the atmosphere associated with the current warming of the earth typically referred to as “global warming.” Human activities associated with increased carbon dioxide and methane emissions include fossil fuel combustion, industrial livestock production, and the destruction of forests and other ecosystems that store carbon in their biomass and soils. Global warming contributes to a

rise in sea level and changes in sea temperatures that influence regional temperature and rainfall patterns. (Arctic Council and International Arctic Science Committee 2004)

Global mean surface temperatures have increased 0.5°F to 1.0°F since the late 19th century. The 20th century's 10 warmest years all occurred in the last 15 years of that century. Globally, the sea level has risen 4 to 8 inches over the past century. Statewide average temperatures are anticipated to increase by between 3°F and 10.5°F by 2100. Total annual precipitation and statewide rainfall patterns are anticipated to change little over the next century. However, because of rising temperatures, much of this precipitation may fall as rain rather than snow, thereby affecting snowpack and future water supplies. It is also possible that the intensity and frequency of extreme storm events could increase. (California Energy Commission 2006) Montane ecosystems in the American Southwest are already experiencing a rapid vegetation change concurrent with climate warming (Brusca et al. 2013). A resurvey of vegetation conducted along the Deep Canyon transect in the Santa Rosa Mountains has found that increasing variability in temperature and rainfall as well as an overall decreasing trend in annual rainfall since 1977 have caused the ranges of many plant species to retreat upslope (Kelly 2007).

Potential impacts

The proposed land exchange and alternatives would have no direct impact on climate change as no construction, other ground-disturbing activities, loss of ground cover, or utilization of pollutant-creating devices would occur as a direct result of the exchange. The potential for impacts to climate change, therefore, is not further addressed in chapter four of this draft EIS.

3.2.4 Cultural Resources

Cultural resources are locations of human activity, occupation, or use identifiable through field inventory (survey), historical documentation, or oral evidence. The term includes archaeological, historic, or architectural sites, structures, or places with important public and scientific uses, and may include definite locations (sites or places) of traditional cultural or religious importance to specified social and/or cultural groups. Cultural resources are concrete, material places and things. Historic properties are those cultural resources which are eligible for listing in the National Register of Historic Places.

A traditional cultural property is a property that derives significance from traditional values associated with it by a social and/or cultural group such as an Indian tribe or local community. A traditional cultural property may qualify for the National Register if it meets the criteria and criteria exceptions described in the regulations at 36 CFR § 60.4.

Traditional values are associated with a social and/or cultural group's traditional systems of religious belief, cultural practice, or social interaction, and may not be closely identified with definite locations. However, traditional values may imbue a place with historic significance.

Historic Properties Management Plan

A Historic Properties Management Plan (HPMP) has been prepared to specifically address the proposed land exchange (Begay 2008, available upon request). Its purpose is to detail policies, procedures, and responsibilities of the Tribe's cultural resource compliance and management program for the selected public lands exchanged to the Tribe. The HPMP is intended to ensure that historic properties on the exchange lands acquired by the Tribe are managed in a manner

consistent with the National Historic Preservation Act as implemented through 36 CFR Part 800—Protection of Historic Properties. The affected environment described in the HPMP is summarized below.

Summary:

The earliest documented human use of the southern California region dates from approximately 10,000 to 6,000 BC. Archaeological evidence representing this period has been found around the margins of ancient inland lakes, including ancient Lake Cahuilla (a portion of which is now the Salton Sea), on old terrace deposits in the California desert, and near the coast. The earliest evidence of occupations in the Coachella Valley consists of temporary camps dating to between 1000 BC and 1 AD in Tahquitz Canyon. While in many parts of North America Native American populations drifted away from dependence on large game as they adopted horticulture and agriculture, subsistence strategies remained based on wild resource use in southern California until essentially the time of European contact in the 18th century.

Most local archaeological resources date to the Late Prehistoric period (AD 500 to 1700) and include a variety of cultural resources associated with the Lake Cahuilla shoreline, as well as other important cultural resources associated with springs, wells, and major drainages. Murray, Andreas, and Tahquitz canyons were important population centers during this period, as was nearby Agua Caliente Hot Springs. Archaeological investigations in the mountainous region, which includes the land exchange project area, have revealed occupations dating back to at least 200 BC. Most sites were small processing sites associated with the grinding of vegetal resources. Larger habitation sites were less common, but displayed a wider range of activities and longer periods of occupation than other Late Prehistoric period sites.

The Cahuilla inhabited the Santa Rosa and San Jacinto Mountains, the Coachella Valley, and nearby regions during the Late Prehistoric period. Ecological habitats included the full range of mountains, valleys, passes, foothills, and desert areas. Cahuilla villages were typically situated in canyons or on alluvial fans near water and food resources, and a village's lineage owned the surrounding land.

Throughout the project area are well-developed trails that were used for hunting and travel to other villages. These trails formed the basis of an extended trade network within and between Tribal groups, and are often associated with offering places. The trails also provided access to all types of resources (food, water, places of worship, etc.). Trails are often associated with offering places, and they are prominent in Tribal songs and stories.

During the Spanish Colonial period (1769 to 1821), the Cahuilla who survived the impact of European disease remained relatively unaffected owing to their isolation. But following establishment of the San Bernardino *estancia* and the San Geronio *rancho* in 1820, European contact and influence increased in this area. The Cahuilla quickly incorporated European agricultural techniques, especially the use of irrigation, with earlier methods they probably learned from Colorado River tribes. They soon built well-designed open-ditch irrigation systems in all of the major canyons in the Palm Springs area.

The first white settler to inhabit the region was Charles Thomas, who befriended Cahuilla living in Hemet Valley (later known as Garner Valley) in the 1860s. He began running cattle and eventually homesteaded in the area. The early miners and ranchers living in Garner Valley and the Pinyon Flat area established wagon roads and cattle driveways along trails long used by the

Cahuilla and their ancestors. (In July of 1932 the Palms to Pines Highway opened, connecting the Coachella Valley to Pinyon Flat and other mountain settlements.)

In 1876, the federal government allotted the Southern Pacific Railway the odd-numbered sections of land on either side of the railroad line extending through the Coachella Valley, thereby establishing the “checkerboard” land ownership pattern that still exists in parts of the Monument. Even-numbered sections were retained in federal ownership, and some were incorporated in the lands held in trust as reservation lands for the Cahuilla Indians. The Agua Caliente Indian Reservation was established through an Executive Order in 1876, with other lands being added through subsequent Executive Orders, purchases, and land exchanges.

The only historic properties known by the Tribe to be currently in use by the public in the land exchange area are trails, some of which may have their origin in the ancient past. The Tribe will treat and manage these historic properties (and others that may be discovered in the future) in accordance with guidelines described in the HPMP. These procedures may eventually be replaced upon the adoption of a Tribal cultural resource ordinance which provides the same or greater level of consideration of historic properties.

BLM management responsibilities

The management of cultural resources on public lands, including lands acquired from the Tribe through the proposed land exchange, must be in compliance with several federal laws and executive orders, including:

- Antiquities Act of 1906
- National Historic Preservation Act of 1966, as amended
- National Environmental Policy Act of 1969
- Executive Order 11593 (May 15, 1971), “Protection and Enhancement of the Cultural Environment”
- Federal Land Policy and Management Act of 1976
- American Indian Religious Freedom Act of 1978
- Religious Freedom Restoration Act of 1993
- Archaeological Resources Protection Act of 1979
- Native American Graves Protection and Repatriation Act of 1990
- Executive Order 13007 (May 24, 1996), “Indian Sacred Sites”
- Executive Order 13287 (March 3, 2003), “Preserve America”

The BLM also manages cultural resources in accordance with the National Programmatic Agreement between the Bureau of Land Management, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers (SHPOs) regarding the manner in which the BLM will meet its responsibilities under the National Historic Preservation Act (BLM et al. 2012d). In addition, the BLM manages its cultural resources according to BLM Manuals 8100 through 8170, and in accordance with the State Protocol Agreement among the BLM California State Director and the California and Nevada SHPOs (BLM et al. 2014).

Potential impacts

The BLM has determined that the proposed land exchange constitutes an undertaking as defined

by the regulations at 36 CFR Part 800,² and has consulted with the SHPO regarding the potential adverse effect of the land exchange on historic properties pursuant to 36 CFR § 800.5(a). The BLM, the SHPO, and the Tribe agreed they would resolve any potential adverse effects of the undertaking on historic properties that resulted from the exchange by developing a Historic Preservation Management Plan (as described above) for the affected properties. Implementation of the HPMP, approved in 2008 by the BLM, the SHPO, and the Tribe, resulted in a determination of “no adverse effect” for the purposes of the land exchange.

Further, the proposed exchange and preferred alternative do not include proposals that would change current management of the selected public lands or offered Tribal lands, or result in modifications to the existing environment. Future actions proposed on the exchange lands would be addressed in accordance with federal and Tribal regulations or ordinances, as appropriate, and must conform to the applicable BLM and Tribal plans. The potential for impacts to cultural resources, therefore, is not further addressed in chapter four of this draft EIS.³

3.2.5 Energy (E.O. 13212)

Executive Order 13212 (“Actions to Expedite Energy-Related Projects,” May 18, 2001), as amended by E.O. 13302 (May 15, 2003), directs federal agencies to expedite the review of permits or take other actions as necessary to accelerate the completion of energy-related projects, while maintaining safety, public health, and environmental protections.

The BLM’s wind energy development program policies and best management practices provide that no right-of-way authorizations will be issued for wind energy development on public lands where such development is incompatible with specific resource values. Lands excluded from wind energy development, as well as site monitoring and testing, include areas that are part of the National Landscape Conservation System (NLCS), e.g., wilderness areas, wilderness study areas, national monuments, national conservation areas, wild and scenic rivers, and national historic and scenic trails. (BLM 2008b) Although the policies allow for wind energy development in the California Desert Conservation Area (which is considered a national conservation area for this purpose but not part of the NLCS), an overriding consideration for application of the wind energy development exclusion policies and exception to the CDCA exemption occurs for the Santa Rosa and San Jacinto Mountains National Monument, which is contained within the CDCA. In other words, wind energy development, including site monitoring and testing, is prohibited on public lands within the Monument, including any lands acquired from the Tribe upon completion of the proposed land exchange. Proposals for other types of energy-related projects on public lands

² *Undertaking* means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with federal financial assistance; and those requiring a federal permit, license or approval (36 CFR § 800.16(y)).

³ In July 2013, the Mountain Fire burned approximately 3,075 acres of public lands selected for the proposed land exchange (53 percent of the total) and about 4,050 acres of Tribal lands not offered for the exchange, all located on the east flank of the San Jacinto Mountains. An unusually intense rainstorm followed soon thereafter. Some cultural resources, such as petroglyphs, were damaged by the fire; other cultural resources were likely affected by debris flows resulting from the ensuring rain. An inventory and assessment of these resources was subsequently conducted by BLM and Tribal staffs. Since this change in the affected environment for cultural resources was unrelated to the proposed land exchange, it will not be further addressed in this draft EIS.

(e.g., solar energy development) are subject to processing in accordance with existing regulations and policies.

The Tribe’s conservation program as described in the THCP does not categorically exclude energy-related projects from Tribal lands, including lands acquired from the BLM upon completion of the proposed land exchange. Instead, proposed projects would be required to conform to the Tribe’s conservation goals and objectives as expressed in the THCP, ICMP, and other documents that govern the manner in which Tribal lands are managed.

Potential impacts

The proposed land exchange and alternatives would have no direct or indirect impact on the production or transmission of energy as no energy-related projects are proposed or reasonably foreseen for development on the exchange lands. The potential for impacts to energy-related projects, therefore, is not further addressed in chapter four of this draft EIS.

3.2.6 Environmental Justice

Beginning in the 1990s, the concept of environmental justice came to widespread public attention. Concern has developed over environmental justice issues among advocates for the poor and communities of color. In general terms, the focus of environmental justice is on disproportionate adverse environmental impacts on poor communities and communities of color in the United States. These impacts to disadvantaged communities, however, are difficult to measure. As a result, a number of executive orders and policy initiatives have attempted to address environmental justice concerns.

Executive Order 12898 (“Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” February 11, 1994) provides that each federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations. Accompanying this order was a Presidential Memorandum requiring that each federal agency analyze the environmental effects, including human health, economic and social effects, of federal actions, including effects on minority communities and low-income communities, when such analysis is required by the National Environmental Policy Act of 1969.

The Council on Environmental Quality (CEQ) suggests that environmental justice concerns may arise from impacts on the natural and physical environment, such as human health or ecological impacts on minority populations, low-income populations, and Indian tribes, or from related social or economic impacts (CEQ 1997). According to the CEQ, agencies should recognize that the question of whether an agency action raises environmental justice issues is highly sensitive to the history or circumstances of a particular community or population, the particular type of environmental or human health impact, and the nature of the proposed action itself. There is not a standard formula for how environmental justice issues should be identified or addressed.

The land exchange area is located within or adjacent to the City of Palm Springs. The City’s population in 2012 was 45,907 (97 percent urban, three percent rural), a gain of 7.2 percent since 2000. Distribution of the population by race is as follows (City-Data.com, on-line posting):

White alone	63.6 percent
Hispanic	23.8 percent
Black alone	4.5 percent
Asian alone	4.5 percent
Two or more races	1.9 percent
Other race alone	1.1 percent
American Indian alone	0.5 percent
Native Hawaiian/other Pacific Islander alone	0.1 percent

The percentage of Palm Springs residents living in poverty in 2011 was 13.3 percent. Percentages of those in poverty by race are as follows (City-Data.com, on-line posting):

White Non-Hispanic	11.9 percent
Black	10.5 percent
Hispanic or Latino	18.5 percent
American Indian	13.0 percent
Native Hawaiian/other Pacific Islander	44.2 percent
Other race	11.8 percent
Two or more races	13.8 percent

Potential impacts

During the scoping process for the proposed land exchange, neither the BLM nor the public identified any low-income populations, minority populations, or Indian tribes that could be subject to disproportionately high and adverse human health impacts or environmental effects resulting from the exchange (see scoping report, Appendix I). Since the proposed land exchange and alternatives do not include any development or undertakings that could potentially result in such health or environmental effects, and proposals or undertakings that might result in such effects cannot be reasonably foreseen on the selected public lands or offered Tribal lands, concerns pertaining to environmental justice are not anticipated.

The potential for impacts to low-income populations, minority populations, or Indian tribes, therefore, is not further addressed in chapter four of this draft EIS.

3.2.7 Farmlands

The National Environmental Policy Act and the Farmland Protection Policy Act of 1981 (FPPA, 7 U.S.C. 4201 et seq. and its regulations, 7 CFR Part 658) require federal agencies to coordinate with the Natural Resources Conservation Service if their activities may irreversibly convert farmland (directly or indirectly) to nonagricultural use. For purposes of the FPPA, farmland includes prime farmland, unique farmland, and land of statewide or local importance.

No farmlands occur within or adjacent to the project area.

Potential impacts

As no farmlands occur within or adjacent to the project area, the proposed action and alternatives would result in no impacts to this resource. The potential for impacts to farmlands, therefore, is not further addressed in chapter four of this draft EIS.

3.2.8 Floodplains

Floodplain means the lowland and relatively flat areas adjoining inland and coastal waters and other flood prone areas such as offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain shall be used to designate the 100-year floodplain (one percent chance floodplain). The critical action floodplain is defined as the 500-year floodplain (0.2 percent chance floodplain). Before undertaking a federal action, each agency office must determine whether or not the action will be located in or affect a floodplain or wetland. The agency shall utilize maps prepared by the Federal Insurance Administration of the Federal Emergency Management Agency (flood insurance rate maps or flood hazard boundary maps), U.S. Fish and Wildlife Service (national wetlands inventory maps), and other appropriate agencies to determine whether a proposed action is located in or will likely affect a floodplain or wetland. If there is no floodplain/wetland impact identified, the action may proceed without further consideration of prescribed procedures to protect these resources. (U.S. Environmental Protection Agency 1979)

In addition, Executive Order 11988 (“Floodplain Management,” May 24, 1977) requires federal agencies to evaluate the potential effects of actions it may take in a floodplain to avoid adversely impacting floodplains wherever possible to ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management, including the restoration and preservation of such land areas as natural undeveloped floodplains, and to prescribe procedures to implement the policies and procedures of this Executive Order.

There are no designated floodplains within the project area, though hydrological drainages occur throughout the Santa Rosa and San Jacinto Mountains, including drainages through portions of the project area. No disturbance of these drainages is anticipated as a direct or indirect result of the proposed exchange insofar as no development is proposed as part of the exchange, nor are developments contemplated; the federal action is essentially an administrative change of land ownership. Future development by either the BLM or the Tribe, should it include alteration of designated blue line streams, would be subject to review by the U. S. Army Corps of Engineers, and issuance of a 404 permit should it be required. The BLM and the Tribe would consult with the U.S. Army Corps of Engineers prior to authorizing any activities that may affect waters of the U.S. and related floodplains.⁴

Potential impacts

As no designated floodplains occur within the project area and no disturbance to local drainages is anticipated as a direct or indirect result of the proposed land exchange and alternatives, the potential for impacts to designated floodplains is not further addressed in chapter four of this draft EIS.

3.2.9 Health and Safety Risks to Children

⁴ Section 404 of the Clean Water Act establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways), and mining projects. Section 404 requires a permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from regulation under Section 404 (e.g., certain farming and forestry activities).

A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because children’s neurological, immunological, digestive, and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children’s size and weight may diminish their protection from standard safety features; and children’s behavior patterns may make them more susceptible to accidents because they are less able to protect themselves.

To address these risks to children, Executive Order 13045 (“Protection of Children from Environmental Health Risks and Safety Risks”) was issued on April 21, 1997, thereby requiring each federal agency to make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children, and ensure that its policies, programs, activities, and standards address disproportionate risks to children.

Potential impacts

As indicated throughout this draft EIS, the proposed land exchange and alternatives do not include proposals that would change current management of the selected public lands or offered Tribal lands, or result in modifications to the existing environment. Hence, the exchange is not anticipated to adversely affect the health and safety of children. Consideration of health and safety risks to children will occur, however, should future development or changes in management be proposed. The potential for impacts to the health and safety of children, therefore, is not further addressed in chapter four of this draft EIS.

3.2.10 Invasive, Nonnative Species

Various terms are generally applied to species of plants and animals that are not native, indigenous, or naturalized to an area where they are found. These terms include “exotic,” “invasive,” and “nonnative.” Relative to plants, the term “noxious weed” is frequently used; for non-plant species, the term “exotic pest” is often employed.

Noxious weeds are a serious problem in the western United States. Estimates of the rapid spread of weeds in the west include 2,300 acres per day on BLM-administered lands, and 4,600 acres per day on all western lands in public ownership. Many weed species are nonnative to California and the United States and have no natural enemies to keep their populations in balance. As a result, these undesirable weeds rapidly invade healthy ecosystems, displace native vegetation, reduce species diversity, and degrade wildlife habitat. Noxious weed invasions reduce rehabilitation and landscape restoration successes, reduce domestic and wildlife grazing capacity, increase soil erosion and stream sedimentation, and threaten federally protected plants and animals. (BLM 2002a)

Invasive species such as tamarisk (genus *Tamarix*) generally occur in riparian areas and dry washes where surface and/or subsurface water is available, at least on a sporadic basis. The Tribe and the BLM regularly cut and treat tamarisk where infestations occur, though such removals are not permanent and require future action. Hence, while there is a likelihood that invasive nonnative species occur on the exchange lands, regular treatments have reduced their extent.

Exotic pests, such as brown-headed cowbirds (*Molothrus ater*), contribute to the decline of native wildlife species. They can out-compete the native fauna for scarce resources and may be

aggressive predators of the native wildlife species. For example, nest parasitism by cowbirds remains a primary threat limiting recovery of the least Bells' vireo and southwestern willow flycatcher, both of which occur in the project area and are listed as endangered species by the U.S. Fish and Wildlife Service (see section 3.2.15.1 for further discussion in this regard). In addition, domesticated animals, such as cats and dogs, can be very destructive to the native fauna. Studies have shown that natural areas along urban interfaces where cats and dogs are allowed to run wild may become wildlife "sinks" (high mortality areas for native fauna). (BLM 2002a)

Potential impacts

To reiterate, the proposed land exchange and alternatives do not include proposals that would change current management of the selected public lands or offered Tribal lands, or result in modifications to the existing environment. As a result, changes to the extent of nonnative species occurrences in the project area, or to the manner in which they are addressed, are not anticipated as a direct or indirect result of the exchange. The potential for impacts resulting from nonnative, invasive plant and animal species, therefore, is not further addressed in chapter four of this draft EIS.

3.2.11 Minerals

Minerals management on public lands in general falls into three categories: locatable, leasable and salable minerals.

Locatable minerals

The General Mining Law of 1872, as amended (30 U.S.C. 22 et seq.), allows citizens and those seeking to become citizens of the United States the right to enter upon public lands and reserve interests for the purposes of exploration and development of minerals that are subject to this mining law. Minerals subject to location under the General Mining Law include metallic minerals (such as gold, silver, copper, lead, zinc, and uranium); non-metallic minerals (such as asbestos, barite, gypsum, and mica); and uncommon varieties of stone. Appropriation of a mineral deposit is made by location of a mining claim. No rights under the mining laws can be exercised by a claimant until a discovery of a valuable mineral deposit has been made within the boundaries of the mining claim.

Mining for locatable minerals is managed in accordance with the regulations at 43 CFR Part 3800 (Mining Claims Under the General Mining Laws). Wilderness is closed to locatable mineral entry; however, existing claims are subject to valid existing rights determinations prior to development or casual use activities. Authorization is based on the level of disturbance and whether the activity is conducted in a special designation area. Casual use activities, such as panning for gold, prospecting, mining claim monumenting, and creating nominal disturbance, are categorically authorized by the regulations with no separate approval required. Further, no approval is required from the authorized officer where exploration activities would cause no more than nominal disturbance and surface disturbance is five acres or less. A plan of operations is required for surface disturbance greater than five acres, where located in a special area, or for mining activity greater than casual use. A plan of operations must be approved by an authorized officer of the BLM and may be subject to stipulations to assure conformance with the land use plan.

Leasable minerals

Leasable minerals include fluid energy mineral deposits, such as oil, gas, coal bed methane, carbon dioxide (CO₂), and geothermal resources. Solid energy and or industrial minerals, such as coal, sodium, and potash, are also leasable from public lands.

Competitive leasing is required for all oil and gas. Leases are typically termed for 20 years, and are extended as long as they are in producing status. A payment of an annual rental and/or a royalty for minerals produced is made to the United States by the lessee. Laws and regulations applicable to federal leasing include:

- Mineral Leasing Act of 1920, as amended and supplemented
- Acquired Lands Mineral Leasing Act of 1947
- Mining and Minerals Policy Act of 1970
- Federal Onshore Oil and Gas Leasing Reform Act of 1987
- 43 CFR Part 3100 (Oil and Gas Leasing)
- BLM Manual Series 3100 — Onshore Oil and Gas Leasing (and handbooks)
- Geothermal Steam Act of 1970
- 43 CFR Part 3200 (Geothermal Resource Leasing)

Salable minerals

These minerals include construction materials, such as sand, gravel, cinders, decorative rock, and building stone. Disposal (sale) of mineral materials is authorized in accordance with appropriate laws, regulations, and policies in conformance with the approved land use plan and if disposal is determined to be in the public interest. Use of public lands and resources for salable mineral development cannot be allowed if it is not in the public interest and such action would result in unnecessary or undue degradation to public lands or resources.

Laws and regulations applicable to salable minerals on public lands include:

- Acquired Lands Mineral Leasing Act of 1947
- Mineral Materials Act of 1947, as amended
- Federal Land and Policy Management Act of 1976
- 43 CFR Part 3600, Mineral Materials Disposal
- Surface Resources Act of 1955
- BLM Handbook H3042-1—Solid Minerals Reclamation Handbook
- BLM Manual and Handbook 3600

Mineral report

A mineral report was prepared for the proposed project (BLM 2008d, available upon request). The affected environment described in the report is summarized below.

Summary:

The BLM's selected exchange parcels consist primarily of granitic rock, which is comprised of quartz diorite with lesser amounts of gabbro, diorites, metasedimentary schist, quartzite,

limestone lenses, foliated schist, and alluvial fan boulder deposits. The Tribe's offered exchange parcels are similar in geology to the selected public lands, and consist of foliated schist, quartz diorites, boulder deposits, and a thin limestone lens.

Mineral resources of the exchange parcels are likely to be related to tungsten in skarn deposits associated with granitic intrusions into carbonate rock, and hydrothermal vein deposits within shear zone in metamorphic and granitic intrusive rocks. These resources occur in small quantities and are not concentrated, leading the reporting geologist to conclude they have little importance. There is a moderate potential for limestone deposits in the project area; these were found to be thin and discontinuous, and interbedded with other types of rock which make the deposits unsuitable for commercial or industrial use. These deposits are thought to be too small to be effectively mined. Small, thin sand and gravel deposits were encountered on one BLM parcel and three Tribal parcels, but deemed too small and discontinuous to be mined economically. Finally, no potential exists for accumulation and occurrence leasing or geothermal steam minerals on the exchange lands.

No active mining claims, mineral leases, or mineral material disposals exist on any of the exchange lands. There are no applications for development pending with the BLM or other state or local agencies. No evidence of prospecting, exploration, or mining activities was observed during field examination on either the BLM or Tribal lands included in the proposed exchange. Evidence of a small, historic tungsten prospect, known as the Maynard Mine, was observed on private land adjacent to a federal parcel designated for exchange. The mine was active during World War II, but there is no record of reportable amounts of tungsten ore being mined. The geology of the exchange lands does not support the accumulation of metallic, non-metallic or industrial mineral, or construction material mineral resources. In summary, all exchange lands have a low potential for locatable and saleable minerals, and no potential for leasable minerals.

Withdrawal of public lands

In accordance with section 5(i)(B) of the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 (16 U.S.C. 431 et seq.), the federal lands and interests in lands included within the Monument are withdrawn from location, entry, and patent under the public land mining laws, subject to valid existing rights; per section 5(i)(C), these lands and interests are also withdrawn from operation of the mineral leasing and geothermal leasing laws and the mineral materials laws.

Potential impacts

Since there are no valid existing rights relating to locatable, leasable, or saleable minerals on any of the public or Tribal lands identified for potential exchange; public and Tribal lands identified for exchange have a low potential for locatable and saleable minerals, and no potential for leasable minerals; and federal lands and interests in these federal lands are withdrawn from location, entry, and patent under the public land mining laws, as well as from operation of the mineral leasing and geothermal leasing laws and the mineral materials laws, implementation of the proposed land exchange or an alternative action would not affect mineral resources.⁵ The

⁵ Lands acquired by the BLM from the Tribe through the proposed land exchange would be managed for the purposes as described in section 2(b) of the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 (16 U.S.C. 431 et seq.), i.e., "to preserve the nationally significant biological, cultural, recreational, geological, educational, and scientific values found in the Santa Rosa and

potential for impacts to mineral material exploration and extraction under these laws, therefore, is not further addressed in chapter four of this draft EIS.

San Jacinto Mountains and to secure now and for future generations the opportunity to experience and enjoy the magnificent vistas, wildlife, land forms, and natural and cultural resources in these mountains and to recreate therein.” While the lands acquired by the BLM from the Tribe would be withdrawn from location, entry, and patent under the public land mining laws, as well as operation of the mineral leasing and geothermal leasing laws and the mineral materials laws, they would be subject to all forms of entry, appropriation, or disposal under the public land laws.

3.2.12 Native American Concerns

For this land exchange between the BLM and the Tribe, Native American concerns are addressed through conformance with various statutes, regulations, protocols, and guidelines, including:

- California Desert Conservation Area (CDCA) Plan, as amended (BLM 1980)
- Tribal Habitat Conservation Plan (ACBCI 2010)
- Historic Properties Management Plan (Begay 2008)
- Cooperative Agreement between the BLM and the ACBCI (1999a)
- Memorandum of Understanding between the BLM and the ACBCI (1999b)
- Agreement to Initiate Assembled Land Exchange (BLM and ACBCI 2002)
- Section 106 of the National Historic Preservation Act (NHPA) as implemented at 36 CFR Part 800—Protection of Historic Properties, and the State Protocol Agreement (BLM et al. 2014)
- Protocols and guidelines established through the BLM cultural resources program

Potential impacts

Since the proposed land exchange is between the BLM and the Tribe, and such exchange is addressed through a cooperative agreement between these two parties, as well as by the Tribe's own Tribal Habitat Conservation Plan, concerns of the Agua Caliente Band of Cahuilla Indians regarding the exchange have been addressed through the land exchange process. However, the Historic Properties Management Plan prepared for the proposed land exchange (Begay 2008) provides that consultation with other interested tribes be initiated upon identification of their affiliations with affected cultural resources; these interested tribes may own adjacent lands, may have occupied the region in aboriginal times, or may hold these lands sacred in oral history or belief. Consultation with these tribes regarding the proposed land exchange will continue during the public review and comment period for this draft EIS. Depending on the outcome of such consultation, the final EIS may be modified to reflect their concerns.

3.2.13 Natural Sound and Human Noise

The exchange lands are undeveloped parcels with an acoustic environment dominated by natural sounds. Noise from human activity on the exchange lands stems predominantly from non-motorized recreation—hiking, mountain biking (where allowed), and horseback riding—on existing trails. Noise would not be expected to exceed any local, state or federal standards.

Potential impacts

The proposed land exchange and alternatives do not include proposals that would change current management of the selected public lands or offered Tribal lands. As a result, changes in the acoustic environment are not anticipated. The potential for impacts resulting from human noise, therefore, is not further addressed in chapter four of this draft EIS.

3.2.14 Recreation Resources

Among the Coachella Valley's most valuable assets are its unique and impressive scenic and ecological resources which attract thousands of visitors each year. Much of the valley's recreational appeal is due to a combination of distinctive topography, temperate climate, desert

wildlife and vegetation, and proximity to vast public parks and recreation lands. In 2000 when the Santa Rosa and San Jacinto Mountains National Monument was established through Public Law 106-351, the U.S. Congress found that the Santa Rosa and San Jacinto Mountains contain “nationally significant biological, cultural, *recreational* [emphasis added], geological, educational, and scientific values” (section 2(a) of the statute). Recreational values in the Monument, including those within the project area for the proposed land exchange, are principally derived from the use and enjoyment of non-motorized trails.

From a national and regional perspective, the mix and popularity of outdoor activities has continued to evolve in recent decades alongside increases in population, which grew more than 25 percent in the Pacific Coast region and over 22 percent overall in the U.S. between 1990 and 2008 (Cordell 2012); more than 7 percent in Riverside County between 2000 and 2012 (City-Data.com, on-line posting); almost 40 percent in the Coachella Valley from 2000 to 2012 (Coachella Valley Economic Partnership 2012); and an estimated 3 percent in Palm Springs from 2010 to 2012 (U.S. Census Bureau, on-line posting). One general category of activity that has shown growth in the first decade of the 21st century is nature-based recreation. Between 2000 and 2009, participation in such recreation grew nationally by 7.1 percent with the number of activity days growing about 40 percent, the strongest growth occurring for viewing and photographing nature, walking for pleasure, and visiting farms or agricultural areas. Among specific activities seeing the greatest rates of growth is day hiking: between 1982 and 2001, participation in day hiking of people ages 16 and older increased by almost 45 percent, though more recently between 1999 and 2009, the increase was at a lower rate (about 15 percent). During the same period between 1999 and 2009, bicycling on mountain or hybrid bikes fell about 3 percent, while horseback riding on trails increased less than 2 percent. (Cordell 2012) Empirical data regarding participation in these recreational activities in the project area are not available.

As indicated above, chief among recreational values in the Monument are the many miles of multi-purpose trails available for use by hikers, mountain bikers, horseback riders, and other non-motorized recreationists. These trails provide opportunities for sightseeing, exercise, photography, and nature study in a predominantly natural setting. Tables 3.2.14.1 and 3.2.14.2 describe the trails and trail segments occurring on the selected public lands and offered Tribal lands for the proposed land exchange.

The management of these non-motorized trails on public lands in the project area is governed by existing federal regulations, BLM policies, applicable prescriptions from approved management plans, and guidance provided in other plans. The management of trails on Tribal lands is subject to the Tribal Habitat Conservation Plan, Indian Canyons Master Plan, and relevant Tribal rules and regulations. The management of trails on nonfederal, non-Tribal lands in the vicinity of the project area is governed by local municipal codes, principally those of the City of Palm Springs. It is envisioned that such codes will ultimately be aligned with approved prescriptions from the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP). Since approval of the plan in 2008, changes to municipal codes for the City of Palm Springs to align with the CVMSHCP have not occurred.⁶ While the BLM collaborated on development (and subsequent revision) of this trails management plan with the goal of ultimately realizing consistency in trails management on a landscape basis to the extent practicable, it has

⁶ In 2012, revision of the trails management plan element of the CVMSHCP was initiated. It is anticipated that until the revision process has been completed and the revised plan is approved by the Coachella Valley Conservation Commission, changes to the City of Palm Springs’ municipal codes will be deferred.

yet to issue a separate decision addressing applicability of the plan, in whole or in part, to public lands.

The following describes the most relevant federal regulations, policies, and management plans affecting recreational activities on public lands in the project area:

Federal regulations

- *43 CFR Part 2930—Permits for Recreation on Public Lands.* The regulations in this part establish permit and fee systems for special recreation permits for commercial use, organized group activities or events, competitive use, and use of special areas. These uses are defined in the regulations at 43 CFR § 2932.5. The predominant recreational activities in the project area—individuals and small groups of individuals using trails for hiking, mountain biking, and horseback riding—do not require the issuance of special recreation permits under these regulations.
- *43 CFR Part 8360—Visitor Services.* The regulations at 43 CFR § 8364.1 provide for the issuance of orders to close or restrict use of public lands to protect persons, property, and public lands and resources. Applying these regulations, the BLM imposed a temporary prohibition of persons bringing dogs, whether leashed or free-roaming, onto certain public lands in the Santa Rosa Mountains, including section 36, T.4S. R.4E., and section 36, T.5S. R.4E., but excluding all other public lands selected for the proposed land exchange (BLM: 65 FR 3473, January 21, 2000). This temporary prohibition became effective on February 1, 2000, pending completion of a comprehensive trails management plan which addresses all aspects of trail and trailhead use in the Santa Rosa Mountains National Scenic Area (now Santa Rosa and San Jacinto Mountains National Monument). As previously indicated, the BLM has not yet issued its decision regarding the trails management plan element of the CVMSHCP.
- *43 CFR Subpart 8365—Rules of Conduct.* The regulations in this subpart set forth rules of conduct for the protection of public lands and resources, and for the protection, comfort, and wellbeing of the public in its use of recreation areas, sites, and facilities on public lands. The regulations at 43 CFR § 8365.1-1 (Sanitation) prohibit the disposal of trash and garbage on public lands except in designated places or receptacles. The regulations at 43 CFR § 8365.1-4 (Public health, safety, and comfort) prohibit individuals from causing a public disturbance or creating a risk to other persons on public lands by engaging in certain behaviors (e.g., making unreasonable noise, or creating a hazard or nuisance). The regulations at 43 CFR § 8365.1-5 (Property and resources) prohibit the willful destruction of various resources (e.g., scientific, cultural, archaeological, or historic resources).

BLM policies

- *BLM Manual 6220—National Monuments, National Conservation Areas, and Similar Designations* (BLM 2012a). This manual provides guidance to BLM personnel for managing public lands that are components of the National Landscape Conservation System (NLCS) and have been designated by the Congress or the President as national monuments, national conservation areas, and similar designations. The Santa Rosa and San Jacinto Mountains National Monument is one such component of the NLCS. According to the Omnibus Public Land Management Act of 2009 (OPLMA) (16 U.S.C.

7202 et seq.), which *legislatively* established the National Landscape Conservation System, the NLCS will “conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations.”⁷ The BLM’s objectives in implementing the policy established by manual 6220 are, in part, to provide appropriate recreational opportunities to enhance the public’s understanding and enjoyment of the monuments and national conservation areas. In accordance with the policy, monuments and national conservation areas will be available for a variety of recreation opportunities, consistent with the purposes for which each area was designated. Where recreation values are identified in the designating legislation or proclamation, such as the Santa Rosa and San Jacinto Mountains National Monument Act of 2000, these values will be conserved, protected, and restored pursuant to the establishing authority. In the project area for the proposed land exchange, such values include the opportunity to recreate in the Monument, which is most often enjoyed through hiking, mountain biking, and horseback riding.

BLM management plans

- *California Desert Conservation Area Plan, as amended* (BLM 1980). The U.S. Congress established the California Desert Conservation Area in 1976 upon finding that the wealth of natural, cultural, and other resources on public lands in southern California were seriously threatened by air pollution, inadequate federal management authority, and pressures of increased use, particularly recreational use, which were certain to intensify because of the rapidly growing population in the region. To address these concerns, Congress directed the Secretary of the Interior to prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of public lands within the newly-established CDCA. (FLPMA, section 601)

In the CDCA management plan approved four years later (1980), the BLM emphasized Congress’ finding that the California desert is an important reservoir of open space as a place for recreation, and that public lands in the CDCA will become increasingly important since they are closer to urban centers than most other recreation areas, such as Death Valley. The BLM acknowledged, however, that recreationists compete for space with other resource users. Hence, the CDCA management plan provides a way for responsible citizens to share in the use and enjoyment of desert resources in a manner which enhances wherever possible, but does not diminish on balance, the environmental, cultural, and aesthetic values *and* its future productivity.

While strongly advocating that recreational facilities and regulations remain minimal, desert recreationists increasingly demand the protection of natural and cultural values which are essential to most desert recreation. Scenic values are often cited by the public as the desert’s most important resource. The BLM, though implementation of the CDCA management plan, is committed to providing opportunities for the visitor to obtain various types of outdoor recreational experiences and benefits in settings that enhance these experiences and benefits. Where significant demand exists for recreation use

⁷ The NLCS was administratively established by the Secretary of the Interior in 2000. The Omnibus Public Land Management Act of 2009 (Public Law 111-11, March 30, 2009) codified the NLCS within the Bureau of Land Management, thereby giving permanence to the NLCS and ensuring that the system remains a high priority within the BLM and the Department of the Interior.

immediately adjacent to desert communities, such as occurs in the Santa Rosa and San Jacinto Mountains, the BLM manages public lands to assist in meeting that demand.

- *California Desert Conservation Area Plan Amendment for the Coachella Valley* (BLM 2002a). This amendment to the CDCA Plan requires the BLM to manage trail segments across public lands in coordination with members of the public, local jurisdictions, and state and other federal agencies to provide for a year-round suite of non-motorized recreation opportunities on interconnected trails in the Coachella Valley and surrounding mountains. This largely occurs through the BLM's collaboration with the Coachella Valley Association of Governments and Coachella Valley Conservation Commission relative to development and implementation of the trails management plan element of the CVMSHCP. Further, as indicated in the plan amendment, non-motorized uses of the public lands within the Coachella Valley planning area may be limited as needed to protect sensitive resources, including area and trail closures. New trails which avoid impacts to sensitive resources and are developed in coordination with the community may be allowed.
- *Santa Rosa and San Jacinto Mountains National Monument Management Plan* (BLM and Forest Service 2003). This plan provides that current non-motorized recreational activities will continue where such uses are consistent with related plan decisions and Monument goals. Recreational activities will be monitored to ensure that resource values are protected and maintained. To ensure that resource values are protected, the plan established limitations on certain types of activities. Launches of hang gliders, paragliders, ultralights, and similar aircraft from and landing on BLM and National Forest System lands within and adjacent to essential Peninsular bighorn sheep habitat in the Monument is prohibited. The discharge of gas and air-propelled weapons and simulated weapons, including paintball and paintball-like weapons, is not allowed on federal lands in the Monument. Recreational shooting on federal lands, except for hunting, is allowed only in designated shooting areas within the Monument. Pets (predominantly dogs) are allowed in designated areas of federal land only and must be kept on a leash; owners are required to collect and properly dispose of their pet's fecal matter.⁸

Other applicable plans

- *National Mountain Bicycling Strategic Action Plan* (BLM 2002b). This plan provides guidance to BLM state office and field office managers and staff, interest groups, and individuals for implementing on-the-ground actions and resource protection measures for mountain bike use and other muscle-powered, mechanical transport uses. (There is no equivalent national action plan addressing hiking or equestrian activities on public lands.) It recognizes that mountain biking is an acceptable use of the public lands wherever it is compatible with established resource management objectives. This action plan, however, is not a decision document. Approved land use plans are, and will continue to be, the principal decision documents guiding BLM land managers, and there will continue to be

⁸ In conformance with federal regulations at 43 CFR § 8364.1, an order prohibiting hang glider launches and landings, gas and air-propelled weapon discharges, and recreational shooting; imposing leash requirements; and requiring fecal collection on public lands was published in the Federal Register on July 28, 2005 (BLM: 70 FR 43712). An order prohibiting persons bringing dogs onto certain public lands in the Santa Rosa Mountains was published in the Federal Register on January 21, 2000 (BLM: 65 FR 3473).

activity plans to address local issues, such as a trails management plan developed in coordination with the Coachella Valley Association of Governments/Coachella Valley Conservation Commission. But the action plan can promote responsible mountain bike and related use that will protect soil, water, wildlife habitat, threatened or endangered plant and animal species, native vegetation, heritage resources, and other resources while providing for high quality, environmentally responsible recreational opportunities (BLM 2002b)

Trail-based recreation opportunities on land exchange properties

Thirteen named or “official” trails or trail segments used by non-motorized recreationists occur on the selected public lands and offered Tribal lands for the proposed land exchange (see Figures 5b and 5c). Tables 3.2.14.1 and 3.2.14.2 (below) identify these trails and trail segments along with their specific locations, lengths, and currently allowable uses. Some “social” trails also occur on the selected public lands and offered Tribal lands; these trails are not included in the tables below, but those located on the selected public lands, totaling about 2.2 miles, are also depicted in Figures 5b and 5c.⁹ The inventory of official and social trails affected by the proposed land exchange is based on existing maps, aerial imagery, and on-the-ground verification.

Official trails in the context of the proposed land exchange are those identified by the BLM and the Tribe where some type of use is appropriate and allowed either seasonally or year-round, and which have been inventoried and depicted on maps that are created or sponsored by the BLM or the Tribe. These official trails are depicted on the trail map for the Santa Rosa and San Jacinto Mountains National Monument (BLM et al. n.d.), and *Indian Canyons Trail Guide* (ACBCI n.d.). *Social* trails are those that developed informally from use (i.e., not constructed), and are not maintained or scheduled to be maintained by an agency. They are typically associated with official trails, constituting shortcuts of switchbacks, trail braids (multiple paths deviating from the main trail), or connectors between adjacent trails.

The creation of social trails is generally associated with cross-country/off-trail travel. Whereas such travel on the selected public lands for the proposed land exchange is currently allowed year-round, it is prohibited year-round on the offered Tribal lands.

Authorization to use trails—including allowances or restrictions on the type of conveyance (e.g., hiking, mountain biking, and horseback riding)—and travel cross-country on lands managed by the BLM, whether before or after a decision is issued regarding the proposed land exchange, will likely be addressed in a separate decision to be made by the BLM as pertains to the federal land portion of the trails management plan element of the CVMSHCP. Recreational activities on lands acquired by the BLM from the Tribe would be subject to trails management prescriptions

⁹ While a comprehensive inventory of trails was conducted in association with revision of the trails management plan element of the CVMSHCP, it did not identify all social trails on the offered Tribal lands since they are not subject to provisions of the CVMSHCP. For instance, the CVMSHCP inventory depicts only three short social trail segments in section 7, T.5S. R.5E., yet a network of social mountain bike trails is known to occur at this location, connecting Dunn Road, Wild Horse Trail, and Fern Canyon Trail. Identifying an incomplete list of social trails in Table 3.2.14.2 would, therefore, convey an inaccurate portrayal of current circumstances and lend itself to a potentially skewed analysis of impacts in chapter four; hence, social trails, particularly on the offered Tribal lands, are herein addressed in a less-specific fashion. To reiterate, however, all known social trails on the selected public lands, totaling about 2.2 miles, are depicted in Figures 5b and 5c.

addressed by such decision.

No trailheads—defined as access points to a trail or trail system that are often accompanied by various public facilities, such as parking areas (Schmid, on-line posting)—are located on the exchange lands. Trailheads are not to be confused with trail intersections, of which several occur on the exchange properties.

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Table 3.2.14.1: Official trails on the selected public lands

Trail name	Location	Length of trail segment on exchange lands (miles, nearest 1/10)	Total length of trail (miles, nearest 1/10) ¹⁰	Current allowable uses on exchange lands
Skyline	section 16 T.4S. R.4E.	1.8	7.6	<ul style="list-style-type: none"> • hiking • bicycling • horseback riding • entry with leashed dogs
North Lykken	section 16 T.4S. R.4E.	0.1	4.2	
Araby	section 36 (partial) T.4S. R.4E.	0.3	1.6	<ul style="list-style-type: none"> • hiking • bicycling¹¹ • horseback riding
Berns		1.0	1.0	
Garstin		1.0	1.6	
Shannon		0.9	1.0	<ul style="list-style-type: none"> • hiking • bicycling • horseback riding
Thielman		0.3	1.5	
Wild Horse		0.8	2.9	
Jo Pond	section 21 T.5S. R.4E.	1.3	7.0	<ul style="list-style-type: none"> • hiking • bicycling • horseback riding • entry with leashed dogs
Indian Potrero	section 36 T.5S. R.4E.	1.0	2.3	<ul style="list-style-type: none"> • hiking • bicycling • horseback riding
Palm Canyon	section 36 T.5S. R.4E.	1.2	16.0	
Total miles, trails on public lands		9.7		

¹⁰ Total trail mileage lengths are based on data from Revised Section 7.3.3.2: Public Use and Trails Management on Reserve Lands within the Santa Rosa and San Jacinto Mountains Conservation Area (CVAG 2014) and Trail Map: Santa Rosa and San Jacinto Mountains National Monument (BLM et al. n.d.).

¹¹ The City of Palm Springs’ Parks and Recreation Commission (as authorized by section 12.72.030 of the city’s municipal code) adopted a resolution on December 8, 1992, to prohibit bicycle travel on the Araby, Berns, Garstin, Shannon, Henderson, South Lykken, and Picnic Table Trails, the latter three of which do not traverse any public or Tribal lands included in the proposed land exchange. This prohibition, however, is applicable only on lands under the City of Palm Springs’ jurisdiction, which does not include public lands managed by the BLM. Currently, bicycle travel on the federal land segments of these trails is allowed pending a decision by the BLM to likewise prohibit such travel.

Table 3.2.14.2: Official trails on the offered Tribal lands

Trail name	Location	Length of trail segment on exchange lands (miles, nearest 1/10)	Total length of trail (miles, nearest 1/10)	Current allowable uses on exchange lands
Dunn Road Trail	section 7 T.5S R.5E.	0.6	1.8	<ul style="list-style-type: none"> • hiking • bicycling • horseback riding
Wild Horse	section 7 T.5S R.5E.	1.1	2.9	
East Fork Loop	section 19 T.5S. R.5E.	0.7	1.7	<ul style="list-style-type: none"> • hiking • horseback riding
Total miles, trails o Tribal lands		2.4		

Potential impacts

Potential impacts to recreation upon selection of the proposed land exchange, preferred alternative, or no action alternative are addressed in chapter four of this draft EIS.

3.2.15 Special Status Species

BLM special status species are: (1) species listed or proposed for listing under the Endangered Species Act (ESA), and (2) species requiring special management consideration to promote their conservation and reduce the likelihood and need for future listing under the ESA, which are designated as *BLM sensitive* by the applicable State Director. Species designated as *BLM sensitive* must be native species found on public lands for which the BLM has the capability to significantly affect the conservation status of the species through management, and either:

- There is information that a species has recently undergone, is undergoing, or is predicted to undergo a downward trend such that the viability of the species or a distinct population segment of the species is at risk across all or a significant portion of the species range, or
- The species depends on ecological refugia or specialized or unique habitats on public lands, and there is evidence that such areas are threatened with alteration such that the continued viability of the species in that area would be at risk. (BLM 2008c)

It is BLM’s policy that the actions it authorizes shall further the conservation and/or recovery of federally listed species and conservation of BLM sensitive species. (BLM 2008c) It should be noted that “conservation” has a different meaning depending on whether it is referring to species listed under the Endangered Species Act [ESA] or BLM sensitive species.¹²

¹² “Conservation” from ESA section 3(3) and as applied to threatened, endangered, and proposed species means to use, and the use of, all methods and procedures that are necessary to bring a listed species to the point at which the measures provided pursuant to the ESA are no longer necessary. Methods and procedures of conservation include all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transportation. “Conservation” as applied to BLM sensitive species means the use of programs, plans, and management practices to reduce or eliminate threats affecting the status of the species, or improve the

3.2.15.1 *Threatened and Endangered Animal Species*

The Tribal Habitat Conservation Plan and BLM’s CDCA Plan Amendment for the Coachella Valley rely largely upon habitat models developed for the Coachella Valley Multiple Species Habitat Conservation Plan to assess the potential for certain wildlife species to occur in various habitats, including the project area for the proposed land exchange. Modeled habitat occurring within the project area includes habitat for the federally-listed Peninsular bighorn sheep, least Bell’s vireo, southwestern willow flycatcher, and desert tortoise. Designated critical habitat for Peninsular bighorn sheep occurs only on certain public lands selected for the land exchange; there is no designated critical habitat in the project area for the other three species.¹³

Peninsular bighorn sheep (*Ovis canadensis nelsoni*): federally listed as endangered; listed by the State of California as threatened.

Species overview:

Desert bighorn sheep are large mammals in the family *Bovidae*. The listed entity is a distinct population segment of a desert bighorn sheep subspecies, *Ovis canadensis nelsoni*, which inhabits the Peninsular Ranges in southern California from the San Jacinto Mountains south to the United States-Mexico international border. However, the range of the subspecies extends further south to the Volcan de Tres Virgenes Mountains in Baja California, Mexico. (USFWS 2011)

The Peninsular Ranges population of desert bighorn sheep occupies moderate to steep slopes from approximately 100 to 1,400 meters in elevation (300 to 4,600 feet), and uses alluvial fans, washes, and valley floors depending on environmental conditions and dispersal requirements. Patterns of vegetation associations in the Peninsular Ranges, in combination with bighorn sheep predator avoidance behavior, result in habitat use that is more restricted to lower elevations than most other bighorn sheep populations. Bighorn sheep generally avoid using habitat that is heavily vegetated as it reduces their ability to detect and evade potential predators; hence, bighorn sheep in the Peninsular Ranges usually remain below the chaparral and pinyon-pine juniper associations. (USFWS 2011)

This population of the subspecies exhibits a metapopulation structure—networks of interacting, but geographically distinct subpopulations, such as ewe groups—and requires habitat necessary to accommodate movements of males, and more rarely females, between the subpopulations. Peninsular bighorn sheep also exhibit a matrilineal social structure based on the female

condition of the species’ habitat on BLM-administered lands. (BLM 2008c)

¹³ In July 2013, the Mountain Fire burned approximately 3,075 acres of public lands selected for the proposed land exchange (53 percent), all located on the east flank of the San Jacinto Mountains. The only section involved in the fire that contains designated critical habitat for Peninsular bighorn sheep is section 5, T.5S. R.4E., but there is virtually no overlap between the burned area and *critical* habitat. On the other hand, the fire occurred within *essential* Peninsular bighorn sheep habitat in sections 5, 16, 21, and 27, T.5S. R.4E. The Mountain Fire also overlapped modeled habitat for the least Bell’s vireo and southwestern willow flycatcher in sections 5, 16, 21, and 29, T.5S. R.4E., and modeled habitat for the desert tortoise in sections 5, 16, 21, and 27, T.5S. R.4E. Since impacts to listed species resulting from the fire are anticipated to be temporary and localized, and not expected to affect population levels, such impacts will not be further addressed in this draft EIS.

associations (ewe groups), with ewes demonstrating strong philopatry, i.e., the behavior of remaining in the individual's birthplace. (USFWS 2011)

Federal listing:

The distinct vertebrate population segment of bighorn sheep occupying the Peninsular Ranges of southern California was listed as endangered by the U.S. Fish and Wildlife Service on March 18, 1998 (63 FR 13134). The synergistic effects of disease; low recruitment; habitat loss, degradation, and fragmentation; non-adaptive behavioral responses associated with residential and commercial development; and high predation rates coinciding with low bighorn sheep population numbers were cited as factors threatening the continued existence of these animals in southern California.¹⁴

In the 1998 final listing rule, Peninsular bighorn sheep were described as a distinct population segment of the species *Ovis canadensis*. At the time of listing, at least six subspecies of bighorn sheep were named, including *Ovis canadensis cremnobates*, which is a name that previously had been applied to Peninsular bighorn sheep. However, because of ongoing questions regarding the distinctiveness of the subspecific taxa at that time, the Peninsular Ranges population was considered a distinct population segment of the species *Ovis canadensis* rather than as a subspecies or a distinct population segment of a particular subspecies. The U.S. Fish and Wildlife Service, through publication of a Federal Register notice on April 14, 2009 (74 FR 17288), formally recognized the taxonomic placement of these animals as a distinct population segment of the desert bighorn sheep, *Ovis canadensis nelsoni*. Regardless of its systematic affiliation, the Peninsular bighorn sheep continues to meet the criteria for consideration as a distinct population segment. (USFWS 2011)

Modeled habitat:

Modeled habitat for Peninsular bighorn sheep includes public lands in the following sections, which are proposed for transfer from the BLM to the Tribe: sections 16, 17, 18, and 36, T.4S. R.4E.; and sections 5, 16, 21, 27, and 36, T.5S. R.4E. These public lands contain 4,178 acres of modeled habitat, of which 731 acres in sections 16 and 17, T.4S. R.4E., and section 5, T.5S. R.4E, are designated as critical habitat. These habitat areas have not been identified as part of a linkage or movement corridor for the Peninsular bighorn sheep. Two springs (Landslide Spring and Agua Fuerte Spring) are identified in sections 29 and 32, T.5S. R.4E., although there is no documented recent use of this area by bighorn sheep; hence, these sections are outside modeled habitat. (ACBCI 2010)

Modeled habitat for Peninsular bighorn sheep occurs within the entirety of the lands in sections 7, 19, and 20, T.5S. R.5E., proposed for transfer from the Tribe to the BLM. These areas have not

¹⁴ In 1985, the U.S. Fish and Wildlife Service designated Peninsular bighorn sheep as a category 2 candidate for listing and solicited status information (50 FR 37958, September 18, 1985); category 2 include taxa for which the USFWS has information indicating that proposing to list a species or population is possibly appropriate, but currently lacks sufficient data on biological vulnerability and threats. The USFWS subsequently determined that Peninsular bighorn sheep may be in danger of extinction throughout all or a significant portion of its range; a proposed rule to list these sheep as endangered was published on May 8, 1992 (USFWS: 57 FR 19837). The proposed listing status was reconfirmed in the November 15, 1994 (USFWS: 59 FR 58982), February 28, 1996 (USFWS: 61 FR 7596), and September 19, 1997 (USFWS: 62 FR 49398) Notices of Review.

been identified as part of a linkage or movement corridor for Peninsular bighorn sheep, although section 7 connects with section 12 (T.5S. R.4E.) to the west, the southern half of which is targeted for 100 percent conservation to facilitate sheep movement. Additionally, no springs or sheep water sources are identified on any of the lands to be transferred from the Tribe to the BLM. (ACBCI 2010)

Essential habitat / critical habitat:

Essential habitat. The U.S. Fish and Wildlife Service, in its recovery plan for Peninsular bighorn sheep, mapped “essential habitat” for this population of bighorn sheep, and described it as comprising those areas believed to be necessary for a self-sustaining bighorn population with a high probability for long-term survival (recovery), and consisting of those physical and biological resources (space, food, water, cover) needed for: (1) normal behavior and protection from disturbance, and (2) individual population growth and movement, including dispersal necessary to support a future population expansion to meet the recovery objective. The delineation of essential habitat was based on habitat features known to be important to bighorn sheep rather than being based solely on current use patterns because population numbers (when the recovery plan was prepared) were low and use patterns were known only for a short time period. (USFWS 2000) Except for public lands in portions of sections 5, 21, and 27, and all public lands in sections 29, and 32, T.5S. R.4E., the selected public lands and offered Tribal lands for the proposed land exchange occur within the essential habitat boundary mapped by the USFWS (see Figure 6).¹⁵ Modeled bighorn sheep habitat as described in the THCP (ACBCI 2010) and essential habitat as described in the recovery plan (USFWS 2000) are coincidental.

Critical habitat. Critical habitat is defined in section 3 of the Endangered Species Act of 1973 as (1) the specific areas within the geographical area occupied by a species at the time it is listed on which are found those physical or biological features essential to the conservation of the species, and which may require special management considerations or protection; and (2) the specific areas outside the geographical area occupied by a species at the time it is listed upon a determination that such areas are essential for the conservation of the species.

In the final listing rule of March 18, 1998 (63 FR 13134), the U.S. Fish and Wildlife Service did not designate critical habitat for Peninsular bighorn sheep, indicating that such designation was not prudent as it would increase the threat from human intrusion by calling attention to bighorn sheep locations, especially lambing areas. Subsequently, a final rule designating critical habitat was published on February 1, 2001 (USFWS: 66 FR 8650); a proposed rule to revise the 2001 critical habitat designation was published on October 10, 2007 (USFWS: 72 FR 57740); and a final rule revising designated critical habitat was published on April 14, 2009 (USFWS: 74 FR 17288).¹⁶ Whereas 884,897 acres fell within the boundaries of the 2001 critical habitat

¹⁵ In its 5-year review regarding Peninsular bighorn sheep, the U.S. Fish and Wildlife Service referred to “Peninsular Bighorn Sheep Recovery Plan Habitat” instead of “essential habitat,” though the boundaries for each are coincident (USFWS 2011).

¹⁶ The sequence of critical habitat designations was initially prompted by a complaint filed by the Southwest Center for Biological Diversity (now Center for Biological Diversity) and Desert Survivors challenging the U.S. Fish and Wildlife Service’s “not prudent” conclusion contained in the 1998 listing, and then a complaint filed in 2005 by the Agua Caliente Band of Cahuilla Indians challenging the 2001 designation of critical habitat. In 2009, the Center for Biological Diversity, et al., filed a complaint challenging the USFWS’s 2009 final rule designating critical habitat arguing, in part, that exclusion of Tribal lands from critical habitat was improper under the Endangered Species Act. U.S. District Court

designation, the 2009 final rule revising critical habitat reduced it to 376,938 acres, of which 4,597 acres are located in the San Jacinto Mountains (critical habitat unit 1) and 45,100 acres in the northern Santa Rosa Mountains (critical habitat unit 2A). All but 1,462 acres of critical habitat in the San Jacinto Mountains and 2 acres in the northern Santa Rosa Mountains are managed by the BLM; these 1,462 acres in the San Jacinto Mountains and 2 acres in the northern Santa Rosa Mountains are managed by the U.S. Forest Service, private landowners, or CVMSHCP permittees.

In the San Jacinto Mountains, public lands selected for the proposed land exchange that constitute designated critical habitat for Peninsular bighorn sheep include all public lands in sections 16 and 17, T.4S. R.4E., and a portion of the public lands in section 5, T.5S. R.4E., totaling 731 acres (see Figure 6). No public lands selected for the proposed land exchange in the northern Santa Rosa Mountains are designated as critical habitat.

Tribal lands offered for the proposed land exchange, as well as Tribal lands contiguous with the selected public lands, are not designated as critical habitat. As expressed in the final rule revising designated critical habitat (74 FR 17288, April 14, 2009), the U.S. Fish and Wildlife Service acknowledges that fish, wildlife, and other natural resources are better managed under Tribal authorities, policies, and programs than through federal regulation wherever possible and practicable. Based on this philosophy, the USFWS asserted that in most cases, designation of Tribal land as critical habitat provides very little additional benefit to threatened and endangered species. The U.S. District Court for the Southern District of California concurred (in *Center for Biological Diversity, et al., v. U.S. Fish and Wildlife Service, et al.* 2011), finding that the USFWS's exclusion of Tribal lands upon revising designated critical habitat for Peninsular bighorn was an appropriate exercise of its discretion under the Endangered Species Act, and that excluding Tribal lands from critical habitat designation in order to preserve a conservation partnership with the Tribe is the linchpin of the decision.

The management plans that were developed by the Tribe in cooperation with the USFWS implement the Tribe's conservation strategies and address conservation issues from a coordinated, integrated perspective rather than a piecemeal project-by-project approach. As a result, current management efforts and future management, as demonstrated through coordination between the Tribe and the USFWS, will achieve more Peninsular bighorn sheep conservation than would be achieved through multiple site-by-site, project-by-project section 7 consultations (under the Endangered Species Act) involving consideration of critical habitat.¹⁷

Comparison of essential and critical habitats. The designation of critical habitat is a different process than developing a recovery plan. Critical habitat designation is a specific regulatory action that defines specific areas as critical habitat in accordance with the statutory definition. A recovery plan, on the other hand, is a *guidance* document developed in cooperation with partners, which provides a roadmap with detailed site-specific management actions to help conserve listed species and their ecosystems. The term “essential,” as used in the recovery plan (USFWS 2000),

denied the Plaintiffs' motion and upheld the USFWS's final designation of critical habitat (*U.S. District Court, Center for Biological Diversity, et al. v. U.S. Fish and Wildlife Service, et al.* 2011).

¹⁷ Issue question b(iii) in section 1.4 of this draft EIS addresses the Tribe's notice to the U.S. Fish and Wildlife Service in October 2010 to indefinitely suspend its work on the draft THCP, and whether this suspension would affect environmental analyses regarding the proposed land exchange.

is not necessarily used in the same manner as it is used in the definition of critical habitat. Whereas the recovery plan provides important information about the species and the actions that are needed to bring about its recovery, critical habitat identifies specific areas that are essential for the species' conservation. (USFWS: 74 FR 17288, April 14, 2009)

The difference between the Peninsular bighorn sheep recovery plan boundary for essential habitat and the 2009 final revised critical habitat designation is primarily the result of employing a revised methodology to delineate critical habitat. This revised methodology incorporates new information to best identify areas that meet the definition of critical habitat, and reflects conservation decisions made through the CVMSHCP (which is applicable to nonfederal and non-Tribal lands) and the (then-draft) THCP. As a result, the final revised critical habitat boundary does not include areas which the recovery plan identified as necessary for the conservation of Peninsular bighorn sheep; based on the best currently available data, these areas are no longer considered essential for the conservation of this distinct population segment. In the opinion of the USFWS, the 2009 final revised critical habitat boundary more precisely maps the physical and biological features that occur within the geographical area occupied by Peninsular bighorn sheep. (USFWS: 74 FR 17288, April 14, 2009)

Nevertheless, additional areas outside the 2009 final revised critical habitat boundary likely contain important habitat components that are utilized by Peninsular bighorn sheep, particularly for movement of rams between ewe groups. The data available at this time, however, do not support the identification of specific areas containing essential habitat features that provide a movement corridor between recovery units 1 and 2A. But given that the areas between units 1 and 2A are steep, rugged, and remote, and there are no perceived threats in these areas, they will still be available for any natural sheep movements, thereby allowing for genetic connectivity. (USFWS: 74 FR 17288, April 14, 2009)

It is noteworthy that while the description of what constitutes essential habitat (as provided in the Peninsular bighorn sheep recovery plan) and the statutory definition of critical habitat are largely similar, the manner in which unoccupied habitat is addressed for each classification differs. In identifying essential habitat, the USFWS includes unoccupied habitat to allow for dispersal necessary to support future population expansions to meet recovery objectives. In designating critical habitat, however, unoccupied habitat is included only upon a determination that such areas are essential for the conservation of the species; if occupied habitat is determined as adequate for conservation of the species, then unoccupied habitat is not designated as critical.

Relative to the proposed land exchange, essential habitat encompasses all public lands in sections 16, 17, 18, and 36, T.4S. R.4E.; all public lands in sections 16 and 36, T.5S. R.4E.; and most public lands in sections 5, 21, and 27, T.5S. R.4E., totaling approximately 4,170 acres. Designated critical habitat encompassing public lands selected for the land exchange, on the other hand, is limited to those public lands in sections 16 and 17, T.4S. R.4E., and a portion of the public lands in section 5, T.5S. R.4E., totaling 731 acres. It is reasonable to conclude, therefore, that all public lands identified in the recovery plan as essential habitat within sections 18 and 36, T.4S. R.4E., and sections 16 and 36, T.5S. R.4E., and most public lands identified in the recovery plan as essential habitat within sections 5, 21, and 27, T.5S. R.4E., do not warrant designation as critical habitat in accordance with the Endangered Species Act; by definition, these lands would have been unoccupied at the time of the designation and are not considered essential for the conservation of the species.

Whereas the designation of critical habitat by the U.S. Fish and Wildlife Service is required by the Endangered Species Act, the identification of essential habitat is not. Concomitantly, it is the federal agency's responsibility (i.e., that of the BLM with respect to the proposed land exchange) to review its actions to determine whether they may affect a listed species or *critical habitat* (50 CFR § 402.14(a)), but not whether such actions may affect *essential habitat*.¹⁸

Threats:

At the time of listing in 1998, the U.S. Fish and Wildlife Service determined that the population of Peninsular bighorn sheep was in danger of extinction throughout a significant portion of its range due to: habitat fragmentation, degradation, and loss by urban and commercial development; disease; predation coinciding with low population numbers; response to human disturbance; insufficient lamb recruitment; nonnative toxic plants; and prolonged drought. Many threats, such as disease, predation, low lamb recruitment, and possibly human disturbance, will always be significant concerns to Peninsular bighorn sheep regardless of the efforts made to ameliorate them because, depending on population size, impacts can occur quickly and on a widespread scale, with potentially catastrophic effects on subpopulations or the metapopulation. (USFWS 2011)

The selected public lands and offered Tribal lands for the proposed land exchange are located within the San Jacinto Mountains and northern Santa Rosa Mountains recovery regions. For the San Jacinto Mountains recovery region, the threats at listing in 1998 included development, disease, predation, insufficient lamb recruitment, drought, and human disturbance. Current threats (and trends of threats) include development (increasing), trails and recreational use (increasing), invasive nonnative plants (increasing), fire suppression (constant), wildfire at low elevation (increasing), wildfire at high elevation (constant), disease (constant), predation (constant), human disturbance (increasing), insufficient lamb recruitment (increasing), and drought and climate change (increasing). (USFWS 2011)

For the northern Santa Rosa Mountains recovery region, the threats at listing in 1998 included development, ground water pumping, trails and recreational use, roads and highways, disease, predation, insufficient lamb recruitment, drought, nonnative plants, and human disturbance. Current threats (and trends of threats) include development (constant), decreasing water availability (increasing), trails and recreational use (increasing), nonnative plants (decreasing), fire suppression (constant), wildfire at low elevation (increasing), wildfire at high elevation (constant), disease (decreasing), predation (constant), human disturbance (decreasing), insufficient lamb recruitment (constant), and drought and climate change (increasing). (USFWS 2011)

¹⁸ An *action* means all activities or programs of any kind authorized, funded, or carried out, in whole or in part, by federal agencies. The proposed land exchange constitutes such an action. Whether an action *may affect* critical habitat is based on a determination whether destruction or adverse modification of critical habitat could occur. Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, those adversely modifying any of the physical or biological features that were the basis for determining the habitat to be critical. (50 CFR § 402.02)

Population trend:

Rangewide population estimates for Peninsular bighorn sheep were not made until the 1970s. Published estimates were as high as 971 in 1972 and 1,171 in 1974. Rangewide estimates declined to 570 in 1988, 400 in 1992, between 327 and 524 in 1993, 347 in 1994, and to a low of 276 adults in 1996. At the time of listing in 1998, the rangewide population estimate was approximately 335. Since then, the population as a whole has steadily increased; population estimates for 2000, 2002, 2006, and 2008 were 406, 666, 793, and 876, respectively. Estimates from the 2010 rangewide population census suggest that the population as a whole has experienced a stable to slightly increasing trend since 2008, although lamb survivorship appears to be very low. The overall population estimate for 2010 is 981 adult bighorn sheep. (USFWS 2011)

Since the time of listing, the subpopulation in the northern Santa Rosa Mountains recovery region has significantly increased in size from an estimated 22 adults in 1998 to 90 adults in 2010. The subpopulation in the San Jacinto Mountains recovery region, however, does not reflect the same upward trend: 23 adults were estimated in 1998, 21 adults in 2006, 26 adults in 2008, and 16 adults in 2010. Within each of the recovery regions, annual recruitment and survivorship of lambs varies from year to year. A subpopulation's persistence is vulnerable to disease outbreaks, high levels of predation, mortality caused by urbanization, habitat loss from development, and human disturbance. (USFWS 2011)

Recovery priority:

The recovery priority number for Peninsular bighorn sheep at the time of listing in 1998 was 3C based on a 1-18 ranking system where 1 is the highest-ranked recovery priority and 18 is the lowest. The number "3" indicates that the taxon is a distinct population segment that faces a high degree of threat and has a high potential for recovery; "C" indicates conflict with construction or other development projects or other forms of economic activity.

In 2011, the U.S. Fish and Wildlife Service recommended changing the recovery priority number from 3C to 9C. Although threats identified at listing continue to impact Peninsular bighorn sheep and its habitat, and no threat has been completely ameliorated, current regulatory mechanisms help to provide protection for this taxon in seven of the nine recovery regions, including those encompassing the San Jacinto and North Santa Rosa Mountains. Habitat fragmentation, degradation, and loss have been addressed through various measures, which have helped conserve much Peninsular bighorn sheep habitat throughout the range. Additionally, the metapopulation size of Peninsular bighorn sheep has increased to approximately 981 (as of 2010), which has helped buffer the metapopulation against individual threats such that the anticipated loss of individuals due to persistent rangewide threats may be manageable with existing management plans and regulatory mechanisms. The metapopulation has exhibited a high potential for recovery. Therefore, the recommendation to change the recovery priority number to 9C reflects a moderate degree of threat, a high recovery potential, and a conflict with development. (USFWS 2011)

However, the number of ewes in the San Jacinto Mountains recovery region remains well below the value recommended for downlisting in the Peninsular bighorn sheep recovery plan. Despite augmentation of the San Jacinto Mountains subpopulation by the Bighorn Institute since 2002, population growth has been slow and remains a concern for the recovery of the Peninsular bighorn sheep metapopulation. (USFWS 2011)

Recovery process. The recovery of Peninsular bighorn sheep involves a two-stage process, beginning with an interim goal of downlisting the species from endangered to threatened. These bighorn sheep may be considered for downlisting when: (1) at least 25 adult ewes are present in each of the nine recovery regions during each of six consecutive years without continued population augmentation, and (2) regulatory mechanisms and land management commitments have been established that provide for long-term protection of Peninsular bighorn sheep and all essential habitat. For delisting to occur, which would take Peninsular bighorn sheep off the threatened and endangered species list: (1) at least 25 adult ewes must be present in each of the nine recovery regions during each of 12 consecutive years without continued population augmentation, (2) the rangewide population must average 750 individuals (adults and yearlings) with a stable or increasing population trend over 12 consecutive years, and (3) regulatory mechanisms and land management commitments have been established that provide for long-term protection of Peninsular bighorn sheep and all essential habitat. (USFWS 2000)

Least Bell's vireo (*Vireo bellii pusillus*): federally listed as endangered; listed by the State of California as endangered.

Species overview:

The least Bell's vireo inhabits riparian woodland areas along riverine systems of southern California, primarily in San Diego, Santa Barbara, and Riverside Counties. They also breed in northern Baja California and are seen in migration in southern Baja California. This vireo species occurs at sites with two primary features: (1) a dense shrub cover one to two meters (three to six feet) off the ground where nests are typically placed, and (2) a dense, stratified canopy for foraging. Typical riparian habitats are those which may include cottonwoods, oak woodlands, and a dense understory of species such as willow, mulefat, and California wild rose; in desert areas, arrow-weed and wild grape may be dominant species in these riparian woodlands. The least Bell's vireo is known to occur as a breeding bird in Chino and Andreas Canyons within the Agua Caliente Indian Reservation. Other suitable breeding habitat may occur in Palm and Murray Canyons (also within the ACIR), among others. (CVAG 2007)

Least Bell's vireos also migrate through the Coachella Valley en route to other breeding areas. In migration, they may use desert fan palm oasis woodland, mesquite hummocks, mesquite bosque, arrow-weed scrub, desert dry wash woodland, and other vegetative communities. Least Bell's vireos typically arrive in southern California to breed from mid-March to early April and remain until late September. Most birds spend the winter in southern Baja California and Mexico. Nests are constructed in dense thickets of willow or mulefat, one to two meters from the ground. These vireos may also make their nests in other riparian tree and shrub species. (CVAG 2007)

Federal listing:

The least Bell's vireo was listed in 1986 as endangered due to a loss of habitat, which greatly restricted the vireo's breeding range, and nest parasitism by the brown-headed cowbird, which greatly reduced nesting success within much of its remaining breeding habitat. It was concluded that the destruction of riparian woodlands may have rendered the least Bell's vireo incapable of withstanding the spectacular increase in brown-headed cowbirds that began in the 1920s. The population decline of the vireo has been well documented. (USFWS: 51 FR 16474, May 2, 1986)

Modeled habitat:

Two hundred and fifty-one (251) acres of modeled habitat for the least Bell's vireo occur within section 16, T.4S. R.4E., and sections 5, 16, 21, 29, and 36, T.5S. R.4E. of the BLM exchange lands. However, in annual surveys conducted in riparian areas of the Agua Caliente Indian Reservation between 2002 and 2005, only two to three pairs of least Bell's vireo were observed per year. Breeding pairs have been observed at various times in Chino, Palm, Murray, and Andreas Canyons (section 6, T.4S. R.4E., and sections 3, 11, 14, and 22, T.5S. R.4E.). None of these pairs have been observed within the BLM exchange lands. (ACBCI 2010)

Designation of critical habitat:

On February 2, 1994, the U.S. Fish and Wildlife Service designated critical habitat for the least Bell's vireo encompassing a total of about 38,000 acres at 10 localities in portions of six counties in southern California (59 FR 4845). About 49 percent of the vireo population in the United States occurred within these 10 areas at the time.

None of the public or Tribal lands proposed for the land exchange, nor any public and Tribal lands in the project area or surrounding lands, were designated as critical habitat for the least Bell's vireo.

Threats:

Riparian habitat suitable for vireos had declined by an estimated 95 percent at the time of the endangered listing in 1986, primarily driven by anthropogenic modification (e.g., flood control, water impoundment and diversion, urban development, agricultural conversion, and livestock grazing). Although some unauthorized and unquantified loss of riparian habitat continues to occur, and no systematic estimate of the state's available riparian habitat exists, riparian habitat in San Diego County appears to have stabilized and has improved locally where afforded protection by the Endangered Species Act and other federal and state legislation; at the time of listing, San Diego County contained 77 percent of the population. (USFWS 2006)

Restoration efforts in Riverside County in the Santa Ana River, consisting of removal of the invasive giant cane (*Arundo donax*) have facilitated regrowth of willows and other habitat components and allowed an increase in the least Bell's vireo populations. Cowbird trapping and conversion of dairies to urban development has reduced the threat of cowbird parasitism to the least Bell's vireo.

To summarize, historic loss of riparian habitat contributed to the decline of the species and factored in the decision to list the vireo as endangered in 1986. Since then the amount of riparian habitat loss has been reduced and to some extent restoration efforts have increased vireo habitat. Most of this improvement has occurred in southern California. However, despite habitat improvements, nest parasitism by cowbirds remains the primary threat limiting the vireo's overall recovery. Overutilization of habitat for commercial, recreational, scientific, or educational purposes, on the other hand, has not been identified as a threat to the vireo. (USFWS 2006)

Population trend:

The population of least Bell's vireos in the United States has increased 10-fold since its listing in 1986, from 291 to 2,968 known territories. From Ventura County southward, the population has

increased significantly, though the population from Santa Barbara County northward has actually declined. Note, however, that greater than 99 percent of the remaining vireos were concentrated in southern California (Santa Barbara County and southward) at the time of listing in 1986. Although the population has grown 10-fold since the listing, greater than 99 percent still remain in southern California; relative to Riverside County, which contained an estimated 30 percent of the total population as of 2005, approximately 90 percent or greater were in the Santa Ana River area and its tributaries. As of 2005, the general population trend of least Bell's vireo has been positive in 10 of the 11 population units as designated in the 1998 draft recovery plan (which remains in draft form); the only declining population trend occurred in the Santa Ynez River in Santa Barbara County. None of these 11 population units, however, are located in the Coachella Valley. (USFWS 2006)

Recovery priority:

According to the listing and recovery priority guidance for threatened or endangered species (USFWS: 48 FR 43098, September 21, 1983), the least Bell's vireo, as a subspecies with moderate degree of threat and a high recovery potential, has a recovery priority number of 9 based on a 1-18 ranking system where 1 is the highest-ranked recovery priority and 18 is the lowest. This recovery priority number reflects that much of the past economic conflict has been alleviated within the vireo's current range through Endangered Species Act section 7 consultations and regional habitat conservation plans. In its 5-year review, the U.S. Fish and Wildlife Service recommended classification to be downlisted to threatened status with a reclassification priority of 4, which indicates an unpetitioned action with a moderate management impact (note that recovery priorities and reclassification priorities are different). (USFWS 2006)

Southwestern willow flycatcher (*Empidonax traillii extimus*): federally listed as endangered; listed by the State of California as endangered.

Species overview:

The southwestern willow flycatcher is one of five subspecies of the willow flycatcher. It is restricted to dense riparian woodlands and forests along the river and stream systems of southern California, primarily in Kern, San Diego, San Bernardino, and Riverside Counties. Its breeding range also includes southern Nevada, Arizona, New Mexico, Utah, western Texas, and possibly southwestern Colorado. They are reported as breeding birds in Mexico—in extreme northern Baja California and Sonora—and winter in Mexico, Central America, and northern South America. This flycatcher can be found at sites where a dense growth of willows, arrow-weed, or other plants occurs in thickets which, in turn, are often associated with a scattered overstory of cottonwood and other riparian trees. Suitable breeding habitat is present in a number of locations in the Coachella Valley where riparian habitat exists, including Andreas, Murray, and Palm Canyons within the project area of the proposed land exchange. (CVAG 2007)

Flycatchers begin to arrive in southern California to breed late in the spring, generally from May 15 through the summer months, until August. They construct their nests in dense thickets of willows, mulefat, and other trees and shrubs approximately four to seven meters in height. They almost always nest near surface water or saturated soil. These flycatchers have not been found nesting in habitats where the riparian zone is very narrow, or where the distance between willow patches and individual shrubs is great. Southwestern willow flycatchers also migrate through the Coachella Valley en route to other breeding areas. In migration, they may use desert fan palm

oasis woodland, mesquite hummocks, mesquite bosque, arrow-weed scrub, and desert dry wash woodland, among other vegetative communities. (CVAG 2007)

Federal listing:

The southwestern willow flycatcher was listed in 1995 as endangered due to extensive loss of habitat, brood parasitism by brown-headed cowbirds, and lack of adequate protective regulations. Large-scale losses of southwestern wetlands have occurred, particularly the cottonwood-willow riparian habitats of this flycatcher. Changes in riparian plant communities have resulted in the reduction, degradation, and elimination of nesting habitat, thereby curtailing the ranges, distributions, and numbers of western subspecies of North American flycatchers, including the southwestern willow flycatcher. Loss and modification of southwestern riparian habitats have occurred from urban and agricultural development, water diversion and impoundment, channelization, livestock grazing, off-road vehicle and other recreational uses, and hydrological changes resulting from these and other land uses. The spread and persistence of tamarisk has resulted in significant changes in riparian plant communities, coinciding with the decline of the southwestern willow flycatcher. Although this flycatcher has been documented as nesting in tamarisk, it is not known whether over the long term reproductive success of their nesting in tamarisk has differed from the success of them nesting in native vegetation; however, data suggest that tamarisk may provide poor quality nesting habitat. (USFWS: 60 FR 10694, February 27, 1995)

All three resident subspecies of willow flycatcher, including southwestern willow flycatcher, were once considered widely distributed and common in California, wherever suitable habitat existed. The historic range of the southwestern willow flycatcher in California apparently included all lowland riparian areas of the southern third of the state. All three willow flycatcher subspecies breeding in California had declined as of the time of listing, with declines most critical in southwestern willow flycatcher, which remained only in small, disjunct nesting groups, only two of which had been stable or increasing in recent years—one group on the South Fork of the Kern River, and the other along the Santa Margarita River on Marine Corps Base Camp Pendleton. (USFWS: 60 FR 10694, February 27, 1995)

Modeled habitat:

Two hundred and fifty-one (251) acres of modeled habitat for the southwestern willow flycatcher occurs in section 16, T.4S. R.4.E, and sections 5, 16, 21, 29, and 36, T.5S. R.4E. This subspecies of willow flycatcher has been observed in the vicinity of sections 10 and 11, T.5S. R.4E., but no suitable breeding habitat for it occurs there. (ACBCI 2010)

Designation of critical habitat:

On January 3, 2013, the U.S. Fish and Wildlife Service designated critical habitat for the southwestern willow flycatcher covering a total of about 1,975 stream kilometers (1,227 stream miles) on a combination of federal, state, tribal, and private lands in eight California counties, three southern Nevada counties, three southern Utah counties, four southern Colorado counties, twelve Arizona counties, and eight New Mexico counties (78 FR 344). These areas are designated as stream segments, with the lateral extent including the riparian areas and streams that occur within the 100-year floodplain or flood-prone areas encompassing a total area of approximately 208,973 acres. None of these stream segments are located within the project area or watershed of the proposed land exchange.

Threats:

The most significant threats to the southwestern willow flycatcher in the Coachella Valley are extensive loss and modification of riparian habitats upon which they depend, and nest parasitism by the brown-headed cowbird. Brown-headed cowbird parasitism rates of southwestern willow flycatcher have been reported as ranging from 50 to 80 percent in California. Other factors that have contributed to their decline include disturbance of riparian habitat by cattle, fragmentation of breeding areas, flood control activities, invasion of non-native plants in riparian habitats, degradation of habitat as a result of edge effects related to urbanization and other human activities, and sand/gravel mining. (CVAG 2007)

The decline in breeding populations of the flycatcher is well documented. It has been reported from historical and contemporary records that the southwestern willow flycatcher has declined precipitously throughout its range in the last 50 years. Parent birds in parasitized nests either desert the nest or raise the young cowbird at the expense of their own young. Human activities attract cowbirds, thereby increasing the threat to southwestern willow flycatchers. Reduction of cowbird populations in southwestern willow flycatcher habitat has been shown to substantially benefit this species, along with other riparian birds. The predominance of golf courses and agricultural areas, which both provide habitat for the cowbird, may make control of this non-native bird difficult. (CVAG 2007) Overutilization of habitat for commercial, recreational, scientific, or educational purposes, however, has not been identified as a threat to this subspecies. (USFWS 2002a)

Population trend:

Estimating the current population of southwestern willow flycatchers is challenging as it presents a moving target, both spatially and temporally. In addition, the numbers of birds at a given site fluctuate from year to year due to inter-site dispersal, and some occupied sites have been destroyed or damaged, causing the former residents to relocate and forego breeding. Although survey and monitoring efforts have increased substantially since 1993 (two years prior to listing), they vary among regions. Another confounding factor is the taxonomic identity of willow flycatchers at the edge of the range of the southwestern subspecies. When the southwestern willow flycatcher was listed as endangered in 1995, approximately 350 territories were known to exist. As of the 2001 breeding season, the minimum known number of territories was 986, not including flycatchers suspected to occur on some tribal and private lands. Though much suitable habitat remains to be surveyed, the rate of discovery of new nesting pairs has recently leveled off. A coarse estimate is that an additional 200 to 300 nesting pairs may remain undiscovered, yielding an estimated total population of 1,200 to 1,300 pairs/territories. A 1987 estimate suggested that the total flycatcher population may be 500 to 1000 pairs; thus, nearly a decade of intense survey efforts found little more than slightly above the upper end of the 1987 estimate. The surveys of the 1990s were valuable in developing a rangewide population estimate, but cannot identify a rangewide trend over that period. (USFWS 2002a)

Recovery priority:

The overall recovery objective for the flycatcher is to attain a population level and an amount and distribution of habitat sufficient to provide for the long-term persistence of metapopulations, even in the face of local losses (e.g., extirpation). This requires that threats resulting in the listing of the flycatcher in 1995 as an endangered species are ameliorated. The specific objectives are to

recover the southwestern willow flycatcher to the point that it warrants reclassification to “threatened” status, and then further to the point where it is removed from the list of threatened and endangered species. (USFWS 2002a)

Desert tortoise (*Gopherus agassizii*): federally listed as threatened; listed by the State of California as threatened.

Species overview:

The desert tortoise is a large, long-lived, herbivorous reptile that occurs in the Mojave and Sonoran deserts in southern California, southern Nevada, Arizona, and southwestern Utah in the United States, as well as Sonora and northern Sinaloa in Mexico. The Colorado Desert, in which the project area for the proposed land exchange occurs, is a subdivision of the Sonoran Desert and is located in California west of the Colorado River. The species occupies a variety of habitats from flats and slopes within creosote bush scrub at lower elevations to rocky slopes in blackbrush scrub and juniper woodland ecotones (transition zones) at higher elevations. The most favorable habitat for desert tortoises is thought to occur at elevations of approximately 305 to 914 meters (1,000 to 3,000 feet); however, records of desert tortoises range from below sea level to an elevation of 2,225 meters (7,300 feet). Typical habitat for the desert tortoise in the Mojave Desert has been characterized as creosote bush scrub below 1,677 meters (5,500 feet) in which annual precipitation ranges from 2 to 8 inches, where a diversity of perennial plants is relatively high, and production of ephemerals is high. (USFWS 2010b)

Desert tortoises spend much of their lives in burrows, even during their seasons of activity. In late winter or early spring, they emerge from over-wintering burrows and typically remain active through fall. Activity does decrease in summer, but tortoises often emerge after summer rainstorms to drink. In drought years, the availability of surface water following rains may be crucial for desert tortoise survival. During these unfavorable periods, desert tortoises decrease surface activity and remain mostly inactive or dormant underground. (USFWS 2010b)

In California, the desert tortoise is naturally absent from most areas west of the Salton Sea. Thus, the Imperial Valley and portions of the southern Coachella Valley may not support native populations. Desert tortoises, however, are found naturally along the northern, eastern, and western rim of the Coachella Valley in the foothills of the Little San Bernardino Mountains, the Painted and Whitewater Hills (in the latter they are common), and the San Jacinto and northern Santa Rosa Mountains. Desert tortoises in the foothills of the southeastern San Bernardino Mountains (especially in the Whitewater Hills) represent the westernmost reproductively-active population of desert tortoises in the Colorado Desert ecosystem. (CVAG 2007)

Federal listing:

The Mojave population of the desert tortoise was listed as threatened by the U.S. Fish and Wildlife Service on April 2, 1990 (55 FR 12178), which included all tortoises north and west of the Colorado River in California, southern Nevada, southwestern Utah, and northwestern Arizona. The listing was the result of native habitat destruction from construction projects (e.g., roads, housing developments, energy developments), habitat conversion to agriculture, habitat degradation by grazing and off-road-vehicle use, illegal collection, upper respiratory tract disease, excessive predation of juvenile tortoises by common ravens, and other factors.

Modeled habitat:

Two thousand, five hundred and sixty-four (2,564) acres of desert tortoise habitat have been modeled in sections 16, 17, 18, and 36, T.4S. R.4E., and sections 5, 16, 21, 27, and 36, T.5S. R.4E., of the BLM exchange lands. Although the number of desert tortoises in the Coachella Valley is low, isolated individuals or remnant low-density populations are found on the alluvial fans and canyon bottoms, washes, and slopes in the Santa Rosa Mountains and on the eastern side of the San Jacinto Mountains. (ACBCI 2010)

Designation of critical habitat:

Critical habitat for the Mojave population of desert tortoises was designated on August 8, 1994 (USFWS: 59 FR 5280), though none occurs in the project area for the proposed land exchange.

Among the most important recovery actions implemented pursuant to the 1994 recovery plan for desert tortoises has been formalizing desert wildlife management areas (DWMAs) through federal land use planning processes. Particularly on BLM lands, DWMAs are administered and designated as areas of critical environmental concern (ACECs). Boundaries of the ACECs were refined slightly from the critical habitat designation based on various management and biological considerations. (USFWS 2010b) None of the designated DWMAs/ACECs encompass the project area for the proposed land exchange.

Threats:

Desert tortoise habitat can be lost to urbanization and other human-related activities, including off-highway-vehicle (OHV) use, overgrazing of domestic livestock, and construction of roads and utility corridors. Secondary contributions to habitat degradation include the proliferation of exotic plant species and a higher frequency of anthropogenic fire. Effects of these impacts include alteration or destruction of macro- and micro-vegetation elements, establishment of disclimax plant communities, destruction of soil stabilizers, soil compaction, erosion, and pollution. OHV use may directly contribute to declines of desert tortoise populations by crushing individuals (above or below ground), or by collapsing burrows. Vehicular activity may also destroy vegetation used by desert tortoises for food or cover, making habitat unsuitable for sustaining their populations. (CVAG 2007) However, while it is clear that the identified threats impact individual tortoises, there are few data available to evaluate or quantify the magnitude of these threats, or their relative importance, on desert tortoise populations. (USFWS 2010b)

In the Coachella Valley, no visible evidence of upper respiratory tract disease or shell disease has been observed in the Whitewater or Painted Hills. It is believed that fire is the biggest threat to the continued survival of desert tortoises in the western Coachella Valley. The proliferation of exotic annual grasses and forbs in the region, especially Sahara mustard, has dramatically increased the frequency and extent of wildland fires in an ecosystem poorly adapted to perturbations of such periodicity or magnitude. Other than direct mortality, habitat conversion of desert scrub and semi-desert chaparral to exotic grasslands will diminish the prospects for long-term survival of viable desert tortoise populations. (CVAG 2007)

Population trend:

At the time the desert tortoise was listed in 1990, available data from long-term study plots suggested that populations had experienced notable declines well into the 1980s. The threats

identified in the original listing rule continue to affect the species today, with invasive species, wildfire, and renewable energy development coming to the forefront as important factors in habitat loss and conversion. A respiratory disease has resulted in substantial population declines in some areas. The potential effects of global climate change have also become an important consideration in future recovery planning and implementation. Since 1994 when the desert tortoise recovery plan was drafted, no significant changes in the distribution of the species have been documented despite a decline in local populations. (USFWS 2010b)

Despite the substantial body of data that has been collected from long-term study plots and other survey efforts over the years, plot placement is generally regarded as a factor limiting demographic and trend conclusions only to those specific areas; hence, historic estimates of desert tortoise density or abundance do not exist at the range-wide or regional level for use as a baseline. However, the data do provide insight into the range-wide status of the species and show appreciable declines at the local level in many areas, which coupled with other survey results suggest that declines may have occurred more broadly. (USFWS 2010b)

Recovery priority:

The recovery priority number for the desert tortoise is 12C (on a scale of 1-18 where 1 is the highest-ranked recovery priority and 18 is the lowest) according to the 2009 recovery data call for the USFWS Nevada Fish and Wildlife Office. This number indicates that the taxon is a species that faces a moderate degree of threat and has a low potential for recovery; “C” indicates conflict with construction or other development projects or other forms of economic activity. The five-year review for the Mojave population of desert tortoises recommends no change to the recovery priority. (USFWS 2010b)

Potential impacts

Potential impacts to threatened and endangered animal species upon selection of the proposed land exchange, preferred alternative, or no action alternative are addressed in chapter four of this draft EIS.

3.2.15.2 BLM Sensitive Animal Species

According to the BLM’s land use plan (California Desert Conservation Area Plan Amendment for the Coachella Valley, BLM 2002a) and the Tribal Habitat Conservation Plan (ACBCI 2010), the only designated BLM sensitive animal species that may occur on public lands selected for the proposed land exchange is the burrowing owl.

Burrowing owl (*Athene cunicularia*): BLM sensitive species; State of California species of special concern.

Species overview:

Burrowing owls have a broad distribution that includes open country throughout the Midwest and western United States, Texas and southern Florida, parts of central Canada, and into Mexico and the drier regions of Central and South America. In southern California, they are known to occur in lowlands over much of the region, particularly in agricultural areas. Within the Coachella Valley, they occur in open desert areas, in fallow fields, and along irrigation dikes and levees, wherever burrows (primarily dug by ground squirrels) are available away from intense human

activity. If left undisturbed, they will use the same burrow year after year for nesting. A clutch of seven to nine eggs is laid between March and July; both parents take part in incubation for about 28 days. The young emerge from the nest and spend daylight hours at the burrow entrance with one or both adults. However, the number of burrowing owl pairs in this area is not known. The relative population size and distribution of burrowing owls is highly variable, depending on local conditions of burrow and food availability. They often move their breeding locations over short distances (less than two to three km) from year to year, but do not appear to move over large distances. (CVAG 2007)

Burrowing owls follow a crepuscular habit, being most active during the early morning and evening hours. They are most often observed perched on fence posts or utility wires. Their diet is predominantly large insects and small rodents, but they will also take small birds, reptiles, amphibians, fish, scorpions, and other available prey. (CVAG 2007)

Modeled habitat:

On the Agua Caliente Indian Reservation (ACIR), observations of burrowing owls have been recorded in the Whitewater River wash east of the Palm Springs International Airport. Habitat types that may be suitable for these owls in the ACIR include stabilized and partially stabilized sand fields, desert saltbush scrub, Sonoran creosote bush scrub, and desert dry wash woodland. Based on the distribution of these habitat types, potentially suitable habitat includes about 214 acres of selected public lands in section 36, T.4S. R.4E. (ACBCI 2010)

Threats:

The most significant threat to the continued persistence of the burrowing owl is destruction of habitat. Their ground-nesting habit also leaves them susceptible to predation by domestic cats and dogs. Individuals may be killed on roadways while foraging at night. Where rodent burrows provide suitable nesting sites in agricultural areas, levees, and irrigation dikes, burrowing owls can be threatened by disturbance as a result of maintenance activities and by poisoning from pesticide use or rodent poisoning campaigns. (CVAG 2007)

Population trend:

The distribution of burrowing owls has changed considerably since introduction of industrial agriculture and increased urbanization, reflecting both losses and gains in local populations. Research and surveys indicate that in California, burrowing owl populations are declining in areas with the greatest urban growth while larger populations occur in areas of intensive agriculture or designated open space. Overall, the burrowing owl is greatly reduced in numbers throughout its range. (CVAG 2007)

Potential impacts

Potential impacts to burrowing owls upon selection of the proposed land exchange, preferred alternative, or no action alternative are addressed in chapter four of this draft EIS.

3.2.15.3 *Threatened and Endangered Plant Species*

No federal or state-listed threatened or endangered plant species are known to occur on lands identified for the proposed land exchange.

Potential impacts

As no threatened or endangered plant species occur on lands identified for the proposed land exchange, the potential for impacts to such plant species is not addressed in chapter four of this draft EIS.

3.2.15.4 *BLM Sensitive Plant Species*

No BLM sensitive plant species are known to occur on lands identified for the proposed land exchange.

Potential impacts

As no BLM sensitive plant species occur on lands identified for the proposed land exchange, the potential for impacts to such plant species is not addressed in chapter four of this draft EIS.

3.2.16 Visual Resource Management

The project area occurs in the Santa Rosa and San Jacinto Mountains, which provide an impressive backdrop to the Coachella Valley. The mountains surrounding this valley are the result of complex and active geological forces which created a low desert surrounded by the ranges, ridges, and peaks of the San Jacinto, San Bernardino, Little San Bernardino, and Santa Rosa Mountains. Portions of these mountain ranges are frequently snow-covered during winter months, presenting a startling visual contrast to the low desert. The unique topographical relief of the Coachella Valley provides attractive, highly-valued viewsheds.

The Federal Land Policy and Management Act of 1976 requires the BLM to protect the quality of scenic values on public lands. To achieve this, the BLM has developed and uses an analytical process that identifies, sets, and meets objectives for maintaining scenic values and visual quality: the Visual Resource Management (VRM) system. This standard protocol is used to inventory and analyze visual resource values, and ascertain whether proposed activities conform to VRM objectives for a given area of public lands. VRM classes—which describe the visual management objectives of a given area, ranging from preservation to major modification, as well as the different degrees of modification allowed to the basic elements of the landscape (form, line, color, and texture)—are designated during the Resource Management Plan (RMP) development process.

In accordance with the California Desert Conservation Area Plan Amendment for the Coachella Valley (BLM 2002a), which constitutes the governing RMP for public lands addressed in the proposed land exchange, the subject public lands are designated as Visual Resource Management Class 2. In Class 2 areas, management activities must remain subordinate to the characteristic landscape. Changes in any of the basic landscape elements caused by a management activity should not be evident. Contrasts may be visible, but must not attract attention.

Potential impacts

The proposed land exchange and alternatives would not directly or indirectly result in modifications to selected public lands or offered Tribal lands. Hence, no impacts to scenic values are anticipated because changes in visual contrasts would not occur. The potential for impacts to visual resources, therefore, is not further addressed in chapter four of this draft EIS.

3.2.17 Wastes (solid and hazardous)

A *solid waste* is defined as any discarded material not excluded under 40 CFR § 261.4(a) or not excluded by a variance granted under §§ 260.30 and 260.31, or not excluded by a non-waste determination under §§ 260.30 and 260.34. A solid waste is a *hazardous waste* if it is not excluded from regulation as a hazardous waste under § 261.4(b) and meets any of the criteria identified at § 261.3(a)(2).¹⁹ The U.S. Environmental Protection Agency determined that some specific wastes are hazardous. These wastes are incorporated into lists published by the agency. (U.S. Environmental Protection Agency 2013; also see EPA 2008)

The Tribe has completed environmental site assessments for Tribal lands offered for the proposed land exchange. Surveys identified no issues of concern, and no potential for hazardous materials on lands in Tribal ownership. A preliminary assessment of lands managed by the BLM also found no issues of concern. Records of hazardous materials from the project site were not part of the Cortese List of contaminated sites maintained by the California Department of Toxic Substances Control (CDTSC 2007).²⁰ During the public review and comment period for this draft EIS, the BLM will complete the required documentation in this regard.

Potential impacts

Unless surveys for hazardous materials unexpectedly reveal their presence on public lands, the potential for impacts resulting from these materials is absent; hence, such impacts are not further addressed in chapter four of this draft EIS.

3.2.18 Water Resources (surface and ground)

The San Bernardino, San Jacinto, and Santa Rosa Mountains effectively isolate the Coachella Valley from moist, cool maritime air masses coming on-shore from the west. Without a maritime influence, the region has a subtropical desert climate with hot, dry summers and mild winters.

¹⁹ Title 40 CFR § 261.2 defines “solid waste”; 40 CFR § 261.3 defines “hazardous waste.” The complexities of these definitions are too large for inclusion here, particularly when considering exclusions and variances. The reader is advised to consult the applicable regulations in this regard for a full understanding of what does and does not constitute solid and hazardous wastes.

²⁰ The provisions in California Government Code section 65962.5, originally enacted in 1985, are commonly referred to as the “Cortese List” (named after the legislator who authored the legislation that enacted it). While this section makes reference to the preparation of a “list,” many changes have occurred related to web-based information access since 1992 (the effective date of changes called for under the amendments to this section). This information is now largely available on the Internet sites of the responsible organizations, such as the California Department of Toxic Substances Control, California State Department of Health Services, California State Water Resources Control Board, California Integrated Waste Management Board, and California Environmental Protection Agency. (California Environmental Protection Agency on-line posting)

Occasional monsoon storms and rare tropical cyclones reach the project area. Mean annual rainfall is very low on the valley floor, typically ranging from four to six inches per year. In some years, no measurable rainfall has been reported. Typically, there is little or no stream flow in regional drainages as climatic and drainage conditions are not conducive to continuous surface runoff. However, runoff and occasional flooding do occur during and immediately following rainstorms. Damage to resource values can be exacerbated when significant rainfall events follow destructive wildfires, such as occurred in July 2013 after the Mountain Fire burned substantial acreage in the project area, including approximately 3,075 acres of public lands selected for the proposed land exchange (53 percent) and 4,050 acres of Tribal lands not offered for exchange, all on the east flank of the San Jacinto Mountains. Sizeable debris flows resulted from the unusually intense rainstorm, transporting sediments and vegetative materials down Palm Canyon and temporarily degrading surface water quality. Emergency stabilization actions have been undertaken to reduce resource damage from runoff to the extent practicable.

Runoff from developed land has the potential to contaminate and introduce pollutants to surface and ground waters. The federal Clean Air Act of 1972 (CAA) establishes a strategy to restore and maintain water quality by reducing point source pollution. Section 404 of the CAA grants authority to the U.S. Army Corps of Engineers to evaluate and approve/deny development projects that could potentially impact waters of the United States.

In 1987, amendments to the CAA shifted the focus of polluted runoff and required states to reduce discharges to the waters of the United States. These amendments required the Environmental Protection Agency to formally regulate polluted runoff utilizing a permit system under the National Pollutant Discharge Elimination System (NPDES). The NPDES program requires communities to apply for municipal permits to eliminate or control non-point source pollution. In California, the state is responsible for administering the NPDES permitting program. In the Coachella Valley region, this task is the responsibility of the Colorado River Basin Regional Water Quality Control Board.

Potential impacts

The proposed land exchange is an administrative change of landownership only and does not directly or indirectly result in modifications to the existing landscape that might adversely affect surface or ground waters. Therefore, the potential for impacts to these resources is not further analyzed in chapter four of this draft EIS. Should development be proposed on lands acquired by the BLM through this exchange, the BLM would analyze the effects of the proposal in accordance with NEPA, and require compliance with all applicable laws and regulations, including those addressing the quality of surface and ground waters. Similarly, should development be proposed on lands acquired by the Tribe through this exchange, the Tribe would implement storm water control standards and other measures to ensure the protection of water quality.

3.2.19 Wetlands and Riparian Zones

Wetlands are areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and which under normal circumstances *do* support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Riparian-wetland area management typically addresses marshes, shallow swamps, lakeshores, bogs, muskegs, wet meadows, estuaries, and riparian areas as wetlands. (BLM 1993)

Riparian areas are a form of wetland transition zone between permanently saturated wetlands and upland areas. These areas exhibit vegetation or physical characteristics reflective of permanent surface or subsurface water influence. Lands along, adjacent to, or contiguous with perennially and intermittently flowing rivers and streams are typical riparian areas. Excluded are such sites as ephemeral streams or washes—those that flow only in direct response to precipitation and whose channel is at all times above the water table—that do not exhibit the presence of vegetation dependent upon free water in the soil. (BLM 1993)

As required by Executive Order 11990 dated May 24, 1977, each agency shall provide leadership and shall take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of federal lands and facilities; (2) providing federally undertaken, financed, or assisted construction and improvements; and (3) conducting federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities.

No wetlands occur within the project area of the proposed land exchange. However, 252 acres of riparian habitat—desert fan palm oasis woodland and southern sycamore-alder riparian woodland—occur on public lands selected for the exchange. (BLM 2002a)²¹ If these lands are acquired by the Tribe, disturbances to riparian habitats thereon—especially those occupied by “covered species” (the various species addressed by the THCP for which protective measures are established)—must be avoided to the maximum extent practicable in accordance with the THCP, with a minimum of 90 percent of riparian habitat to be preserved; impacts would be mitigated through riparian creation/restoration at a minimum 1:1 ratio such that no net loss of habitats suitable to support covered species occurs within the THCP area. (ACBCI 2010)

Potential impacts

Conservation of riparian habitat could decrease by up to 25 acres following the exchange based on the THCP's 90 percent conservation requirement. However, potential impacts to these habitats must be avoided to the maximum extent practicable and mitigated to ensure no net loss of habitat in accordance with the terms of the THCP. Based on these requirements and that no developments or other habitat-disturbing actions are proposed or contemplated by the Tribe on lands it acquires from the BLM, impacts to riparian habitats are not anticipated and, therefore, are not further addressed in chapter four of this draft EIS.

3.2.20 Wild and Scenic Rivers

Wild and Scenic River designations are derived from the Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271 et seq.). This legislation states that "certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations." Designation of a stream or river

²¹ Modeled (riparian) habitat for the least Bell's vireo and southwestern willow flycatcher is identified in section 3.2.15.1 as 251 acres per the THCP versus 252 acres in accordance with the BLM's CDCA Plan Amendment for the Coachella Valley. The one-acre difference is likely due to differences in rounding or GIS projections.

segment as "Wild and Scenic" prevents the construction of flow-modifying structures or other such facilities on the selected stretch. The area of restricted development can vary, but generally includes at least the area within one-quarter mile of the ordinary high water mark on either side of the river.

A segment of Palm Canyon in section 36, T.5S. R.4E., is identified in the BLM's CDCA Plan Amendment for the Coachella Valley as eligible for designation as a Wild and Scenic River. This determination is based on the free-flowing characteristic of the river segment and its outstandingly remarkable values, including habitat for federal and state listed endangered species and state species of special concern,²² archaeological sites significant in Cahuilla oral history, and a prehistoric trail. Tentative classification of the river segment is "scenic," which means it is free of impoundments and has shorelines or watersheds that are largely primitive and undeveloped, though it may be accessible in places by roads.²³ (BLM 2002a)

Section 1852 of the Omnibus Public Land Management Act of 2009 amended section 3(a) of the Wild and Scenic Rivers Act by designating an 8.1-mile segment of Palm Canyon Creek on lands managed by the U.S. Forest Service as part of the National Wild and Scenic Rivers System, and requires the Secretary of Agriculture to enter into a cooperative management agreement with the Tribe to protect and enhance river values on this segment. These National Forest System lands are located contiguous to and south of section 36, T.5S. R.4E., which comprises a portion of the selected public lands identified for the proposed land exchange. The segment of Palm Canyon on public lands in section 36, however, was not addressed by the Omnibus Act.

Potential impacts

Potential impacts to a segment of public lands determined as eligible for designation as a Wild and Scenic River upon selection of the proposed land exchange, preferred alternative, or no action alternative are addressed in chapter four of this draft EIS.

3.2.21 Wilderness

Congress established the National Wilderness Preservation System on federal lands when it passed the Wilderness Act of 1964 (16 U.S.C. 1131 et seq.). Wilderness is generally managed to preserve an area in its natural state, to keep it undeveloped and untrammelled by human activities, and to provide opportunities for solitude and primitive forms of recreation. Travel in wilderness is limited to foot or equestrian conveyance. Motorized vehicles, bicycles, or any other form of mechanized equipment are prohibited in these areas to protect the solitude, primitive nature, and biological values of these special places.

²² Federal and state listed species identified in the CDCA Plan Amendment are Peninsular bighorn sheep, least Bell's vireo, and southwestern willow flycatcher (which are addressed in section 3.2.15.1); state species of special concern are summer tanager (*Piranga rubra cooperi*), yellow warbler (*Dendroica petechial brewsteri*), yellow-breasted chat (*Icteria virens*), gray vireo (*Vireo vicinior*), and southern yellow bat (*Lasiurus ega*). Note: The southern yellow bat was portrayed in the CDCA Plan Amendment as a federal and state endangered species, but identified as having no endangered or threatened status in the CVMSHCP (CVAG 2007).

²³ Although existing vehicle routes provide access to and parallel the eligible river segment in Palm Canyon, these routes are closed to general public access via motorized vehicles, but remain available for administrative purposes such as law enforcement, search and rescue, and fire control (BLM 2002a).

Potential impacts

The proposed exchange lands do not occur in a designated wilderness area or in an area considered for designation as wilderness, such as a wilderness study area. The potential for impacts to wilderness, therefore, is not further addressed in chapter four of this draft EIS.

3.2.21.1 Lands with Wilderness Characteristics

Inventories of all public lands and their resources are conducted and maintained on a continuing basis (FLPMA, section 201). Lands outside designated wilderness and Wilderness Study Areas (WSAs) are inventoried and assessed during the resource management plan or amendment process to determine if they possess one or more wilderness characteristics.²⁴ Plan decisions can also include a land use allocation to protect one or more wilderness characteristics during the life of the plan. (BLM 2005a, 2011a, and 2012b) These characteristics include the area's size (in general, over 5,000 contiguous acres of public land), its apparent naturalness, and outstanding opportunities for solitude or a primitive and unconfined type of recreation. They may also include supplemental values. Lands with wilderness characteristics are those lands that have been inventoried and determined by the BLM to have wilderness characteristics as defined in section 2(c) of the Wilderness Act. (BLM 2011a)

Pursuant to section 603 of the FLPMA, public lands in the project area for the proposed land exchange were inventoried between 1976 and 1979 for potential wilderness designation. An analysis and summary of this inventory is provided in *California Desert Conservation Area Wilderness Inventory: Final Descriptive Narratives* (BLM 1979), along with analyses and summaries for all other public lands in the BLM's California Desert District.²⁵ As described in *Final Descriptive Narratives*, “[Wilderness Inventory Unit No. 340] has a checkerboard land ownership pattern and, therefore, does not contain 5,000 acres of contiguous public land. In addition, the checkerboard tracts are not of sufficient size to make practicable their preservation and use in an unimpaired condition.” Accordingly, designation of the unit as a Wilderness Study Area was not warranted.

Since 1979, however, land acquisitions have increased the extent of public lands in the project area, thereby changing the pattern of checkerboard landownership such that the 1979 conclusion stemming from the 5,000-acre criterion is no longer applicable. Tracts of contiguous public lands in this area are now of sufficient size that an inventory and assessment of wilderness characteristics is appropriate. Appendix K includes documentation of BLM wilderness inventory findings on record, inventories of current wilderness characteristics for two newly-identified Wilderness Inventory Units (WIUs CA-060-340A and CA-060-340B), and a summary of findings and conclusion for each WIU; Figure 7c depicts these two WIUs.²⁶

²⁴ The California Desert Conservation Area Plan, as amended by the California Desert Conservation Area Plan Amendment for the Coachella Valley (BLM 1980 and 2002a, respectively) comprises the applicable resource management plan for the proposed land exchange.

²⁵ Public lands within the project area for the proposed land exchange comprise part of CDCA Wilderness Inventory Unit (WIU) No. 340. This WIU is bordered by Highway 111 on the north, Highway 74 on the east, and the San Bernardino National Forest on the southwest. (BLM 1979)

²⁶ As described in Appendix J—Acres, Perimeters, and Consolidation: Public and Tribal Lands—the largest “block” of consolidated public lands ranges from 10,292.76 acres under the no action alternative to 14,613.71 acres under scenarios one and two of the proposed action and the preferred alternative (see

To summarize from Appendix K, Wilderness Inventory Units 340A and 340B have wilderness characteristics—naturalness, outstanding opportunities for solitude, and outstanding opportunities for primitive and unconfined recreation—and are of sufficient size to make practicable their preservation and use in an unimpaired condition. This determination, however, is *preliminary* pending preparation of an amendment to the CDCA Plan that would include an inventory and assessment of public lands relative to wilderness characteristics outside designated wilderness and WSAs.²⁷

Potential impacts

Depending on the alternative considered, the size of Wilderness Inventory Unit (WIU) CA-060-340A varies, while WIU CA-060-340B remains constant in size under all alternatives. Effects of the proposed land exchange, preferred alternative, and no action alternative are further addressed in chapter four of this draft EIS.

3.2.22 Wildland Fire Management

Public lands:

As prescribed by the California Desert Conservation Area Plan Amendment for the Coachella Valley (BLM 2002a), response to wildland fires on public lands in the project area is based on ecological, social, and legal consequences of the fire. The circumstances under which a fire occurs, and the likely consequences on firefighter and public safety and welfare, natural and cultural resources, and other values to be protected dictate the appropriate management response to the fire. Based on these factors, the following fire management categories are identified for the following vegetation communities within the project area.²⁸

Fire Management Category B. Wildfire is not desired in desert scrub and riparian communities. Desert scrub communities are comprised of one or more of the following: blackbrush scrub, Mojave mixed steppe, Mojave mixed woody scrub, Riversidean sage scrub, Sonoran creosote bush scrub, or Sonoran mixed woody and succulent scrub. Riparian communities are comprised of one or more of the following: arrowweed scrub, desert fan palm oasis woodland, Sonoran

Figures 3a through 3e). Although this block of contiguous public lands clearly exceeds the 5,000-acre criterion which, in large part, determines the practicability for preserving wilderness characteristics that may be found therein, the presence of Dunn Road, a constructed road that generally bisects this block of public lands, effectively creates two smaller Wilderness Inventory Units: CA-060-340A and CA-060-340B. Appendix L—Wilderness Inventory Units—describes the composition and acreage of these units under each of the alternatives.

²⁷ While the prescribed context for inventorying and assessing public lands outside designated wilderness or WSAs for wilderness characteristics is during the resource management plan or amendment process, the last opportunity to do so for the project area was in 2002 when the California Desert Conservation Area Plan Amendment for the Coachella Valley was prepared, however, such inventory and assessment did not occur at that time. Since then, the CDCA Plan as it affects the project area has not been amended. Therefore, pending an amendment to the CDCA Plan that would include an inventory and assessment of wilderness characteristics on public lands, a *preliminary* determination is herein provided.

²⁸ Vegetation communities subject to Fire Management Category A prescriptions—sand dunes and san fields—do not occur on the selected public lands for the proposed land exchange.

cottonwood-willow riparian forest, southern arroyo willow riparian forest, southern sycamore-alder riparian woodland, or tamarisk scrub (non-native). With respect to the selected public lands, desert scrub communities occur in sections 16, 17, 18, and 36, T.4S. R.4E., and sections 5, 16, 21, 27, and 36, T.5S. R.4E.; and riparian communities occur in sections 29 and 36, T.5S. R.4E. All of the offered Tribal lands in sections 7, 19, and 20, T.5S. R.5E., are comprised of desert scrub communities. Immediate suppression is a critical element of fire management in these communities because fire historically has never played a large role in the development and maintenance of them. Prescribed fire may be utilized as a resource management tool in very select situations, e.g., to effectively manage exotic vegetation or enhance habitat values such as openness/visibility for bighorn sheep. (BLM 2002a)

Fire Management Category C. Woodland/forest and chaparral communities are areas where wildland fire, including prescribed burning, may be allowed. Woodland/forest communities are comprised of one or more of the following: Mojavean pinyon and juniper woodland, or Peninsular juniper woodland and scrub. Chaparral communities are comprised of one or more of the following: chamise chaparral, interior live oak chaparral, mixed montane chaparral, northern mixed chaparral, redshank chaparral, scrub oak chaparral, semi-desert chaparral, upper Sonoran manzanita chaparral, or upper Sonoran mixed chaparral. With respect to the selected public lands, woodland/forest communities occur in section 32, T.5S. R.4E; and chaparral communities occur in sections 18, T.4S. R.4E., and sections 5, 16, 17, 27, 29, and 32, T.5S. R.4E. The following constraints must be considered in determining the appropriate level of suppression:

- emphasize protection of life and property, especially trail users and montane properties;
- evaluate potential beneficial or adverse effects on threatened and endangered species habitat, especially endemic species;
- evaluate potential for adverse effects to significant or sensitive cultural and natural resources;
- promote mosaic patterns of vegetation resulting from different fire histories within the larger landscape; and
- protect areas so they do not burn at less than 15-year intervals. (BLM 2002a)

The San Bernardino National Forest (SBNF) has Direct Protection Area (DPA) responsibilities for wildland fires on public lands in the project area.²⁹ In cooperation with the BLM and the California Department of Forestry and Fire Protection (CAL FIRE), the SBNF responds to wildland fires as an interagency undertaking.

Tribal lands:

Wildland fire on the offered Tribal lands is addressed in the THCP. Consistent with the CDCA Plan Amendment for the Coachella Valley (BLM 2002a), it is acknowledged that many desert ecosystems have no adaptation to fire. The Mountains and Canyons Conservation Area—in which the proposed land exchange parcels are located—is considered to have a high to very high risk for potential wildland fire. Much of the MCCA is characterized by steep terrain with highly flammable native vegetation. Fire potential is typically greatest in the months of August, September, and October when dry vegetation co-occurs with hot, dry Santa Ana winds. Fire

²⁹ DPA responsibilities for public and National Forest System lands within the Santa Rosa and San Jacinto Mountains National Monument are split between the BLM and Forest Service. The BLM’s DPA includes all public and National Forest System lands east and south of Highway 74. The Forest Service’s DPA includes all public and National Forest System lands west and north of Highway 74.

protection services in this area are provided by the U.S. Forest Service through an agreement with the Bureau of Indian Affairs. (ACBCI 2010)

The Fire Management Plan developed for the Agua Caliente Indian Reservation provides a process that allows the Tribe to utilize a variety of fuel management techniques to protect its natural and cultural resources. The plan includes the following objectives:

- use vegetation management techniques to reduce wildfire risk and maintain vegetation;
- assure that agreements are in place that will provide adequate wildland fire protection; and
- protect wildlife, fish, and related resource values. (ACBCI 2010)

It also includes a policy that natural resource values will be evaluated on an equal basis with property and not automatically be relegated to a lower priority. Implementation of the plan is intended to be proactive and collaborative.

Potential impacts

Whether all, some, or none of the selected public lands are exchanged for the offered Tribal lands will have little to no effect on agency responses to wildland fires in the project area. The U.S. Forest Service has DPA responsibilities for the selected public lands and provides fire protection services to the offered Tribal lands. These responsibilities are anticipated to continue. Therefore, impacts to wildland fire management are not further addressed in chapter four of this draft EIS.

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CHAPTER FOUR **ENVIRONMENTAL CONSEQUENCES**

4.1 Introduction

Chapter four addresses the known and anticipated direct, indirect, and cumulative impacts on elements of the human environment from implementing the proposed action, preferred alternative, or no action alternative described in chapter two of this draft EIS. The environmental elements affected by the alternatives under consideration are described in chapter three.

This chapter is organized by environmental elements, each of which includes a description and comparison of impacts from the relevant alternatives. Only those environmental elements determined to be potentially or significantly affected by the proposed action or alternatives—Recreation Resources, Threatened and Endangered Animal Species, BLM Sensitive Animal Species, Wild and Scenic Rivers, and Lands with Wilderness Characteristics—are herein addressed.¹

4.1.1 Summary of Alternatives

The alternatives identified for detailed study in chapter two of this draft EIS are summarized as follows:

- **Proposed Action** (proposed land exchange). Approval of this alternative would result in the transfer of certain public lands in Township 4 South, Range 4 East, and Township 5 South, Range 4 East, San Bernardino and Base Meridian—totaling approximately 5,799 acres or a portion thereof depending on appraised values—from the Bureau of Land Management to the Agua Caliente Band of Cahuilla Indians in exchange for Tribal lands in Township 5 South, Range 5 East, totaling approximately 1,470 acres. Three scenarios of the proposed action are analyzed in this chapter; each scenario describes different amounts of the selected public lands that may be exchanged for the offered Tribal lands depending on the outcome of the land value equalization process.
- **Preferred Alternative**. This alternative addresses an exchange of the same public and Tribal land parcels described for the proposed action, except that public lands in section 36, Township 4 South, Range 4 East, are eliminated from consideration. Approximately 5,292 acres or a portion thereof, depending on appraised values, would be transferred from the Bureau of Land Management to the Agua Caliente Band of Cahuilla Indians in exchange for approximately 1,470 acres of Tribal lands.

¹ One purpose of the scoping process conducted in March 2012 addressing the proposed land exchange was to determine the scope of issues to be addressed in this environmental impact statement and identify significant issues to be analyzed in depth (40 CFR § 1501.7(a)(2)). As described in chapters one and three, issues related only to Recreation Resources, Threatened and Endangered Animal Species, BLM Sensitive Animal Species, and Wild and Scenic Rivers would be so analyzed in chapter four. Issues and environmental effects related to other elements of the human environment are discussed in chapters one and three, including why these elements are not potentially or significantly affected and, therefore, not analyzed in depth in this chapter (40 CFR § 1501.7(a)(3)).

- No Action Alternative. This alternative provides for continued management of the selected public lands by the BLM—subject to applicable statutes, regulations, policies, and land use plans—and continued management of the offered Tribal lands by the Agua Caliente Band of Cahuilla Indians, subject to the Tribe’s Land Use Code, Indian Canyons Master Plan (ICMP), and Tribal Habitat Conservation Plan (THCP).

4.1.2 Possible Conflicts

This chapter of the draft EIS must also discuss possible conflicts between the proposed action and the objectives of federal, regional, state, tribal, and local land use plans, policies, and controls for the area concerned. Where an inconsistency exists, the extent to which the BLM would reconcile the proposed action with the plan or law should be described. (40 CFR §§ 1502.16(c) and 1506.2(d))

Possible conflicts and the BLM’s reconciliation of them, as applicable, are discussed in section 4.2 for each of the environmental elements addressed in this chapter.

4.1.3 Direct, Indirect, Unavoidable Adverse, and Cumulative Effects²

Direct effects are those caused by the action and occur at the same time and place (40 CFR § 1508.8(a)). *Indirect effects* are those caused by the action and are later in time or further removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on water and air and other natural systems, including ecosystems. (40 CFR § 1508.8(b)) Reasonably foreseeable future actions are those for which there are existing decisions, funding, formal proposals, or which are highly probable, based on known opportunities or trends; however, speculation about future actions is not required (BLM 2008a). *Unavoidable adverse effects* are negative impacts to the environment that would occur as a result of an action and that cannot be sufficiently mitigated to a less than significant level. Unavoidable adverse effects may not occur for all programs or resources, and are only discussed where applicable. *Cumulative effects* are those resulting from the incremental impacts of an action when added to other past, present, and reasonably foreseeable future actions, regardless of which agency or person undertakes such actions. Cumulative effects could result from individually insignificant but collectively significant actions taking place over a period of time. (40 CFR § 1508.7)

The Council on Environmental Quality’s regulations at 40 CFR § 1502.16 address the scientific and analytic basis for the comparisons of alternatives. Chapter four of this draft EIS consolidates the discussions of those elements required by sections 102(2)(C)(i), (ii), (iv), and (v) of the National Environmental Policy Act which are within the scope of this draft EIS, and as much of Section 102(2)(C)(iii) as is necessary to support the comparisons. The discussion includes

² The terms “effects” and “impacts” are synonymous in the Council on Environmental Quality’s regulations at 40 CFR Parts 1500-1508 addressing implementation of the NEPA’s procedural provisions. Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial. (40 CFR § 1508.8)

environmental impacts of the alternatives, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of the human environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented.

It is challenging to ascribe direct, indirect, unavoidable adverse, and cumulative effects of implementing the proposed action or an alternative action due, in large part, to the planned delay in acquiring land value appraisals. As a result of this delay, a precise description of which selected public lands would be exchanged for the offered Tribal lands is not currently available. Such delay in acquiring these appraisals, however, is warranted because: (1) land appraisals are time sensitive and costly,³ (2) funding for acquiring land appraisals is limited, and (3) administrative processes leading to the issuance of a decision in this action may exceed the validity period for the appraisals.⁴ It is unreasonable, therefore, to risk expiration of validity for the appraisals by delaying publication of this draft EIS so that it incorporates the appraisal opinions. Such delay could result in a need to repeat the appraisals, thereby incurring considerable additional costs. Consequently, the portrayal of environmental effects in this chapter reflect the manner in which the proposed land exchange would be completed, as described in chapter two of this draft EIS.⁵ As the extent of the selected public lands proposed for transfer to the Tribe is not precisely known at this time, the order in which the selected public lands are considered when equalizing property values is critical to the analysis of potential environmental impacts, especially if only a portion of these public lands are transferred to the Tribe with the BLM retaining the remainder of them.

³ Appraisal opinions are as of a certain fixed date. Approved appraisal reports or appraised values generally remain accurate for about six to twelve months from the effective date of the value opinion. However, the length of time before the approved values should be brought current depends on local market conditions affecting the real estate or other economic conditions that may result in a significantly shorter or longer validity period. (BLM 2005b) For consideration in this draft EIS, it is assumed the validity period for the appraisal is six months. Regarding appraisal costs, the BLM's supplement to the feasibility report for the proposed land exchange estimated these costs as \$50,000 for both the public and Tribal lands. (BLM 2001b)

⁴ Administrative processes for land exchanges can be lengthy with schedules that may unpredictably require modification. The public comment period for this draft EIS is 90 days; formal consultation with the U.S. Fish and Wildlife Service, if necessary (versus informal consultation), and issuance of a biological opinion can take up to 135 days (50 CFR § 402.14(e)), though more time may be required if the USFWS determines that additional data would provide a better information base from which to formulate a biological opinion and requests an extension of formal consultation to obtain additional data (50 CFR § 402.14(f)); and preparation of the final EIS, including analysis and incorporation of public comments, as applicable, and issuance of the decision can take several more weeks depending on the nature of the comments and extent of revisions to the draft EIS.

⁵ The proposed action and preferred alternative both establish a sequence of steps for undertaking the value equalization process, and once values are equalized, the exchange is complete. It is possible, even likely, that certain public lands identified for potential exchange will be retained by the BLM at the conclusion of this land exchange. If the BLM does retain some of the selected public lands, they would probably consist of lands identified as BLM Category 2 and/or 3 parcels; Category 1 parcels would be the first to be considered in the value equalization process (see chapter two).

4.1.4 General Analytical Assumptions

The following assumptions condition analyses of impacts herein contained:

- The population in the project area will continue to grow.

The population of Palm Springs was 43,400 in 2008, and is projected to increase to 48,900 by 2020 and 56,100 by 2035 (Southern California Association of Governments 2012).

- Demand for certain non-motorized recreational activities on public lands will increase.

Between 2008 and 2060, participation in day hiking on a national level is projected to increase 45-88 percent, while participation in horseback riding on trails may increase 44-110 percent (Bowker, et al. 2012). Between 1999 and 2009, bicycling on mountain or hybrid bikes fell about 3 percent (Cordell 2012). Empirical data regarding participation in these recreational activities in the project area are not available.

- The endangered population of bighorn sheep occupying the Peninsular Ranges of California will not be down-listed or delisted in the near term.

Peninsular bighorn sheep may be considered for down-listing when at least 25 adult ewes are present in each of the nine recovery regions during each of six consecutive years without continued population augmentation. To take Peninsular bighorn sheep off the threatened and endangered species list (“delisting”), at least 25 adult ewes must be present in each of the nine recovery regions during each of 12 consecutive years without continued population augmentation, and the range-wide population must average 750 individuals (adults and yearlings) with a stable or increasing population trend over 12 consecutive years. (USFWS 2000)

- Management of trails for non-motorized recreational purposes on lands acquired by the Tribe and the BLM will not change in the short term, except as it may affect mountain bicyclists on certain trails or as could be necessary to protect resource values.

The Tribe has committed to managing trails in the same manner as the BLM upon acquisition of public lands through the proposed land exchange (ACBCI 2012). Further, existing cooperative management arrangements between the Tribe and the BLM support a collaborative approach in addressing public access to the trail system, thereby fostering consistency of management across jurisdictional boundaries. Changes in resource conditions—such as dramatic declines in the populations of Peninsular bighorn sheep in the San Jacinto and North Santa Rosa Mountains recovery units, or substantial degradation of trail conditions due to overuse, erosion, or other environmental factors—could prompt changes to the management of specific trails, whether by the Tribe or the BLM.

Bicycles are currently allowed on all federal portions of trails on the selected public lands, as well as trails on the offered Tribal lands in section 7, T.5S. R.5E. However, bicycles are prohibited on the East Fork Loop Trail where it traverses the offered Tribal lands in section 19, T.5S. R.5E. Likewise, bicycles are prohibited on all nonfederal portions of trails under jurisdiction of the City of Palm Springs in section 36, T.4S. R.4E., specifically the Araby, Berns, Garstin, and Shannon Trails. Except for the Berns Trails, the BLM intends to prohibit bicycles on the federal portions of the Araby, Garstin, and Shannon Trails for consistency with the restriction imposed by the City of Palm Springs.⁶ It is anticipated that the Tribe, should it acquire section 36, would likewise prohibit bicycle travel on the acquired portions of these trails and allow bicycles on the other trails or trail segments in this section, thereby following through on its commitment to manage trails in the same manner as the BLM.

- Reasonably foreseeable development of the selected public lands and offered Tribal lands identified for the potential land exchange is limited to construction of a non-motorized trail connecting the Garstin and Thielman Trails.

Reasonably foreseeable future actions are those for which there are existing decisions, funding, formal proposals, or which are highly probable, based on known opportunities or trends; however, speculation about future actions is not required (BLM 2008a). As previously indicated, the Tribe has not expressed intent to develop any portion of the public lands it acquires from the BLM. In addition, the Tribe has committed to managing the acquired lands consistent with the Indian Canyons Master Plan and the Tribal Habitat Conservation Plan, as applicable, which constrain development options on lands within the Mountains and Canyons Conservation Area. Similarly, the BLM is not proposing any development on the lands it acquires from the Tribe, nor is it aware of any proposals for development that may be forthcoming once the Tribal lands have been acquired.

However, as indicated in the response to issue question d(ii) in section 1.4 of this draft EIS, it is reasonably foreseeable that a trail connecting the Garstin and Thielman Trails may be constructed. Such trail is addressed in the multijurisdictional trails management plan element of the CVMSHCP for which the BLM anticipates issuing a separate decision. A portion of this connector trail occurs on the selected public lands in section 36, T.4S. R.4E., which is not included in the preferred alternative, and section 1, T.5S. R.4E., which is not included in the suite of selected public lands.

- The laws, regulations, policies, and plan prescriptions affecting the BLM's management of public lands and the Tribe's management of Tribal lands are applied consistently for all alternatives.

⁶ The vast majority (about 99 percent) of the Berns Trail is on public lands. In order to enhance opportunities for mountain biking in this area, and given the low risk of conflict between equestrians and bicyclists on this trail, it is the BLM's intent to allow bicyclists to continue using the Berns Trail.

4.1.5 Summary of Elements of the Human Environment Addressed or Not Addressed

As indicated in section 3.1 of this draft EIS, only those environmental elements determined to be potentially impacted by the proposed action or alternatives, or identified through scoping as significant issues to be analyzed in depth, are carried forward for further analysis in this chapter; such environmental elements are Recreation Resources, Threatened and Endangered Animal Species, and Wild and Scenic Rivers. Elements which would not be potentially impacted or were not identified through scoping as significant issues are not further addressed; these include the following: Air Quality, Areas of Critical Environmental Concern, Cultural Resources, Energy, Environmental Justice, Farmlands, Floodplains, Health and Safety Risks to Children, Invasive/Nonnative Species, Minerals, Native American Concerns, Noise, Threatened and Endangered Plant Species, Visual Resource Management, Wastes, Water Quality, Wetlands/Riparian Zones, and Wilderness.

4.2 Impact Analysis

4.2.1 Impacts to Recreation Resources

As expressed in section 4.1.3, the planned delay in acquiring land value appraisals makes it challenging to describe direct, indirect, unavoidable adverse, and cumulative effects since a precise description of which public land parcels would ultimately be exchanged for Tribal lands is not available at this time. With respect to non-motorized recreational trails, this means the extent of trails passing from public to Tribal ownership upon implementing the proposed land exchange or preferred alternative cannot yet be accurately described. Consequently, impacts to recreation resources are described in such manner as to reflect the sequence of steps for undertaking the value equalization process, touching on various scenarios whereupon land values are equalized and the exchange is concluded.

For purposes of this analysis, therefore, the following land value equalization scenarios are established, consistent with the process identified in chapter two for completing the land exchange:

Scenario one: Only BLM Category 1 lands are exchanged for the offered Tribal lands; no BLM Category 2 or 3 lands are exchanged—see section 2.2 (proposed action), steps 1 and 2.⁷

Scenario two: Only BLM Category 1 and 2 lands are exchanged for the offered Tribal lands; no BLM Category 3 lands are exchanged—see section 2.2 (proposed action), steps 1 through 3.

Scenario three: All BLM Category 1, 2, and 3 lands are exchanged for the offered Tribal lands—see section 2.2 (proposed action), steps 1 through 4.

⁷ As described in section 1.4a(i), this scenario may be the most likely outcome *if* the relative value of the selected public lands compared to the offered Tribal lands as determined through the land value appraisal (to be forthcoming) is consistent with estimated land values provided in “Supplement to the Agreement to Initiate Assembled Land Exchange Between the Bureau of Land Management and the Agua Caliente Band of Cahuilla Indians” (BLM and ACBCI 2003).

The analysis of impacts under scenarios one through three is additive, i.e., the effects of scenario two include those identified for scenario one, and the effects of scenario three include those identified for scenarios one and two.

A fourth scenario that represents the preferred alternative will also be utilized for analysis purposes. The effects of this scenario would be identical to either scenario one or two *if* the land exchange is completed before BLM Category 3 lands are considered in the land value equalization process described in chapter two. But if the appraised value of all BLM Category 1 and 2 parcels is less than the appraised value of the offered Tribal parcels, BLM Category 3 parcels would be added to the exchange to have parity in value for lands to be exchanged, though under the preferred alternative, section 36, T.4S. R.4E., would be excluded from consideration.

Scenario four: All BLM Category 1, 2, and 3 lands, except section 36, T.4S. R.4E., are exchanged for the offered Tribal lands—see sections 2.2 (proposed action), steps 1 through 4, and 2.3 (preferred alternative).

An additional challenge in describing environmental impacts to recreation resources stems from the lack of clear differences in effects resulting from implementation of the proposed action, preferred alternative, or no action alternative. As previously indicated, the proposed land exchange is, in essence, an administrative change of ownership only. With respect to public access to the existing non-motorized trail system, no changes are anticipated. The Agua Caliente Band of Cahuilla Indians has committed to managing trails on the acquired lands in the same manner as occurred prior to the exchange; changing or curtailing public access to these trails is neither feasible nor practical (ACBCI 2012). The BLM’s management of trails on lands it acquires from the Tribe is anticipated to mirror that for other trails the agency manages in the project area. In all likelihood, a trail user would be unaware of an exchange having occurred.

Trails on the selected public lands and offered Tribal lands subject to the proposed land exchange are depicted in Figures 5b and 5c.

Acquisition of Tribal lands common to the proposed action and preferred alternative

In accordance with the proposed action and preferred alternative, as represented by scenarios one through four describing potential outcomes of the land value equalization process, Tribal lands in sections 7, 19, and 20, T.5S. R.5E., would be transferred to the BLM. Segments of the following “official” trails would be included in this transfer: Dunn Road Trail (0.6 mile), Wild Horse (1.1 miles), and East Fork Loop (0.7 mile), totaling 2.4 miles. Management authority for about 0.7 mile of unnamed “social” trails would also be transferred to the BLM. These circumstances are consistent for each exchange scenario.⁸

⁸ In the unlikely event that the appraised value of the offered Tribal lands exceeds the appraised value of the selected public lands (see the discussion in section 1.4a(i) regarding the most likely outcome of the land value equalization process), the extent of Tribal lands included in the exchange may be reduced so that the total value of Tribal lands is equal to the federal parcels, or a cash payment not exceeding 25 percent of the value of the Tribal lands may be made by the BLM to conclude the exchange. As a result, certain trail segments could be retained by the Tribe. This outcome, however, is not anticipated.

Use of “official” and “social” trails on lands acquired from the Tribe:

It is anticipated the BLM would manage segments of the Dunn Road Trail and Wild Horse Trail in section 7, T.5S. R.5E. (to be acquired from the Tribe), consistent with management prescriptions established for adjacent segments of these trails on public lands. Specifically, hiking, mountain biking, and horseback riding would be allowed year-round; such uses are currently allowed on these trails, whether on BLM or Tribal lands. On the other hand, management of the East Fork Loop Trail in section 19, T.5S. R.5E., upon acquisition by the BLM, would likely include a prohibition of mountain bikes, consistent with the current prohibition of bicycles on this trail segment and a prohibition of bicycles on the adjoining segment on Tribal lands (section 24, T.5S. R.4E.). A decision by the BLM to allow mountain bikes on the East Fork Loop Trail in section 19 upon its acquisition would facilitate trespass on the Tribal portion of this trail in section 24, contrary to the coordinated management approach as agreed upon by the two entities in 1999 (BLM and ACBCI 1999a).

Unnamed social trails may be reclaimed or added to the network of official trails, dependent on a separate determination by the BLM. The BLM’s acquisition of the offered Tribal lands, therefore, would result in no change to recreational opportunities for hiking, mountain biking, and horseback riding on these lands if all social trails are reclaimed, or enhancement of such opportunities should the BLM determine that certain social trails warrant inclusion in the approved network of trails.

Cross-country travel on lands acquired from the Tribe:

Cross-country (or “off-trail”) travel and the use of social trails are closely related. Cross-country travel is defined as hiking, mountain biking, horseback riding, or similar non-motorized conveyance off trails specifically identified as part of the approved trail system (CVAG 2007 and 2014). Hence, the use of social trails constitutes cross-country travel.

As discussed in section 1.4d(v), hiking on Tribal lands is allowed on designated trails only in accordance with the Tribal Habitat Conservation Plan; no cross-country travel is allowed. In accordance with the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP), cross-country travel on nonfederal lands subject to the trails management plan is prohibited from January 1 through September 30, and allowed from October 1 through December 31. Restrictions on off-trail travel on public lands in the Santa Rosa and San Jacinto Mountains, including lands acquired from the Tribe, will be determined through a separate decision issued by the BLM. Whether such restrictions will be consistent with the seasonal limitation under the trails management plan has not been determined.

Therefore, opportunities to hike off-trail on lands acquired from the Tribe, whether it includes the use of social trails or occurs where no trails exist, would be affected by the proposed land exchange to the extent the BLM allows or restricts such travel on public lands in the project area through a separate decision process. If the BLM prohibits off-trail travel year-round, then the BLM’s acquisition of the Tribal lands in sections 7, 19, and 20, T.5S. R.5E., would have no effect on this activity; circumstances will not have changed from when the Tribe managed these lands. If, on the other hand, the BLM allows off-trail travel year-round, as is the current situation, or limits it to certain seasons only consistent with the trails management plan element of the CVMSHCP, then opportunities for such travel would be enhanced on these 1,470 acres, though no empirical data are available regarding occurrences of cross-country travel in the project area to suggest whether increased opportunities would be realized as actual use.

Access with dogs on lands acquired from the Tribe:

In 2000, the BLM temporarily prohibited persons bringing dogs onto certain public lands in what was then the Santa Rosa Mountains National Scenic Area, pending completion of a comprehensive trails management plan addressing all aspects of trail and trailhead use (BLM: 65 FR 3473, January 21, 2000); such trails management plan was being developed as an element of the Coachella Valley Multiple Species Habitat Conservation Plan.⁹ Whereas the temporary prohibition did not extend to public lands west of Palm Canyon, it included public lands that are contiguous to the offered Tribal lands in Township 5 South, Range 5 East. Consistent with this temporary prohibition, the trails management plan element of the CVMSHCP, as referenced in the temporary closure order, prescribes a prohibition of dogs throughout essential habitat for Peninsular bighorn sheep, except in designated areas; no such excepted areas *currently* exist in the project area for the proposed land exchange (CVAG 2007).¹⁰ Adoption of the dog prohibition as a supplementary rule applicable to the public lands that are contiguous to the offered Tribal lands, with expansion of the prohibition to lands acquired by the BLM through the proposed land exchange, is likely. As a consequence, opportunities for hiking with dogs would not be affected by the land exchange when compared to current circumstances. Conversely, should the BLM's decision allow leashed dogs on public lands within essential bighorn sheep habitat—a decision to be made separate from that regarding the proposed land exchange—opportunities for hiking with dogs would be increased; hikers and other trail users could access considerably more of the northern Santa Rosa Mountains than in recent years.¹¹ Such decision, however, is not anticipated.

4.2.1.1 Proposed Action

Scenario one:

As discussed in section 1.4a(i), scenario one represents the most likely outcome *if* the relative appraised value of the BLM Category 1 public lands equals the appraised value of the offered Tribal lands as determined through the land value equalization process. In this scenario, a 1.3-

⁹ The temporary prohibition of entry with dogs preceded designation of the Santa Rosa and San Jacinto Mountains National Monument by about nine months. Designation of the national monument encompassed public lands within the Santa Rosa Mountains National Scenic Area. The temporary prohibition of entry with dogs carried forward its applicability to the same public lands within the national monument.

¹⁰ The trails management plan element of the CVMAHCP addresses a proposed trail that would connect the Garstin and Thielman Trails—it would be known as the Frank Bogert Trail. The plan indicates that the lower segments of the Garstin and Thielman Trails, along with the connector trail, would be available for access with leashed dogs. When the CVMSHCP was approved in 2008, the northern segment of the proposed trail would be located on public lands in section 36, T.4S. R.4E., with the southern segment located on private lands in section 1, T.5S. R.4E. In 2010, the BLM acquired these private lands, thereby making the proposed project a federal action only, pending the outcome of the proposed land exchange. However, what may become a designed trail for dogs would not affect the manner in which entry with dogs is managed on lands acquired by the BLM from the Tribe.

¹¹ A leash requirement for pets on public lands in the Monument was established upon publication of an order in the Federal Register on July 28, 2005. The order additionally prohibits pets in essential habitat for Peninsular bighorn sheep, except in designated areas as determined through the trails management plan element of the CVMSHCP. (BLM: 70 FR 43712)

mile segment of the Jo Pond Trail would be included in the transfer of public lands to the Tribe; no segments of other official trails would be affected. About 0.1 mile of unnamed social trails would also be included in the transfer. The BLM would retain management authority for segments of the following official trails: Skyline (1.8 miles), North Lykken (0.1 mile), Indian Potrero (1.0 mile), Palm Canyon (1.2 miles), Araby (0.3 mile), Berns (1.0 mile), Garstin (1.0 mile), Shannon (0.9 mile), Thielman (0.3 mile), and Wild Horse (0.8 mile), totaling 8.4 miles. Management authority for about 2.1 miles of unnamed social trails would also be retained by the BLM. Of the total mileage for official trails located on the selected public lands, 13.4 percent would be transferred to the Tribe; only 4.5 percent of the social trails would be transferred to the Tribe in this scenario.¹²

Segments of the following official trails would be included in the transfer of Tribal lands to the BLM: Dunn Road Trail, Wild Horse, and East Fork Loop, totaling 2.4 miles. Management authority for an undetermined extent of unnamed social trails would also be transferred to the BLM.

Table 4.2.1.1: Scenario one, changes to management authority for official trails¹³

BLM to Tribe		Retained by BLM		Tribe to BLM	
Trail	Miles	Trail	Miles	Trail	Miles
Jo Pond	1.3	I. Potrero	1.0	Dunn Rd Tr	0.6
		P. Canyon	1.2	Wild Horse	1.1
		Skyline	1.8	E Fork Loop	0.7
		N. Lykken	0.1		
		Araby	0.3		
		Berns	1.0		
		Garstin	1.0		
		Shannon	0.9		
		Thielman	0.3		
		Wild Horse	0.8		
Total	1.3	Total	8.4	Total	2.4

¹² As described in section 3.2.13 of this draft EIS, *official* trails in the context of the proposed land exchange are those identified by the BLM and the Tribe where some type of use is appropriate and allowed either seasonally or year-round, and which have been inventoried and depicted on maps that are created or sponsored by the BLM or the Tribe. *Social* trails are those that developed informally from use (i.e., not constructed), and are not maintained or scheduled to be maintained by an agency. They are typically associated with official trails, constituting shortcuts of switchbacks, trail braids (multiple paths deviating from the main trail), or connectors between adjacent trails.

¹³ Consistent with Tables 3.2.14.1 and 3.2.14.2 in chapter three of this draft EIS, the extent of social trails is not included in Tables 4.2.1.1 through 4.2.1.6 in this section since the inventory of such trails on Tribal lands is incomplete. However, all known social trails on the selected public lands, totaling about 2.2 miles, are depicted in Figures 5b and 5c. As previously indicated, should the BLM acquire the offered Tribal lands as proposed, the inventory will be expanded to include all social trails on the acquired lands.

Direct effects

Use of “official” trails:

Jo Pond Trail

Under scenario one of the proposed action, the only official trail on public lands affected by the proposed land exchange is the Jo Pond, which connects Cedar Spring on National Forest System lands with Tribal lands in Palm Canyon via the West Fork Trail. The segment of the Jo Pond Trail on public lands that would be transferred to the Tribe is located between segments under jurisdiction of the Tribe, which are subject to prescriptions of the THCP. In practicality, therefore, recreational use of the intervening segment must correspond to management of the adjoining segments. For example, whereas mountain biking is generally prohibited on Tribal lands, it is generally allowed on public lands, including the public land segment of the Jo Pond Trail. However, if bicyclists cannot legally access this segment of the trail because of the prohibition affecting the adjoining Tribal segments, then in all practicality, mountain biking cannot occur on it, whether before or after the land exchange. Hence, whether the Tribe continues the BLM’s management prescription for allowing mountain bicycling on this segment of the Jo Pond Trail upon acquiring section 21, T.5S. R.4E., or prohibits bicycling for management consistency with the adjoining segments would make no difference in practicality.

Use of “social” trails:

The only social trail inventoried in section 21, T.5S R.4E.—a short dead-end spur (0.1 mile) off the Jo Pond Trail—is most likely a remnant of what may have been the main trail’s previous alignment. The USGS base map for this area depicts a trail that parallels the “GPSed” location of the Jo Pond Trail (i.e., its location based on data collected with the use of Global Positioning System equipment). The identified social trail coincides with a segment of the Jo Pond depicted on the USGS base map. Evidence of other segments of the depicted trail is scant or nonexistent, probably due to lack of use in favor of the now primary trail.

As previously indicated, hiking on Tribal lands is allowed on designated trails only in accordance with the Tribal Habitat Conservation Plan; hence, travel on social trails is not allowed. Upon acquisition of section 21 by the Tribe, therefore, use of the social trail identified above would be prohibited. Since its use is probably low to nonexistent, effects of the acquisition on opportunities for recreation would concomitantly be low to nonexistent. Ultimately, whether the BLM retains the section or the Tribe acquires it, this social trail will likely be reclaimed by the forces of nature.

Cross-country travel:

Under scenario one of the proposed action, opportunities for cross-country (off-trail) travel may be diminished. Whereas cross-country travel is currently allowed on the 4,015 acres of public lands that would be transferred to the Tribe, such travel would be prohibited upon acquisition by the Tribe, consistent with provisions of the THCP. Empirical data regarding levels or frequency of cross-country travel in the project

area, however, are not available, though the preponderance of steep rugged terrain, especially on the east flank of the San Jacinto Mountains, serves to constrain this type of recreational activity. Whether the loss of opportunities for cross-country travel would result in adverse impacts to cross-country travel on BLM Category 1 lands, therefore, is unknown, but such impacts are anticipated to be minor, if at all.

This assessment regarding impacts to opportunities for cross-country travel, however, is conditional. As previously described in this section regarding the BLM's management of lands acquired from the Tribe, opportunities for off-trail hiking, mountain biking, or horseback riding would be affected by the proposed land exchange to the extent the BLM allows or restricts such travel on public lands in the project area through a separate decision-making process as relates to the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan. Therefore, the analysis as provided above for scenario one is conditioned on a future BLM decision that would allow cross-country travel to continue; hence, the potential exists for a reduction of opportunities for this recreational endeavor upon the Tribe's acquisition of selected public lands. If the BLM's decision were to prohibit cross-country travel on public lands in the project area on a year-round basis, potential effects of the land exchange would be imperceptible in this respect, mirroring the Tribe's prohibition of such travel on Tribal lands.

In summary, potential effects of the proposed land exchange as it affects opportunities for cross-country travel are conditioned on a future decision by the BLM in this regard; even under the no action alternative, such opportunities may be continued, restricted, or eliminated altogether.¹⁴

Access with dogs:

Hiking with pet dogs is an important recreational opportunity for many trail users in the Coachella Valley. Therefore, the extent to which the proposed land exchange or alternatives affect this opportunity is herein addressed.

Consistent with the manner in which access to and use of trail segments managed by one jurisdiction are substantially affected by the management of adjacent trail segments, whether hikers accompanied by dogs can legally access the public land segment of the Jo Pond Trail in section 21, T.5S. R.4E., is wholly dependent on management prescriptions applicable to the adjacent Tribal lands. Whereas the BLM currently allows dogs on the public land segment of this trail,¹⁵ dogs are prohibited

¹⁴ As described in section 1.4f(ii), reasonably foreseeable future actions include those which are highly probable based on known opportunities or trends (BLM 2008a). Given the BLM's collaboration with the Coachella Valley Association of Governments in developing the multi-jurisdictional trails management plan element of the CVMSHCP, it is therefore reasonably foreseeable that the BLM will render a decision regarding applicability of the trails plan to federal lands, though whether such decision occurs before or after conclusion of the land exchange is unknown at this time. The decision itself, however, is not reasonably foreseeable; it would be an outcome of the decision-making process and based on an analysis of effects consistent with the NEPA.

¹⁵ The temporary prohibition of dogs on certain public lands in the Santa Rosa Mountains, pending completion of a comprehensive trails management plan as part of the Coachella Valley Multiple Species

on the adjacent Tribal lands. As a result, hikers with dogs cannot reasonably access and use the public land segment of the Jo Pond Trail. Hence, there is no practical difference whether the Tribe continues the BLM's management prescription for allowing hikers with dogs on this segment of the Jo Pond Trail upon acquiring section 21, T.5S. R.4E., or prohibits dogs for management consistency with the adjoining lands.

Indirect effects

No indirect effects to recreation resources are anticipated from implementation of scenario one.

Scenario two:

This scenario is presented as a possible outcome should the appraised value of the selected public lands in BLM Category 1 and BLM Category 2 equal the value of the offered Tribal lands as determined through the land value equalization process described in section 2.2. Regarding the transfer or retention of management authority for non-motorized trails, this scenario differs from scenario one only with respect to segments of the Indian Potrero and Palm Canyon Trails in section 36, T.5S. R.4E., which instead of being managed by the BLM would come under jurisdiction of the Tribe. Hence, segments of the Jo Pond, Indian Potrero, and Palm Canyon Trails, totaling 3.5 miles in length, would be managed by the Tribe under scenario two, while segments of the Skyline, North Lykken, Araby, Berns, Garstin, Shannon, Thielman, and Wild Horse Trails, totaling 6.2 miles in length, would continue to be managed by the BLM. About 1.4 miles of social trails would also be transferred to the Tribe; the BLM would continue to manage about 0.8 mile of them. Of the total mileage for official trails located on the selected public lands, 36.1 percent would be transferred to the Tribe, while 60.8 percent of the social trails would likewise be transferred.

Consistent with scenario one, segments of the following official trails would be included in the transfer of Tribal lands to the BLM: Dunn Road Trail, Wild Horse, and East Fork Loop, totaling 2.4 miles. Management authority for an undetermined extent of unnamed social trails would also be transferred to the BLM.

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Habitat Conservation Plan, does not extend to section 21, T.5S. R.4E. (BLM: 65 FR 3473, January 21, 2000). The BLM has yet to issue its decision regarding applicability of this trails management plan to federal lands.

Table 4.2.1.2: Scenario two, changes to management authority for official trails

BLM to Tribe		Retained by BLM		Tribe to BLM	
Trail	Miles	Trail	Miles	Trail	Miles
Jo Pond	1.3	Skyline	1.8	Dunn Rd Tr	0.6
I. Potrero	1.0	N. Lykken	0.1	Wild Horse	1.1
P. Canyon	1.2	Araby	0.3	E Fork Loop	0.7
		Berns	1.0		
		Garstin	1.0		
		Shannon	0.9		
		Thielman	0.3		
		Wild Horse	0.8		
Total	3.5	Total	6.2	Total	2.4

Direct effects

Use of “official” trails:

Under scenario one, the only official trail on public lands affected by the proposed land exchange is the Jo Pond. Under scenario two, segments of the Indian Potrero and Palm Canyon Trails are additionally affected.

Jo Pond Trail

Direct effects of the proposed land exchange regarding recreational activities on the Jo Pond Trail are the same as described for scenario one.

Indian Potrero Trail

Indian Potrero Trail generally parallels Palm Canyon Trail for about 2.3 miles, providing an alternate opportunity for hiking and horseback riding in Palm Canyon. Of these 2.3 miles, about one mile occurs on the selected public lands in section 36, T.5S. R.4E., with most of the remaining mileage on nonfederal, non-Tribal lands in adjacent section 25 (T.5S. R.4E.). Approximately 0.4 mile of the trail is located on Tribal lands in section 26 (T.5S. R.4E.), and less than 0.1 mile occurs at the trail’s northern terminus on Tribal lands in section 24 (T.5S. R.4E.). Unlike the public land segment of the Jo Pond Trail, however, the public land segment of the Indian Potrero Trail is not bounded by Tribal lands; the trail’s southern terminus and intersection with the Palm Canyon Trail is located on the selected public lands.

Nevertheless, access to and use of the Indian Potrero Trail, like any trail that spans multiple jurisdictions, is affected by management prescriptions established for each segment by the various entities. If such prescriptions are identical, it is clear to the trail user whether access is allowed or restricted. But should the prescriptions differ from one another, the most restrictive one often dictates access limitations in practicality, such as described for the Jo Pond Trail.

Are there different restrictions on hiking, mountain biking, or horseback riding between segments of the Indian Potrero Trail due to inconsistencies in management by the three jurisdictions? Yes, but only with respect to mountain biking. While both

the public land segment and the nonfederal, non-Tribal land segment are open to hiking, mountain biking, and horseback riding—the latter segment being subject to provisions of the Coachella Valley Multiple Species Habitat Conservation Plan, including its element addressing public use and trails management on reserve lands in the Santa Rosa and San Jacinto Mountains Conservation Area (CVAG 2007)—the Tribal segments are closed to mountain biking. If bicyclists cannot legally access this segment of the trail through the northern terminus because of the Tribe’s prohibition affecting the segment in section 24, and access from the south can only occur as far as the trail’s intersection with Tribal lands in section 26, then in practicality, mountain biking is substantially limited on it. In essence, Indian Potrero Trail is a one-mile dead-end trail for mountain bikers.

Upon acquisition of section 36 by the Tribe and continuation of the BLM’s allowance for mountain biking on this trail segment, should the Tribe choose to make such an allowance consistent with its commitment to manage non-motorized activities on the acquired lands in the same manner as the BLM, opportunities for this recreational activity would not change. However, if the Tribe were to prohibit mountain bikes on the acquired segment of the Indian Potrero Trail for consistency with its prohibition on the Tribal segments in sections 24 and 26, impacts to mountain biking would be minor given availability of the parallel Palm Canyon Trail on which bicycles are allowed (see discussion below). Hence, whether the Tribe continues the BLM’s management prescription for allowing mountain bicycling on this segment of the Indian Potrero Trail upon acquiring section 36, T.5S. R.4E., or prohibits bicycling for management consistency with other segments of the trail on Tribal lands, it would make little difference in practicality.¹⁶

However, since access to the Indian Potrero Trail is governed by management prescriptions affecting access to the Palm Canyon Trail, circumstances affecting mountain biking activities on National Forest System lands to the south are important to acknowledge (see discussion below regarding the Palm Canyon Trail).

Palm Canyon Trail

Palm Canyon Trail is the primary route for non-motorized recreational activities within its namesake, extending for about 16 miles from State Highway 74 in the Pinyon Flat area to the Trading Post in the Indian Canyons. It traverses lands managed by multiple jurisdictions, including the BLM and the Tribe. About 1.2 miles of this trail occur on public lands in section 36, T.5S. R.4E. Other jurisdictions with management responsibility for the Palm Canyon Trail include the Coachella Valley Mountains Conservancy, Friends of the Desert Mountains, and the U.S. Forest Service. Several other trails intersect the Palm Canyon Trail, thereby providing alternate access to it. These include the Omstott, Pinyon, Live Oak Canyon, Oak Canyon, Dutch Charlie, Potrero Canyon, Dry Wash, East Fork, Vandeventer, Victor, and West Fork Trails.

¹⁶ Currently, mountain bikers heading north on Palm Canyon Trail are encouraged to stay on this trail and off Indian Potrero Trail to avoid trespassing on Tribal lands further to the north; a sign directing bikers to the Palm Canyon Trail was installed at this intersection in March 2014.

As for all trails on the selected public lands, opportunities for hiking and horseback riding on the Palm Canyon Trail are not currently constrained; the same holds true for segments of the trail on other jurisdictional lands. But with respect to mountain biking on this trail, similar circumstances occur as with the other two trails discussed thus far (Jo Pond and Indian Potrero Trails): access to and use of the segment on the selected public lands is largely dependent on restrictions imposed by other jurisdictions on adjacent segments. This is a common thread for trails crossing multiple management entities. How, then, is mountain biking on the Palm Canyon Trail affected under scenario two of the proposed land exchange?

Consistent with the Tribe's prohibition of mountain biking on most trails currently under its jurisdiction, mountain bikes cannot travel on the Palm Canyon Trail north of its intersection with the Dry Wash Trail in section 24, T. 5S. R.4E., but may continue to use the trail south of this intersection, as well as the Dry Wash Trail where it occurs on Tribal lands, thereby enabling access to the system of trails in the Murray Hill complex via Dry Wash Trail, Dunn Road, and Hahn Buena Vista Trail.

Therefore, consistent with the Tribe's commitment to manage trails in the same manner as the BLM upon acquisition of public lands (ACBCI 2012), no changes regarding access to Palm Canyon Trail by hikers, mountain bikers, and horseback riders would result from implementation of the proposed land exchange.

It is important to acknowledge, however, existing and potential restrictions on mountain bike access to the Palm Canyon Trail where it occurs on National Forest System lands under jurisdiction of the San Bernardino National Forest. As depicted in the San Bernardino National Forest Land Management Plan (Forest Service 2005), segments of the trail traverse lands recommended for wilderness designation in section 13, T.6S. R.4E., and sections 18 and 19, T.6S. R.5E. Lands the Forest Service recommends for wilderness designation are managed to maintain their existing wilderness character and potential for inclusion in the National Wilderness Preservation System until Congress passes legislation designating the wilderness or the area is released from consideration through future planning efforts. Accordingly, mechanized recreation, such as mountain biking, is a nonconforming use on segments of the Palm Canyon Trail where located in the *Recommended Wilderness* land use zone.

The San Bernardino National Forest is in the process of amending its land management plan.¹⁷ Both the proposed action and preferred alternative of the Southern California National Forests Land Management Plan Amendment (Forest Service 2013) include the same lands recommended for wilderness designation as identified in the 2005 revised plan for the San Jacinto Ranger District of the San Bernardino National Forest; mountain biking would remain a nonconforming use on certain segments of the Palm Canyon Trail if either alternative is adopted.¹⁸

¹⁷ The Angeles, Cleveland, Los Padres, and San Bernardino National Forests are amending their respective land management plans as they relate to roadless area management and to monitoring. The proposed amendment is a result of a settlement agreement approved January 3, 2011, as the remedy for two lawsuits challenging the revised land management plans (California Resources Agency, et al. v. U.S. Department of Agriculture; and Center for Biological Diversity, et al. v. U.S. Department of Agriculture).

Nevertheless, access to the trail would still be available via the Potrero Canyon Trail which intersects the Palm Canyon Trail north of its location within the *Recommended Wilderness* land use zone (Pyramid Peak A).

Most of the Palm Canyon Trail on National Forest System lands, however, occurs within the *Recommended Wilderness* land use zone under the recommended wilderness emphasis alternative (alternative three). While this alternative is neither proposed nor preferred, nor is it approved in accordance with the draft Record of Decision for the Southern California National Forests Land Management Plan Amendment (Forest Service n.d.), mountain bicycle access would be largely a nonconforming use on the Palm Canyon Trail in the project area for the proposed land exchange if it were to be adopted, except for the 1.2-mile segment on the selected public lands.

Use of “social” trails:

Several social trails have been inventoried on the selected public lands in section 36, T.5S. R.4E., including a spur extending from the Indian Potrero Trail in the northwest corner of the section and a second spur extending from the Palm Canyon Trail in the southeast quarter. The remaining social trails generally parallel these two official trails in section 36. Total length of the social trails in this section is about 1.3 miles; cumulatively under scenario two, total length of affected social trails is 1.4 miles.

Since hiking on Tribal lands is allowed on designated trails only in accordance with the Tribal Habitat Conservation Plan, travel on the social trails in section 36 would not be allowed. In all likelihood, they would either be removed by the Tribe or ultimately reclaimed by the forces of nature. If section 36 is retained by the BLM, the same outcome would be probable, though the BLM would make a separate determination regarding the fate of these social trails. Since their use is probably low given the availability of the Indian Potrero and Palm Canyon Trails in this area, effects of the acquisition by the Tribe on opportunities for recreation would likewise be low.

Cross-country travel:

Under scenario two of the proposed action, opportunities for cross-country travel may be further diminished (compared to scenario one) upon the Tribe’s acquisition of BLM Category 1 and 2 lands. Whereas cross-country travel is currently allowed on the affected 4,656 acres of public lands (4,015 acres from scenario one plus 641 acres that come into play under scenario two), such travel would be prohibited upon their acquisition by the Tribe, consistent with provisions of the THCP. Empirical data regarding levels or frequency of cross-country travel in the project area, however, are not available, though the steep rugged terrain on the east flank of the San Jacinto Mountains for much of the selected public lands effectively constrains this type of

¹⁸ San Bernardino National Forest intends to relocate Palm Canyon Trail east of its current location to avoid trail-based recreation in the canyon bottom, thereby providing for mountain biking outside the *Recommended Wilderness* zone and affording increased protection of riparian habitat (Colwell pers. comm.). It is unknown, however, when planning for relocation of the trail would begin.

recreational activity. Opportunities for cross-country travel in section 36 (T.5S. R.4E.), though, are less affected by topography, particularly in the section's eastern half. Whether the loss of opportunities for cross-country travel consequent to the proposed land exchange would result in adverse impacts to cross-country travel on the BLM Category 1 and 2 lands is unknown given the lack of empirical data for this type of activity, but such impacts are anticipated to be minor.

Consistent with scenario one, however, the analysis regarding potential effects of the proposed land exchange on opportunities for cross-country travel under scenario two is conditional, dependent on a separate decision to be made by the BLM regarding this activity (see previous discussion).

Access with dogs:

The BLM currently prohibits access with dogs in section 36, T.5S. R.4E.¹⁹ The Tribe also prohibits dogs on the lands it manages in the project area. Therefore, upon acquisition of section 36 by the Tribe, there would be no change in this regard. When considered in light of the circumstances described above for scenario one, the Tribe's prohibition of dogs on the acquired BLM Category 1 and 2 lands combined represents no change, whether from a practical point of view (as occurs under scenario one) or as a regulatory matter (as occurs for section 36).

Indirect effects

No indirect effects to recreation resources are anticipated from implementation of scenario two.

Scenario three:

This scenario constitutes the proposed land exchange as originally conceived whereupon all the selected public lands would be transferred to the Tribe in exchange for the offered Tribal lands, though as previously discussed, it would likely have required the purchase of additional lands by the Tribe to complete the exchange. While this scenario is presented as a possible outcome should the value of the selected public lands equal the value of the offered Tribal lands as determined through the land value equalization process described in section 2.2, it is not likely. Under scenario three, management authority for segments of the following trails would be transferred from the BLM to the Tribe: Jo Pond, Indian Potrero, Palm Canyon, Skyline, North Lykken, Araby, Berns, Garstin, Shannon, Thielman, and Wild Horse, totaling 9.7 miles in length. About 2.2 miles of social trails would also be transferred to the Tribe. The BLM would retain no authority to manage either official or social trails on the selected public lands once the exchange is complete.

Consistent with scenarios one and two, segments of the following official trails would be included in the transfer of Tribal lands to the BLM: Dunn Road Trail, Wild Horse, and East Fork

¹⁹ The temporary prohibition of dogs on certain public lands in the Santa Rosa Mountains, pending completion of a comprehensive trails management plan as part of the Coachella Valley Multiple Species Habitat Conservation Plan, includes section 36, T.5S. R.4E. (BLM: 65 FR 3473, January 21, 2000). The BLM has yet to issue its decision regarding applicability of this trails management plan to federal lands.

Loop, totaling 2.4 miles. Management authority for an undetermined extent of unnamed social trails would also be transferred to the BLM.

Table 4.2.1.3: Scenario three, changes to management authority for official trails

BLM to Tribe		Retained by BLM		Tribe to BLM	
Trail	Miles	Trail	Miles	Trail	Miles
Jo Pond	1.3			Dunn Rd Tr	0.6
I. Potrero	1.0			Wild Horse	1.1
P. Canyon	1.2			E Fork Loop	0.7
Skyline	1.8				
N. Lykken	0.1				
Araby	0.3				
Berns	1.0				
Garstin	1.0				
Shannon	0.9				
Thielman	0.3				
Wild Horse	0.8				
Total	9.7	Total	0.0	Total	2.4

Direct effects

Use of “official” trails:

Under scenario one, the only official trail on public lands affected by the proposed land exchange is the Jo Pond. Under scenario two, segments of the Indian Potrero and Palm Canyon Trails are additionally affected. Under scenario three, all trails on the selected public lands are affected.

Jo Pond, Indian Potrero, and Palm Canyon Trails

Direct effects of the proposed land exchange regarding recreational activities on the Jo Pond, Indian Potrero, and Palm Canyon Trails are the same as described for scenarios one and two.

Skyline and North Lykken Trails

The Cactus to Clouds Trail, the majority of which is comprised of the Skyline Trail, is the only trail on the selected public lands that possesses widespread national recognition. In the May 2005 edition of *Backpacker* magazine, the Cactus to Clouds is described as one of America’s ten hardest day hikes, connecting the valley floor in Palm Springs at about 400 feet elevation with the 10,834-foot summit of Mount San Jacinto (Lanza 2005). Among other listings, it is included on the *National Geographic Adventure* website as one of an author’s top ten favorite hikes (Skurka 2013).

Beginning at its intersection with the North Lykken Trail in section 15, T.4S. R.4E., the Skyline traverses multiple jurisdictions as it ascends the eastern flank of the San Jacinto Mountains, ending in Long Valley near the Mountain Station of the Palm Springs Aerial Tramway. In addition to crossing the selected public lands, it crosses

lands managed by the following entities: Agua Caliente Band of Cahuilla Indians, City of Palm Springs, California Department of Parks and Recreation, Coachella Valley Mountains Conservancy, and a private landowner. The 1.8-mile segment of the trail on public lands and four segments on Tribal lands (totaling about 2.5 miles) are sandwiched between segments on city and state lands.

The Skyline Trail passes through more jurisdictions than any of the other twelve trails directly affected by the proposed land exchange; the Palm Canyon Trail runs a close second. Hence, the extent to which management prescriptions are consistent or inconsistent between jurisdictions directly affects public access to the trail. An examination of how these jurisdictions manage access to the Skyline Trail, therefore, is important for understanding the effects of the land exchange on recreation resources, though the focus of this discussion will be on the BLM and the Tribe (as parties to the land exchange), and the City of Palm Springs and California Department of Parks and Recreation (specifically Mt. San Jacinto State Park and Wilderness) as the trail’s “bookend” jurisdictions.²⁰

Hiking and horseback riding on the Skyline Trail are currently allowed by all jurisdictions without temporal restrictions or imposition of fees,²¹ though equestrian use of the trail is infrequent, if at all. Mountain biking, while allowed on the lower reaches of the trail where it traverses City of Palm Springs and BLM lands, is prohibited on the upper segments where located on Tribal and state lands, though anecdotal evidence suggests little, if any, mountain bike use of this trail occurs. Transfer of section 16, T.4S. R.4E., to the Tribe would expand its management authority for the Skyline Trail from 2.5 miles to 4.3 miles (an increase of 72 percent), or from about 33 percent to 57 percent of this 7.6-mile trail. How would such change manifest itself with respect to public access? In essence, not at all.

As has been reiterated several times in this draft EIS, the Tribe has committed to manage trails on the acquired public lands in the same manner as the BLM (ACBCI 2012). Changing or curtailing public access to these trails is not feasible or practical since no trailheads occur on the exchange lands, which substantially limits a jurisdiction’s ability to control access or charge fees, a circumstance that may be exacerbated by the existence of multiple access points to some trails. Consistent with this commitment is the manner in which the Tribe manages segments of the Skyline Trail on Tribal lands. The Tribe, at any time, could have pursued actions to limit public access to the Skyline Trail by restricting hours or seasons of use or charging a fee for the segments it manages, but the Tribe has not done so, whether for lack of feasibility or practicality, or for other reasons. Acquisition of section 16 would not change circumstances in this regard; Tribal segments of the trail would continue to be “bookended” by non-Tribal lands, thereby limiting the Tribe’s options to effectively control public access. Therefore, such acquisition would have little to no effect on

²⁰ Trails in sections 16 and 36, T.4S. R.4E., including the Skyline Trail, were of most concern to participants in the scoping process that was conducted in 2012 to identify issues to be addressed by the EIS. These concerns revolved around the Tribe’s management of trails in these sections upon their acquisition, principally with respect to limitations on access and potential for fees.

²¹ A common practice for hikers ascending the Skyline Trail is to return to the valley floor via the Palm Springs Aerial Tramway for which a fee is charged. Far fewer hikers descend the Skyline Trail.

public access to the Skyline Trail, even if the Tribe were to prohibit mountain biking on the acquired segments for purposes of management consistency with the segments it now manages—such activity, if it occurs at all, would be further limited only in how far an individual could bicycle up the trail from its intersection with the North Lykken; travel by bicycle on the current Tribal segments and into Mt. San Jacinto State Park and Wilderness is already prohibited at the trail’s western extension.

The only other official trail segment on the selected public lands in section 16 comprises part of the North Lykken Trail, though this segment is only about 0.1 mile in length. The majority of the trail (about 3.8 miles) is within the City of Palm Springs’ jurisdiction, with a considerably shorter segment (about 1/4 mile) on Tribal lands. As with the Skyline Trail, a change in jurisdiction managing the 0.1-mile segment would have little to no effect on public access, whether for hiking, mountain biking, or horseback riding, the latter two of which occur at very low to nonexistent levels.²² Again, the Tribe’s commitment to manage trails on the acquired public lands in the same manner as the BLM punctuates this assessment of little to no effect.

Araby, Berns, Garstin, Shannon, Thielman, and Wild Horse Trails

Segments of trails on the selected public lands in section 36, T.4S. R.4E.—Araby, Berns, Garstin, Shannon, Thielman, and Wild Horse—facilitate public access for non-motorized recreation in what is often described as the “Murray Hill trail complex.” Whether these trails are utilized for “out and back” jaunts on individual trails, for loop opportunities, or to access a host of other trails and areas in the Santa Rosa Mountains, they provide important recreation experiences for hikers, runners, mountain bikers, and horseback riders. The only currently authorized access for mountain bikers into this trail complex from west is via the Thielman Trail located, in part, in section 36. Hence, considerable concern about future management of these trails upon their acquisition by the Tribe was expressed during the public scoping process in 2012 (see Appendix I, scoping report).

The City of Palm Springs manages trailheads for the Garstin and Araby Trails, while the Thielman trailhead is located on public lands in section 1, T.5S. R.4E.; these lands are not among those selected for the proposed land exchange. Therefore, as a consequence of the exchange the Tribe would gain no control over access to these and other trails—including the Berns, Shannon, and Wild Horse Trails—that originates at the three trailheads. As previously discussed, this circumstance largely dictates the extent to which the BLM or the Tribe can effectively impose limitations on access that are inconsistent with the management of trailheads and associated trail segments by a third party.

For example, whereas access for hiking and horseback riding is not restricted at the Garstin and Araby trailheads, nor on any of the trails in the Murray Hill complex whether managed by the BLM or under jurisdiction of the city, the same cannot be said regarding mountain biking. In accordance with rules promulgated by the City of Palm Springs’ Parks and Recreation Commission, as authorized by municipal code

²² The North Lykken Trail is characterized as being of “extreme” technical difficulty for mountain bikers. “This is a tough ride and most riders would probably rather walk this route than ride it.” (Maag 1996)

12.72.030 (City of Palm Springs on-line posting), bicycles are prohibited on the Araby, Berns, Garstin, and Shannon Trails, but only on nonfederal segments of them where the city has jurisdiction;²³ conversely, bicycles are currently allowed on the BLM-managed segments of these trails. However, it is anticipated that the BLM, should it retain section 36, would change its management of the federal land segments of the Araby, Garstin, and Shannon Trails to coincide with the city's prohibition of bicycles, consistent with management prescriptions established in the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan (CVAG 2007). On the other hand, since almost the entirety of the Berns Trail is located on the selected public lands and there are sufficient locations along the trail to allow for safe passage of equestrians and mountain bikers should they meet, it is the BLM's intent to continue the allowance for bicycle access; the BLM would work with the city to rescind its bicycle prohibition for the extremely small segment of this trail within the city's jurisdiction.

To reiterate yet once again because it is vital to the analysis of potential impacts resulting from the proposed land exchange, the Tribe has committed to manage trails on the acquired public lands in the same manner as the BLM (ACBCI 2012). It can be reasonably assumed, therefore, that the BLM's intended prohibition of bicycles on the public land segments of the Araby, Garstin, and Shannon Trails would be implemented by the Tribe should it acquire section 36; this would be consistent with managing trails on the acquired public lands in the same manner as the BLM. Further, such management would also result in continuation of unrestricted, free public access to the official trails, including bicycle access on the Thielman Trail, until such time that changes in resource conditions warrant modifications to trail management prescriptions, including trail closures if necessary; these modifications could occur under either BLM or Tribal management. However, consistent with the BLM's cooperative agreement with the Tribe, the two parties would cooperatively address critical resource issues when they arise in order to provide for more consistent, effective, and collaborative management of public and Tribal lands, including the manner in which public access to trails is governed (BLM and ACBCI 1999a).

To summarize, effects of the proposed land exchange on public access to official trails in section 36, T.4S. R.4E., would be imperceptible. Opportunities for non-motorized recreation would not change. Under scenario three (which is "additive" with respect to scenarios one and two), overall changes to public access would be minor with respect to the use of official trails.

Use of "social" trails:

Several social trails have been inventoried on the selected public lands in section 36, T.4S. R.4E., including a connector trail linking the Berns and Wild Horse Trails, a connector trail and associated spur linking the Wild Horse and Goat Trails, and small spur off the Berns Trail to a prominence overlooking the City of Palm Springs,

²³ The city's prohibition of bicycles on certain trails under its jurisdiction addresses potential safety concerns associated with horses and bicycles using steep, narrow trails at the same time. Along substantial stretches of these trails, there is not sufficient space for either a horse or bicycle to safely get off the trail in order to allow the other to pass.

totaling about 0.8 mile in length. Cumulatively under scenario three, total length of affected social trails is 2.2 miles.

As previously discussed, travel on social trails would not typically be permitted since non-motorized recreation on Tribal lands is allowed on designated trails only in accordance with the THCP. However, the Tribe's commitment to manage trails on the acquired lands in the same manner as the BLM may result in a different outcome in section 36 than for social trails described under scenarios one and two. Under BLM management, the agency would carefully consider potential legitimization of these social trails given the connectivity they provide, particularly the longtime used trail connecting the Wild Horse and Goat Trails, a majority of the latter occurring on private lands in the adjacent section (sec. 31, T.4S. R.5E). Since no other trails in this area provide the same function, their removal could result in other social trails being established, thereby potentially increasing impacts to resource values. Should the Tribe likewise address these social trails, they could become official trails. Consequently, effects of the acquisition of section 36 by the Tribe would be imperceptible.

Cross-country travel:

Under scenario three, opportunities for cross-country travel may be further diminished (compared to scenario two) upon the Tribe's acquisition of BLM Category 1, 2, and 3 lands. Whereas cross-country travel is currently allowed on the 5,799 acres of selected public lands (4,015 acres from scenario one, 641 acres from scenario two, and 1,143 acres that come into play under scenario three), such travel would be prohibited upon their acquisition by the Tribe, consistent with provisions of the THCP. The greatest potential impact to opportunities for cross-country travel under this scenario would occur in the southeast quarter of section 36 (T.4S. R.4E.) where the topography is considerably less steep and rugged than other public lands in this section, similar to the landscape in the eastern half of section 36, T.5S. R.4E. as described under scenario two. Nevertheless, most of the selected public lands—those in BLM Category 1—occur on the east flank of the San Jacinto Mountains where topography substantially constrains access for hikers. Again, whether the loss of opportunities for cross-country travel consequent to the proposed land exchange would result in adverse impacts to cross-country travel on the BLM Category 1, 2, and 3 lands is unknown given the lack of empirical data for this type of activity, but such impacts are anticipated to be minor.

Consistent with scenarios one and two, the analysis regarding potential effects of the proposed land exchange on opportunities for cross-country travel under scenario three is conditional, dependent on a separate decision to be made by the BLM regarding this activity (see discussion for scenario one).

Access with dogs:

In this scenario, the Tribe would acquire public lands in sections 16 and 36, T.4S. R.4E. (in addition to BLM Category 1 and 2 lands). The BLM currently allows leashed dogs on public lands in section 16, but prohibits such access in section 36 (BLM: 65 FR 3473, January 21, 2000). As previously indicated, the Tribe prohibits dogs on all lands it manages in the project area. As usually occurs with respect to

trails that cross multiple jurisdictions—such as the Skyline, North Lykken, Araby, Berns, Garstin, Shannon, and Wild Horse Trails, which traverse sections 16 or 36—the most restrictive rules of a particular jurisdiction govern access to the trail in its entirety. The circumstance regarding access with dogs is no exception.

The Skyline Trail traverses public lands in section 16 where entry with dogs is currently restricted only by a leash requirement. At lower elevations to the east where it crosses lands under jurisdiction of the City of Palm Springs, the same leash requirement applies per municipal code 10.28.010 (City of Palm Springs, on-line posting). At upper elevations where the trail enters Tribal lands or the Mt. San Jacinto State Park and Wilderness, dogs are prohibited. Hence, in this instance, dogs could currently accompany trail users from the trailhead in Palm Springs to where the trail first enters Tribal lands in section 21, T.4S. R.4E. On the other hand, in accordance with the trails management plan element of the CVMSHCP, dogs are prohibited in essential habitat for Peninsular bighorn sheep, including areas under the city's jurisdiction (CVAG 2007), though municipal codes have not yet been aligned with the CVMSHCP in this regard. Consistent with this aspect of the trails management plan, the BLM may render a separate decision to likewise prohibit dogs on public lands in section 16. If the city were to align its municipal codes accordingly, then the Tribe's acquisition of section 16 would have no effect on access with dogs—whether it extended its dog prohibition to the acquired lands or continued the BLM's current temporary allowance for dogs—since Tribal lands would be sandwiched between other jurisdictional lands wherein dogs are prohibited. If the BLM were to render a separate decision prohibiting dogs on public lands in section 16 in advance of the land exchange being completed, the outcome would be the same. The only reduction of opportunities to use the Skyline Trail accompanied by a dog would occur if the city did not align its municipal codes with the CVMSHCP and the Tribe extended its prohibition to the acquired lands. In this circumstance, the public would lose about 1.8 miles of the Skyline Trail for hiking with a dog.

A similar management scenario regarding access with dogs occurs for the North Lykken Trail, though in this case access with dogs is principally determined by alignment of the city's municipal codes with the CVMSHCP. Current or future restrictions on access with dogs on the 0.1-mile segment of trail where it crosses public lands, whether the BLM retains section 16 or transfers it to the Tribe, will have little effect.

Regarding access with dogs to trails in section 36, the circumstances are different from those in section 16, but only in that the BLM currently prohibits dogs on these public lands (65 FR 3473). If the Tribe acquires the selected public lands in section 36 and extends its prohibition of dogs thereto, there would be no change in opportunities for hiking with dogs. If the BLM retains public lands in section 36 and issues its separate decision to continue the prohibition, consistent with the trails management plan element of the CVMSHCP, again there would be no change for such opportunities.

Indirect effects

While it may appear that a future prohibition of bicycles on segments of the Araby, Garstin, and Shannon Trails under Tribal management is a consequence of the

proposed land exchange and thereby constitutes an indirect impact since it would occur at a later time, such is not truly the case. As described above, the prohibition of bicycles on certain trail segments is likely to occur even if the BLM retains section 36, T.4S., R.4E., in which these trails are located. In other words, the possible prohibition of bicycles as described would not be a result, whether direct or indirect, of the proposed land exchange; it may occur whether the land exchange occurs or not.

On the other hand, it may be perceived that an indirect effect of the proposed land exchange could be to reduce possible future opportunities for hiking with dogs in the project area should the Tribe acquire public lands in section 36 and prohibit dogs on Tribal lands as occurs elsewhere. But such may not be the case. Providing opportunities to hike with dogs on trails in this area is contingent on development of the Garstin to Thielman connector trail and allowing hikers with dogs to use this connector trail in conjunction with the lower segments of the Garstin and Thielman Trails.²⁴ While the southern segment of the proposed trail occurs on public lands in section 1, T.5S. R.4E. (which are not selected for the proposed land exchange), the northern segment is located on public lands in section 36, T.4S. R.4E., which may be acquired by the Tribe under scenario three. But new trails are not Covered Activities under the THCP, meaning that the proposed Garstin to Thielman connector trail may not be deemed consistent with provisions of the THCP (ACBCI 2010). The THCP in this respect is consistent with a finding in the Indian Canyons Master Plan that expansion of the trail system in the Indian Canyons and surrounding lands is not considered necessary at this time (ACBCI 2008).

However, the ICMP does not prohibit the development of new trails on Tribal lands. Instead it indicates that future proposals for new trails on Tribal lands connecting with trails on adjacent public lands should consider management prescriptions established through the trails management plan for the Santa Rosa and San Jacinto Mountains (an element of the CVMSHCP). Since the proposed trail would provide connectivity to adjacent public lands and use of the trail by hikers with leashed dogs is prescribed in the trails management plan element of the CVMSHCP, it is reasonable to conclude that upon acquisition of public lands in section 36 by the Tribe, construction of the Garstin to Thielman perimeter trails and its use by hikers with dogs may be approved by the Tribe.

²⁴ The proposed Garstin to Thielman connector trail, upon construction, is identified as a Covered Activity under the trails management plan element of the CVMSHCP provided that research results and analyses of environmental impacts under the NEPA and CEQA, as applicable, indicate the proposed trail would not adversely impact Peninsular bighorn sheep. “Covered Activities” are those for which take authorization is provided under section 10(a) of the federal Endangered Species Act. The plan further provides that a dog use trail incorporating the lower segments of the Garstin and Thielman trails, along with the connector trail itself, would be established once the connector is constructed. (CVAG 2007) However, Covered Activity status under the CVMSHCP applies only to projects on nonfederal lands. When the plan was approved in 2008, part of the proposed connector trail was located on private lands subject to its terms and conditions; the other part was located on BLM lands in section 36, T.4S. R.4E. In 2010, the BLM acquired the affected private lands, which brought the proposed project completely under BLM jurisdiction.

4.2.1.2 Preferred Alternative

Scenario four:

This scenario represents the preferred alternative whereupon its implementation would transfer management authority for segments of the following trails from the BLM to the Tribe: Jo Pond, Indian Potrero, Palm Canyon, Skyline, and North Lykken, totaling 5.4 miles in length. Segments of the Araby, Berns, Garstin, Shannon, Thielman, and Wild Horse Trails, totaling 4.3 miles in length, would continue to be managed by the BLM. About 1.5 miles of social trails would also be transferred to the Tribe; the BLM would continue to manage about 0.7 mile of them. Of the total mileage for official trails located on the selected public lands (9.7 miles), 55.7 percent would be transferred to the Tribe; 68.2 percent of the social trails would be transferred to the Tribe in this scenario.

Consistent with scenarios one, two, and three, segments of the following official trails would be included in the transfer of Tribal lands to the BLM: Dunn Road Trail, Wild Horse, and East Fork Loop, totaling 2.4 miles. Management authority for an undetermined extent of unnamed social trails would also be transferred to the BLM.

Table 4.2.1.4: Preferred alternative (scenario four), changes to management authority for official trails

BLM to Tribe		Retained by BLM		Tribe to BLM	
Trail	Miles	Trail	Miles	Trail	Miles
Jo Pond	1.3	Araby	0.3	Dunn Rd Tr	0.6
I. Potrero	1.0	Berns	1.0	Wild Horse	1.1
P. Canyon	1.2	Garstin	1.0	E Fork Loop	0.7
Skyline	1.8	Shannon	0.9		
N. Lykken	0.1	Thielman	0.3		
		Wild Horse	0.8		
Total	5.4	Total	4.3	Total	2.4

Direct effects

Use of “official” trails:

Under scenario one, the only official trail on public lands affected by the proposed land exchange is the Jo Pond. Under scenario two, segments of the Indian Potrero and Palm Canyon Trails are additionally affected. Under scenario three, all trails on the selected public lands are affected. Scenario four replicates scenario three, except trails in section 36, T.4S. R.4E.—Araby, Berns, Garstin, Shannon, Thielman, and Wild Horse—would be excluded from the exchange and therefore not affected by it.

Jo Pond, Indian Potrero, Palm Canyon, Skyline, and North Lykken Trails

Direct effects of the proposed land exchange regarding recreational activities on the Jo Pond, Indian Potrero, Palm Canyon, Skyline, and North Lykken Trails are the same as described for scenarios one, two, and three.

Araby, Berns, Garstin, Shannon, Thielman, and Wild Horse Trails

Under the preferred alternative (scenario four), jurisdiction for managing segments of the Araby, Berns, Garstin, Shannon, Thielman, and Wild Horse Trails where they occur on public lands would be retained by the BLM. Since the Tribe committed to manage trails in the same manner as the BLM upon their acquisition (ACBCI 2012), direct effects of the preferred alternative are the same as described for scenario three. In summary, (1) hikers and horseback riders would continue to have unrestricted access to these trails unless substantial changes in resource conditions prompt modifications to management prescriptions; (2) mountain bikers would continue to have unrestricted access to the Thielman and Wild Horse Trails where they cross public lands (again, unless changes in resource conditions warrant limitations on this recreational activity); (3) actions to close public land segments of the Araby, Garstin, and Shannon Trails to bicycle use would be pursued for consistency with current restrictions imposed by the City of Palm Springs for nonfederal segments of these trails; and (4) mountain bike use of the public land segment of the Berns Trail would continue; the BLM would work with the City of Palm Springs to rescind its prohibition on this activity affecting the small segment of trail on nonfederal lands.

Use of “social” trails:

Treatment of social trails under the preferred alternative would be the same as described for scenario three, including the manner in which social trails in section 36, T.4S. R.4E., are affected. In summary, careful consideration would be given to legitimizing certain social trails—such as a connector trail linking the Berns and Wild Horse Trails, a connector and associate spur trail linking the Wild Horse and Goat Trails, and a small spur off the Berns Trail to an overlook—thereby making them *official* (in lieu of removing them) to ensure connectivity of trails and avoid creation of new social trails.

Cross-country travel:

As previously discussed, no empirical data are available regarding occurrences of cross-country travel in the project area to suggest whether changes to its management—imposition of a year-round or seasonal restriction, whether by the Tribe or the BLM—or continuation of the cross-country allowance would affect actual use. In other words, while *opportunities* would be diminished by a prohibition of such travel when compared to allowing its continuance, the effects of a prohibition are limited if few people actually engage in such activity. Further (consistent with scenarios one through three), the analysis regarding potential effects of the preferred alternative on opportunities for cross-country travel is conditional. Whereas cross-country travel would be prohibited on 5,291 acres of the selected public lands upon their acquisition by the Tribe in accordance with the THCP, it doesn't mean that such travel would necessarily continue to be allowed on the 508 acres of public lands retained by the BLM in section 36, T.4S. R.4E., under scenario four.

In accordance with the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan, cross-country travel on nonfederal lands subject to the trails management plan is prohibited from January 1 through September 30, and allowed from October 1 through December 31 (CVAG 2007).

Restrictions on off-trail travel on public lands in the Santa Rosa and San Jacinto Mountains, including such lands in section 36, will be determined through a separate decision issued by the BLM. Whether restrictions on cross-country travel will be consistent with the seasonal limitation under the trails management plan has not been determined. Therefore, effects on cross-country travel from implementation of the preferred alternative are dependent on the extent to which the BLM allows or restricts such travel on public lands in the project area through a separate decision process. In essence, the analyses of effects provided for scenarios one through three are applicable to the preferred alternative.

Access with dogs:

Direct effects of the proposed land exchange regarding access with dogs on the Jo Pond, Indian Potrero, Palm Canyon, Skyline, and North Lykken Trails are the same as described for scenarios one, two, and three. Regarding access with dogs to trails on public lands in section 36, T.4S. R.4E., there would be no change for such opportunities should the BLM issue a separate decision to continue the current temporary prohibition of dogs (BLM: 65 FR 3473, January 21, 2000), consistent with the trails management plan element of the CVMSHCP.

Indirect effects

Compared to the proposed action should the Tribe's acquisition of public lands include section 36, T.4S. R.4E., as a result of the land value equalization process, implementation of the preferred alternative may enhance future opportunities for hiking with dogs in the project area, contingent on development of the Garstin to Thielman connector trail and allowing hikers with dogs to use this connector trail in conjunction with the lower segments of the Garstin and Thielman Trails. However, development of this connector trail and its use by those with dogs may be approved whether the Tribe acquires public lands in section 36 or the BLM retains them (see discussion in this regard under scenario three).

4.2.1.3 No Action Alternative

Under the no action alternative, management authority for segments of all official trails on the selected public lands, totaling about 9.7 miles, as well as all social trails on public lands, totaling about 2.2 miles, would be retained by the BLM. Segments of the Dunn Road Trail, Wild Horse Trail, and East Fork Loop Trail, totaling 2.4 miles, as well as an undetermined extent of unnamed social trails, would be retained by the Tribe in sections 7, 19, and 20, T.5S. R.5E.

Table 4.2.1.5: No action alternative management authority for official trails

Transferred		Retained by BLM		Retained by Tribe	
Trail	Miles	Trail	Miles	Trail	Miles
		Jo Pond	1.3	Dunn Rd Tr	0.6
		I. Potrero	1.0	Wild Horse	1.1
		P. Canyon	1.2	E Fork Loop	0.7
		Skyline	1.8		
		N. Lykken	0.1		
		Araby	0.3		
		Berns	1.0		
		Garstin	1.0		
		Shannon	0.9		
		Thielman	0.3		
		Wild Horse	0.8		
Total	0.0	Total	9.7	Total	2.4

Direct effects

Use of “official” trails:

No official trails would be directly affected by adoption of the no action alternative. Recreational use of trail segments on the selected public lands would be subject to applicable statutes, regulations, policies, and plan decisions; substantial changes in resource conditions could prompt modifications to current management prescriptions.

Direct effects of the no action alternative regarding recreational activities on public land segments of the Jo Pond, Indian Potrero, Palm Canyon, Skyline, North Lykken, Araby, Berns, Garstin, Shannon, Thielman, and Wild Horse Trails are the same as described for scenarios one, two, and three of the proposed action, as well as the preferred alternative, i.e., whether managed by the BLM or the Tribe, access by hikers, mountain bikers, and horseback riders to these trails is largely the same.

It is anticipated that the Tribe’s management of segments of the Dunn Road Trail, Wild Horse Trail, and East Fork Loop Trail on Tribal lands would have no direct effect on public access for recreational purposes due to connectivity of these trail segments with others on adjacent public lands, the lack of trailheads on Tribal lands where access to them could be managed, and the cooperative management of BLM and Tribal lands as expressed in the agreement of 1999 whereby opportunities for program development would be coordinated between the BLM and the Tribe (BLM and ACBCI 1999a).

Use of “social” trails:

Treatment of social trails on the selected public lands under the no action alternative would be the same as described for scenario three, including the manner in which social trails in section 36, T.4S. R.4E., are affected. Public access to social trails on the offered Tribal lands, however, could be affected, though coordination between the BLM and the Tribe for management of the trail system outside the Agua Caliente Indian Reservation would foster careful consideration to legitimize certain social

trails that may provide important linkages, such as the social trail connecting the Dunn Road with the Wild Horse Trail in section 7, T.5S. R.5E.

Cross-country travel:

Currently, cross-country travel is allowed on the 5,799 acres of selected public lands, whether on foot, bicycle, or horseback. As previously described, restrictions on off-trail travel on public lands in the Santa Rosa and San Jacinto Mountains will be determined through a separate decision issued by the BLM. Whether restrictions on cross-country travel will be consistent with the seasonal limitation under the trails management plan element of the CVMSHCP has not been determined. Therefore, effects on cross-country travel from implementation of the proposed action, preferred alternative, or no action alternative are dependent on the extent to which the BLM may allow or restrict such travel on public lands in the project area through the separate decision-making process. Hence, analyses of effects provided for scenarios one through four are applicable to the no action alternative.

Cross-country travel on the 1,470 acres of offered Tribal lands, however, would be prohibited under the no action alternative. Whether this would create management challenges due to inconsistent prescriptions between the adjacent BLM and Tribal lands depends on the BLM's forthcoming separate decision with respect to cross-country travel and the extent to which opportunities for such travel are currently being taken advantage of by individuals. Given the steep rugged terrain on the east slope of the San Jacinto Mountains, thereby constraining off-trail travel, the current inconsistency of the BLM and Tribal management in this respect does not appear to have been problematic, i.e., adverse impacts to resource values have not been apparent. On the other hand, where the terrain is less limiting east of Palm Canyon, inconsistencies in managing cross-country travel might not only affect resource values on the adjacent jurisdictional lands as unauthorized new social trails are established or soils and vegetation are impacted, it would create confusion among recreationists regarding off-trail travel opportunities.

Access with dogs:

Direct effects of the proposed land exchange regarding access with dogs on the selected public lands are the same as described for the proposed action and preferred alternative. The Tribe's prohibition on access with dogs to the offered Tribal lands in sections 7, 19, and 20, T.5S. R.5E., would be continued under the no action alternative, consistent with the BLM's current temporary prohibition of dogs on the adjacent public lands east of Palm Canyon (BLM: 65 FR 3473, January 21, 2000).

Indirect effects

Consistent with the indirect effects described under the preferred alternative, implementation of the no action alternative may enhance future opportunities for hiking with dogs in the project area, contingent on development of the Garstin to Thielman connector trail in section 36, T.4S. R.4E., and section 1, T.5S., R.4E., and allowing hikers with dogs to use this connector trail in conjunction with the lower segments of the Garstin and Thielman Trails, though the enhancement of such

opportunities may also occur upon acquisition of public lands in section 36 by the Tribe.

4.2.1.4 Summary of effects to recreation resources

Use of “official” trails:

Table 4.2.1.6 summarizes opportunities described in section 4.2.1 for trail-based hiking, mountain biking, and horseback riding on the selected public lands and offered Tribal lands resulting from implementation of the proposed action, preferred alternative, and no action alternative. While the opportunity for hiking and horseback riding on official trails is constant among all alternatives—a total of 12.1 miles of trails would be available—opportunities for mountain biking vary among alternatives, the greatest opportunity being provided under scenario one of the proposed action and the no action alternative (8.6 miles), and the least opportunity being provided under the scenario three of the proposed action and the preferred alternative (5.8 miles).

Table 4.2.1.6: Summary of access opportunities to official trails on the selected public lands and offered Tribal lands by jurisdiction, in miles²⁵

	Proposed Action <i>scenario 1</i>		Proposed Action <i>scenario 2</i>		Proposed Action <i>scenario 3</i>		Preferred Alternative		No Action Alternative ²⁶	
	BLM	Tribe	BLM	Tribe	BLM	Tribe	BLM	Tribe	BLM	Tribe
H	10.8	1.3	8.6	3.5	2.4	9.7	6.7	5.4	9.7	2.4
MB ²⁷	8.6	0.0	6.4	1.2	2.4	3.4	4.5	1.3	6.2	2.4
HR	10.8	1.3	8.6	3.5	2.4	9.7	6.7	5.4	9.7	2.4

H = hiking; MB = mountain biking; HR = horseback riding

²⁵ Miles of trails available for hiking, mountain biking, and horseback riding on the selected public lands and offered Tribal lands upon implementation of the proposed action, preferred alternative, and no action alternative reflect access to official trails only (see Table 3.2.14.1: Trails on Exchange Lands). Whether social trails would be legitimized as official trails or removed depends on separate actions by the BLM and the Tribe irrespective of the proposed land exchange.

²⁶ The figure regarding access by mountain bikers on public lands under the no action alternative reflects anticipated closure of the Araby, Garstin, and Shannon Trails in section 36, T.4S. R.4E., to bicycles for consistency with rules promulgated by the City of Palm Springs’ Parks and Recreation Commission, as well as lack of access to the public land segment of the Jo Pond Trail given that bicycles are prohibited on the adjacent segments under Tribal jurisdiction (located in sections 22 and 28).

²⁷ The figures cited for scenarios 1, 2, and 3 of the proposed action and for the preferred alternative reflect the lack of access by mountain bikers to the Jo Pond Trail in section 21, T.5S. R.5E., given that bicycles are prohibited on adjacent segments under Tribal jurisdiction (sections 22 and 28). These figures also reflect anticipated closure of the Araby, Garstin, and Shannon Trails in section 36, T.4S. R.4E., to bicycles, whether by the BLM or the Tribe, for consistency with rules promulgated by the City of Palm Springs’ Parks and Recreation Commission. The figures cited for scenarios 2 and 3 of the proposed action, as well as the preferred alternative, reflect anticipated closure of the Indian Potrero Trail in section 36, T.5S. R.5E., to mountain bicycles (as a matter of practicality), but allowing bicyclists to continue use of the Palm Canyon Trail in this location. The figures cited for scenario 3 of the proposed action, as well as for the preferred alternative, reflect anticipated closure of the Skyline Trail in section 16, T.4S. R.4E., to mountain bicycles (as a matter of practicality), but allowing bicyclists to continue use of the North Lykken Trail in this location.

Use of “social” trails:

Whether the 2.9 miles of social trails on the selected public lands and offered Tribal lands would be legitimized as official trails or removed depends on separate actions by the BLM and the Tribe irrespective of the proposed land exchange. Therefore, a summary of effects by alternative in this regard is moot.

Cross-country travel:

Table 4.2.1.7 summarizes opportunities described in section 4.2.1 for cross-country travel on the selected public lands and offered Tribal lands resulting from implementation of the proposed action, preferred alternative, and no action alternative. The acreages provided in the table are based on current conditions whereby cross-country travel on the selected public lands is allowed; lands acquired from the Tribe would be managed in the same manner. As previously discussed, however, the BLM has not yet determined applicability of the trails management plan element of the CVMSHCP to public lands, including the seasonal cross-country travel prohibition. If the BLM through a separate decision-making process were to similarly prohibit cross-country travel, or geographically apply the prohibition in a different way, the figures provided in Table 4.2.1.7 would dramatically change. For instance, should a broadly-applied year-round prohibition of cross-country travel be implemented on public lands prior to conclusion of the land exchange, all figures in Table 4.2.1.7 for the BLM would be “0.0.” If the BLM implemented a cross-country travel prohibition on a portion of the retained and/or acquired lands, the figures in this table for the BLM would be between 1,470 acres and 5,799 acres. A seasonal prohibition of cross-country travel implemented by the BLM would further condition figures that populate Table 4.2.1.7. At this time, however, such potential modifications to the table are speculative; it is not anticipated that the BLM will issue a decision regarding the management of cross-country travel before the proposed land exchange is concluded.

Table 4.2.1.7: Summary of cross-country opportunities by jurisdiction, in acres

	Proposed Action scenario 1		Proposed Action scenario 2		Proposed Action scenario 3		Preferred Alternative		No Action Alternative	
	BLM	Tribe	BLM	Tribe	BLM	Tribe	BLM	Tribe	BLM	Tribe
CC	3,254	0.0	2,613	0.0	1,470	0.0	1,978	0.0	5,799	0.0

CC = cross-country

Access with dogs:

Opportunities for accessing the selected public lands and offered Tribal lands with dogs, irrespective of the proposed land exchange, are limited. Under current conditions as established by the BLM (65 FR 3473, January 21, 2000), the only opportunities for such access occur on Category 1 public lands west of Palm Canyon—totaling 4,015 acres containing 1.3 miles of official trails (Jo Pond Trail only), though access with dogs to the Jo Pond Trail is precluded because of the dog prohibition on adjacent trail segments on Tribal lands—and section 16, T.4S. R.4E., of the Category 3 public lands, also west of Palm Canyon—totaling 635 acres with 1.9 miles of official trails (Skyline and North Lykken Trails). This circumstance, however, is likely to change, particularly if the City of Palm Springs aligns its municipal codes with management prescriptions set forth in the approved CVMSHCP which prohibit dogs in essential habitat for

Peninsular bighorn sheep, thereby isolating the Skyline and North Lykken Trails in this location, and if the BLM likewise broadly prohibits dogs in bighorn sheep habitat (with limited exceptions).

4.2.1.5 Unavoidable adverse effects to recreation resources

As required by 40 CFR § 1502.16, the discussion of environmental consequences shall include any adverse environmental effects which cannot be avoided should the proposal be implemented. For purposes of this analysis with respect to recreation resources, there are no unavoidable adverse effects for the following reasons: (1) As reiterated throughout this draft EIS, the Tribe has committed to managing official trails in the same manner as the BLM upon their acquisition (ACBCI 2012). (2) The treatment of social trails on the selected public lands and offered Tribal lands is largely similar: only those social trails that provide important linkages with other trails would be considered for designation as official trails instead of being removed. Other social trails provide little to no function for public access to the exchange lands. (3) Empirical data regarding magnitude, frequency, and location of cross-country travel are not available to ascertain whether limitations in this regard on public lands acquired by the Tribe would constitute a significant adverse effect. Further, the BLM's determination regarding applicability of the seasonal cross-country prohibition on nonfederal lands, as a prescription of the approved CVMSHCP (CVAG 2007), has not been made; hence, whether the Tribe's imposition of a cross-country prohibition on the acquired public lands would represent a change with respect to the BLM's forthcoming decision likewise cannot be made. (4) Opportunities for access with dogs to the selected public lands would continue to be unavailable should the BLM make permanent through the creation of a supplementary rule its temporary prohibition of dogs on public lands east of Palm Canyon (BLM: 65 FR 3473, January 21, 2000), and extend the prohibition to include public lands west of Palm Canyon.

4.2.1.6 Possible conflicts with other plans, policies, and controls for the affected area

As required by 40 CFR §§ 1502.16(c) and 1506.2(d), the environmental impact statement shall discuss any inconsistency of a proposed action with any approved state or local (and in the case of a reservation, Indian tribe) land use plans, policies, and controls for the area concerned, whether or not such plans, policies, or controls are federally sanctioned. Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

With respect to recreation resources, potential conflicts would primarily emanate from inconsistencies between (1) BLM and Tribal management of the selected public lands and offered Tribal lands upon exchange, and (2) management prescriptions set forth in the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan as it affects nonfederal and non-Tribal lands. Such inconsistencies mostly relate to the management of cross-country travel. Whereas the Tribe's prohibition of cross-country travel on the acquired BLM Category 1 lands would, from a practical perspective, be largely consistent with the seasonal prohibition (January 1 through September 30) on nonfederal lands (CVAG 2007)—except for last quarter of the calendar year, the restrictions would be identical; during the remainder of the year, the character of the terrain effectively limits opportunities for cross-country travel—it could create management challenges on the BLM Category 2 and 3 lands from October 1 through December 31 when cross-country travel is allowed on nonfederal lands located adjacent to the acquired public lands; these lands are more conducive to cross-country travel than the Category 1 lands. Because jurisdictional boundaries do not relate to topographic features, recreationists may

not be aware when they have crossed the line where management prescriptions differ, potentially establishing enforcement challenges. Further, the BLM has not determined applicability of the CVMSHCP's trails management plan to federal lands in the project area. If the BLM were to adopt a year-round prohibition of cross-country travel, while consistent with the Tribe's approach it would be inconsistent with the CVMSHCP. Conversely, if the BLM were to adopt a seasonal prohibition mirroring the CVMSHCP, it would be inconsistent with the Tribe's approach. If the BLM were to continue its current allowance for cross-country travel, it would be inconsistent with both the CVMSHCP and the Tribe's approach. While reconciliation of these differences could occur through amendment of each jurisdiction's respective plans, it would be difficult to effect at best, and perhaps unlikely.

Concerns have also been raised regarding potential conflict with the BLM's California Desert Conservation Area Plan Amendment for the Coachella Valley, specifically section 2.4.9: Land Tenure Exchange and Sale Criteria (BLM 2002a). According to the plan, land exchanges and sales may be considered if, in part, they would not divest of public domain lands in a manner which eliminates a significant public benefit. During the public scoping process in advance of preparing this draft EIS, the public expressed concern that the proposed land exchange would, in fact, eliminate such significant public benefit, particularly opportunities for non-motorized recreation on existing trails upon the transfer of jurisdiction to the Tribe (see section 1.4b(ii)). As described above in sections 4.2.1.1 (proposed action) and 4.2.1.2 (preferred alternative), public access to official trails upon the acquisition of public lands by the Tribe would have no direct impact; opportunities for hiking, mountain biking, and horseback riding would not change as a result of the land exchange.

4.2.1.7 Cumulative effects to recreation resources

The purpose of describing cumulative effects is to ensure that federal decision-makers consider the full range of consequences of the proposed action and alternatives (BLM 2008a). The Council on Environmental Quality's regulations define cumulative effects as the impact on the environment which results from the incremental effect of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or nonfederal) or person undertakes such actions (40 CFR § 1508.7).

As expressed by the U.S. Congress in 2000, the purpose for establishing the Monument, in addition to preserving a variety of nationally significant resources, was to secure now and for future generations the opportunity to recreate therein (section 2(b), Santa Rosa and San Jacinto Mountains National Monument Act, as amended). It is appropriate, therefore, to consider past, present, and reasonably foreseeable future actions with respect to how implementation of the proposed action or an alternative action would affect opportunities for non-motorized recreation within the Monument.

Ancestors of the Agua Caliente Band of Cahuilla Indians settled in the Palm Springs area centuries ago and developed complex communities in the project area (ACBCI, cultural history on-line posting). Since these prehistoric times, access to and use of trails in the Santa Rosa and San Jacinto Mountains have been important to the Cahuilla. "Even before the horse these trails were the footpaths of our people. We had many small villages in a vast area and these trails tied our people together. They were used for hunting, visiting, rituals and ceremonies." (Katherine Saubel, *from* Hubbard 1991).

In historic times as non-Indian visitation to and occupation of the Palm Springs area increased and non-motorized recreation flourished, there came a need to establish a trail system that could accommodate this influx of hikers and horseback riders. “In the early days of the Desert Riders [established in 1931 as a social club], no trails were necessary; then the vast expanse of desert was theirs to use as they wished. But as more and more people flocked into the area, ... [and] as hikers crowded the mountain pathways, special trails had to be marked and maintained or horseback riding was doomed. So the Desert Riders added a serious function to their social pleasures; they would make, build, and maintain trails across the deserts and into the mountains.” (Hicks n.d.) Over time, the Desert Riders developed 28 trails, “many of them adaptations of, or improvements on, ancient trails used by Cahuilla Indians in their migratory hunting and gathering” (Patten 1995).

Constructing new trails, however, became increasingly challenging as residential and commercial development of the Palm Springs area grew; while some private landowners supported the use of trails on their property, “others were less tolerant” (Hicks n.d.). Nevertheless, a viable system of trails in the Santa Rosa and San Jacinto Mountains emerged, consisting largely of the trails used today, including those on the selected public lands and offered Tribal lands for the proposed land exchange.

But unfettered access to these trails became increasingly uncertain during the late 1990s and first half of the 2000s. The first inkling that non-motorized use of trails might be restricted on a broad scale occurred shortly before the Peninsular bighorn sheep was federally listed as an endangered population (USFWS: 63 FR 13134, March 18, 1998). On March 3, 1998, the BLM and the California Department of Fish and Game (now California Department of Fish and Wildlife) launched a program asking trail users to voluntarily avoid using certain trails during the bighorn sheep lambing season from January 1 through June 30.²⁸ Initially, the program focused on the following trails: Art Smith, Bear Creek Canyon, Boo Hoff, Carrizo Canyon, Cathedral Canyon, Guadalupe, and North Lykken Trails.

Through a settlement agreement reached in 2001 pursuant to a lawsuit filed against the BLM, the list of trails affected by what became known as the “voluntary trail avoidance program” was expanded to 11 trails: the seven trails listed above plus the Bear Creek Oasis, Clara Burgess, Dunn Road, and Morrow Trails. Additionally, a voluntary avoidance program was initiated to be effective from July 1 through September for the Art Smith, Guadalupe, Bear Creek Oasis, Dunn Road, and Carrizo Canyon Trails. As part of the settlement agreement, the BLM was also required to employ five “Sheep Ambassadors” whose role was to personally contact trail users on trails and at trailheads requesting compliance with the program. The Sheep Ambassadors were employed in this capacity during the 2001-2003 lambing seasons, though the voluntary trail avoidance program itself continued through late August 2010.²⁹

²⁸ The request for hikers and other trail users to voluntarily avoid using certain trails was first published in *The Desert Sun* on March 3, 1998. It was not until the following January, however, that the request to avoid using these trails during the lambing season was published on a weekly basis in the newspaper’s “Great Outdoors” section.

²⁹ The Center for Biological Diversity, et al. filed a lawsuit against the BLM on March 16, 2000, alleging a violation of the Endangered Species Act by failing to enter into formal consultation with the U.S. Fish and Wildlife Service on the effects of the adoption and implementation of the California Desert Conservation Area Plan, as amended, on threatened and endangered species (C-00-0927-WHA, U.S. District Court, Northern District of California). The parties agreed to enter into a settlement agreement to avoid unnecessary litigation or the need for an immediate injunction. Conditions of the settlement

Following the BLM's and CDFG's initiation of the Voluntary Trail Avoidance Program, the planning process for developing a trails management plan as an element of the Coachella Valley Multiple Species Habitat Conservation Plan was launched in 1999. The draft CVMSHCP released in 2004 for public review and comment would impose potential long-term restrictions (pending down-listing or delisting of Peninsular bighorn sheep) on certain trails in the Santa Rosa and San Jacinto Mountains, seasonally limiting use on the following nine trails or trail segments by allowing no more than 2,300 individuals and 50 groups, through the issuance of permits, to access them from January 15 through June 30 each year: Art Smith, Bear Creek Canyon (segment), Bear Creek Oasis, Boo Hoff (segment), Cathedral Canyon (segment), Clara Burgess, Dunn Road (segment), North Lykken (segment), and Skyline Trails (CVAG 2004). These proposed restrictions were intended to reduce potential conflicts between trail users and Peninsular bighorn sheep during the lambing season, consistent with the recovery plan for this population of bighorn sheep (USFWS 2000). The draft CVMSHCP also established a seasonal voluntary trail avoidance program effective January 15 through June 30 for the following trails or trail segments: Hahn Buena Vista, Goat (segments), Eagle Canyon (segment), Mirage (segment), Schey, and Guadalupe Trails.

In response to public comments and upon further consideration, however, the approved CVMSHCP rejected this precautionary approach to managing trail use in favor of adaptive management whereby the emphasis would be placed on research to ascertain whether non-motorized recreation has a population-level effect on Peninsular bighorn sheep (CVAG 2007); trail use restrictions, including voluntary avoidance, were not approved. On the other hand, closure of a segment of the Art Smith Trail (between its intersection with the Hopalong Cassidy Trail and Dunn Road), a segment of the Bear Creek Canyon Trail (south of its intersection with the Bear Creek Oasis Trail), and the Bear Creek Oasis Trail in its entirety during the "hot season" from June 15 through September 30 was incorporated in the approved plan, the intent being to ensure Peninsular bighorn sheep and other wildlife would not be impeded in their access to water sources (CVAG 2007). Additionally, public access to trails in Carrizo and Dead Indian Canyons is prohibited from January 1 through September 30 to minimize potential disturbances to a bighorn sheep ewe subgroup from recreational activities; these were decisions made by the CDFG (now CDFW) and BLM in 2005, separate from the trails management planning process for the CVMSHCP.

agreement, which required the BLM to continue implementing the voluntary trail avoidance program, terminated upon approval of the California Desert Conservation Area Plan Amendment for the Coachella Valley on December 27, 2002. However, terms and conditions of biological opinion FWS-ERIV/IMP-2810.2, *Endangered Species Consultation on the Effects of the California Desert Conservation Area Plan on Peninsular Bighorn Sheep, Riverside and Imperial Counties, California*, required that implementation of the voluntary trail avoidance program be continued from January 1 through June 30 for the following trails: Art Smith, Bear Creek Canyon, Bear Creek Oasis, Boo Hoff (except the link between La Quinta Cove and Morrow Trail), Cathedral Canyon, Clara Burgess, Dunn Road, Guadalupe, North Lykken, and Skyline Trails. Further, these terms and conditions required continuation of the voluntary trail avoidance program from July 1 through September 30 for portions of the following trails within 1/4 mile of identified water sources: Art Smith, Bear Creek Canyon, Bear Creek Oasis, Boo Hoff, Dunn Road, and Guadalupe Trails. (USFWS 2002b) Upon revision of this biological opinion and replacement by FWS-ERIV/IMP-10B0673-10F0935, *Reinitiation of Formal Consultation on the Effects of the California Desert Conservation Area Plan, as amended, on Peninsular Bighorn Sheep, Riverside and Imperial Counties, California*, the voluntary trail avoidance program was terminated, effective August 30, 2010 (USFWS 2010a).

It should be noted that access with bicycles has been restricted to a greater extent in the Santa Rosa and San Jacinto Mountains than hiking and horseback riding:

- Upon establishment of the San Jacinto Wilderness through the Wilderness Act of 1964 (and expanded by the California Wilderness Act of 1984) and the Santa Rosa Wilderness through the California Wilderness Act of 1984 (and expanded by the California Desert Protection Act of 1994), bicycles were statutorily prohibited on over 100,000 acres of federal lands (BLM and USFS 2003).³⁰ Should the U.S. Congress establish a new wilderness area on National Forest System lands adjacent to Palm Canyon (“Pyramid Peak A”) as recommended in the proposed Southern California National Forests Land Management Plan Amendment, bicycle access to the Palm Canyon, Oak Canyon, and Live Oak Canyon Trails may be similarly affected (Forest Service 2013).
- In 1992, the City of Palm Springs’ Parks and Recreation Commission prohibited bicycles on segments of the following trails under its jurisdiction: Araby, Berns, Garstin, Henderson, Picnic Table, Shannon, and South Lykken Trails. The BLM (or the Tribe depending on the outcome of the proposed land exchange) may prohibit bicycles on the federal land segments of these same trails to provide for consistent management in this regard, except for the Berns Trail as previously discussed in this draft EIS; no federal lands occur on the Henderson, Picnic Table, or South Lykken Trails.
- Generally, bicycles are prohibited on trails managed by the Agua Caliente Band of Cahuilla Indians, except for the Palm Canyon Trail south of its intersection with the Dry Wash Trail, and two trails on the offered Tribal lands (segments of the Dunn Road Trail and Wild Horse Trail). The BLM may prohibit bicycles on segments of the Fern Canyon, Vandeventer, and East Fork Loop Trails that connect with segments of them on Tribal lands for consistency with the Tribe’s prohibition.
- Bicycles are prohibited on the Pacific Crest National Scenic Trail, on state lands in the Mt. San Jacinto State Park and Wilderness, and on state lands in the Carrizo Canyon and Magnesia Spring Ecological Reserves (except certain trails within the latter reserve, i.e., Mirage (Bump and Grind), Mike Schuler, Herb Jeffries, Hopalong Cassidy, and Art Smith Trails).

Public access with dogs to the Santa Rosa and San Jacinto Mountains has also been substantially constrained over time. Prior to 1971 in the Palm Springs area, there were virtually no restrictions regarding the control of dogs. Subsequently, the City of Palm Springs enacted an ordinance changing this circumstance, eventually enacted as municipal code 10.28.010 which requires dogs to be restrained by a leash (Palm Springs on-line posting). On certain BLM lands, limitations became more restrictive in 2000 when access with dogs was temporarily prohibited pending completion of a comprehensive trails management plan (BLM: 65 FR 3473, January 21, 2000).

³⁰ Wilderness designations in the 1960s would have had little to no effect on opportunities for mountain biking *at that time* as such designations predated the advent of mountain biking as a popular recreational activity. It is widely held that mountain biking had its origins in the mid-1970s (Brandt on-line posting; Library.thinkquest.org on-line posting), though others suggest that mountain biking did not begin as an isolated incident, rather as a continuous series of events perhaps going as far back as the 1890s (Mountain Bike Hall of Fame on-line posting). Nevertheless, there are no reports indicating when mountain biking began in the Santa Rosa and San Jacinto Mountains.

This multi-jurisdictional trails management plan, an element of the CVMSHCP (approved in 2008), prohibits dogs on nonfederal and non-Tribal lands within essential habitat for Peninsular bighorn sheep, including lands under jurisdiction of the signatory cities, except in designated areas (CVAG 2007). The BLM, however, has yet to render its decision regarding applicability of the plan to public lands; hence, the BLM's temporary prohibition is still applicable.³¹ Dogs are also prohibited on Tribal lands, within state ecological reserves, and in the Mt. San Jacinto State Park and Wilderness.

Cross-country travel has additionally been constrained in recent years. While off-trail travel is prohibited on Tribal lands in the Santa Rosa and San Jacinto Mountains, only recently has such prohibition been expanded to other lands. In accordance with the approved CVMSHCP, cross-country travel within essential habitat for Peninsular bighorn sheep on lands under jurisdiction of its signatories is prohibited from January 1 through October 31, though such travel on bicycles is prohibited year-round (CVAG 2007).³² However, cross-country travel, regardless of the conveyance, is currently allowed on public lands in the Monument. As previously indicated, the BLM has not made a determination regarding applicability of the trails management plan element of the CVMSHCP to public lands.

How, then, would the proposed action and alternatives cumulatively affect opportunities for recreation in the project area (see *geographic scope of analysis* below)? As a consequence of the proposed land exchange or preferred alternative, would opportunities for hiking, mountain biking, or horseback riding on official trails be affected? No. As discussed in this draft EIS, management of trail-based recreation upon implementation of the land exchange would not result in changes to such opportunities. Any changes that may occur would largely be due to circumstances that have already been set in motion, such as implementation of the trails management plan element of the CVMSHCP. Similarly, opportunities for access with dogs would not be substantially affected by the proposed land exchange. On the other hand, opportunities for cross-country travel may be diminished on up to 4,329 acres under scenario three of the proposed action whereupon 5,799 acres of public land would be exchanged for 1,470 acres of Tribal land; approval of the other two scenarios of the proposed action or the preferred alternative would result in lesser effects. But such diminishment is wholly dependent on the BLM's future decision regarding the management of cross-country travel as previously described.

Overview of cumulative effects to recreation resources

Geographic scope of analysis: Non-motorized recreation (predominantly hiking, mountain biking, and horseback riding) in the Santa Rosa and San Jacinto Mountains centers around a system of connected trails traversing multiple jurisdictions. This connectivity of trails, as it relates

³¹ Although the CVMSHCP was approved in 2008 by its signatories, which includes cities along the urban interface with the Monument, only the City of Palm Desert to date has aligned its municipal codes with management prescriptions set forth in the trails management plan element of the CVMSHCP. Hence, in areas such as Palm Springs only the current municipal codes can be enforced, which allow leashed dogs to access nonfederal and non-Tribal lands.

³² Consistent with the prohibition of dogs in essential bighorn sheep habitat, only the City of Palm Desert (to date) has aligned its municipal codes with management prescriptions established in the CVMSHCP, including the seasonal prohibition of cross-country travel (Palm Desert municipal code 11.01.080(Y)). Therefore, the prohibition of cross-country travel in the project area is currently enforceable only on Tribal lands.

to *official* trails directly affected by the proposed land exchange and alternatives (i.e., those located upon the selected public lands and offered Tribal lands), is constrained to the north by the urban environment of the Coachella Valley (as generally delineated by the Monument boundary and Tramway Road), to the east and south by Highway 74, and to the west by the steep face of the San Jacinto Mountains (the upper edge of which is generally established by the Pacific Crest National Scenic Trail and a segment of the Monument’s western boundary) and the eastern boundaries of the San Jacinto Wilderness and Mt. San Jacinto State Wilderness.³³ This geographic scope is also applicable with respect to opportunities for access with dogs and for cross-country travel.

Temporal scope of analysis: Trail use in the Santa Rosa and San Jacinto Mountains dates back to prehistoric times, though administratively-established constraints regarding the use of trails in these mountains is a more recent circumstance that began in 1964 with passage of the Wilderness Act upon which motorized and mechanized transport, including bicycles, were prohibited on federal lands in areas designated as wilderness.³⁴ Since then, additional restrictions on non-motorized recreation in these mountains have been proposed and/or implemented. While it is anticipated that opportunities for non-motorized recreation will not be substantially affected in the short-term upon implementation of the proposed action or preferred alternative, changes to such opportunities in the long-term are less clear.

Although the change in landownership would likely be in perpetuity, the time frame for this cumulative effects analysis must be conditioned by actions that are reasonably foreseeable; attempting to ascertain impacts to recreation resources in the distant future as a consequence of the proposed land exchange (such as changes in opportunities for non-motorized access to lands acquired by the BLM or the Tribe) is unreasonable and speculative. The only reasonably foreseeable action is construction of a trail connecting the Garstin and Thielman Trails, which would enhance opportunities for hiking, horseback riding, and access with leashed dogs; such construction may occur within the next five to ten years. Should delisting of Peninsular bighorn sheep as an endangered population occur, opportunities for non-motorized recreation in the Santa Rosa and San Jacinto Mountains could change, though the manner and extent of such changes cannot be predicted at this time. At a minimum, delisting would take at least 12 years once certain bighorn sheep population requirements for down-listing and delisting are met (see section 3.2.15.1 of this draft EIS); until then, no substantial changes in recreation opportunities are anticipated. Therefore, the temporal scope of analysis is from about 1964 to when Peninsular bighorn sheep may be delisted, which could occur no sooner than 2026.

Past, present, and reasonably foreseeable future actions: Past and present actions pertaining to the management of non-motorized recreation in the Santa Rosa and San Jacinto Mountains, which includes the area described as the *geographic scope of analysis*, are described above in this subsection of the draft EIS. As previously indicated, the only reasonably foreseeable action on the

³³ Two exceptions to these “constraints” that limit the geographic range of non-motorized trails for purposes of analysis are the Jo Pond and Skyline Trails which ascend the steep east-facing face of the San Jacinto Mountains and connect to the Pacific Crest Trail and high-elevation trails in the Mt. San Jacinto State Park and Wilderness, respectively.

³⁴ Whereas these administratively-established constraints began in 1964 with respect to the Santa Rosa and San Jacinto Mountains—specifically as relates to the designated San Jacinto Wilderness and Santa Rosa Wilderness—there are no designated wilderness areas within the geographic scope of this cumulative effects analysis.

selected public lands and offered Tribal lands with respect to *development* is construction of a trail connecting the Garstin and Thielman Trails.³⁵ Reasonably foreseeable changes to *management* of non-motorized recreation include: (a) diminished opportunities for cross-country travel and access with dogs on nonpublic and non-Tribal lands upon alignment of local municipal codes with the trails management plan element of the CVMSHCP³⁶; (b) possible diminishment of cross-country travel opportunities on public lands, depending on whether and to what extent the BLM allows or restricts such travel through a separate decision-making process as relates to the trails management plan element of the CVMSHCP; and (c) an expanded prohibition of access with dogs to include public lands west of Palm Canyon, to the extent the BLM retains such public lands consequent to the proposed land exchange.

Analysis of cumulative effects: Implementation of the proposed land exchange or preferred alternative would result in an administrative change of land ownership only; no development actions or managerial changes are proposed in conjunction with the exchange (though where cross-country travel and access with dogs are currently allowed on the selected public lands, these activities would be prohibited upon acquisition of those public lands by the Tribe consistent with current management of Tribal lands). Opportunities for trail-based non-motorized recreation on the exchange lands are not anticipated to change for reasons previously described, principally due to the Tribe’s commitment to manage access to trails in the same manner as the BLM (ACBCI 2012).

Within the geographic scope identified for analysis purposes there are 49 official trails totaling about 142 miles in length (BLM et al. n.d. and CVAG 2014).³⁷ The total combined mileage of official trails on the selected public and offered Tribal lands—12.1 miles—represents about 8.5 percent of trail mileage within the identified geographic scope of analysis. Because opportunities for hiking, mountain biking, and horseback riding on official trails are not anticipated to change as a consequence of the proposed land exchange and alternatives, opportunities for such recreation would not cumulatively be affected by the action.

³⁵ As previously indicated, reasonably foreseeable future actions are those for which there are existing decisions, funding, formal proposals, or which are highly probable, based on known opportunities or trends. Speculation about future actions is not required. (BLM 2008a)

³⁶ Where the CVMSHCP applies to nonpublic and non-Tribal lands, it is reasonable to expect that signatories to the plan, including local jurisdictions such as the City of Palm Springs, will align their respective municipal codes with prescriptions set forth in the trails management plan element; such prescriptions include a broadly applied prohibition of dogs and a seasonal prohibition of cross-country travel from January 1 through September 30 in the Santa Rosa and San Jacinto Mountains.

³⁷ Certain trails within the geographic scope of analysis are not included in the cited number and mileage of trails because they are *indirectly* connected to the system of trails related to the selected public lands and offered Tribal lands. For example, the Gabby Hayes, Herb Jeffries, Homestead, Hopalong Cassidy, Mike Schuler, and Mirage (Bump and Grind) Trails in the Homme-Adams Park / Cahuilla Hills Park area of Palm Desert are not included because their connectivity with other trails in the system is only via the Hopalong Cassidy Trail from where it intersects the Art Smith Trail; this intersection is almost seven miles distant from Dunn Road, the next closest “system” trail (other than the Art Smith Trail itself). Such indirectly-connected trails total 31 miles in length (12 trails). As previously described, “official” trails are those identified by the BLM and the Tribe where some type of use is appropriate and allowed either seasonally or year-round, and which have been inventoried and depicted on maps that are created or sponsored by the BLM or the Tribe. “Social” trails are not included in the cited number and mileage of trails.

Since access with dogs to the selected public lands and offered Tribal lands is already prohibited, the proposed action and alternatives would not cumulatively affect the public’s opportunity to bring leashed dogs onto nonpublic and non-Tribal lands.³⁸ The proposed action and alternatives, on the other hand, may contribute to diminishing opportunities for cross-country travel on as much as 4,329 acres,³⁹ or about nine percent of lands within the geographic scope of analysis that are currently available for cross-country travel,⁴⁰ though such impact is dependent on the extent of public lands to be acquired by the Tribe, whether and to what extent the BLM imposes a cross-country prohibition on the lands it retains and/or acquires, and alignment of all local jurisdiction municipal codes with the trails management plan element of the CVMSHCP which broadly prohibits cross-country travel on a seasonal basis. Empirical data regarding occurrences of cross-country travel on the selected public lands and other properties in the project area, however, are not available; cumulative effects of the proposed action and alternatives on the frequency of occurrences, therefore, cannot be quantified.

4.2.1.8 Conclusion regarding effects to recreation resources

For reasons described above, implementation of the proposed action, preferred alternative, or no action alternative would not substantially affect opportunities for non-motorized recreation in the project area.

³⁸ As construction of a trail connecting the Garstin and Thielman Trails is a reasonably foreseeable future action and it is anticipated that leashed dogs would be allowed on the connector trail (as well as segments of the two trails to which it connects), opportunities for access with dogs may be enhanced. However, the proposed action and alternatives, as previously discussed, would not likely affect the proposal to construct this new trail; hence, they do not cumulatively affect opportunities to access the project area with dogs. It is also important to acknowledge that while construction of this trail is reasonably foreseeable, it is not a certainty. If constructed entirely on public lands, which could only occur under scenarios one and two of the proposed action, the preferred alternative, and the no action alternative, a separate decision-making process is required, the outcome of which cannot be predetermined.

³⁹ Under the no action alternative and the current situation whereby the BLM allows cross-country travel to occur year-round on the selected public lands, opportunities for such travel are available on 5,799 acres. Under scenario three of the proposed action, opportunities for such travel on lands acquired from the Tribe would be available on 1,470 acres; cross-country travel opportunities, therefore, would be diminished on 4,329 acres under this alternative. Under scenarios one and two of the proposed action and the preferred alternative, cross-country travel opportunities would be diminished on 2,545 acres, 3,186 acres, and 3,821 acres, respectively (see Table 4.2.1.7).

⁴⁰ Approximately 95,642 acres are contained within the geographic scope of analysis as herein described (including 1,791 acres in sections 33 and 35, T.6S. R.5E., and section 3, T.7S. R.5E., in the Pinyon Flat area, which are excluded from the Monument). However, opportunities for non-motorized cross-country travel are not currently available throughout this area: such travel is prohibited on 18,119 acres of Tribal lands (travel allowed on trails only, ACBCI 2010); 2,571 acres of state lands in the Magnesia Spring and Carrizo Canyon Ecological Reserves (California Code of Regulations, Title 14, Chapter 11 § 630(a)(7)); 480 acres on City of Palm Desert lands (municipal code 11.01.080(Y), seasonal prohibition); 611 acres in the University of California Deep Canyon Desert Research Center (closed to public entry in its entirety); and 27,133 acres of private land—for purposes of this analysis, it is presumed that off-trail travel on private lands is not allowed absent landowner permission. Therefore, opportunities for cross-country/off-trail travel are currently limited to 46,728 acres within the geographic scope of analysis: 22,980 acres of BLM lands, including the public lands selected for the proposed land exchange; 21,888 acres of U.S. Forest Service lands; and 1,860 of local jurisdiction lands, excluding Palm Desert.

4.2.2 Impacts to Special Status Species

4.2.2.1 *Threatened and Endangered Animal Species*

Each federal agency shall determine whether its actions may affect listed species or designated critical habitat, and if such a “may affect” determination is made, enter into formal consultation with the U.S. Fish and Wildlife Service (50 CFR § 402.14).⁴¹ The proposed land exchange between the BLM and the Tribe constitutes an agency action subject to this regulatory requirement. This section of the draft EIS, therefore, assesses the environmental impacts of the proposed action and alternatives to Peninsular bighorn sheep, least Bell’s vireo, southwestern willow flycatcher, and desert tortoise, the four listed species that occur or may occur within the project area, or to designated critical habitat for these species. Species accounts are provided in section 3.2.15 of this draft EIS, including species overviews and discussions about the federal listing, modeled habitat, designated critical habitat, threats, population trend, and recovery for each of the four listed species.

As suggested above, there are two fundamental questions to be answered in this section of the draft EIS: (1) what are the anticipated direct, indirect, and cumulative effects on the listed species, and the significance of these effects, that would result from implementing the proposed action or an alternative action, and (2) what are the anticipated direct, indirect, and cumulative effects on designated critical habitat, and the significance of these effects, from implementing the same? These questions are addressed in the subsections below for each of the listed species.

4.2.2.1.1 Peninsular bighorn sheep (*Ovis canadensis nelsoni*): federally listed as endangered; listed by the State of California as threatened.

Impacts to bighorn sheep:

As previously described, implementation of either the proposed action or preferred alternative would, in essence, be an administrative undertaking whereby ownership of the selected public lands and offered Tribal lands changes in whole or in part; no other undertakings, such as facility development, are proposed on these lands in conjunction with the proposed land exchange. The only reasonably foreseeable future action would be construction of a trail connecting the Garstin and Thielman Trails in section 36, T.4S. R.4E., and section 1, T.5S. R.4E., which under scenarios one and two of the proposed action, as well as the preferred and no action alternatives, would occur entirely on public lands.⁴² Only under scenario three of the proposed action, whereby section 36 may be transferred to the Tribe, would construction of this trail be addressed by both the BLM and the Tribe. Should a proposal to construct the trail be forthcoming, it would be

⁴¹ Formal consultation is not required if, as the result of the preparation of a biological assessment under 50 CFR § 402.12 or as a result of informal consultation with the USFWS under 50 CFR § 402.13, the federal agency determines, with the written concurrence of the USFWS, that the proposed action is not likely to adversely affect any listed species or critical habitat (50 CFR § 402.14).

⁴² Whereas facility development other than potential construction of a trail connecting the Garstin and Thielman Trails is not reasonably foreseeable, habitat improvement projects, such as the removal of tamarisk, and trail maintenance activities would likely continue where appropriate on the selected public lands and offered Tribal lands. These actions, however, are addressed through separate decision-making processes.

subject to a separate decision-making process, including a specific analysis of its effects on Peninsular bighorn sheep.

Therefore, direct, indirect, and cumulative effects of the proposed land exchange on Peninsular bighorn sheep (versus effects to their habitat; see discussion below) are unlikely. It is not anticipated that bighorn sheep behaviors (e.g., foraging, breeding, rearing, rutting, resting, and movement through the landscape) would change simply because ownership of the selected public lands and offered Tribal lands changes.

Similarly, non-motorized recreational activities on the public and Tribal lands identified for the land exchange—predominantly hiking, mountain biking, and horseback riding—are anticipated to generally occur to the same extent and at the same levels whether the proposed action, preferred alternative, or no action alternative is approved (see section 4.2.1). While decisions regarding the management of these non-motorized recreational activities would occur separate from implementation of the proposed land exchange, preferred alternative, or no action alternative, an analysis of impacts to Peninsular bighorn sheep resulting from the continuation of hiking, mountain biking, and horseback riding on the selected public lands and offered Tribal lands is relevant and therefore presented below.

Recovery Plan (USFWS 2000)

The U.S. Fish and Wildlife Service has been delegated the responsibility of administering the Endangered Species Act of 1973, and is directed to develop and implement recovery plans for species of animals and plants listed as endangered and threatened. Recovery is the process by which the decline of endangered or threatened species is arrested or reversed, and threats to survival are neutralized, ensuing long-term survival in nature. A recovery plan, therefore, delineates, justifies, and schedules the management and research actions necessary to support the recovery of listed species.

In its recovery plan for Peninsular bighorn sheep, the USFWS asserts that an important consideration in the conservation of Peninsular bighorn sheep, in part, is their behavioral response to humans and human activity. Bighorn sheep responses to human activity are highly variable and depend on many factors, including the type of activity, an animal's previous experience with humans, size or composition of the bighorn sheep group, distance to escape terrain, and distance to the activity. Responses can range from cautious curiosity to immediate flight or abandonment of habitat, as well as disruption of normal social patterns and resource use. Although the effect of human activity in bighorn sheep habitat is not always obvious, human presence or activity in many cases has been found to detrimentally alter normal behavior and habitat use patterns. Hence, one of the goals identified in the recovery plan to address threats to Peninsular bighorn sheep is the reduction or elimination of detrimental human activities within bighorn sheep habitat. (USFWS 2000) The pertinent question, therefore, is whether non-motorized recreational activities in the project area are detrimental to the recovery of these bighorn sheep. The remaining discussion in this subsection will focus on this determination.

Recreation activities are part of a cumulative set of factors affecting bighorn sheep in the Peninsular Ranges,⁴³ some of which (e.g., development-related pressures) are more intense in the

⁴³ A variety of human activities such as hiking, mountain biking, horseback riding, hang gliding, camping, hunting, livestock grazing, dog walking, and use of aircraft and off-road vehicles have the potential to disrupt normal bighorn sheep behaviors and use of essential resources, or cause bighorn sheep

Coachella Valley than elsewhere in sheep habitat, such as in the Anza-Borrego region to the south. The proportionally larger population declines of bighorn sheep in the northern Santa Rosa and San Jacinto Mountains may be related in part to the relatively higher levels of human disturbance associated with the larger metropolitan area.⁴⁴ Contributing factors may include the extensive and interconnected trail system: most of the trails in these mountains head upslope and intersect other trails at higher elevations, forming an extensive trail network throughout ewe group home ranges, including lambing, rearing, and watering habitat. (USFWS 2000)

As one of the tasks aimed at reducing or eliminating detrimental human activities within bighorn sheep habitat, the USFWS prescribed the development and implementation of a trails management program with affected land management agencies, scientific organizations, and user groups. Elements of the program would include public education, prohibition of dogs in bighorn sheep habitat, seasonal restrictions on trails that bisect lambing and rearing habitat, seasonal restrictions or trail relocations for trails that lead to water sources, and monitoring, enforcement, and research. The USFWS identified specific trails and areas that potentially conflict with lambing from January 1 through June 30 and bighorn sheep access to water from June 1 through September 30, indicating these conflicts should be addressed in an interagency trails plan. These trails include several that would be directly affected by the proposed land exchange: North Lykken Trail, Skyline Trail, and the “Murray Hill trail complex,” which is considered to include the Araby, Berns, Dunn Road (Trail), East Fork Loop, Garstin, Shannon, Thielman, and Wild Horse Trails. (USFWS 2000)

Coachella Valley Multiple Species Habitat Conservation Plan (2007)

The CVMSHCP planning effort began in 1994 when a scoping study prepared for the Coachella Valley Association of Governments by the Coachella Valley Mountains Conservancy was publicly considered. Subsequently, a Memorandum of Understanding was executed in 1996 to initiate preparation of the CVMSHCP; the BLM signed this MOU along with nine Coachella Valley cities, the County of Riverside, and state and other federal agencies. While not a signatory to the plan itself, the BLM determined how best to support the CVMSHCP through its California Desert Conservation Area Plan Amendment for the Coachella Valley (BLM 2002a).

An element of the CVMSHCP is the interagency trails management program referenced in the USFWS recovery plan for Peninsular bighorn sheep. Consistent with recommendations contained

to abandon traditional habitat. However, attempts to ascribe relative importance, distinguish among, or generalize the effects of different human activities on sheep behavior are not supportable given the range of potential reactions reported in the scientific literature and the different variables impinging on given situations. (USFWS 2000)

⁴⁴ Peninsular bighorn sheep in the United States declined from an estimated 1,171 individuals in 1971 to about 450-600 individuals in 1991. Population estimates at the time of listing in 1998 indicated a continued decline to about 280 individuals, divided amongst approximately eight ewe groups. (USFWS: 63 FR 13134, March 18, 1998). In the northern Santa Rosa Mountains (west of Highway 74), ewe abundance estimates were 15.9, 14.0, and 11.6 for 1994, 1996, and 1998, respectively; in the San Jacinto Mountains during this same period, estimates were 7, 7, and 8, respectively. These ewe abundance estimates were the lowest for any of the eight ewe groups. By comparison, ewe group abundance estimates for the Santa Rosa Mountains east of Highway 74 were 66.2, 83.0, and 48.3 for 1994, 1996, and 1998, respectively. (USFWS 2000) Subsequently, the ewe group occupying the Santa Rosa Mountains east of Highway 74 was recognized as two separate ewe groups: central Santa Rosa Mountains and southern Santa Rosa Mountains, thereby yielding a total of nine ewe groups for the U.S. population of Peninsular bighorn sheep.

in the recovery plan, the preferred alternative described in the public review draft of the CVMSHCP, released in 2004, would establish substantial restrictions on access to certain trails. While 31 trails would be open year-round, nine trails would be subject to a permit program whereupon 2,300 individuals and 50 groups only would be allowed to use these trails from January 15 through June 30; four trails would be closed from July 1 through September 30; six trails would be subject to a voluntary trail avoidance program from January 15 through June 30; and cross-country travel would be prohibited from January 15 through September 30 (CVAG 2004).⁴⁵ Relative to trails directly affected by the proposed land exchange, the North Lykken and Skyline Trails would be subject to the seasonal permit program; the remaining trails on the exchange lands would be open year-round.

In response to public comments and as a result of further consideration regarding conditions of local bighorn sheep and their habitat, the precautionary approach that guided development of the trails management plan element of the draft CVMSHCP was revised in favor of an adaptive management approach emphasizing research on the effects of recreational trail use on Peninsular bighorn sheep, and monitoring such trail use and bighorn sheep populations. The revised trails plan, which eliminated provisions establishing the restrictive permit and voluntary trail avoidance programs, was presented in the subsequent final CVMSHCP released in 2006, and carried forward into the final recirculated plan (September 2007), which was approved in October 2008 upon the issuance of permits by the U.S. Fish and Wildlife Service and the California Department of Fish and Game (now California Department of Fish and Wildlife).

The revised trails plan described in the 2007 final recirculated CVMSHCP, however, would appear to be in contradiction to the recovery plan which cites studies showing that expansive urban development in and around bighorn sheep habitat in three metropolitan areas—Albuquerque, Tucson, and the Coachella Valley—led to habitat abandonment and population declines. Although cases have been cited in which bighorn sheep populations did not appear to be affected by human activity, numerous researchers have documented altered bighorn sheep behavior in response to anthropogenic disturbance. Even when bighorn sheep appear to be tolerant of a particular activity, continued and frequent use can cause them to avoid an area, eventually interfering with use of resources, such as water, mineral licks, lambing or feeding areas, or use of traditional movement routes. It was repeatedly cautioned that human disturbance threatened the viability of a bighorn sheep population in the Santa Catalina Mountains outside of Tucson; it was found that habitat abandoned by bighorn sheep had greater human disturbance than occupied habitat. Today, this population is extinct, or nearly so, and human activities apparently contributed to its demise. (USFWS 2000)

Given the potential behavioral vulnerabilities of bighorn sheep to human disturbance and associated risks to the persistence of depressed populations in the Coachella Valley, a biologically conservative management approach was deemed appropriate by the USFWS. Why, then, was the precautionary approach to the trails management program as expressed in the 2004 draft CVMSHCP changed to one favoring adaptive management whereupon few restrictions on the use of trails were prescribed? The reasons were best articulated in the 2007 final recirculated CVMSHCP:

⁴⁵ Whereas the recovery plan for Peninsular bighorn sheep identifies the lambing season as January 1 through June 30, and the water stress period as June 1 through September 30, the draft CVMSHCP identified lambing season restrictions as applicable from January 15 through June 30, and water stress season restrictions as applicable from July 1 through September 30. Rationale for these differences is not offered in the 2004 draft CVMSHCP.

A clear cause-and-effect link between trail use and reduced bighorn sheep fitness (defined as survival and reproduction) and population levels has not been established by the current body of research and analysis. Studies of appropriate duration and design have not been attempted such that they could conclusively establish this link. Nonetheless, the scientific literature does provide some support for the premise that recreational use of sensitive bighorn sheep habitat (particularly during lambing and hot seasons) may negatively affect bighorn sheep (Horejsi 1976; Graham 1980; Stemp 1983; Miller and Smith 1985; Etchberger et al. 1989; Krausman et al. 2001; Papouchis et al. 2001). Researchers have determined that, under certain circumstances, human recreation may temporarily displace bighorn sheep, disrupt foraging which may reduce nutrient acquisition, and cause uncertain levels of stress. However, uncertainty remains where the long-term effects on bighorn sheep populations are concerned. (CVAG 2007)

A more recent study examining the effects of recreation on desert bighorn sheep in the local region supports this conclusion with respect to the uncertainty of long-term effects. Longshore et al. (2013) studied responses of desert bighorn sheep (*Ovis canadensis nelsoni*) to weekend recreation activity in the Wonderland of Rocks/Queen Mountain region of Joshua Tree National Park, located approximately 35 miles northeast of the land exchange project area. The study area is inhabited by a small population of bighorn sheep—54 adults in 2003; 59 adults in 2004—one of an estimated five populations within the national park. Total daily accumulated trail counter data pooled for three sites in the study area locale were 1,014, 760, 868, 1,375, and 1,292 hiker detections for Monday through Friday, respectively, and 2,520 and 2,064 detections on Saturday and Sunday, respectively; trail counter data were collected from February through March in 2003 and 2004.

The primary goal of the research was to determine whether daily recreation activity caused bighorn sheep to move away from trails or to change location with respect to water or escape terrain. Results indicated that within the study area, moderate to high levels of recreation activity may temporarily exclude bighorn females from their preferred habitat. However, the relative proximity of females to recreation trails during the weekdays before and after such habitat shifts indicates these anthropogenic impacts are short-lived.

Cross-country travel. With respect to cross-country (off-trail) travel by hikers, mountain bikers, and horseback riders, would opportunities for such travel be affected by the proposed land exchange and alternatives, thereby differentially affecting Peninsular bighorn sheep depending on which alternative is selected? Under current management prescriptions for public and Tribal lands, opportunities for cross-country travel would be most constrained by scenario three of the proposed action, and least constrained by the no action alternative (see table 4.2.1.7 in section 4.2.1 of this draft EIS). Of the 7,269 acres of selected public lands and offered Tribal lands combined, about 20 percent would be available for cross-country travel under scenario three of the proposed action; 27 percent under the preferred alternative; 36 percent under scenario two of the proposed action; 45 percent under scenario one of the proposed action; and 80 percent under the no action alternative—all opportunities for cross-country travel would occur on BLM lands only.

To reiterate from section 4.2.1, no empirical data are available regarding occurrences of cross-country travel in the project area to suggest whether changes in land ownership, thereby changing

opportunities for such travel as they currently exist, would affect actual use. While opportunities would be diminished upon implementation of the proposed action or preferred alternative, the potential effects on bighorn sheep are limited if few people actually engage in such activity. Nevertheless, it is appropriate to discuss the potential effects of cross-country travel on bighorn sheep in order to compare and contrast alternatives in this regard.

Current scientific literature strongly suggests that cross-country travel by hikers, particularly during lambing season, may result in adverse impacts to bighorn sheep. The EIR/EIS prepared for the CVMSHCP (CVAG 2007) indicates that cross-country travel may have a greater effect on bighorn sheep than trail use, citing Papouchis et al. (2001). Papouchis found that hikers cause the greatest disturbance to bighorn sheep when in unpredictable locations (i.e., off trails and in variable locations), consistent with other research findings, such as described by MacArthur et al. (1979). Further, increased sensitivity to hikers in high-use areas was suggested by a greater responsiveness by males in autumn during the rut and greater distances fled by females in spring during the lambing season. The increased expenditure of energy resulting from disturbances could force females and lambs into habitat with less escape cover, making lambs more vulnerable to predation. Excessive disturbances of males during rut could disrupt their opportunity to find mates. The authors recommended that hikers be confined to maintained trails where their movement would be more predictable to bighorn sheep.

While it may appear that the potential for adverse impacts to Peninsular bighorn sheep resulting from cross-country travel significantly varies by alternative—opportunities for such travel ranges from 20 to 80 percent of the total acreage where it might occur—it cannot be reasonably concluded that population-level effects of cross-country travel would substantially differ when comparing one alternative to another. As previously indicated, there are no empirical data regarding extent or levels of cross-country travel in essential bighorn sheep habitat overall, or in the project area in particular. In addition, opportunities for such activity are substantially constrained by topography on the east flank of the San Jacinto Mountains where the majority of the selected public lands occur; opportunities for cross-country travel are greatest on the remaining selected public lands, though a substantial portion of these are not proposed for exchange under the preferred alternative. Finally (as also previously indicated), there is uncertainty with respect to the long-term effects of recreational activities, including cross-country travel, on bighorn sheep fitness and population levels. The population of bighorn sheep has increased in the northern and central Santa Rosa Mountains recovery regions and has remained stable in the San Jacinto Mountains (at increased numbers relative to the time of listing in 1998) despite a continuation of largely-unregulated non-motorized recreational activity on BLM-managed lands in these areas (except for a prohibition of dogs) and an increase of human population in the Coachella Valley. It is important to acknowledge that cross-country travel and access with dogs are prohibited on Tribal lands in the project area; whether or to what extent such prohibitions were factors supporting an increase in the local bighorn sheep population are undetermined.

Access with dogs. Allowing dogs within essential bighorn sheep habitat would result in serious disturbance to bighorn sheep because they see dogs as predators, thereby potentially displacing bighorn sheep, disrupting foraging (which may reduce nutrient acquisition), and causing uncertain levels of stress (CVAG 2007). Under current management (no action alternative), dogs are prohibited year-round on the selected public lands east of Palm Canyon (including section 36, T.5S. R.4E., which includes the “bottom” of the canyon) and all the offered Tribal lands; leashed

dogs are currently allowed on the selected public lands west of Palm Canyon.⁴⁶ Assuming that access with dogs generally occurs on official trails for the safety of both trail user and dog (versus cross-country or on social trails), opportunities for such access would be greatest under scenarios one and two of the proposed action and the no action alternative—in which 1.9 miles or about 16 percent of trails on the selected public and offered Tribal lands would be available for hiking with dogs—and least under scenario 3 of the proposed action and the preferred alternative in which no trails would be available for this activity. Concomitantly, potential adverse effects to Peninsular bighorn sheep from hiking with dogs would be greatest and least under these same alternatives, respectively.

Tribal Habitat Conservation Plan (ACBCI 2010)

As indicated in section 1.4d(i) of this draft EIS, trails under the management of the Tribe will be kept open and managed under provisions of the Tribe's trails management plan, the Indian Canyons Master Plan, the cooperative agreement with the BLM, and the Tribal Habitat Conservation Plan. Further, the Tribe has committed to managing trails on the lands it acquires from the BLM in the same manner as the BLM (ACBCI 2012). Therefore, trail-based recreation would likely occur to the same extent and at the same levels whether the proposed action, preferred alternative, or no action alternative is approved (see section 4.2.1). As a result, it is not anticipated that bighorn sheep behaviors would change simply because ownership of the selected public lands and offered Tribal lands changes, consistent with the analysis provided above.

Summary

Changing ownership of the selected public lands and offered Tribal lands in and of itself would have little to no direct, indirect, or cumulative effect on Peninsular bighorn sheep. Since actions other than changing ownership of certain parcels of land in the Palm Canyon area are not proposed or reasonably foreseen as a consequence of the land exchange, the primary concern therefore relates to impacts to bighorn sheep resulting from activities that would continue on these public and Tribal lands. Principal among these activities is non-motorized, trail-based recreation. Hence:

- Would the proposed land exchange or alternatives *directly* affect the extent and levels of recreational trail use—i.e., cause a change in recreational trail use that occurs immediately upon execution of the action and in the same place—thereby concomitantly changing the behaviors and habitat use patterns of Peninsular bighorn sheep? Not likely.

⁴⁶ The prohibition of dogs on public lands is described in a notice published by the BLM in the Federal Register on January 21, 2000 (65 FR 3473). This prohibition remains in effect pending completion of a comprehensive trails management plan which addresses all aspects of trail and trailhead use in the Santa Rosa Mountains National Scenic Area (absorbed by what is now the Santa Rosa and San Jacinto Mountains National Monument). The referenced plan is the multijurisdictional trails management plan element of the CVMSHCP; the BLM has yet to issue a decision regarding the federal land component of the trails plan. It is anticipated, however, that consistent with management prescriptions established in the CVMSHCP, approved in October 2008, the BLM will expand the prohibition of dogs to include public lands west of Palm Canyon should any such lands be retained by the BLM upon conclusion of the proposed land exchange.

- Would the proposed land exchange or alternatives *indirectly* affect the extent and levels of recreational trail use—i.e., cause a change in recreational trail use that is later in time or farther removed in distance, but is still reasonably foreseeable—thereby concomitantly changing the behaviors and habitat use patterns of Peninsular bighorn sheep? Not likely.
- Would the proposed land exchange or alternatives *cumulatively* affect the extent and levels of recreational trail use—i.e., add to other past, present, and reasonably foreseeable future actions—thereby concomitantly changing the behaviors and habitat use patterns of Peninsular bighorn sheep? Not likely.

Although opportunities for non-trail-based recreational activities (cross-country travel) and access with dogs would vary by alternative as described above, realization of these opportunities would be limited regardless of the alternative selected; impacts to Peninsular bighorn sheep resulting from these activities, therefore, would vary little by alternative. Since the extent and levels of recreational trail use would not likely change in response to implementation of the proposed land exchange, preferred alternative, or no action alternative, and the long-term, population-level effects of these activities on bighorn sheep are uncertain, it can be reasonably concluded that Peninsular bighorn sheep in the project area are not likely to be adversely affected by any of these alternatives.

Impacts to habitat:

As previously indicated, the regulations at 50 CFR Part 402—Interagency Cooperation, Endangered Species Act of 1973, as Amended—require federal agencies to determine whether any action may affect listed species or critical habitat (50 CFR § 402.14(a)). Effects of the proposed action and alternatives on Peninsular bighorn sheep are described above. The following analysis addresses impacts to bighorn sheep habitat, whether designated as critical or identified as modeled or essential (see section 3.2.15.1 of this draft EIS for a discussion of critical, modeled, and essential habitats).

At its extreme, habitat loss is a leading cause of current species extinctions and endangerment worldwide, and represents a particularly serious threat to Peninsular bighorn sheep because they live in a narrow band of lower elevation habitat that represents some of the most desirable real estate in the California desert. At least 18,500 acres of suitable habitat has been lost to urbanization and agriculture within the range of three ewe groups that occur along the urban interface between Palm Springs and La Quinta. Encroaching urban development and anthropogenic disturbances have the dual effect of restricting animals to a smaller area and severing connections between ewe groups. Fragmentation poses a particularly severe threat to species with a metapopulation structure, such as Peninsular bighorn sheep, because overall survival depends on interaction among subpopulations.⁴⁷ (USFWS 2010a) Consequently, the BLM and the Tribe, through implementation of their respective land use plans, strive to conserve the various habitat types under their jurisdiction in the Santa Rosa and San Jacinto Mountains,

⁴⁷ A metapopulation consists of a group of spatially separated populations of the same species that interact at some level. With respect to Peninsular bighorn sheep, the movement of rams and occasional ewes between ewe groups maintains genetic diversity and augments populations of individual ewe groups. Increased fragmentation increases the risk of ewe group extinction.

including habitat types that support bighorn sheep, in order to maintain or restore ecological integrity to the maximum extent practicable.

Defining conservation

As a first step in analyzing effects of the proposed land exchange and alternatives on the conservation of bighorn sheep habitat in the project area, as well as habitat for other wildlife species, it is important to define “conservation” and establish context with respect to conservation commitments made by the BLM and the Tribe. What is meant by “conservation” or “conserved lands”? One dictionary defines conservation as the official care, protection, or management of natural resources (Simon and Schuster 1988). More specifically, the BLM considers the “act of conserving” to be the use of all methods and procedures which are necessary to bring any endangered or threatened species to the point at which the measures provided pursuant to the Endangered Species Act are no longer necessary (BLM 2002a and 2008c). “Conservation” as applied to BLM sensitive species means the use of programs, plans, and management practices to reduce or eliminate threats affecting the status of the species, or improve the condition of the species’ habitat on BLM-administered lands (BLM 2008c). The Tribe defines “conservation measures” as actions and methods used to protect Covered Species—including preservation and management of habitat—and considers “conservation agreements” to be for the purpose of establishing areas that are to remain in a naturally occurring state in order to protect and conserve Covered Species (ACBCI 2010).^{48 1}

BLM and Tribal conservation commitments

The California Desert Conservation Area Plan Amendment for the Coachella Valley (BLM 2002a) is the land use plan that governs management of the public lands selected for the land exchange. Goals of the plan amendment include ensuring a balance of multiple use and sustainable public land uses with progress towards attaining healthy, properly functioning ecosystems, and working in collaboration with the Tribe (among others) to conserve the values of, and manage land uses in, the Santa Rosa and San Jacinto Mountains National Monument. The plan amendment was developed in partnership with local jurisdictions of the Coachella Valley, special interest groups, and state and federal agencies in support of an agreement signed in 1991 committing members of the California Biodiversity Council (which includes the BLM) to cooperate, communicate, and foster regional efforts to promote biodiversity conservation, as well as in support of a memorandum of understanding signed in 1996 to prepare the Coachella Valley Multiple Species Habitat Conservation Plan.

A key component of the BLM’s plan amendment is an element establishing habitat conservation objectives based on the habitat needs for sensitive plant and animal species which occupy eight specific vegetation community types. Habitat conservation objectives include the conservation of at least 99 percent of existing sand dunes and sand fields, desert scrub communities, chaparral communities, desert alkali scrub communities, marsh communities, dry wash woodland and mesquite communities, native riparian communities, and woodland and forest communities. Future activities are required to conform to the habitat conservation objectives established for a particular community type within conservation areas, which include the Monument. Activities which cannot meet these objectives, either through avoidance or mitigation measures, would be disallowed.

⁴⁸ “Covered Species” are those wildlife and plant species and subspecies protected through implementation of management prescriptions contained in the THCP.

On November 2, 2010, the Agua Caliente Band of Cahuilla Indians approved its Tribal Habitat Conservation Plan to provide the means for protecting and contributing to the conservation of wildlife species federally listed as threatened or endangered, and species deemed by the Tribe and U.S. Fish and Wildlife Service to be sensitive and potentially listed in the future. The plan provides mechanisms to permit and guide development, serves as an adaptive management tool for updating and/or revising baseline biological resource information and management conservation goals and priorities, and complements other existing and planned conservation efforts in the region.

A key component of the THCP is the creation of a Habitat Preserve which, should the plan area become developed to the full extent allowed by the plan, will include all lands dedicated for conservation in perpetuity as a result of mitigation measures implemented by the THCP and all lands acquired by the Tribe from funds generated through a fee applied to activities covered by the THCP. In such event, the Habitat Preserve would include an estimated 18,870 acres comprising approximately one half of the entire Agua Caliente Indian Reservation. It would consist of 16,367 acres of upland habitat in the THCP's Mountains and Canyons Conservation Area, 1,048 acres of riparian habitat, and up to 1,455 acres of valley floor species habitat on and off the Reservation in the THCP's Valley Floor Planning Area. (ACBCI 2010)

As suggested above, the THCP divides the Reservation into two distinct areas: the Mountains and Canyons Conservation Area (MCCA) and the Valley Floor Planning Area (VFPA). The MCCA includes all portions of the Santa Rosa and San Jacinto Mountains within the Reservation, generally above the 800-foot elevation contour. The VFPA consists of the balance of the Reservation, generally including the areas lying below 800 feet and on the floor of the Coachella Valley. In the Mountains and Canyons Conservation Area (see Figure 4), the goal is to conserve 85 percent of the land, or 5.67 acres for every one acre of development, thereby allowing development to occur on 15 percent of the MCCA, though no net loss of riparian areas and palm groves would be allowed. In addition, the THCP avoids impacts to Peninsular bighorn sheep lambing and use areas, with 100 percent conservation of identified lambing areas, maintains a bighorn sheep movement corridor between the San Jacinto Mountains and Northern Santa Rosa Mountains, and establishes a 1/4-mile buffer around water sources. If the entire MCCA should maximize development potential to the extent allowed by the THCP and therefore contribute as much to the Habitat Preserve as possible, the Habitat Preserve in the MCCA will include up to approximately 17,403 acres of Tribal lands. (ACBCI 2010)

Habitat conservation and the proposed land exchange

Both the selected public lands and offered Tribal lands for the proposed land exchange occur within the Mountains and Canyons Conservation Area. Lands acquired by the BLM from the Tribe through the proposed land exchange would be managed in accordance with the CDCA Plan, as amended. Lands acquired by the Tribe from the BLM would be managed in accordance with the Indian Canyons Master Plan, the Tribal Habitat Conservation Plan, and other applicable plans and ordinances. However, the acquired public lands would not be subject to the 15 percent development limit established for the Mountains and Canyons Conservation Area; rather, development would be limited to about 3.8 percent of the acquired lands, thereby establishing a conservation commitment on 96.2 percent of these lands (ACBCI 2010).⁴⁹

⁴⁹ Public lands retained by the BLM and lands acquired from the Tribe would be subject to the CDCA Plan, as amended, including a commitment to conserve at least 99 percent of each habitat type

Whether the proposed land exchange or some derivation is approved, or an exchange of lands does not occur, overall conservation of BLM lands selected for the land exchange and Tribal lands within the Mountains and Canyons Conservation Area (including both offered lands for the exchange and the remaining lands within the Conservation Area) combined would be about the same, i.e., approximately 88 percent. The tables below summarize the extent of habitat conservation that would occur under these various alternatives. Table 4.2.2.1 describes extent of conservation and potential development of the selected public lands (totaling 5,799 acres), offered Tribal lands (totaling 1,470 acres), and remaining Tribal lands within the Mountains and Canyons Conservation Area (totaling 19,004 acres). Table 4.2.2.2 describes the extent of conservation and potential development of the selected public lands and offered Tribal lands only.

Analytical assumptions. For purposes of analysis, potential development of the selected public lands is presumed to be uniformly spread across the project area. However, with respect to implementation of the 99 percent conservation objective for various habitat types on public lands as provided by the CDCA Plan Amendment for the Coachella Valley (BLM 2002a), conservation on the selected public lands could theoretically range from substantially less than 99 percent to 100 percent. Why? The 99 percent conservation commitment is applicable to specific habitat types within the planning area identified for the plan amendment, which at the time contained about 1.2 million acres, of which approximately 330,000 acres were managed by the BLM. Desert scrub communities are the predominant habitat type on BLM lands within the Monument, including the project area, with chaparral and woodland/forest communities occurring at the higher elevations. If the one percent development potential for one of these habitat types was fully realized on public lands outside the project area, then conservation of the selected public lands would be 100 percent. The converse could also occur whereby the one percent development potential could be fully realized on the selected public lands. In reality, however, the latter scenario is not likely given that the selected public lands occur in habitat for Peninsular bighorn sheep, a circumstance that would probably constrain the extent to which the public lands could be developed.

Similarly, for purposes of analysis it is presumed that conserved and potentially developed lands are uniformly spread across the offered Tribal lands, but such would not likely be the case in reality. Within the Peninsular bighorn sheep “use area,” which generally extends from Chino Canyon to Andreas Canyon along the lower elevations of the San Jacinto Mountains, development rights would be transferred to land elsewhere in the THCP area or the land would be acquired for dedication to the Habitat Preserve, resulting in 100 percent conservation of this area. Additionally, a Peninsular bighorn sheep corridor study area has been identified across Palm Canyon, generally south of Andreas Canyon. Development within this corridor would be limited to five percent of the property; the remaining 95 percent would be required for conservation. (ACBCI 2010)

within the Santa Rosa and San Jacinto Mountains National Monument. Lands acquired by the Tribe from the BLM, and other Tribal lands within the MCCA, would be subject to the THCP. As part of the MCCA, all 1,470 acres of the offered Tribal lands are currently designated for 85 percent conservation; hence, at least 1,249 acres are in conservation status. The remaining 221 acres are subject to potential development. The Tribe has committed to limiting development potential on lands acquired from the BLM commensurate with this 221-acre limit, which results in a conservation level of about 96.2 percent on these lands should all 5,799 acres of public lands be acquired. Should fewer than 5,799 acres be acquired by the Tribe, the 96.2 percent conservation level would be applied to the acquired lands, i.e., the 221-acre development limit would be prorated.

Table 4.2.2.1: Conservation and potential development of selected public lands, offered Tribal lands, and other Tribal lands within the MCCA, in acres (26,273 acres total)

	Proposed Action <i>scenario 1</i>	Proposed Action <i>scenario 2</i>	Proposed Action <i>scenario 3</i>	Preferred Alternative	No Action Alternative
BLM					
public lands retained	1,784	1,143	0	508	5,799
acquired lands	1,470	1,470	1,470	1,470	0
<i>total</i>	3,254	2,613	1,470	1,978	5,799
x 0.99	3,221	2,587	1,455	1,958	5,741
x 0.01	33	26	15	20	58
Tribe					
Tribal lands subject to 85 percent conservation	19,004	19,004	19,004	19,004	20,474
x 0.85	16,153	16,153	16,153	16,153	17,403
x 0.15	2,851	2,851	2,851	2,851	3,071
acquired lands subject to 96.2 percent conservation	4,015	4,656	5,799	5,291	0
x 0.962	3,862	4,479	5,578	5,090	0
x 0.038	153	177	221	201	0
Summary					
total conservation in MCCA, public and Tribal lands	23,236 (88.44 %)	23,219 (88.38 %)	23,186 (88.25 %)	23,201 (88.31 %)	23,144 (88.09 %)
total potential development in MCCA, public and Tribal lands	3,037 (11.56 %)	3,054 (11.62 %)	3,087 (11.75 %)	3,072 (11.69 %)	3,129 (11.91 %)

Table 4.2.2.2 Conservation and potential development of selected public lands and offered Tribal lands only, in acres (7,269 acres total)

	Proposed Action <i>scenario 1</i>	Proposed Action <i>scenario 2</i>	Proposed Action <i>scenario 3</i>	Preferred Alternative	No Action Alternative
BLM					
public lands retained	1,784	1,143	0	508	5,799
acquired lands	1,470	1,470	1,470	1,470	0
<i>total</i>	3,254	2,613	1,470	1,978	5,799
x 0.99	3,221	2,587	1,455	1,958	5,741
x 0.01	33	26	15	20	58
Tribe					
Tribal lands subject to 85 percent conservation	0	0	0	0	1,470
x 0.85	0	0	0	0	1,249
x 0.15	0	0	0	0	221
acquired lands subject to 96.2 percent conservation	4,015	4,656	5,799	5,291	0
x 0.962	3,862	4,479	5,578	5,090	0
x 0.038	153	177	221	201	0
Summary					
total conservation	7,083 (97.44 %)	7,066 (97.21 %)	7,033 (96.75 %)	7,048 (96.96 %)	6,990 (96.16 %)
total potential development	186 (2.56 %)	203 (2.79 %)	236 (3.25 %)	221 (3.04 %)	279 (3.84 %)

As described in section 3.2.15.1 of this draft EIS, modeled habitat for Peninsular bighorn sheep, which is coincidental with essential bighorn sheep habitat in the project area, occurs on public lands in the following sections which are proposed for transfer from the BLM to the Tribe: sections 16, 17, 18, and 36, T.4S. R.4E.; and sections 5, 16, 21, 27, and 36, T.5S. R.4E. These public lands contain 4,178 acres of modeled/essential habitat, of which 731 acres in sections 16 and 17, T.4S. R.4E., and section 5, T.5S. R.4E, are designated as critical habitat. Hence, all but 1,621 acres of the selected public lands (5,799 acres) are modeled/essential habitat for bighorn sheep. The entirety of the offered Tribal lands in sections 7, 19, and 20, T.5S. R.5E., comprises modeled/essential habitat (1,470 acres). As displayed in Table 4.2.2.3, conservation of this habitat under all alternatives is high, ranging from about 95 percent under the no action alternative to almost 98 percent under scenario one of the proposed action. This level is consistent with overall conservation which ranges from about 96 to 97 percent (see Table 4.2.2.2).

Table 4.2.2.3 Conservation and potential development of modeled/essential Peninsular bighorn sheep habitat; selected public lands and offered Tribal lands only, in acres (5,648 acres total)

	Proposed Action <i>scenario 1</i>	Proposed Action <i>scenario 2</i>	Proposed Action <i>scenario 3</i>	Preferred Alternative	No Action Alternative
BLM					
PBS habitat on public lands retained	1,791	1,150	0	508	4,178
acquired PBS habitat	1,470	1,470	1,470	1,470	0
<i>total</i>	3,261	2,620	1,470	1,978	4,178
x 0.99	3,228	2,594	1,455	1,958	4,136
x 0.01	33	26	15	20	42
Tribe					
PBS habitat on Tribal lands subject to 85 percent conservation	0	0	0	0	1,470
x 0.85	0	0	0	0	1,249
x 0.15	0	0	0	0	221
acquired PBS habitat subject to 96.2 percent conservation	2,387	3,028	4,178	3,670	0
x 0.962	2,296	2,913	4,019	3,531	0
x 0.038	91	115	159	139	0
Summary					
total conservation	5,524 (97.80%)	5,507 (97.50%)	5,474 (96.92%)	5,489 (97.18%)	5,385 (95.34%)
total potential development	124 (2.20%)	141 (2.50%)	174 (3.08%)	159 (2.82%)	263 (4.66%)

PBS = Peninsular bighorn sheep

The 731 acres of designated critical habitat that may be acquired by the Tribe, depending on the outcome of the land value equalization process as described in chapter two, would remain as designated critical habitat under management of the Tribe. In accordance with the THCP, all Peninsular bighorn sheep critical habitat acquired by the Tribe would be within areas designated for 100 percent conservation. Since no designated critical habitat occurs on lands to be acquired by the BLM from the Tribe, no critical habitat would be conserved or potentially developed by the BLM after the exchange.⁵⁰ The exchange, therefore, would result in the avoidance of any potential adverse impacts to 731 acres of designated critical habitat.

⁵⁰ Lands acquired by the BLM from the Tribe would not automatically become designated critical habitat. Likewise, designated critical habitat acquired by the Tribe from the BLM would not automatically cease to be so designated. Such changes in designation are the responsibility of the U.S. Fish and Wildlife Service.

Effects of recreational activities on habitat

Non-consumptive human activity (e.g., recreational hiking) can seriously affect natural ecosystems. The level of impact is determined both by the intensity and extent of the activity, and by the specific type of impact on the habitat of concern. The impacts to habitats and to their values and functions from these activities fall into four general categories: destruction of habitat, fragmentation of habitat, simplification of habitat, and degradation of habitat. The nature of these impacts depends on the specific stress created by each activity. In most cases, a single activity will include several stressor processes that impact habitat. The major stressor processes affecting habitats include the following: vegetation removal, erosion, sedimentation and soil compaction, noise and visual disturbance, and introduced species. These stressor processes can result in the following effects on habitat: direct mortality of resident species, physiological stress and decreased reproduction, disruption of normal behavior and activities, segmentation of interbreeding populations, and modified species interactions and alien species invasion. Although all of the stressors affecting habitat can have serious impacts, physical alteration of habitat has eclipsed intentional and incidental taking as the major cause of population reduction among species. (EPA 1993)

To reiterate from previous discussions, however, changes in the extent and levels of trail-based recreational activities are not anticipated to occur as a result of implementing the proposed action, preferred alternative, or no action alternative. Nor are the extent and levels of off-trail recreational activities expected to change in a meaningful way as described above. From the perspective of habitat conservation, therefore, the proposed exchange of lands between the BLM and the Tribe is not anticipated to materially change the quantity or quality of habitat for Peninsular bighorn sheep.

Effects of climate change

Barrows and Murphy (2010) suggested that incremental shifts in temperature and precipitation will result in a gradual reduction in the extent of suitable habitat for bighorn sheep, and as the climate warms and precipitation declines, the lower and upper elevations of suitable habitat shift upwards. The pertinent question then is whether implementation of the proposed action or an alternative action would contribute to diminishment or upward shift of suitable habitat, thereby relegating Peninsular bighorn sheep to a narrowing band of habitat in the Santa Rosa and San Jacinto Mountains.

It should be evident by this point of the analysis that a change in ownership of the selected public lands and offered Tribal lands would have little, if any, effect on Peninsular bighorn sheep or their habitat, whether in a direct, indirect, or cumulative manner. Further, there is nothing to suggest that implementation of the proposed action, preferred alternative, or no action alternative would impair bighorn sheep use of potentially-shifting suitable habitat in the future due to climate change. Encroaching urbanization or fragmentation of habitat at higher elevations in San Jacinto Mountains, which are not currently occupied by bighorn sheep, is not anticipated due to a number of factors, principal among them being the rugged nature of the landscape which severely constrains development options. Higher elevations of the Santa Rosa Mountains in the project area already comprise suitable habitat for bighorn sheep, so upward shifts are not possible.

Summary

The proposed land exchange and alternatives are generally consistent with or exceed conservation goals of the BLM’s governing land use plan and the Tribe’s governing habitat conservation plan. Conservation of lands acquired by the BLM would likely occur at the 99 percent level or greater (as prescribed by the agency’s land use plan), while conservation of lands acquired by the Tribe would occur at no less than the 96.2 percent level, which is greater than prescribed for lands currently subject to the THCP. Overall conservation of the combined BLM and Tribal lands in the project area would remain about the same (88 percent) under all alternatives. Conservation of the selected public lands and offered Tribal lands only would also remain about the same (ranging from 96 to 97 percent), regardless of the alternative selected. With respect to the conservation of modeled/essential bighorn sheep habitat, it would occur at the 95 to 98 percent level depending on the alternative considered. As a result, the ecological values of Peninsular bighorn sheep habitat, whether designated as critical or identified as modeled or essential, are largely protected. While conservation of Tribal lands may occur at a marginally lower level than conservation of BLM lands in the project area, “[t]he Agua Caliente Band of Cahuilla Indians has demonstrated its commitment to manage Peninsular bighorn sheep habitat in a manner consistent with the conservation of the [Distinct Population Segment]. The 2001 Tribal Conservation Strategy, other ongoing tribal resource management, and 2007 draft Tribal HCP, when final, have provided and will provide protection and management, in perpetuity, of lands that meet the definition of critical habitat for Peninsular bighorn sheep in [Peninsular bighorn sheep Recovery] Units 1 and 2A” (USFWS: 74 FR 17288, April 14, 2009).⁵¹

4.2.2.1.2 Least Bell’s vireo (*Vireo bellii pusillus*): federally listed as endangered; listed by the State of California as endangered.

Southwestern willow flycatcher (*Empidonax traillii extimus*): federally listed as endangered; listed by the State of California as endangered.

For purposes of analysis, least Bells’ vireo and southwestern willow flycatcher are combined in this subsection for the following reasons: (1) both birds occupy similar habitats, i.e., woodland areas along riverine systems that include southern California; (2) suitable breeding habitat for both birds occurs in the project area; (3) federal listings as endangered for both birds were due to the loss of habitat and nest parasitism by brown-headed cowbirds, which constitute continuing threats to both species; and (4) no designated critical habitat occurs for either bird in the project area, though modeled habitat for both birds is coincidental. See section 3.2.15.1 of this draft EIS for further discussion regarding listings, habitats, threats, and population trends for these birds.

Impacts to least Bell’s vireo, southwestern willow flycatcher, and their habitats:

Of the total acreage potentially to be acquired by the Tribe from the BLM under scenario three of the proposed action (5,799 acres), 251 acres are identified as modeled habitat for least Bell’s vireo and southwestern willow flycatcher. As a condition of the exchange in accordance with the THCP (ACBCI 2010), the Tribe would limit development potential to 3.8 percent of lands acquired from the BLM, though the location of such potential development is unknown at this time. Therefore, if 3.8 percent of lands allocated for development potential was to be evenly

⁵¹ The 2001 Tribal Conservation Strategy referenced in the Federal Register notice constituted an interim THCP; it was superseded in 2010 by the final THCP.

spread across all lands acquired by the Tribe, it is anticipated that development potential on the 251 acres of modeled habitat acquired by the Tribe would be about 10 acres, thereby committing approximately 241 acres to conservation for least Bell’s vireo and southwestern willow flycatcher. Since no modeled habitat for these two species occurs on the lands to be acquired by the BLM from the Tribe, overall conservation and potential for development would occur only on Tribal lands after the exchange.

Therefore, conservation of modeled habitat for least Bell’s vireo and southwestern willow flycatcher would be expected to be reduced by seven acres, from 248 acres managed for conservation by the BLM before the exchange (no action alternative)—which represents a 99 percent conservation commitment for these 251 acres of modeled habitat—to 241 acres managed for conservation by the Tribe after the exchange (scenario three of the proposed action). Concomitantly, the potential for development/disturbance would be expected to increase by seven acres, from a total of three acres allocated for disturbance by the BLM before the exchange to 10 acres allocated for development by the Tribe after the exchange. The reduction of conserved modeled habitat under the “intermediate alternatives”—i.e., scenarios one and two of the proposed action and the preferred alternative, the implementation of which would exchange fewer than 5,799 acres of the selected public lands for the offered Tribal lands—would be marginally different.⁵² However, these figures do not account for the Tribe’s commitment (as expressed in the THCP) that no net loss of riparian areas and palm groves would be allowed; hence, conservation of modeled habitat for these two birds would be expected to occur at greater levels than described above.

Summary

Conservation of modeled habitat for least Bell’s vireo and southwestern willow flycatcher—from 96.0 percent under scenario three of the proposed action to 98.8 percent under the no action alternative—is consistent with overall conservation of the selected public lands and offered Tribal lands under all alternatives, i.e., from 96.16 percent to 97.44 percent (see Table 4.2.2.2). Given this high level of conservation, and acknowledging conclusions of the U.S. Fish and Wildlife Service that overutilization of habitat for commercial, recreational, scientific, or educational purposes has not been identified as a threat to the vireo or flycatcher (USFWS 2006 and 2002a, respectively), adverse impacts to these birds are not anticipated as a consequence of implementing the proposed action, preferred alternative, or no action alternative. No impacts to designated critical habitat would occur since no such habitat for either species occurs in the project area.

4.2.2.1.3 Desert tortoise (*Gopherus agassizii*): federally listed as threatened; listed by the State of California as threatened.

Impacts to desert tortoise and its habitat:

Of the total acreage potentially to be acquired by the Tribe from the BLM under scenario three of the proposed action (5,799 acres), 2,564 acres are identified as modeled habitat for the desert tortoise; no designated critical habitat for the tortoise is located in the project area. The entirety of the offered Tribal lands (1,470 acres) is modeled as desert tortoise habitat. Although the number of desert tortoises in the Coachella Valley is low, isolated individuals or remnant low-density

⁵² Due to the small acreage differences for conservation and potential development between the alternatives, a table comparing them is not provided.

populations are found on the alluvial fans and canyon bottoms, washes, and slopes in the Santa Rosa Mountains and on the eastern side of the San Jacinto Mountains. (ACBCI 2010)

To reiterate, the Tribe would limit development potential to 3.8 percent of the lands acquired from the BLM as a condition of the exchange. If the 3.8 percent of lands allocated for development potential was to be evenly spread across all lands acquired by the Tribe, it would be anticipated that development potential on the 2,564 acres of modeled habitat acquired by the Tribe (under scenario three of the proposed action) would be 97 acres, thereby committing 2,467 acres to conservation. Given the 99:1 conservation/disturbance ratio that would be applicable to the 1,470 acres acquired by the BLM from the Tribe, all of which is modeled habitat for desert tortoise, 1,455 acres would be conserved while 15 acres would be subject to potential disturbance.

Therefore, conservation of modeled habitat for desert tortoise would increase by 135 acres, from 3,787 acres on the selected public lands and offered Tribal lands before the exchange (i.e., the no action alternative under which 85 percent of the offered Tribal lands would be conserved upon retention by the Tribe, not 96.2 percent) to 3,922 acres after the exchange (again, under scenario three of the proposed action whereby the Tribe would conserve 96.2 percent of the acquired public lands, not 85 percent). Concomitantly, the potential for development/disturbance would be reduced by 135 acres, from a total of 247 acres allocated for development by the BLM and the Tribe before the exchange (under the no action alternative), to a total of 112 acres allocated for development by both entities after the exchange (under scenario three of the proposed action).

Summary

It is anticipated that 3,922 acres, or 97.2 percent, of the total 4,034 acres of modeled desert tortoise habitat on the selected public lands and offered Tribal lands would be conserved under scenario three of the proposed action, while potential development would occur on 2.8 percent, or 112 acres, of modeled habitat. Under the no action alternative, 3,787 acres, or 93.9 percent, of modeled habitat would be conserved, thereby providing for potential development on 6.1 percent, or 247 acres. The extent of conserved modeled habitat under the “intermediate alternatives” would be marginally different than scenario three (see Table 4.2.2.4). This level of conservation of desert tortoise modeled habitat is generally consistent with overall conservation of the selected public lands and offered Tribal lands under all alternatives, i.e., from 96.16 percent to 97.44 percent (see Table 4.2.2.2). Given this high level of conservation, and acknowledging that loss and degradation of desert tortoise habitat can mostly be attributed to off-highway-vehicle use, overgrazing of domestic livestock, construction of roads and utility corridors, proliferation of exotic plant species, and higher frequencies of anthropogenic fire (USFWS 2010b), adverse impacts to desert tortoises are not anticipated as a consequence of implementing the proposed action, preferred alternative, or no action alternative. No impacts to designated critical habitat for the desert tortoise would occur since no such habitat occurs in the project area.

Table 4.2.2.4 Conservation and potential development of modeled desert tortoise habitat; selected public lands and offered Tribal lands only, in acres (4,034 acres total)

	Proposed Action <i>scenario 1</i>	Proposed Action <i>scenario 2</i>	Proposed Action <i>scenario 3</i>	Preferred Alternative	No Action Alternative
BLM					
DT habitat on public lands retained	1,632	1,096	0	454	2,564
acquired DT habitat	1,470	1,470	1,470	1,470	0
<i>total</i>	3,102	2,566	1,470	1,924	2,564
x 0.99	3,071	2,540	1,455	1,905	2,538
x 0.01	31	26	15	19	26
Tribe					
DT habitat on Tribal lands subject to 85 percent conservation	0	0	0	0	1,470
x 0.85	0	0	0	0	1,249
x 0.15	0	0	0	0	221
acquired DT habitat subject to 96.2 percent conservation	932	1,468	2,564	2,110	0
x 0.962	897	1,412	2,467	2,030	0
x 0.038	35	56	97	80	0
Summary					
total conservation	3,968 (98.36%)	3,952 (97.97%)	3,922 (97.22 %)	3,935 (97.55%)	3,787 (93.88 %)
total potential development	66 (1.64%)	82 (2.03%)	112 (2.78 %)	99 (2.45%)	247 (6.12 %)

DT = desert tortoise

4.2.2.1.4 Unavoidable adverse effects to threatened and endangered animal species

As previously indicated, 40 CFR § 1502.16 requires a discussion regarding any adverse environmental effects which cannot be avoided should the proposal be implemented. For purposes of this analysis with respect to the listed species herein addressed, there are no unavoidable adverse effects for the following reasons: (1) As essentially an administrative change in ownership, only minor changes in the predominant use of the selected public lands and offered Tribal lands—i.e., non-motorized, trail-based recreation—are anticipated as a consequence of the land exchange. These minor changes are not expected to adversely affect behaviors of the listed species or adversely affect their habitats. (2) No development other than a trail connecting the Garstin and Thielman Trails is foreseen, but such development would not be related to the land exchange. Hence, no developments that would adversely affect the listed species or their habitats are anticipated as a direct or indirect result of the land exchange.

4.2.2.1.5 Possible conflicts with other plans, policies, and controls for the affected area

With respect to the conservation of listed species and their habitats, potential conflicts would primarily emanate from inconsistencies between BLM and Tribal management of the selected public lands and offered Tribal lands upon exchange, and potential conflicts with the management of nonfederal and non-Tribal lands in accordance with the Coachella Valley Multiple Species Habitat Conservation Plan. Principally, these potential conflicts relate to the different levels of potential development allowed by the various jurisdictions in accordance with their respective land use plans.

As previously described, conservation of vegetative community types on public lands in the project area, whether retained by the BLM or acquired from the Tribe, occurs at the 99 percent level, thereby allowing for development on no more than one percent of these lands (BLM 2002a). Conservation of Tribal lands in the Mountains and Canyons Conservation Area occurs at the 85 percent level, thereby allowing for development on no more than 15 percent of these lands, except that all Peninsular bighorn sheep critical habitat acquired by the Tribe would be managed for 100 percent conservation, and no net loss of riparian areas and palm groves would be allowed. Upon acquisition of public lands through the proposed exchange, however, the Tribe would conserve these lands at the 96.2 percent level, thereby allowing for development on no more than 3.8 percent of them. (ACBCI 2010) In accordance with the CVMSHCP, the acres of disturbance or development authorized within designated conservation areas varies according to species. The plan would ensure the conservation of 97 percent (165,856 acres) of essential habitat for Peninsular bighorn sheep within the conservation areas, of which 78 percent (135,630 acres) is within existing conservation lands, defined as lands in public or private ownership (including BLM lands but excluding Tribal lands) managed for conservation and/or open space values that contribute to the conservation of species covered by the plan. For the least Bell's vireo, the CVMSHCP would ensure conservation of 96 percent (2,911 acres) of modeled breeding habitat within the conservation areas, of which 44 percent (1,629 acres) is within existing conservation lands. For the southwestern willow flycatcher, the plan would ensure conservation of 94 percent (2,563 acres) of modeled breeding habitat, of which 56 percent (1,526 acres) is within existing conservation lands. Finally, with respect to the desert tortoise, the CVMSHCP would ensure conservation of 97 percent (365,379 acres) of core habitat and 93 percent (126,431 acres) of other conserved habitat; approximately 67 percent (345,899 acres) of modeled habitat for the desert tortoise is within existing conservation lands.⁵³ Therefore, development could occur on up to three percent of essential bighorn sheep habitat, four and six percent of modeled breeding habitat for the least Bell's vireo and southwestern willow flycatcher, respectively, and three percent of core habitat for the desert tortoise. (CVAG 2007)

⁵³ *Core habitat* is defined as areas identified in the CVMSHCP for a given species that are composed of a habitat patch or aggregation of habitat patches that (1) are of sufficient size to support a self-sustaining population of that species, (2) are not fragmented in a way to cause separation into isolated populations, (3) have functional essential ecological processes, and (4) have effective biological corridors and/or linkages to other habitats, where feasible, to allow gene flow among populations and to promote movement of large predators. *Other conserved habitat* is defined as part of a conservation area that does not contain core habitat for a given species, but which still has conservation value. These values may include essential ecological processes, biological corridors, linkages, buffering from edge effects, enhanced species persistence probability in proximate core habitat, genetic diversity, re-colonization potential, and flexibility in the event of long-term habitat change. (CVAG 2007)

While there are differences by jurisdiction regarding how much land could be potentially developed in essential or modeled habitat for the listed species addressed in this draft EIS, these differences are small, ranging from one to six percent, except as described above for Tribal lands in the Mountains and Canyons Conservation Area (though other restrictions would effectively reduce the 15 percent development allowance). Further, all jurisdictions would require specific measures for proposed projects to avoid, minimize, and mitigate impacts to bighorn sheep, riparian bird species, and desert tortoise, as applicable. Hence, potential inconsistencies of the proposed land exchange with approved state or local land use plans, policies, and controls for the area concerned are minor and require no reconciliation of the proposed action with such plans, policies, and controls.

4.2.2.1.6 Cumulative effects to threatened and endangered animal species

Conservation of natural resources has long been at the forefront of land management practices in the Santa Rosa and San Jacinto Mountains, starting with its earliest inhabitants, i.e., ancestors of the Agua Caliente Band of Cahuilla Indians who settled in the Coachella Valley centuries ago. These people's spiritual relationship with the land and their reliance on it to provide for their subsistence fostered a respect that translated into protection of resource values. This legacy of land stewardship is embodied today through conservation commitments made through the Tribe's habitat conservation plan; these commitments are described in detail throughout this draft EIS.

Though not yet considered in a time frame that spans centuries, the management of public lands similarly has conservation roots of an historical nature. Through the Federal Land Policy and Management Act of 1976 (FLPMA), the U.S. Congress directed the Secretary of the Interior to manage the public lands under the principles of multiple use and sustained yield in accordance with land use plans developed by the Secretary (FLPMA, section 302). In the same legislation, Congress established the California Desert Conservation Area, finding that the California desert contains historical, scenic, archaeological, environmental, biological, cultural, scientific, educational, recreational, and economic resources that are uniquely located adjacent to an area of large population; that the California desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed; that the California desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archaeological and historic sites, are seriously threatened by air pollution, inadequate federal management authority, and pressures of increased use; and that the use of all California desert resources can and should be provided for in a multiple use and sustained yield management plan to conserve these resources for future generations, and to provide present and future use and enjoyment, particularly outdoor recreation uses (FLPMA, section 601).

The California Desert Conservation Area Plan Amendment for the Coachella Valley (BLM 2002), in amending the CDCA Plan of 1980, was prepared in partnership with local jurisdictions of the Coachella Valley, special interest groups, and state and federal agencies as an outcome of an agreement entered into by members of the California Biodiversity Council in 1991 to cooperate, communicate, and foster regional efforts to promote biodiversity conservation, and the 1996 memorandum of understanding that led to preparation of the Coachella Valley Multiple Species Habitat Conservation Plan, the overall goal of which is to enhance and maintain biological diversity and ecosystem processes while allowing future economic growth, thereby preserving a quality of life characterized by well-managed and well-planned growth integrated with an associated open-space system.

These plans—the BLM’s CDCA Plan Amendment for the Coachella Valley, the Tribe’s THPC, and the CVMSHCP—provide a local landscape-level approach to habitat conservation in the Santa Rosa and San Jacinto Mountains, thereby enhancing protection of Peninsular bighorn sheep, least Bell’s vireo, southwestern willow flycatcher, and desert tortoise. The proposed land exchange and alternatives support continued conservation of habitats for the affected listed species, essentially maintaining current conservation levels in the project area (see Tables 4.2.2.1 and 4.2.2.2). Meanwhile, acquisition of private lands within conservation areas designated by the CVMSHCP continues, further enhancing the protection of listed species.

It is important to acknowledge that development within listed species’ habitats under the plans cited above is speculative (other than for the proposed trail connecting the Garstin and Thielman Trails). While *potential* exists for disturbance or development of essential, modeled, or designated critical habitat for Peninsular bighorn sheep, and modeled habitat for least Bell’s vireo, southwestern willow flycatcher, and desert tortoise, the realization of this potential may not occur or may occur to a lesser extent than for which the plans allow. Many factors may constrain full realization of development potential, including terrain and other plan requirements.

Overview of cumulative effects to threatened and endangered animal species

Geographic scope of analysis:

Peninsular bighorn sheep. For purposes of this cumulative effects determination, the geographic scope of analysis as it relates to Peninsular bighorn sheep is defined by the boundaries of the San Jacinto Mountains recovery region and the northern Santa Rosa Mountains recovery region, within which occur essential habitat (which is coincident with modeled habitat) and designated critical habitat.⁵⁴ As described in section 3.2.15.1 of this draft EIS, public lands selected for the proposed land exchange contain 4,178 acres of essential habitat, of which 731 acres are designated as critical habitat. To put these figures in context, the two recovery regions at issue contain 89,472 acres of essential habitat (for all jurisdictions), within which are 12,364 acres of designated critical habitat.⁵⁵ Hence, the selected public lands comprise about five percent and six

⁵⁴ Whereas essential/modeled habitat spans all jurisdictions, designated critical habitat does not. In the San Jacinto Mountains recovery region, designated critical habitat occurs only on BLM, U.S. Forest Service, and private or CVMSHCP permittee lands; in the northern Santa Rosa Mountains recovery region, designated critical habitat occurs only on BLM and private or CVMSHCP permittee lands (USFWS: 74 FR 17288, April 14, 2009). No Tribal lands are designated as critical habitat.

⁵⁵ Peninsular bighorn sheep habitat extends from the San Jacinto Mountains through the Santa Rosa and other mountain ranges to the border with Mexico. Within these Peninsular Ranges are 376,938 acres of designated critical habitat (USFWS: 74 FR 17288, April 14, 2009); the acreage of essential habitat, however, is not identified. Essential habitat acreage herein described is based on calculations utilizing the essential habitat model developed for the Peninsular bighorn sheep recovery plan (USFWS 2000). Within the San Jacinto Mountains recovery region are 42,081 acres of essential habitat, within which are 4,597 acres of designated critical habitat. Within the northern Santa Rosa Mountains recovery region are 47,391 acres of essential habitat, within which are 7,767 acres of designated critical habitat. Note: Whereas all designated critical habitat in Critical Habitat Unit 1, as identified in 74 FR 17288, occurs within the San Jacinto Mountains recovery region, designated critical habitat in Critical Habitat Unit 2a occurs within the northern Santa Rosa Mountains, central Santa Rosa Mountains, southern Santa Rosa Mountains, and Coyote Canyon recovery regions within Riverside County. Acreage identified in 74 FR 17288 for Unit 2a, therefore, was recalculated in order to identify designated critical habitat in the northern Santa Rosa Mountains recovery region only.

percent of essential habitat and designated critical habitat, respectively, in the two recovery regions.

Least Bell's vireo. Within the plan area for the CVMSHCP,⁵⁶ there are 3,675 acres of modeled breeding habitat and 56,643 acres of modeled migratory habitat for least Bell's vireo, totaling 60,318 acres of modeled habitat for this species (CVAG 2007).⁵⁷ Within the Santa Rosa and San Jacinto Mountains Conservation Area (SRSJMCA, established by the CVMSHCP)—which contains about 211,070 acres, including the selected public lands for the proposed land exchange—modeled breeding and migratory habitat occur on 1,579 acres and 3,958 acres, respectively (totaling 5,537 acres), or about 43 percent and seven percent (respectively) of such habitats in the overall CVMSHCP area (CVAG 2007); total modeled habitat for least Bell's vireo in the SRSJMCA, therefore, represents approximately nine percent of such habitat in the CVMSHCP area.

The selected public lands contain 251 acres of *potential* habitat for least Bell's vireo in riparian areas, though no breeding pairs were observed on these lands during annual surveys conducted between 2002 and 2005 (ACBCI 2010); hence, whether these lands support breeding is speculative. Conservatively speaking, assuming these 251 acres comprise potential breeding habitat, about 16 percent of modeled breeding habitat in the SRSJMCA may occur on the selected public lands. If these 251 acres comprise non-breeding habitat only, the selected public lands represent about six percent of potential migratory habitat for least Bell's vireo in the SRSJMCA. Within the Mountains and Canyons Conservation Area (MCCA, established by the THCP), an additional 1,151 acres of potential habitat (which may include breeding habitat) occurs on Tribal lands within the Agua Caliente Indian Reservation and Tribal lands outside the ACIR (720 acres and 431 acres, respectively) (ACBCI 2010). Therefore, the selected public lands contain about 18 percent (251 acres) of the potential habitat for least Bell's vireo in the MCCA (1,402 acres), or just under four percent of potential habitat for all jurisdictions combined in the SRSJMCA (6,688 acres, Tribal and non-Tribal).⁵⁸

Southwestern willow flycatcher. Within the plan area for the CVMSHCP, there are 2,730 acres of modeled breeding habitat and 57,589 acres of modeled migratory habitat for southwestern willow flycatcher, totaling 60,319 acres of modeled habitat for this species (CVAG 2007). Within the SRSJMCA, modeled breeding and migratory habitat occur on 1,574 acres and 3,963 acres, respectively (totaling 5,537 acres), or about 58 percent and seven percent (respectively) of such

⁵⁶ The plan area for the CVMSHCP encompasses approximately 1.2 million acres. Of this, about 69,000 acres are Indian reservation lands which are not included in the plan, leaving a total of approximately 1.1 million acres addressed by the plan. The CVMSHCP area generally extends westward to Cabazon, eastward just beyond the Orocopia Mountains, and is bounded on the north and south by San Bernardino and Imperial/San Diego Counties, respectively; the CVMSHCP area is located entirely within Riverside County (CVAG 2007).

⁵⁷ Breeding habitat and migratory habitat as described in the CVMSHCP are not overlapping (K. Barrows pers. comm.), e.g., 3,675 acres of modeled breeding habitat for least Bell's vireo in the CVMSHCP area is distinct from the species' 56,643 acres of modeled migratory habitat. Therefore, total least Bell's vireo habitat in the CVMSHCP area is 60,318 acres.

⁵⁸ The 251 acres of potential habitat on the selected public lands is included in the 5,537 acres of modeled breeding and migratory habitat (combined) in the SRSJMCA, which excludes 1,151 acres of potential habitat on Tribal lands in the MCCA.

habitats in the overall CVMSHCP area (CVAG 2007); total modeled habitat for southwestern willow flycatcher in the SRSJMCA, therefore, represents approximately nine percent of such habitat in the CVMSHCP area.

The selected public lands contain 251 acres of *potential* habitat for southwestern willow flycatcher in riparian areas (coincident with potential habitat for least Bell's vireo), though none of these lands (as well as Tribal lands in the project area) comprise suitable breeding habitat for the species (ACBCI 2010). Conservatively speaking, assuming these 251 acres comprise potential breeding habitat (contrary to conclusions of the THCP), about 16 percent of modeled breeding habitat in the SRSJMCA may occur on the selected public lands. If these 251 acres comprise non-breeding habitat only, the selected public lands represent about six percent of potential migratory habitat for southwestern willow flycatcher in the SRSJMCA. Within the MCCA, an additional 1,151 acres of potential habitat (which may include breeding habitat coincident with that for least Bell's vireo) occurs on Tribal lands within the Agua Caliente Indian Reservation and Tribal lands outside the ACIR (ACBCI 2010). Therefore, the selected public lands contain about 18 percent (251 acres) of the potential habitat for southwestern willow flycatcher in the MCCA (1,402 acres), or just under four percent of potential habitat for all jurisdictions combined in the SRSJMCA (6,688 acres, Tribal and non-Tribal).

Desert tortoise. Within the plan area for the CVMSHCP, there are 571,098 acres of modeled habitat for desert tortoise, of which about 377,127 acres are identified as core habitat (CVAG 2007).⁵⁹ Within the SRSJMCA, modeled habitat occurs on 125,694 acres, or about 22 percent of all desert tortoise habitat in the CVMSHCP area; none of these acres comprises core habitat (CVAG 2007). The selected public lands contain 2,564 acres of modeled habitat for desert tortoise (ACBCI 2010), or about two percent of such habitat in the SRSJMCA and less than one half of one percent in the CVMSHCP area. Within the MCCA, an additional 11,717 acres of modeled habitat occurs on Tribal lands within the ACIR and Tribal lands outside the ACIR (8,312 acres and 3,405 acres, respectively) (ACBCI 2010). Therefore, the selected public lands contain about 18 percent (2,564 acres) of modeled habitat for desert tortoise in the MCCA (14,281 acres), or two percent of modeled habitat under all jurisdictions in the SRSJMCA (137,411 acres, Tribal and non-Tribal).

Temporal scope of analysis: The temporal scope of analysis for the four threatened and endangered species addressed in this draft EIS—Peninsular bighorn sheep, least Bell's vireo, southwestern willow flycatcher, and desert tortoise—is established by their dates of listing and recovery (or delisting). As described in section 3.2.15.1, these species were listed by the U.S. Fish and Wildlife Service as threatened or endangered on March 18, 1998; May 2, 1986; February 27, 1995; and April 2, 1990, respectively. None of these species, however, has been delisted. Therefore, the full extent of the temporal scope cannot be ascertained at this time as projected dates of delisting are unforeseen.

Past, present, and reasonably foreseeable future actions: The most notable past actions with respect to threatened and endangered species are those that may have contributed to their listings as threatened or endangered. Depending on the affected species, such actions—which include

⁵⁹ *Core habitat* for a given species are composed of a habitat patch or aggregation of habitat patches that (1) are of sufficient size to support a self-sustaining population of that species, (2) are not fragmented in a way to cause separation into isolated populations, (3) have functional essential ecological processes, and (4) have effective biological corridors and/or linkages to other habitats, where feasible, to allow gene flow among populations and to promote movement of large predators (CVAG 2007).

residential and commercial land development, landscaping of residential and commercial properties, motorized and non-motorized recreation, roadway construction and use, and grazing of domestic cattle and sheep—may have contributed to habitat loss, habitat fragmentation, disease, predation, exotic vegetation infestations, destructive wildland fires, and other potentially adverse circumstances, all which cumulatively affect wildlife. For example, recreation activities in the Coachella Valley are part of a cumulative set of factors affecting Peninsular bighorn sheep. Though cause and effect relationships have not been established, the proportionately larger population declines of bighorn sheep in the San Jacinto and northern Santa Rosa Mountains than elsewhere may be related, in part, to the relatively higher levels of human disturbance associated with the larger metropolitan area (USFWS 2000).

As previously indicated in this draft EIS, the only reasonably foreseeable actions on the selected public lands and offered Tribal lands is a potential trail connecting the Garstin and Thielman Trails upon which leashed dogs would be allowed, and a change in opportunities for cross-country, non-motorized recreation (e.g., hiking, mountain biking, and horseback riding). These could affect habitat use by Peninsular bighorn sheep (USFWS 2000), but would not likely impact least Bells' vireo, southwestern willow flycatcher, or desert tortoise given these species' relatively low occurrences on the exchange parcels. Also overutilization of least Bell's vireo and southwestern willow flycatcher habitat for recreational purposes is not identified as a threat to these species (USFWS 2006 and 2002a, respectively). Degradation of desert tortoise habitat emanates primarily from urbanization and other human-related activities such as OHV use, overgrazing of domestic livestock, and construction of roads and utility corridors, and secondarily from proliferation of exotic plant species and a higher frequency of anthropogenic fire (CVAG 2007). Non-motorized recreation, such as hiking, mountain biking, and horseback riding, are not identified as threats to desert tortoise.

From a landscape perspective, it is reasonably foreseeable that implementation of the CVMSHCP will enhance conservation for the four listed species as land continues to be acquired and managed for conservation purposes, and requirements to avoid, minimize, and mitigate impacts to covered species are applied for certain developments within the CVMSHCP reserve system (CVAG 2007).

Analysis of cumulative effects: To reiterate the previously-expressed characterization of the proposed land exchange, implementation of the proposed action or preferred alternative would result in an administrative change of landownership only. With respect to cumulative effects of the land exchange on threatened and endangered species and their habitats, this change of landownership is not anticipated to result in cumulative detrimental effects to the listed species or their habitats. Under all alternatives, conservation of habitats for Peninsular bighorn sheep, least Bell's vireo, southwestern willow flycatcher, and desert tortoise would be high: about 88 percent on the selected public lands, offered Tribal lands, and other Tribal lands within the external boundary of the Agua Caliente Indian Reservation (see Table 4.2.2.1), and 96-97 percent on the selected public lands and offered Tribal lands when considered by themselves (see Table 4.2.2.2). However, these figures do not account for the Tribe's commitment that no net loss of riparian areas—which constitute vireo and flycatcher habitat—and palm groves would be allowed (ACBCI 2010); hence, conservation of modeled habitat for these avian species would be expected to occur at greater levels. Continued acquisition of lands in the CVMSHCP Santa Rosa and San Jacinto Mountains Conservation Area for conservation purposes, and application of avoidance, minimization, and mitigation requirements for development within the SRSJMCA are anticipated to enhance conservation of habitat for the listed species.

Specific to Peninsular bighorn sheep—which is the only one of the four listed species herein addressed for which critical habitat has been designated in the project area—no changes to designated critical habitat would occur irrespective of the alternative selected. Critical habitat remains as currently designated regardless of changes to landownership consequent to the proposed land exchange unless/until the U.S. Fish and Wildlife Service re-designates it (Roberts pers. comm.).

4.2.2.1.7 Conclusion regarding effects to threatened and endangered animal species

For reasons described above, implementation of the proposed action, preferred alternative, or no action alternative would not be likely to adversely affect Peninsular bighorn sheep, least Bell's vireo, southwestern willow flycatcher, or desert tortoise or designated critical habitat for Peninsular bighorn sheep, nor would implementation of the proposed action or an alternative action be likely to adversely affect their essential or modeled habitat.

4.2.2.2 ***BLM Sensitive Animal Species***

As indicated in section 3.2.15.2, the only designated BLM sensitive animal species that may occur on public lands selected for the proposed land exchange is the burrowing owl.

4.2.2.2.1 Burrowing owl (*Athene cunicularia*): BLM sensitive species; State of California species of special concern.

Impacts to burrowing owl and its habitat:

Of the total acreage potentially to be acquired by the Tribe from the BLM under scenario three of the proposed action (5,799 acres), 214 acres are identified in section 36, T.4S. R.4E., as modeled habitat for the burrowing owl (ACBCI 2010). As previously indicated, a condition of the exchange is that the Tribe would limit development potential to 3.8 percent of land acquired from the BLM, though the location of such potential development is unknown at this time. If 3.8 percent of lands allocated for development potential was to be evenly spread across section 36, it is anticipated that development potential on the 214 acres of modeled habitat acquired by the Tribe would be about eight acres, thereby committing approximately 206 acres to the conservation of burrowing owls. Since no modeled habitat for burrowing owls occurs on the lands to be acquired by the BLM from the Tribe, overall conservation and potential for development would occur only on Tribal lands after the exchange.

Therefore, conservation of modeled habitat for the burrowing owl would be expected to be reduced by about six acres, from 212 acres managed for conservation by the BLM before the exchange (no action alternative)—which represents a 99 percent conservation commitment for these 214 acres of modeled habitat—to 206 acres managed for conservation by the Tribe after the exchange (scenario three of the proposed action). Concomitantly, the potential for development/disturbance would be expected to increase by six acres, from a total of two acres allocated for disturbance by the BLM before the exchange to eight acres allocated for development by the Tribe after the exchange. With respect to conservation of modeled habitat for the burrowing owl, scenarios one and two of the proposed action and the preferred alternative are the same as the no action alternative since section 36 would be retained by the BLM under each of them. However, modeled habitat for the burrowing owl on public lands in section 36 occurs on steep terrain, located generally north of the Garstin and Berns Trails. Given the physiographic nature of these lands and the limited potential for development, conservation of modeled habitat

would likely occur at higher levels, whether section 36 is acquired by the Tribe or retained by the BLM.

Summary

Conservation of modeled habitat for the burrowing owl—from 96.2 percent under scenario three of the proposed action to 99.0 percent under the no action alternative—is generally consistent with overall conservation of the selected public lands and offered Tribal lands under all alternatives, i.e., from 96.16 percent to 97.44 percent (see Table 4.2.2.2). Given this high level of conservation along with limited potential for habitat modification, adverse impacts to these owls are not anticipated as a consequence of implementing the proposed action, preferred alternative, or no action alternative.

4.2.2.2 Unavoidable adverse effects to BLM sensitive animal species

To reiterate from previous sections in this draft EIS, 40 CFR § 1502.16 requires a discussion regarding any adverse environmental effects which cannot be avoided should the proposal be implemented. For purposes of this analysis with respect to the burrowing owl—the only designated BLM sensitive animal species that may occur on public lands selected for the proposed land exchange—there are no unavoidable adverse effects for the following reasons: (1) As essentially an administrative change in ownership, only minor changes in the predominant use of the selected public lands and offered Tribal lands—i.e., non-motorized, trail-based recreation—are anticipated as a consequence of the land exchange. These minor changes are not expected to adversely affect behaviors of the burrowing owl or adversely affect its habitat. (2) No development other than a trail connecting the Garstin and Thielman Trails is foreseen. Although the northern terminus of this trail would be proximal to burrowing owl modeled habitat, such habitat is generally located north of the potential project area. Development of this trail, however, is not related to the land exchange. Hence, no developments that would adversely affect burrowing owls or their habitat are anticipated as a direct or indirect result of the land exchange.

4.2.2.3 Possible conflicts with other plans, policies, and controls for the affected area

With respect to the conservation of burrowing owls and their habitat, potential conflicts would primarily emanate from inconsistencies between BLM and Tribal management of the selected public lands and offered Tribal lands upon exchange, and potential conflicts with the management of nonfederal and non-Tribal lands in accordance with the Coachella Valley Multiple Species Habitat Conservation Plan. Principally, these potential conflicts relate to the different levels of potential development allowed by the various jurisdictions in accordance with their respective land use plans.

To reiterate from previous sections in this draft EIS, conservation of vegetative community types on public lands in the project area, whether retained by the BLM or acquired from the Tribe, occurs at the 99 percent level, thereby allowing for development on no more than one percent of these lands (BLM 2002a). Conservation of Tribal lands in the Mountains and Canyons Conservation Area occurs at the 85 percent level, thereby allowing for development on no more than 15 percent of these lands. Upon acquisition of public lands through the proposed exchange, however, the Tribe would conserve these lands at the 96.2 percent level, thereby allowing for development on no more than 3.8 percent of them. (ACBCI 2010) With respect to the CVMSHCP, a habitat distribution model for the burrowing owl was not developed—the planning team determined it would be of limited value—instead, the plan relies on known occurrences of

owls for purposes of analyzing impacts consequent to implementation of the plan. However, no known burrowing owl sites were identified in the area of the proposed land exchange. Nevertheless, the plan requires avoidance, minimization, and mitigation measures for burrowing owls that would limit impacts to this species. (CVAG 2007)⁶⁰

While there are differences by jurisdiction regarding how much land could be potentially developed in modeled habitat for the burrowing owl, these differences are small, ranging from one to 3.2 percent. Further, all jurisdictions would require specific measures for proposed projects to avoid, minimize, and mitigate impacts to the species. Hence, potential inconsistencies of the proposed land exchange with approved state or local land use plans, policies, and controls for the area concerned are minor and require no reconciliation of the proposed action with such plans, policies, and controls.

4.2.2.2.4 Cumulative effects to BLM sensitive animal species

Cumulative effects of the proposed land exchange and alternatives on burrowing owl and its habitat would only potentially occur under scenario three of the proposed action whereupon section 36, T.4S. R.4E.—the only exchange lands containing modeled habitat for the species, whether managed by the BLM or owned by the Tribe (ACBCI 2010)—could be acquired by the Tribe; under all other alternatives, section 36 would be retained by the BLM, i.e., current management of modeled burrowing owl habitat would not change. As described above, acquisition of section 36 by the Tribe would potentially reduce conservation of burrowing owl habitat by about three percent, from 212 acres managed for conservation by the BLM to 206 acres managed for conservation by the Tribe.

From the perspective of the broader CVMSHCP area, this cumulative effects analysis is limited because the planning team for the CVMSHCP determined that development of a habitat model for burrowing owl would be of limited value (hence, one was not developed), and no attempt was made to estimate population density—data on the number of individuals that could occur in the Coachella Valley are limited, and additional information on home range size and habitat requirements in desert environments is needed (CVAG 2007).

Therefore, it is unknown whether or to what extent scenario three of the proposed action would cumulatively affect the burrowing owl. While there is potential for conservation of this species' habitat to be reduced by about three percent relative to the selected public lands in section 36 under scenario three of the proposed action, it is not clear how this relates to overall conservation of the owl's habitat in the CVMSHCP plan area.

4.2.2.2.5 Conclusion regarding effects to BLM sensitive animal species

For reasons described above, implementation of the proposed action, preferred alternative, or no action alternative would not likely result in adverse effects to burrowing owls or their habitat.

⁶⁰ Modeled habitat for burrowing owls, as identified in Figure 17 of the THCP, extends into nonfederal and non-Tribal lands adjacent to public lands in section 36, T.4S. R.4E. (ACBCI 2010). Although the CVMSHCP did not identify any burrowing owl sites in the project area, nonfederal, non-Tribal lands within the Santa Rosa and San Jacinto Mountains Conservation Area are subject to provisions of the plan, including avoidance, minimization, and mitigation measures.

4.2.3 Impacts to Wild and Scenic Rivers

As described in section 3.2.20 of this draft EIS, the segment of Palm Canyon in section 36, T.5S. R.4E., was identified in BLM’s CDCA Plan Amendment for the Coachella Valley as eligible for designation as a Wild and Scenic River; no other public lands within the project area were determined as eligible for such designation. An 8.1-mile segment of Palm Canyon on National Forest System lands contiguous to and south of section 36 was designated as a Wild and Scenic River by the U.S. Congress through the Omnibus Public Land Management Act of 2009; however, the Act was silent with regard to the eligible segment on the adjacent public lands.

Eligibility of the Palm Canyon segment for designation as a Wild and Scenic River would continue under scenario one of the proposed action and the no action alternative whereupon section 36, T.5S. R.4E., would be retained by the BLM. Under Tribal jurisdiction, which would occur upon implementation of scenarios two or three of the proposed action or the preferred alternative, this segment of Palm Canyon would no longer be eligible for such designation. Eligibility for Wild and Scenic River designation by alternative is portrayed in Table 4.2.3.1 below.

Table 4.2.3.1 Eligibility for Wild and Scenic River designation, in miles

	Proposed Action <i>scenario 1</i>	Proposed Action <i>scenario 2</i>	Proposed Action <i>scenario 3</i>	Preferred Alternative	No Action Alternative
public lands	1.2	0.0	0.0	0.0	1.2
Tribal lands	0.0	0.0	0.0	0.0	0.0
<i>total</i>	1.2	0.0	0.0	0.0	1.2

Of primary concern is how the outstandingly remarkable values (ORVs) upon which the eligibility determination was based would be affected by implementation of the proposed land exchange or an alternative action. As described in section 3.2.20, the ORVs identified for the segment of Palm Canyon in section 36 are its free-flowing characteristic, habitat for federal and state listed endangered species and state species of special concern, archaeological sites significant in Cahuilla oral history, and the presence of a prehistoric trail.

Free-flowing characteristics:

Whether section 36 is retained by the BLM under scenario one of the proposed action or the no action alternative, or acquired by the Tribe under scenarios two or three of the proposed action or the preferred alternative, impoundments are not foreseen that would restrict the flow of intermittent waters. Whereas the BLM is statutorily obligated to maintain the eligible segment’s free-flowing characteristic while under its jurisdiction (BLM 2002a), the Tribe has made a commitment through its THCP that no net loss of riparian areas and palm groves would be allowed (ACBCI 2010), which effectively constrains any development that might affect water flows in Palm Canyon.

Habitat for federal and state listed endangered species and state species of special concern:

Effects of the proposed land exchange and alternatives on federal- and state-listed species and their habitats are described in section 4.2.2 of this draft EIS. It is concluded that implementation of the proposed action, preferred alternative, or no action alternative would not be likely to adversely affect Peninsular bighorn sheep, least Bell’s vireo, or southwestern willow flycatcher or

designated critical habitat for these species, nor would implementation of the proposed action or an alternative action be likely to adversely affect their essential or modeled habitat. The desert tortoise is not identified in the CDCA Plan Amendment for the Coachella Valley as one of the species comprising an outstandingly remarkable value for the eligible segment of Palm Canyon. Therefore, the outstandingly remarkable values related to habitat for federal and state listed species in section 36 would be protected under all alternatives.

Habitat for state species of special concern—summer tanager, yellow warbler, yellow-breasted chat, gray vireo, and southern yellow bat—would be protected by virtue of overall conservation of the selected public lands (including section 36) and the offered Tribal lands under all alternatives, that is, at the 96 to 97 percent level (see Table 4.2.2.2).

Archaeological sites / prehistoric trail:

As described in section 3.2.4 of this draft EIS, implementation of the Historic Properties Management Plan (Begay 2008), which was approved by the BLM, the State Historic Preservation Officer, and the Tribe, results in a determination of “no adverse effect” for the purposes of the proposed land exchange. Further, the proposed exchange and preferred alternative do not include proposals that would change current management of the selected public lands or offered Tribal lands, or result in modifications to the existing environment. Future actions proposed on the exchange lands would be addressed in accordance with federal and Tribal regulations or ordinances, as appropriate, and must conform to the applicable BLM and Tribal plans. The potential for impacts to archaeological sites or the prehistoric trail in section 36, therefore, is minimal, thereby protecting these outstandingly remarkable values.

4.2.3.1 Unavoidable adverse effects to eligibility

While the free-flowing characteristics, outstandingly remarkable values, archaeological sites, and prehistoric trail in section 36, T.5S. R.4E., would be protected upon implementation of the proposed action or an alternative action, its eligibility for designation as a Wild and Scenic River would only be maintained under scenario one of the proposed action and the no action alternative. Such eligibility would be extinguished under scenarios two and three of the proposed action and the preferred alternation upon acquisition of section 36 by the Tribe. However, the Tribe’s acquisition of section 36 does not suggest it would be managed inconsistent with requirements for a Wild and Scenic River. Rather, it is anticipated that Tribal management of section 36 would, in fact, be consistent with management of the adjoining 8.1-mile Palm Canyon Creek Wild and Scenic River on National Forest System lands, as described above.

4.2.3.2 Possible conflicts with other plans, policies, and controls for the affected area

Potential conflicts would primarily relate to eligibility of a segment of Palm Canyon in section 36, T.5S. R.4E., for designation as a Wild and Scenic River upon implementation of the proposed action, preferred alternative, and no action alternative. Under scenarios two and three of the proposed action and the preferred alternative, such eligibility would be extinguished, though as previously indicated, management of section 36 by the Tribe would protect the outstandingly remarkable values which established the segment’s eligibility under BLM jurisdiction. Under scenario one of the proposed action and the no action alternative, eligibility of section 36 as a Wild and Scenic River would be retained, though the Omnibus Public Land Management Act of 2009 does not provide for coordinated management of Palm Canyon that involves the BLM, instead directing the Secretary of Agriculture only to enter into an agreement with the Tribe.

Nevertheless, the BLM would coordinate management of section 36 through its cooperative agreement with the Tribe (BLM and ACBCI 1999a) and under its Service First agreement with the San Bernardino National Forest regarding management of the Santa Rosa and San Jacinto Mountains National Monument.

4.2.3.3 Cumulative effects to eligibility

By the 1950s, decades of damming, development, and diversion had taken their toll on the country's rivers. During the 1960s, the country began to recognize the damage being inflicted on wildlife, the landscape, drinking water, and its legacy. Recognition of this fact finally led to action by Congress to preserve the beauty and free-flowing nature of some of our most precious waterways.

Proposed by such environmental legends as John and Frank Craighead and Olaus Murie, and championed through Congress by the likes of Senators Frank Church and Walter Mondale, the National Wild and Scenic Rivers System was created by Congress in 1968 to preserve certain rivers with outstanding natural, cultural, and recreational values in a free-flowing condition for the enjoyment of present and future generations.

Rivers in the National Wild and Scenic Rivers System capture the essence of all waterways that surge, ramble, gush, wander, and weave through the United States. From the remote rivers of Alaska, Idaho, and Oregon to rivers threading through the rural countryside of New Hampshire, Ohio, and Massachusetts, each preserves a part of the American story and heritage.

As of April 2012, the National System protects 12,598 miles of 203 rivers in 39 states and the Commonwealth of Puerto Rico; this is a little more than one-quarter of one percent of the nation's rivers. By comparison, more than 75,000 large dams across the country have modified at least 600,000 miles, or about 17 percent, of American rivers. (BLM et al. on-line posting)

Clearly, designation of the 1.2-mile segment of Palm Canyon in section 36, T.5S. R.4E., as a Wild and Scenic River would hardly be noticeable in context of the System as a whole, amounting to about 1/100th of one percent of total mileage. But the establishment of “systems” is generally cumulative, i.e., they grow by increments over time. Therefore, while 1.2 miles may be negligible, these miles would nevertheless enlarge the National Wild and Scenic Rivers System. Under scenarios two and three of the proposed action and the preferred alternative, opportunities to enlarge the System would be diminished. On the other hand, implementation of scenario one of the proposed action or the no action alternative would retain the possibility for further enlargement of the System through designation of the Palm Canyon segment in section 36 as a Wild and Scenic River, thereby expanding the existing Palm Creek Canyon National Wild and Scenic River from 8.1 miles in length to 9.3 miles, an increase of almost 15 percent.

4.2.3.4 Conclusion regarding effects to eligibility

As described above, implementation of scenarios two or three of the proposed action or the preferred alternative would extinguish eligibility of a segment of Palm Canyon in section 36, T.5S. R.4E., for designation as a Wild and Scenic River. On the other hand, implementation of scenario one of the proposed action or the no action alternative would preserve eligibility of this segment of Palm Canyon for designation as a Wild and Scenic River, though the realization of such status is wholly dependent upon Congressional action. Regardless of which alternative is

ultimately approved, however, the outstandingly remarkable values which comprise the basis for the eligibility determination would be protected.

4.2.4 Impacts to Lands with Wilderness Characteristics

As described in section 3.2.21.1 and Appendix K, preliminary findings and conclusions for Wilderness Inventory Units CA-060-340A and CA-060-340B indicate they have wilderness characteristics—naturalness, outstanding opportunities for solitude, and outstanding opportunities for primitive and unconfined recreation—and are of sufficient size to make practicable their preservation and use in an unimpaired condition. As depicted in Figure 7a and described in Appendix L, implementation of scenarios one and two of the proposed action, as well as the preferred alternative, would increase the size of WIU 340A by about 78 percent, or from 5,033 acres under the no action alternative to 8,949 acres. Apparent naturalness of the added 3,916 acres in section 36, T.4S. R.4E., section 1, T.5S. R.4E., and sections 6, 7, 8, 18, 19, and 20, T.5S. R.5E., is essentially the same as for public lands comprising the no action alternative. Non-motorized trails on these additional lands—Araby, Berns, Dunn Road (trail), East Fork Loop, Garstin, Shannon, Thielman, and Wild Horse Trails—are sufficiently dispersed and topographically screened such that they and associated trail signs are substantially unnoticeable when the unit is considered as a whole. These same trails enhance opportunities for a primitive and unconfined type of recreation, but at the same time, do not degrade opportunities for solitude given topographic variation and (anecdotally-determined) low to moderate levels of use on most of the added lands.

Under scenario three of the proposed action, WIU 340A would increase to a lesser extent, or about 68 percent from 5,033 acres under the no action alternative to 8,441 acres (see Figure 7b). The difference is due to the Tribe's potential acquisition of section 36, T.4S. R.4E.—under scenarios two and three of the proposed action and the preferred alternative, the BLM would retain this section. While apparent naturalness of the 8,441-acre WIU would be essentially the same as for the 8,949-acre WIU, fewer trails would be incorporated in the smaller unit; segments of the Araby, Berns, Garstin, Shannon, Thielman, and Wild Horse Trails would be located on Tribal lands under scenario three of the proposed action. Nevertheless, opportunities for a primitive and unconfined type of recreation would be outstanding, as would opportunities for solitude.

WIU 340B would not be affected by the proposed land exchange since no public lands within it are contiguous with any of the selected public lands or offered Tribal lands; therefore, it would be comprised of about 4,655 acres under all alternatives, including the no action alternative (see Figure 7c).

4.2.4.1 Unavoidable adverse effects to lands with wilderness characteristics

No unavoidable adverse effects to lands with wilderness characteristics are anticipated as a consequence of implementing the proposed land exchange or alternatives. As previously indicated, the exchange is, in essence, an administrative action only; no proposals that would potentially alter the landscape are included in the proposed action or alternatives.

4.2.4.2 Possible conflicts with other plans, policies, and controls for the affected area

No conflicts with other plans, policies, and controls for the affected area are anticipated. The area's general lack of motorized-vehicle access by the public and the undeveloped nature of

adjoining federal and nonfederal lands is reflected in planning decisions that promote retention and conservation of open space, principally the Coachella Valley Multiple Species Habitat Conservation Plan that applies to nonpublic, non-Tribal lands; the Agua Caliente Band of Cahuilla Indians' Tribal Habitat Conservation Plan that affects lands under the Tribe's jurisdiction; the Land and Resource Management Plan for the San Bernardino National Forest that applies to National Forest System lands; and the California Code of Regulations as it applies to management of Magnesia Spring and Carrizo Canyon Ecological Reserves.

4.2.4.3 Cumulative effects to lands with wilderness characteristics

Consideration of cumulative effects to lands with wilderness characteristics begins with enactment of the Federal Land Policy and Management Act of 1976, which directed the Secretary of the Interior to review roadless areas of 5,000 acres or more and roadless islands of the public lands, identified during the inventory required by section 201(a) of the FLPMA as having wilderness characteristics, and “from time to time report to the President his recommendation as to the suitability or unsuitability of each such area or island for preservation as wilderness.”

As indicated in section 3.2.21.1 of this draft EIS, public lands in the project area for the proposed land exchange were inventoried between 1976 and 1979 for potential wilderness designation. As described in *California Desert Conservation Area Wilderness Inventory: Final Descriptive Narratives* (BLM 1979), “[Wilderness Inventory Unit No. 340] has a checkerboard land ownership pattern and, therefore, does not contain 5,000 acres of contiguous public land. In addition, the checkerboard tracts are not of sufficient size to make practicable their preservation and use in an unimpaired condition.”

Reiterating from section 3.2.21.1, land acquisitions since 1979 have increased the extent of public lands in the project area, thereby changing the pattern of checkerboard landownership such that the 1979 conclusion stemming from the 5,000-acre criterion is no longer applicable. Tracts of contiguous public lands in this area are now of sufficient size that an inventory and assessment of wilderness characteristics is appropriate. As described in Appendix K, the preliminary findings and conclusions indicate that Wilderness Inventory Units CA-060-340A and CA-060-340B have wilderness characteristics. Implementation of the proposed land exchange or preferred alternative would increase the size of WIU 340A. It can be reasonably anticipated that future acquisitions of contiguous lands by the BLM in this area will further increase the size of one or both of these units. Whether developments on or incompatible uses of contiguous nonfederal lands will occur, thereby creating the potential for direct or indirect adverse impacts to public lands with wilderness characteristics, is unknown, though such developments and uses may be constrained or limited by applicable plan decisions and land use allocations.

4.2.4.4 Conclusion regarding effects to lands with wilderness characteristics

Preliminary findings and conclusions indicate that both WIUs CA-060-340A and CA-060-340B have wilderness characteristics. As described above, implementation of the proposed action or preferred alternative would increase the size of WIU 340A. The addition of lands to WIU 340A resulting from the land exchange would not adversely affect its wilderness characteristics; WIU 340B would not be affected by the proposed action or preferred alternative.

4.3 **Mitigation Measures**

Mitigation measures are those measures that could reduce or avoid adverse impacts and have not been incorporated into the proposed action or an alternative action. If mitigation measures are incorporated into the proposed action and alternatives, they are called “design features,” not mitigation measures. (BLM 2008a) Mitigation can include avoiding the impact altogether by not taking a certain action or parts of an action; minimizing impacts by limiting the degree or magnitude of the action and its implementation; rectifying the impact by repairing, rehabilitating, or restoring the affected environment; reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and compensating for the impact by replacing or providing substitute resources or environments (40 CFR § 1508.20).

During the public scoping meetings conducted in March 2012, some members of the public proposed that an alternative excluding public lands in sections 16 and 36, T.4S. R.4E., from the proposed land exchange be addressed in the EIS to mitigate potential impacts to opportunities for non-motorized recreation. Concern was raised regarding the manner in which the Tribe would manage non-motorized trails in these sections, whether in the near or far term, and that decisions affecting public access to trails would be made without the public being afforded an opportunity to participate in the decision-making process. During these same public scoping meetings, some members of the public also proposed that an alternative be developed that includes mitigation in the form of reserved federal rights or interests for public access to the exchanged lands, specifically to ensure continued public access by hikers, mountain bikers, and horseback riders to non-motorized trails on the selected public lands.

These alternatives to mitigate potential adverse effects to opportunities for non-motorized recreation in the project area were considered but eliminated from detailed analysis—see section 2.5 of this draft EIS for further discussion in this regard—though the preferred alternative is partially responsive to the first suggestion in that section 36, T.4S. R.4E., would be excluded from the land exchange.

No other mitigation measures are deemed relevant, reasonable, or warranted based on analyses of impacts provided in sections 4.2.1, 4.2.2, 4.2.3, and 4.2.4. Except as regards eligibility of Palm Canyon in section 36, T.5S. R.4E., as a Wild and Scenic River, impacts to resources and their values are nil or minor.

4.4 Residual Impacts

Residual impacts are those that remain after the application of mitigation measures to the proposed action or alternatives. As no mitigation measures are deemed appropriate, no residual impacts would remain. Impacts resulting from implementation of the proposed action or an alternative action are fully described above.

4.5 Cumulative Effects

Cumulative effects are described separately for recreation resources (see section 4.2.1.7), threatened and endangered animal species (see section 4.2.2.1.6), BLM sensitive animal species (see section 4.2.2.2.4), Wild and Scenic Rivers (see section 4.2.3.3), and lands with wilderness characteristics (see section 4.2.4.3). It is not anticipated that cumulative effects of the proposed action, preferred alternative, and no action alternative would contribute to synergistic cumulative effects that may require analysis, i.e., affect other resources, such as air quality, areas of critical environmental concern, and others described in chapter three of this draft EIS. Further discussion here regarding cumulative effects, therefore, is not provided.

4.6 Irreversible or Irretrievable Commitments of Resources

As required by 40 CFR § 1502.16, this environmental document must include a discussion of any irreversible or irretrievable commitments of resources that would result from implementation of the proposed action or an alternative action. Irreversible effects primarily result from the use or destruction of a specific resource that cannot be replaced within a reasonable time frame. Irretrievable resource commitments involve the loss in value of an affected resource that cannot be restored as a result of the proposed action or preferred alternative. (CVAG 2007)

Land exchanges, by their nature, represent an irretrievable commitment of the resource base from a *managerial* perspective because once ownership of the selected and offered lands changes, the exchange cannot be undone; no longer would the entity with jurisdiction over certain lands before the exchange have management authority for these same lands after the exchange. With respect to the proposed land exchange between the BLM and the Agua Caliente Band of Cahuilla Indians, management of selected public lands acquired by the Tribe would no longer be subject to BLM control, and vice-versa with respect to the offered Tribal lands. But whether the proposed land exchange actually constitutes an irreversible or irretrievable commitment of resources largely depends on whether and to what extent development of the exchanged lands occurs and, as a result, specific resources are destroyed for a long period of time, or opportunities for non-motorized recreation are diminished or lost due to more restrictive management.

As described in this draft EIS: (a) conservation of the exchange lands occurs at a high level, i.e., 96 to 97 percent under all alternatives, thereby allowing no more than 3 to 4 percent of these public and Tribal lands overall to be developed (see Table 4.2.2.2); (b) development potential would be excluded from or limited on certain exchange lands, such as would occur on Tribal lands where no net loss of riparian areas and palm groves would be allowed, impacts to Peninsular bighorn sheep lambing and use areas would be avoided, 100 percent conservation of identified lambing areas would occur, a bighorn sheep movement corridor between the San Jacinto Mountains and Northern Santa Rosa Mountains would be maintained, and a 1/4-mile buffer around water sources would be established (ACBCI 2010); and (c) no development scenarios, except for a new connector trail between the Garstin and Thielman Trails, or changes in the management of recreation resources on the exchange lands are reasonably foreseen. Further, continued cooperation between the two jurisdictions in managing not only the exchange lands but the entirety of public and Tribal lands within the Monument—as established by *Cooperative Agreement Between the U.S. Department of the Interior—Bureau of Land Management and the Agua Caliente Band of Cahuilla Indians for the Santa Rosa and San Jacinto Mountains* (BLM and ACBCI 1999a)—fosters the protection of resource values.

Therefore, it is not reasonably foreseen that any irreversible or irretrievable commitment of resources will occur upon implementation of the proposed land exchange, preferred alternative, or no action alternative.

CHAPTER FIVE
PUBLIC PARTICIPATION
LIST OF PREPARERS

5.1 Introduction

The Bureau of Land Management’s decision-making process is conducted in accordance with the requirements of the National Environmental Policy Act of 1969, the Council of Environmental Quality regulations for implementing the procedural provisions of NEPA (40 CFR Parts 1500-1508), as well as Department of the Interior and BLM policies and procedures for implementing NEPA. The NEPA and associated regulatory and policy framework require that all federal agencies involve interested groups of the public in their decision-making, consider reasonable alternatives to proposed actions, and prepare environmental documents that disclose the potential impacts of proposed actions and alternatives thereof. The regulations also require that persons who were primarily responsible for preparing the EIS or significant background papers, as well as basic components of the document, be identified (40 CFR § 1502.17).

5.2 Public Participation

Notice of Exchange Proposal

On November 15, 22, and 29, and December 6, 2008, the BLM published a notice in *The Desert Sun* regarding the agency’s consideration of a proposal to exchange lands with the Agua Caliente Band of Cahuilla Indians pursuant to section 206 of the Federal Land Policy and Management Act of 1976, as amended. The notice stated that the purpose of the land exchange is to consolidate the ownership of federal lands within the Santa Rosa and San Jacinto Mountains National Monument and to transfer certain lands to the Tribe, expecting to complete a series of exchange transactions to transfer all lands described in the notice. Interested parties were invited to submit comments concerning the proposed land exchange and provide notice of any liens, encumbrances, or claims on the lands involved. No comments or notices were received.

Public Review and Comment Period for Environmental Assessment CA-060-0010-0005

Environmental assessment CA-060-0010-0005, which addressed environmental effects of the proposed land exchange between the BLM and the Tribe, was released for public review and comment on July 27, 2010; comments were due by September 15, 2010. The public review and comment period was subsequently extended to November 19, 2010.

Comments were received from 144 individuals, ten organizations, and three governmental entities. Based on public comments and upon further internal review, it was determined that preparation of an environmental impact statement is necessary to address potentially significant effects of the proposed land exchange.

Notice of Intent to Prepare a Draft EIS

On February 10, 2012, the BLM published a notice in the *Federal Register* regarding its intent to prepare an environmental impact statement for the proposed land exchange between the BLM and the Tribe (77 FR 7179). The notice announced the beginning of the scoping process, invited public participation, and described how the time and place of public scoping meetings would be announced. It explained that the BLM was soliciting public input on the issues and impacts to be

addressed in the EIS, as well as the extent to which those issues and impacts would be analyzed. The notice identified how written comments could be submitted by email or regular mail, indicating that all comments must be received no later than 30 days after the last public scoping meeting.

Public Scoping Meetings

Following publication of the notice of intent to prepare an EIS, a news release of February 23, 2012, identified public scoping meeting dates, times, and locations (BLM California Desert District news release no. CA-CDD-12-28). Notices of the public scoping meetings were published in *The Desert Sun* on March 8 and 9, 2012; a website article at www.kcet.org and an article in *The Desert Sun* about the proposed land exchange, including dates, times, and locations of the public scoping meetings, were published on March 14, 2012, and March 18, 2012, respectively; and an article about the first public scoping meeting, including details about the upcoming second meeting and how to submit public comments, appeared in *The Desert Sun* on March 23, 2012. Additionally, a notice regarding the March 22 and 27 public scoping meetings was sent to individuals and organizations that submitted comments on environmental assessment CA-060-0010-0005, as well as to other interested parties: approximately 140 notifications were sent via email message and about 120 via regular mail; some notices were sent to the same individuals via both email and regular mail.

Public scoping meetings were held at two locations in Palm Springs, California, on March 22 and 27, 2012: the Agua Caliente Spa Hotel and the BLM Palm Springs-South Coast Field Office, respectively. The public was provided a document that preliminarily identified issues extracted from public comments submitted to the BLM regarding EA CA-060-0010-0005. The primary purpose of the public scoping period, therefore, was to identify issues in addition to those extracted from public comments submitted in response to the EA. Each public meeting began with an historical overview of how checkerboard landownership came to exist, the purpose and need for the proposed land exchange, the purpose of public scoping, and opportunities for public participation in the NEPA process. Maps of the BLM and Tribal lands identified for exchange were available for review and taking home. The deadline for submitting public comments was announced as April 27, 2012.

Approximately 75 people attended the first public scoping meeting on March 22, 2012; about 50 people attended the second meeting on March 27, 2012. Oral comments were provided by 24 individuals, six of whom represented non-governmental organizations. In addition, the BLM received scoping comment letters and email messages from 62 individuals, five of whom represented non-governmental organizations and two who represented governmental entities, thereby supplementing the issues previously extracted from public comments submitted in response to the EA.

5.3 Distribution of Draft Environmental Impact Statement

This draft EIS is available for a 90-day public review and comment period, beginning the date of publication of a Notice of Availability in the *Federal Register* by the Environmental Protection Agency. The initial distribution list of local, state, and federal government entities receiving copies of this document is provided in Appendix M. A news release announcing the availability of the draft EIS with instructions on how to obtain a copy was mailed to individuals who submitted comments on the EA released in 2010, participated in public scoping meetings in 2012,

and/or submitted comments during the scoping period. This document is also available for public review at the following internet site: <http://www.blm.gov/ca/st/en/fo/palmsprings.html>.

Comments received during the public review and comment period will be incorporated into the final EIS. Names, addresses, phone numbers, email addresses, or other personal identifying information contained in these comments may be made publicly available at any time. While individuals may request confidentially, there is no guarantee that personal identifying information can be withheld. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public review in their entirety.

5.4 List of Preparers

Bureau of Land Management

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Agua Caliente Band of Cahuilla Indians

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ACRONYMS

ACBCI	Agua Caliente Band of Cahuilla Indians
ACEC	Area of Critical Environmental Concern
ACIR	Agua Caliente Indian Reservation
AQMP	Air Quality Management Plan
BLM	U.S. Department of the Interior, Bureau of Land Management
CAA	Clean Air Act of 1970
CAL FIRE	California Department of Forestry and Fire Protection
CDCA	California Desert Conservation Area
CDFG	California Department of Fish and Game (now CDFW)
CDFW	California Department of Fish and Wildlife
CEQ	Council on Environmental Quality
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CVMSHCP	Coachella Valley Multiple Species Habitat Conservation Plan
DPA	Direct Protection Area
DWMA	Desert Wildlife Management Area
EA	Environmental Assessment
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
E.O.	Executive Order
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act of 1973, as amended
FLPMA	Federal Land Policy and Management Act of 1976, as amended
FPPA	Farmland Protection Policy Act of 1981, as amended
FR	Federal Register
GIS	Geographic Information System
GPS	Global Positioning System
HPMP	Historic Properties Management Plan
ICMP	Indian Canyons Master Plan
IRA	Inventoried Roadless Area
LWCF	Land and Water Conservation Fund Act of 1965, as amended
MCCA	Mountains and Canyons Conservation Area
MOU	Memorandum of Understanding

NAAQS	National Ambient Air Quality Standards
NCA	National Conservation Area
NEPA	National Environmental Policy Act of 1970, as amended
NLCS	National Landscape Conservation System
NPDES	National Pollutant Discharge Elimination System
OHV	Off Highway Vehicle
OPLMA	Omnibus Public Land Management Act of 2009
ORV	Outstandingly Remarkable Value
P.L.	Public Law
R.XE.	Range X East, San Bernardino and Base Meridian
RMP	Resource Management Plan
ROD	Record of Decision
RW	Recommended Wilderness
SBNF	San Bernardino National Forest
SCAQMD	South Coast Air Quality Management District
SIP	State Implementation Plan
SRSJMCA	Santa Rosa and San Jacinto Mountains Conservation Area
T.XS.	Township X South, San Bernardino and Base Meridian
TEPA	Tribal Environmental Policy Act
THCP	Tribal Habitat Conservation Plan
U.S.C.	United States Code
USDA	U.S. Department of Agriculture
USDI	U.S. Department of the Interior
USFS	U.S. Department of Agriculture, Forest Service
USFWS	U.S. Department of the Interior, Fish and Wildlife Service
USGS	U.S. Department of the Interior, Geological Survey
VFPA	Valley Floor Planning Area
VRM	Visual Resource Management
WIU	Wilderness Inventory Unit

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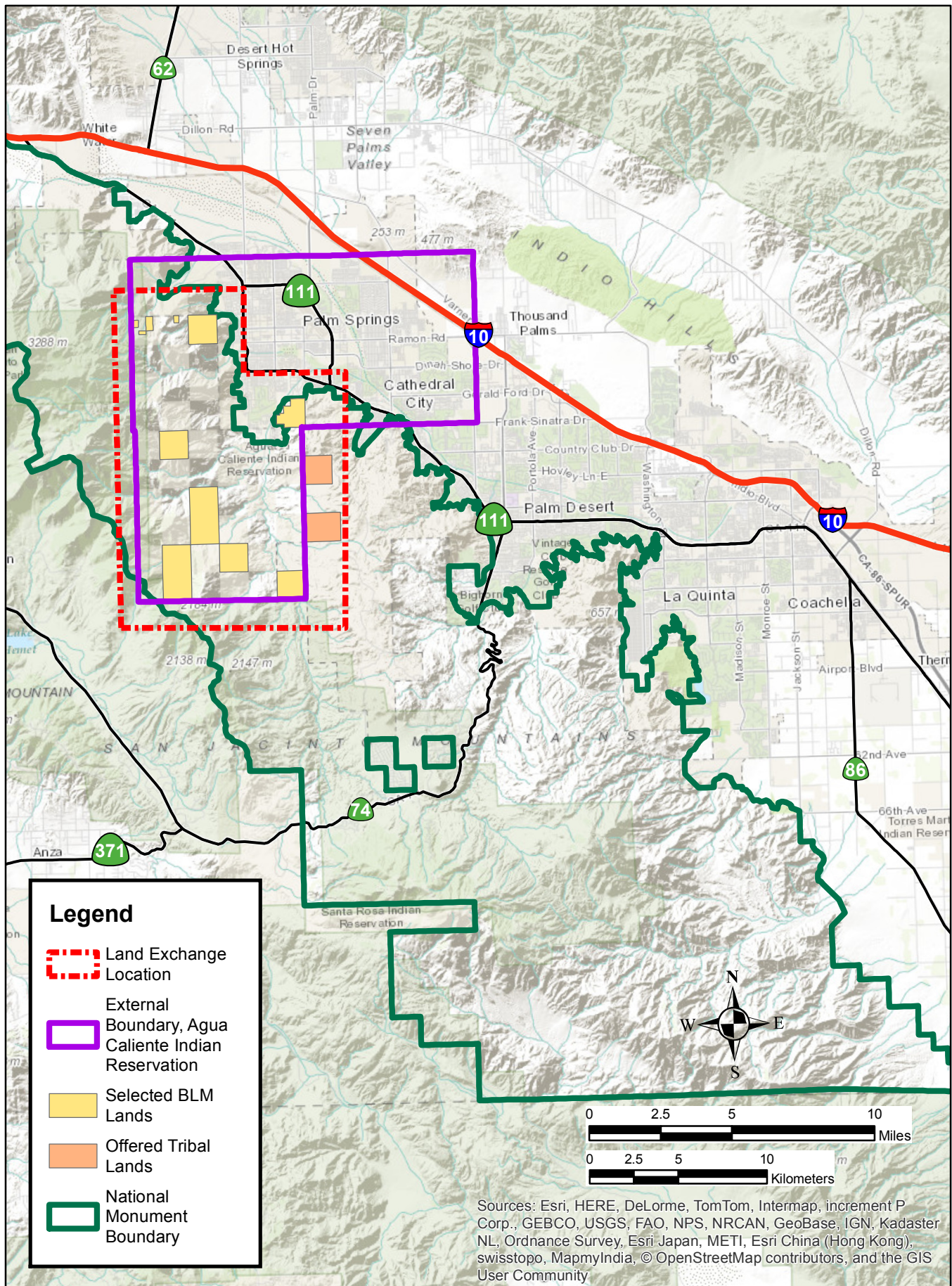
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**Figure 1
Project Area Location**



Sources: Esri, HERE, DeLorme, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, MapmyIndia, © OpenStreetMap contributors, and the GIS User Community

Figure 2a
Proposed Land Exchange - Scenario 1

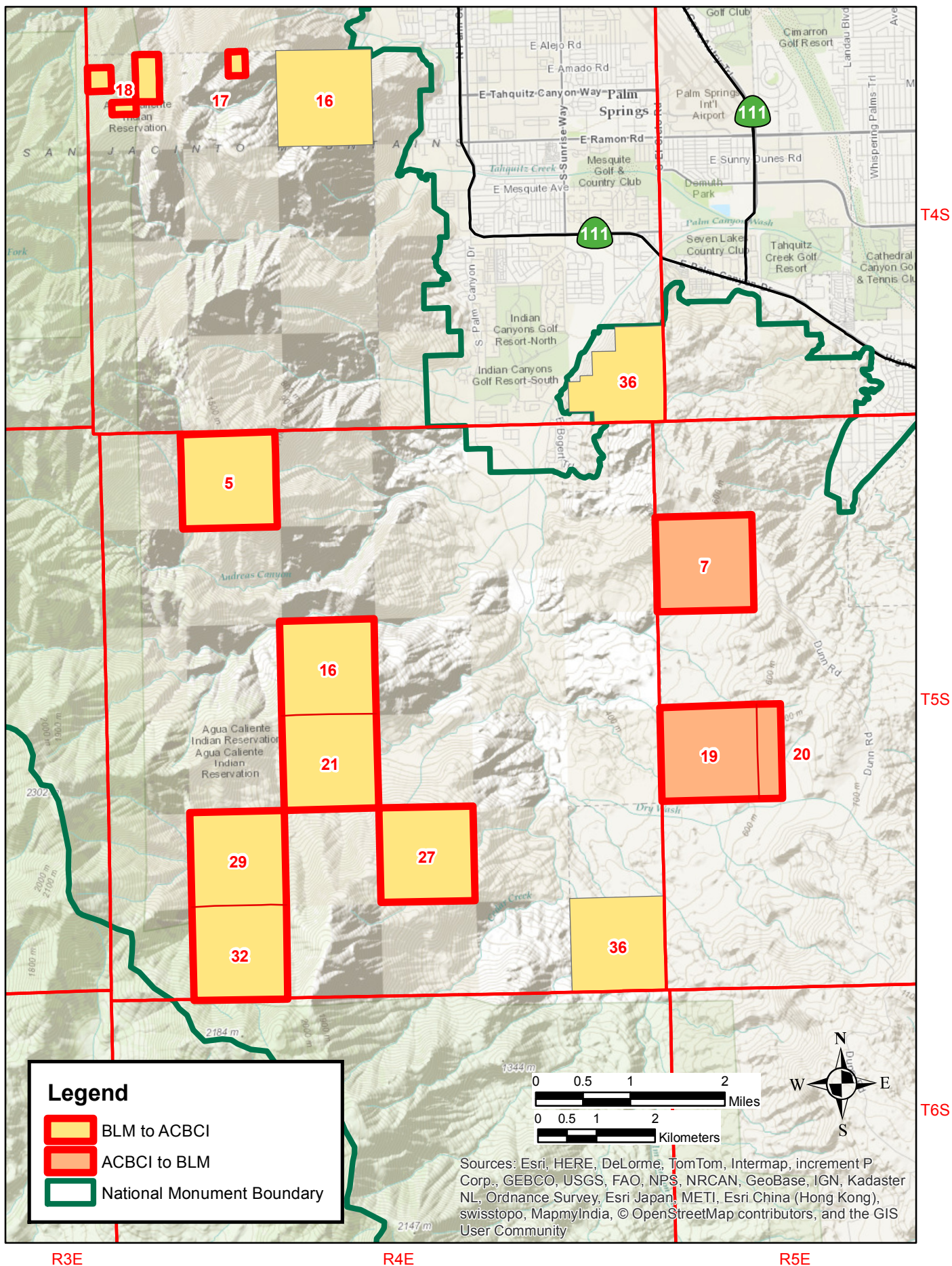


Figure 2b
Proposed Land Exchange - Scenario 2

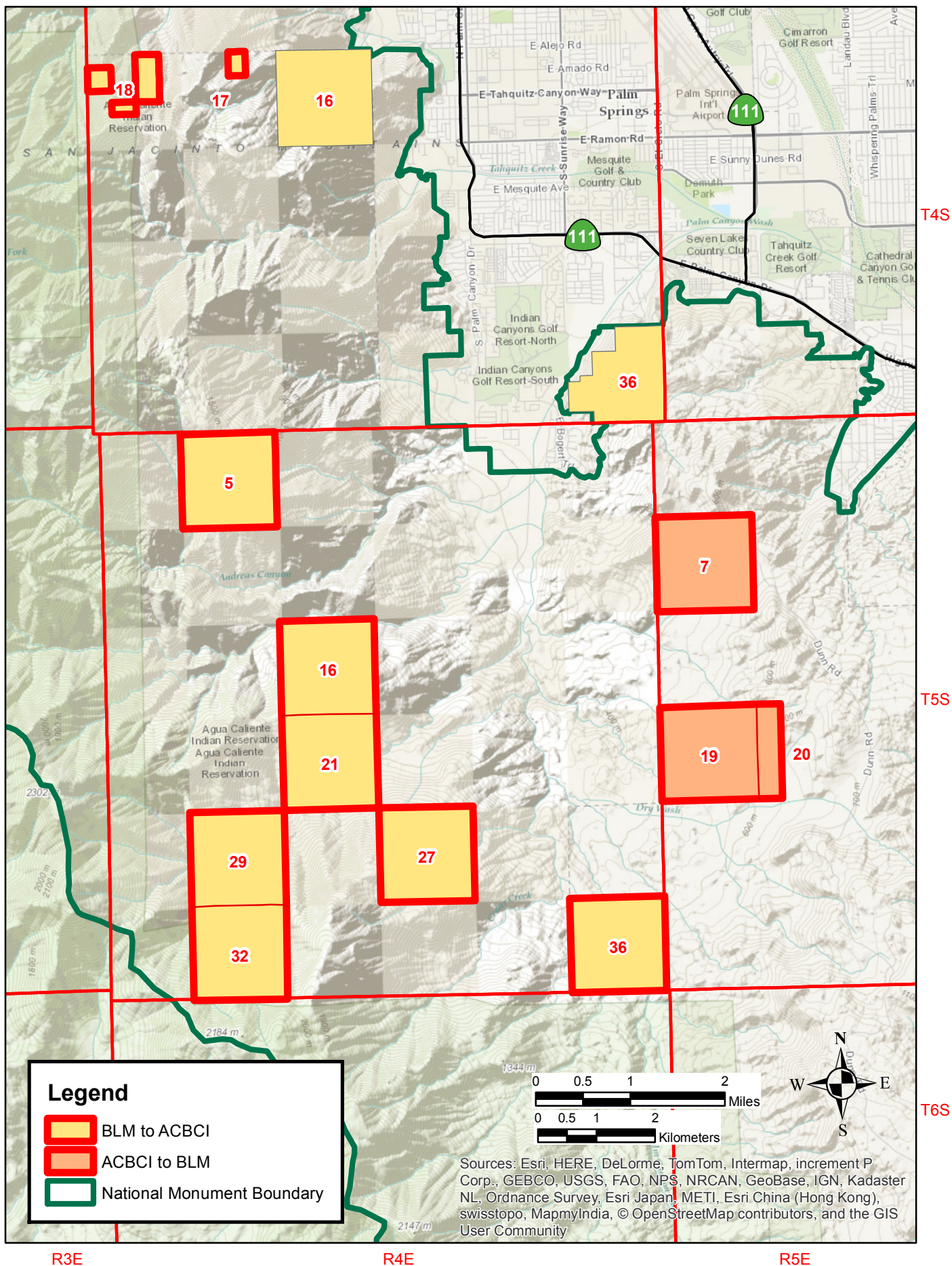
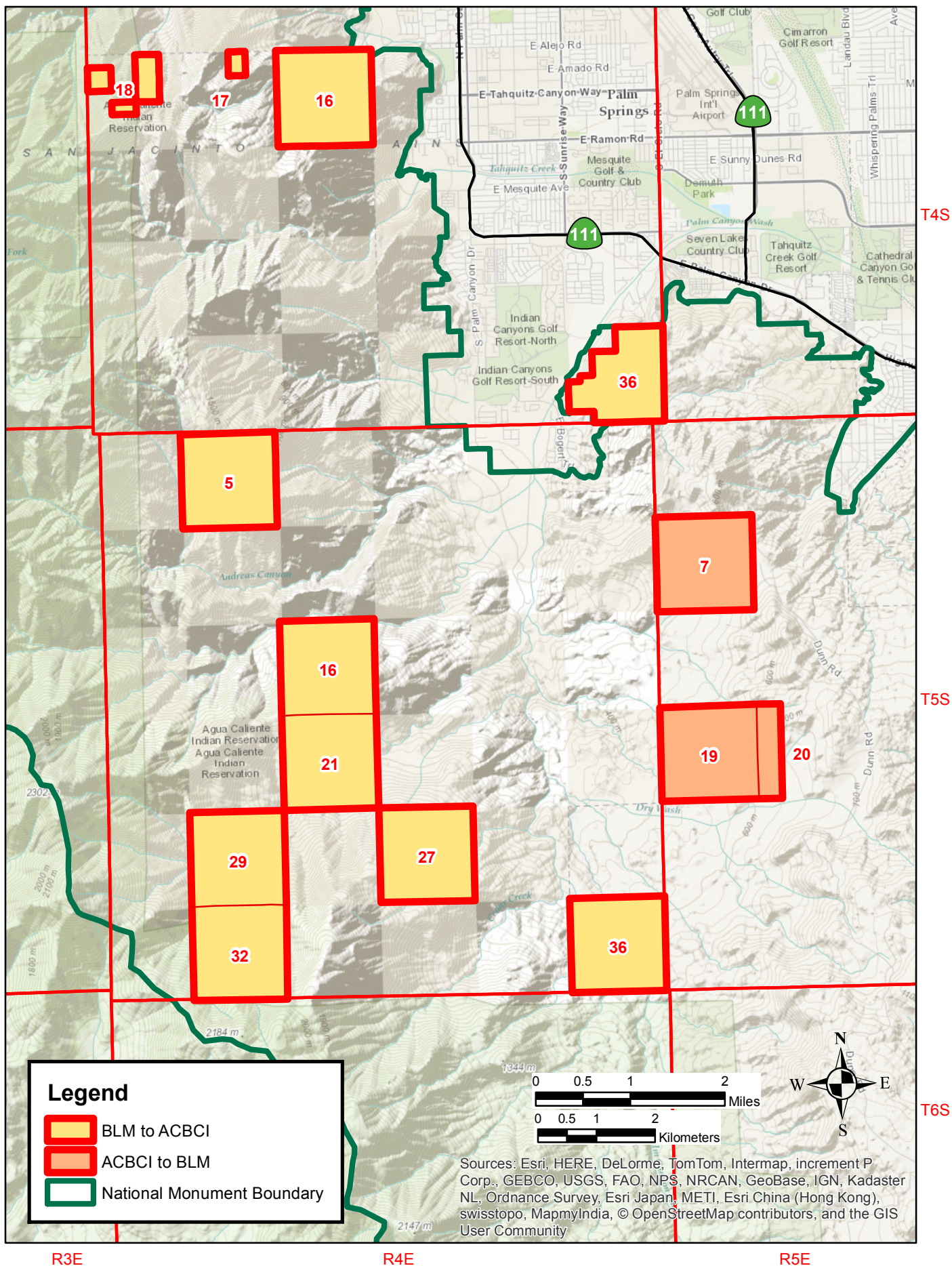


Figure 2c
Proposed Land Exchange - Scenario 3



**Figure 2d
Preferred Alternative**

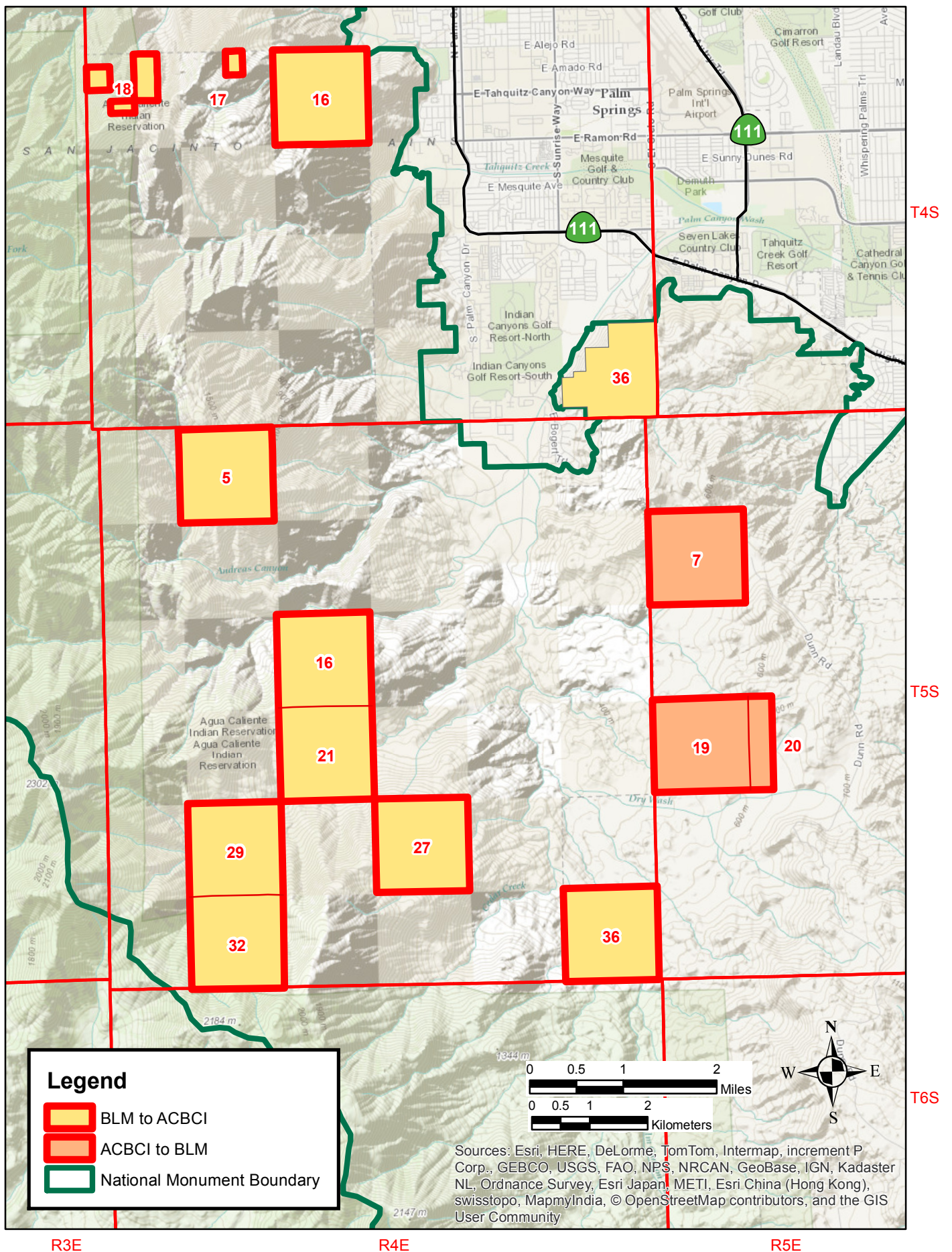


Figure 2e
No Action Alternative

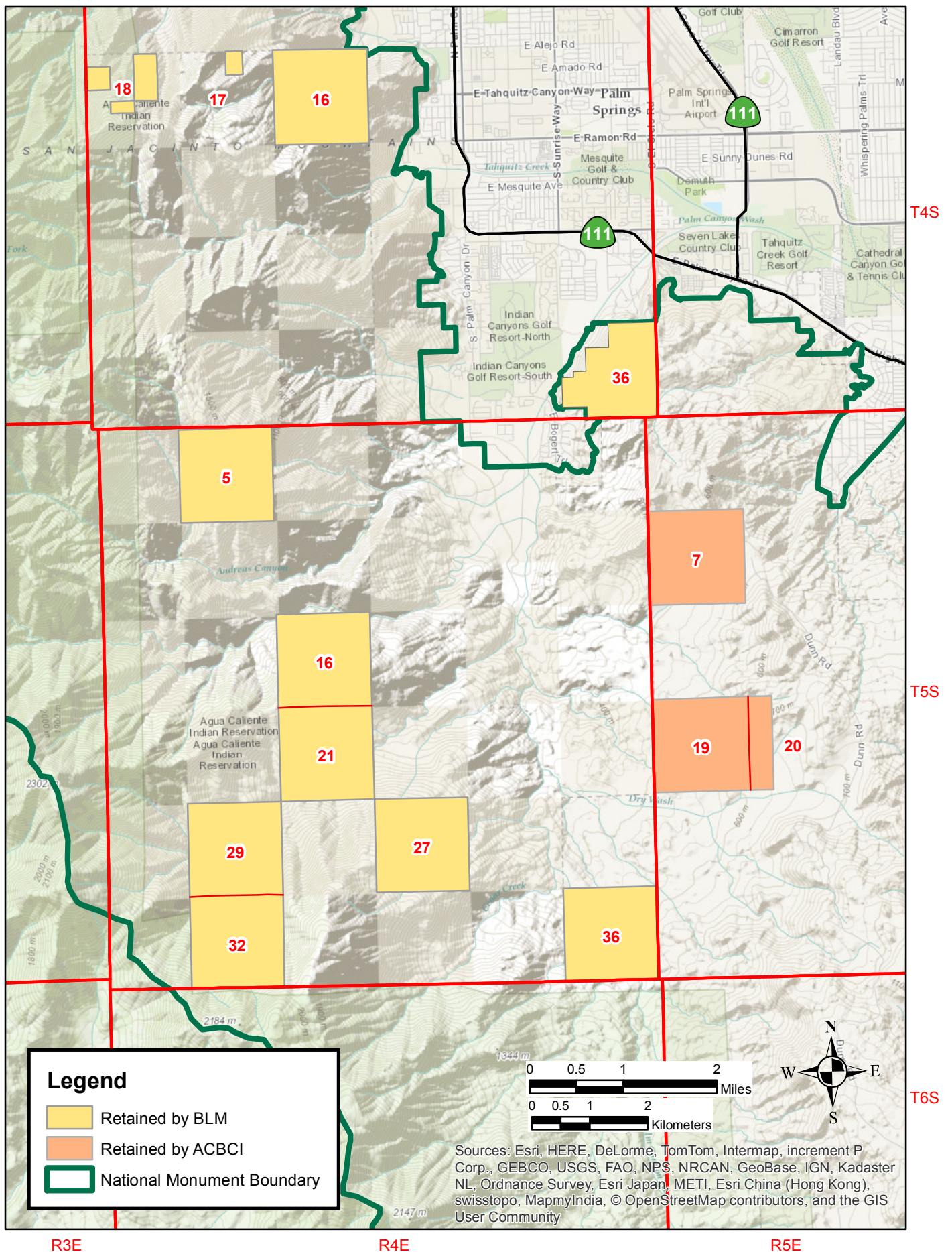


Figure 3a
Public Land Consolidation
Proposed Land Exchange - Scenario 1

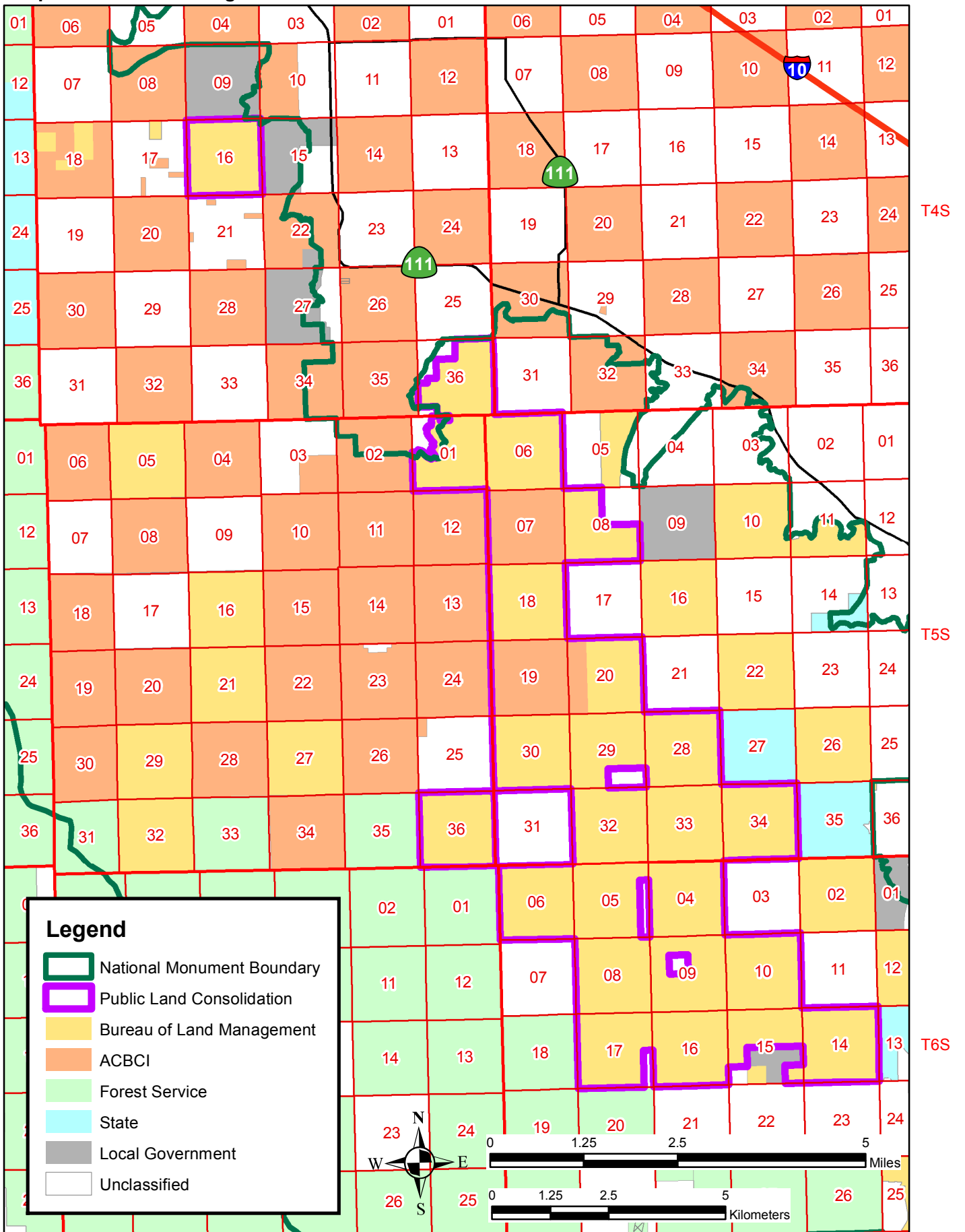
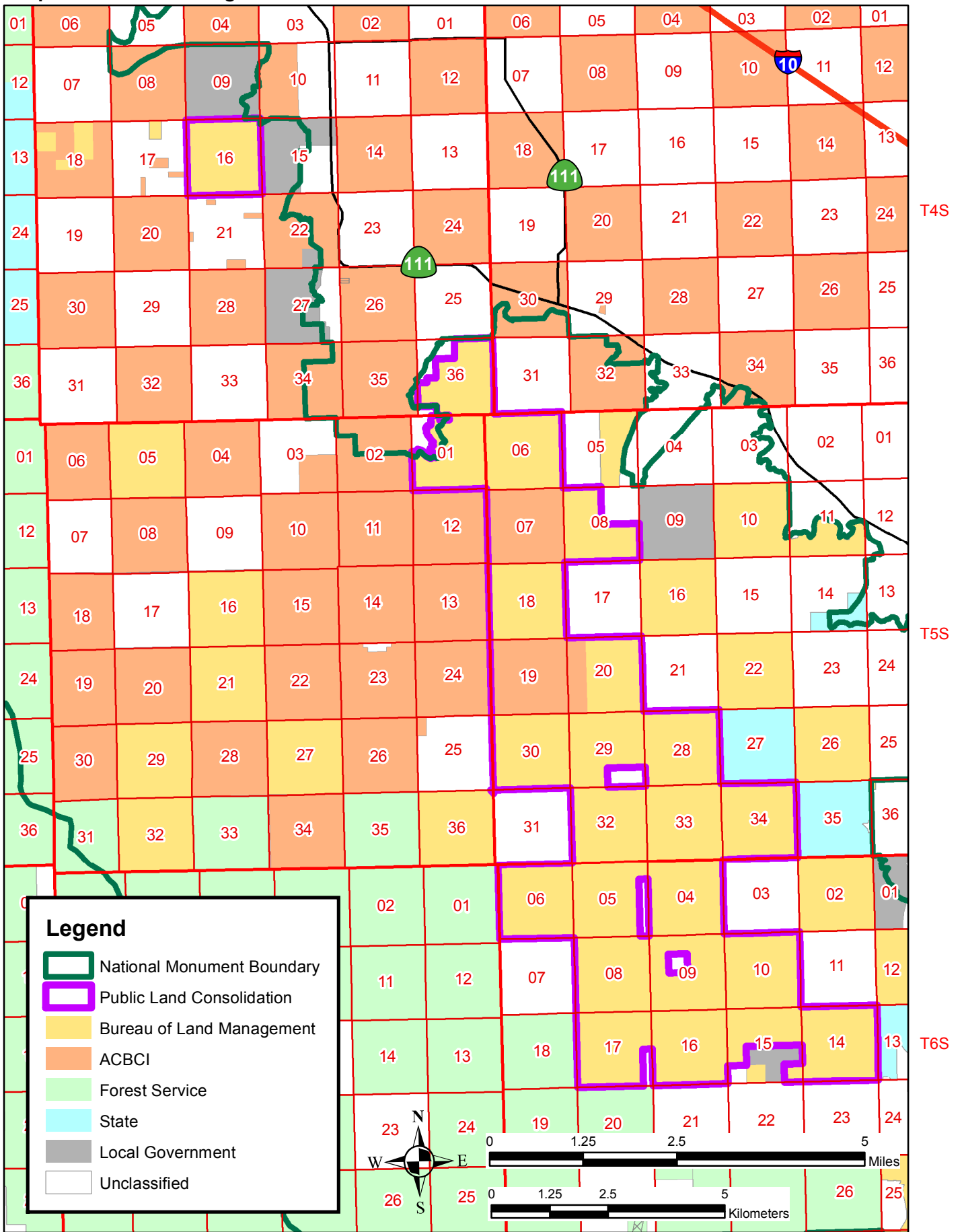


Figure 3b
Public Land Consolidation
Proposed Land Exchange - Scenario 2

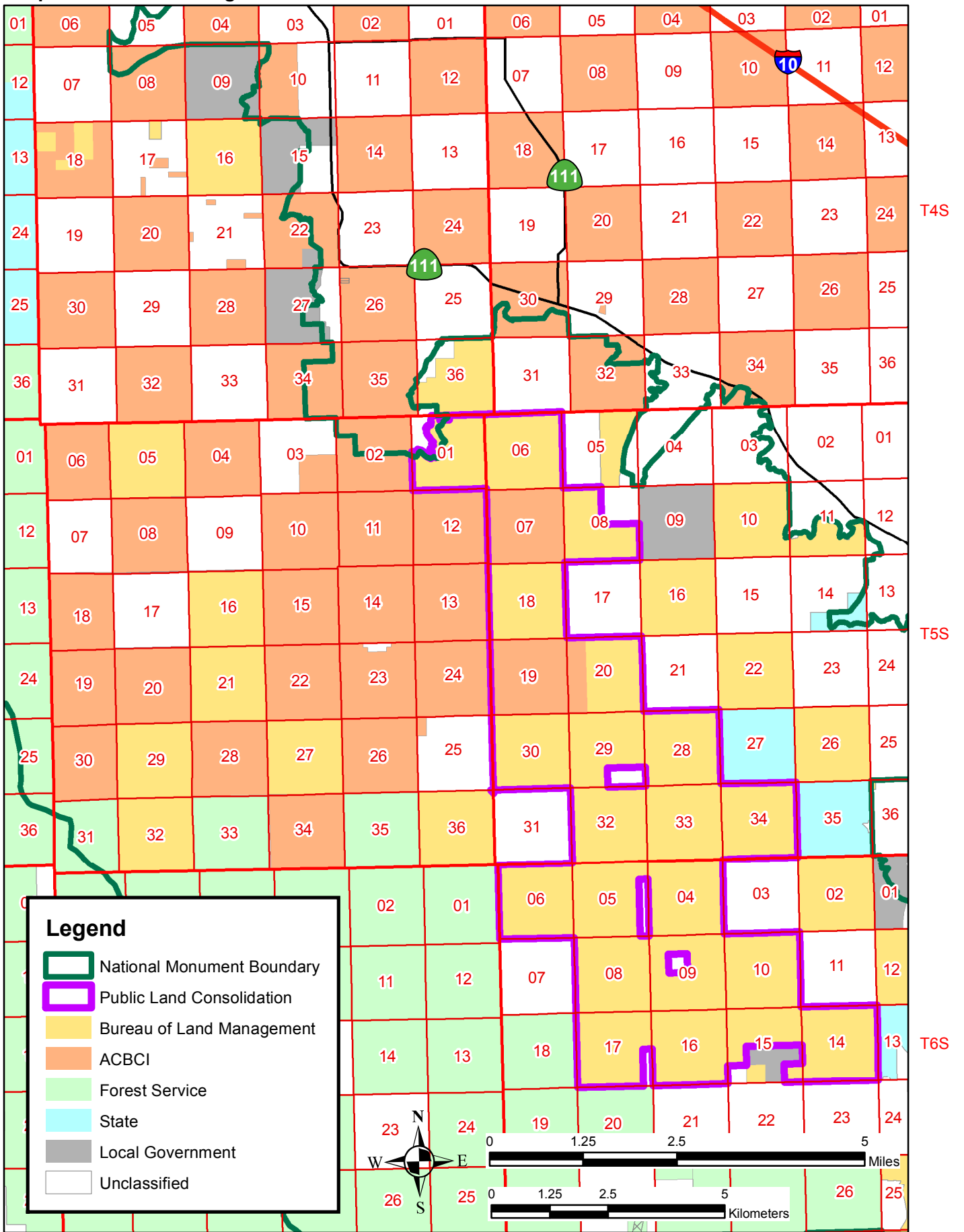


R3E

R4E

R5E

Figure 3c
Public Land Consolidation
Proposed Land Exchange - Scenario 3

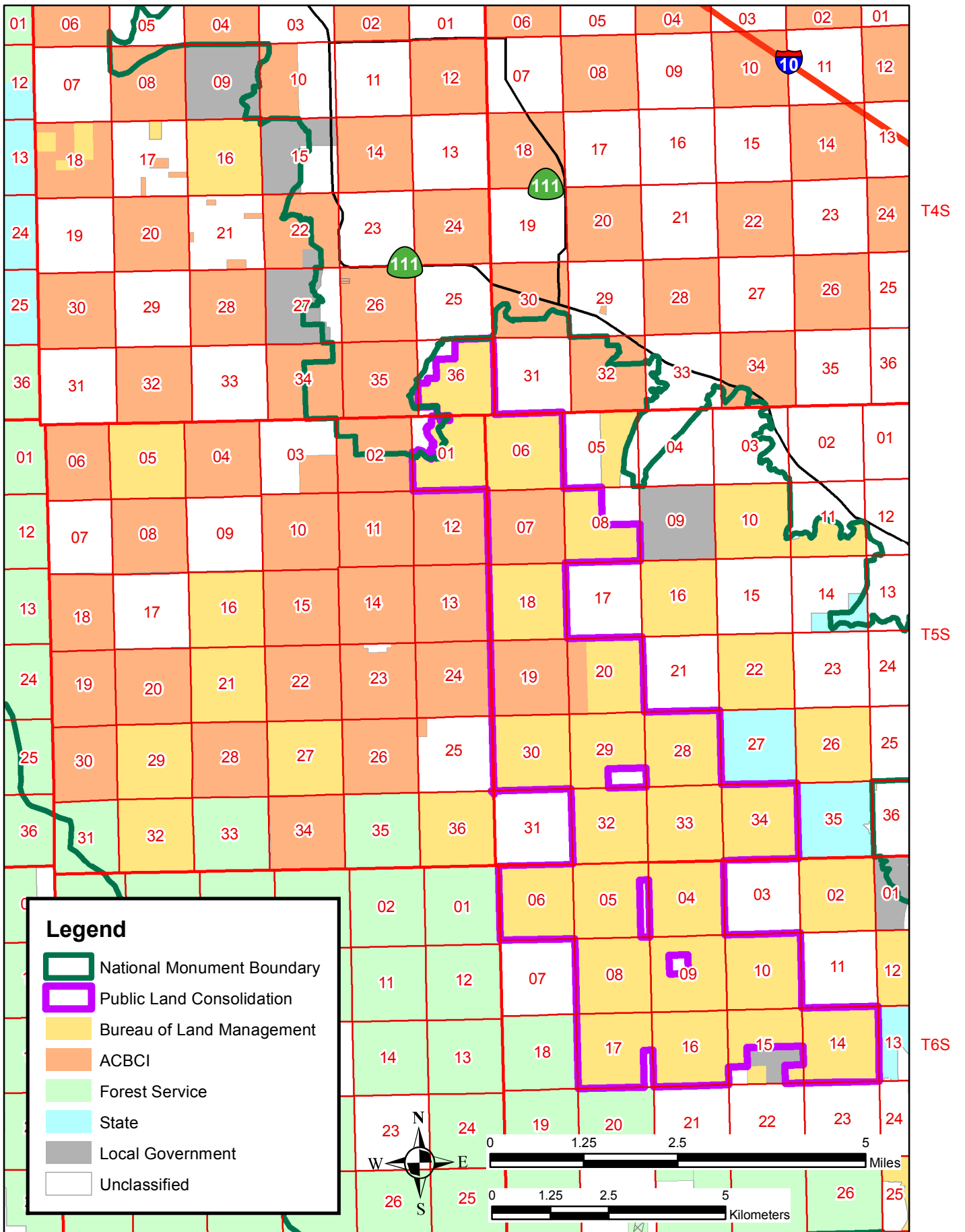


R3E

R4E

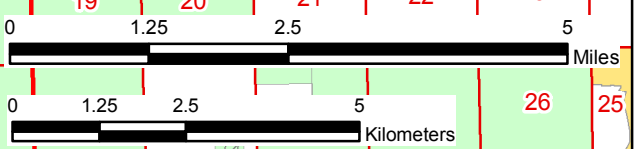
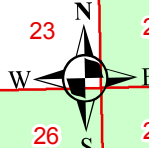
R5E

Figure 3d
Public Land Consolidation
Preferred Alternative



Legend

- National Monument Boundary
- Public Land Consolidation
- Bureau of Land Management
- ACBCI
- Forest Service
- State
- Local Government
- Unclassified



R3E

R4E

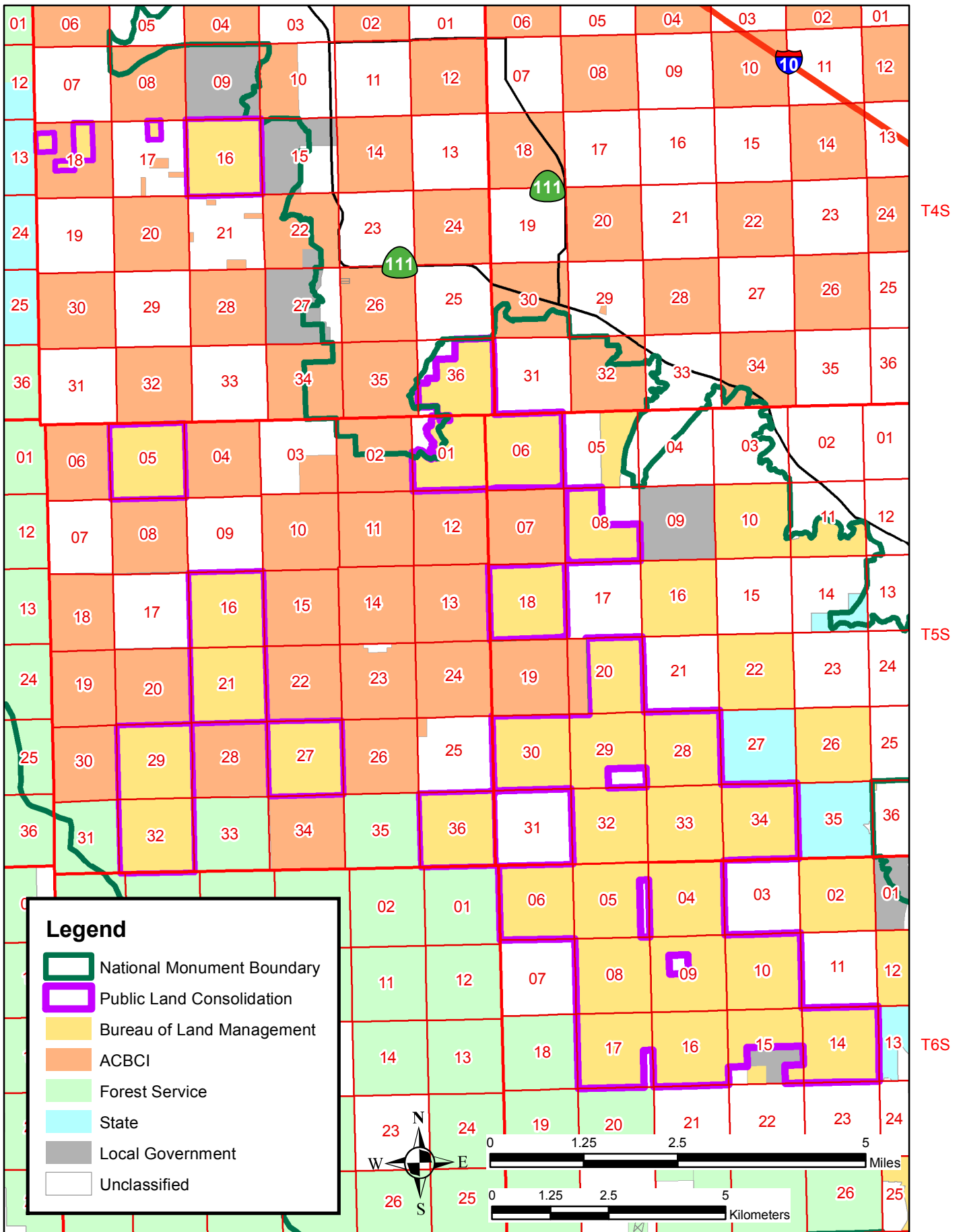
R5E

T4S

T5S

T6S

Figure 3e
Public Land Consolidation
No Action Alternative

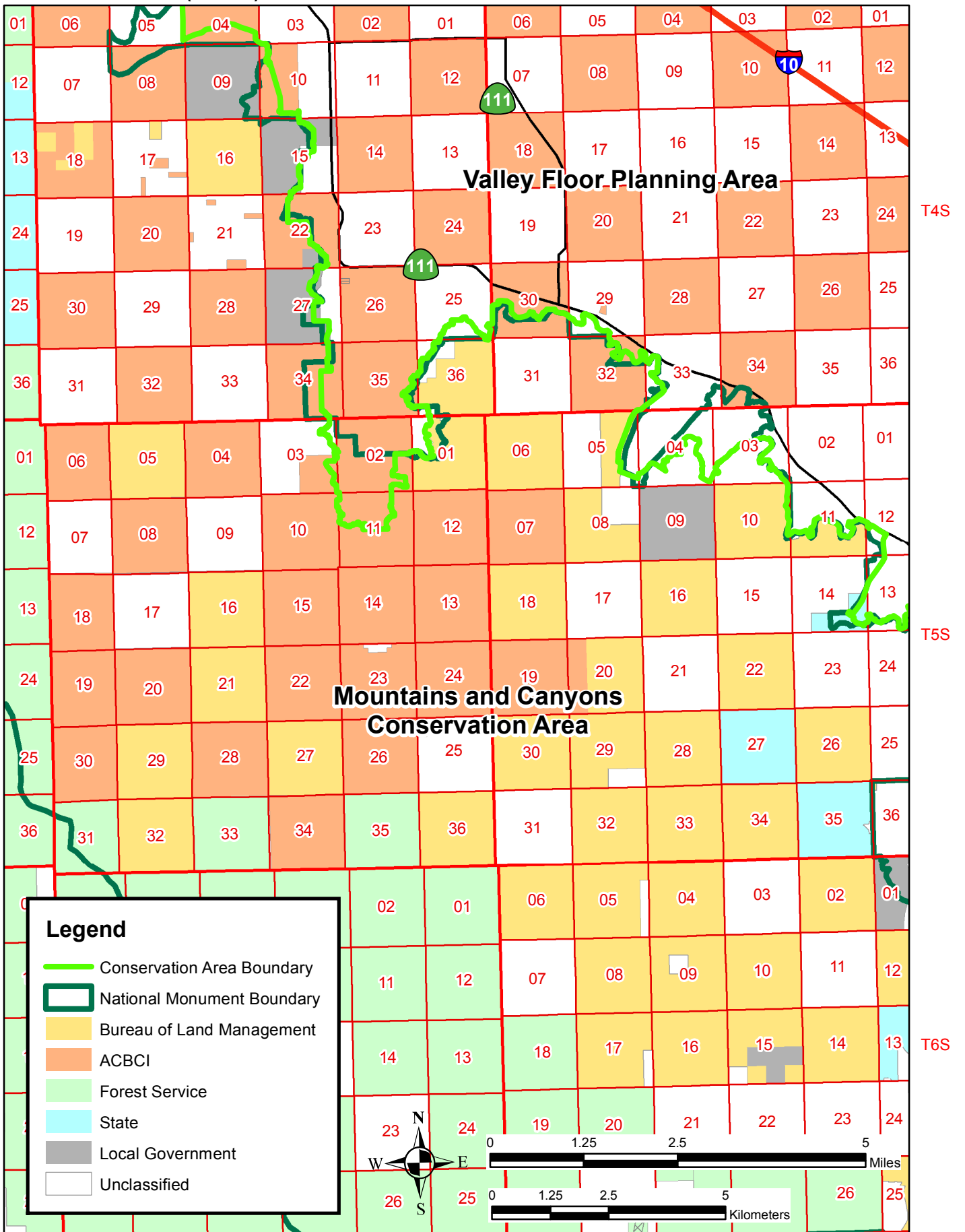


R3E

R4E

R5E

Figure 4
Mountains and Canyons
Conservation Area (ACBCI)

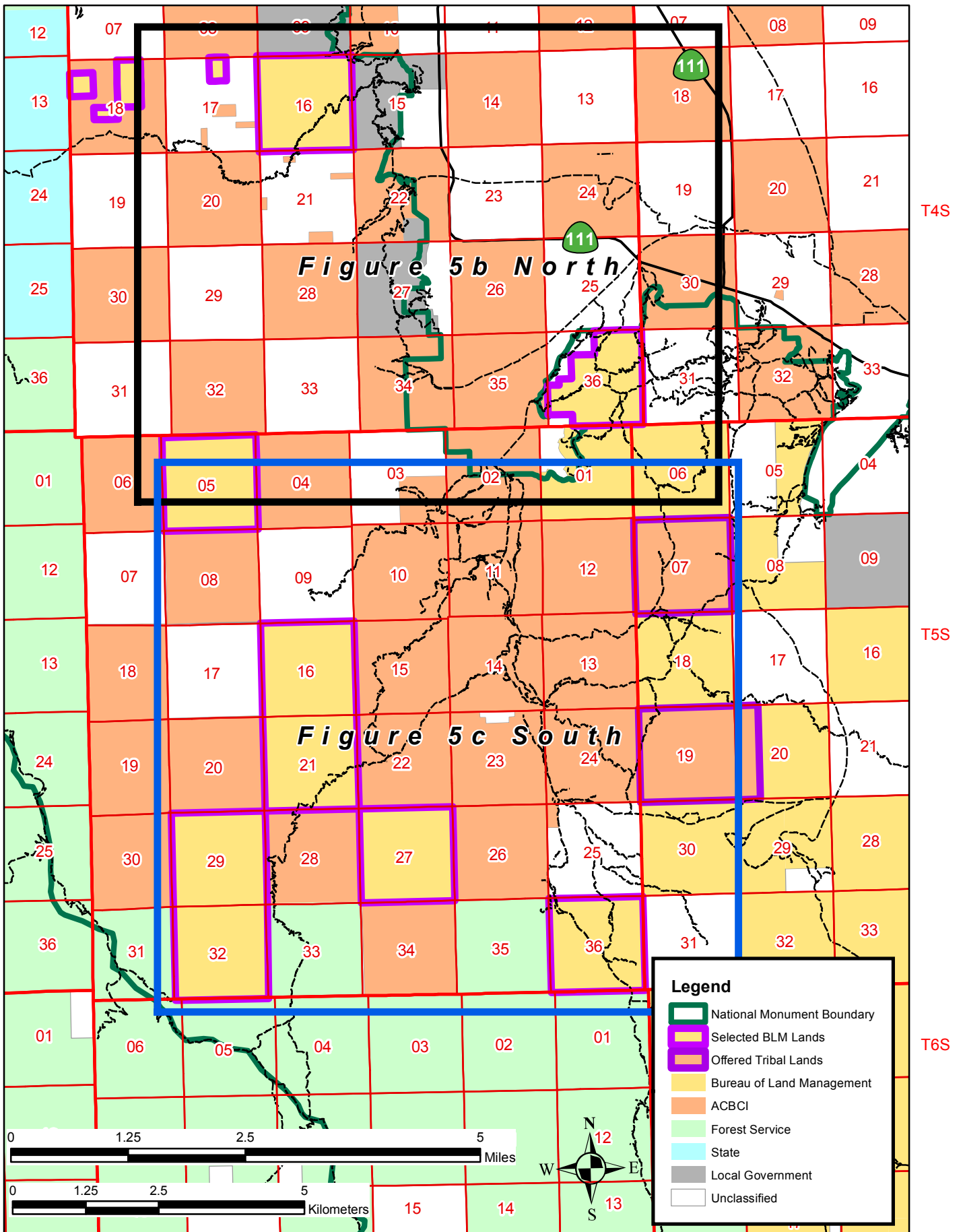


R3E

R4E

R5E

Figure 5a
Project Area Trails

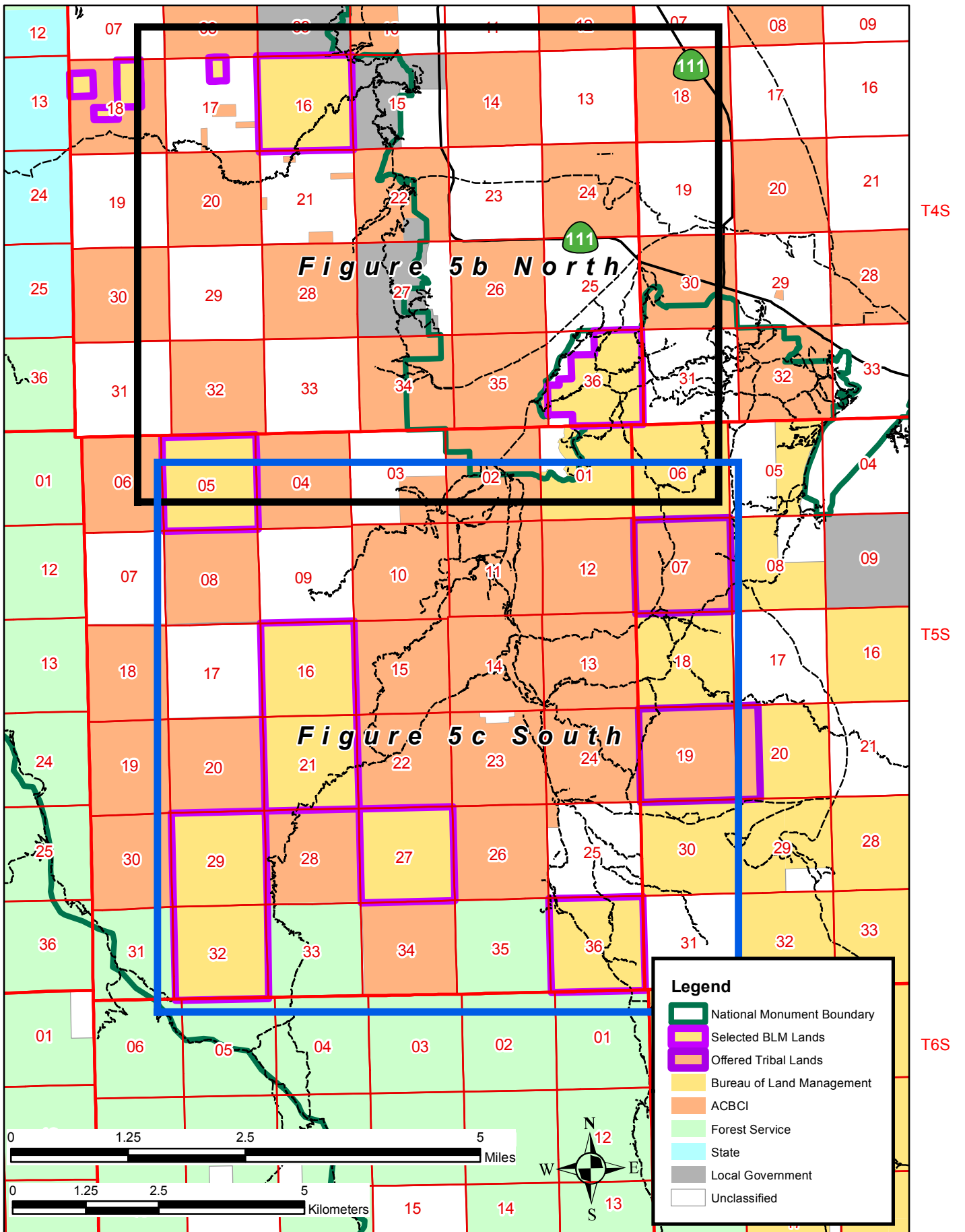


R3E

R4E

R5E

Figure 5a
Project Area Trails

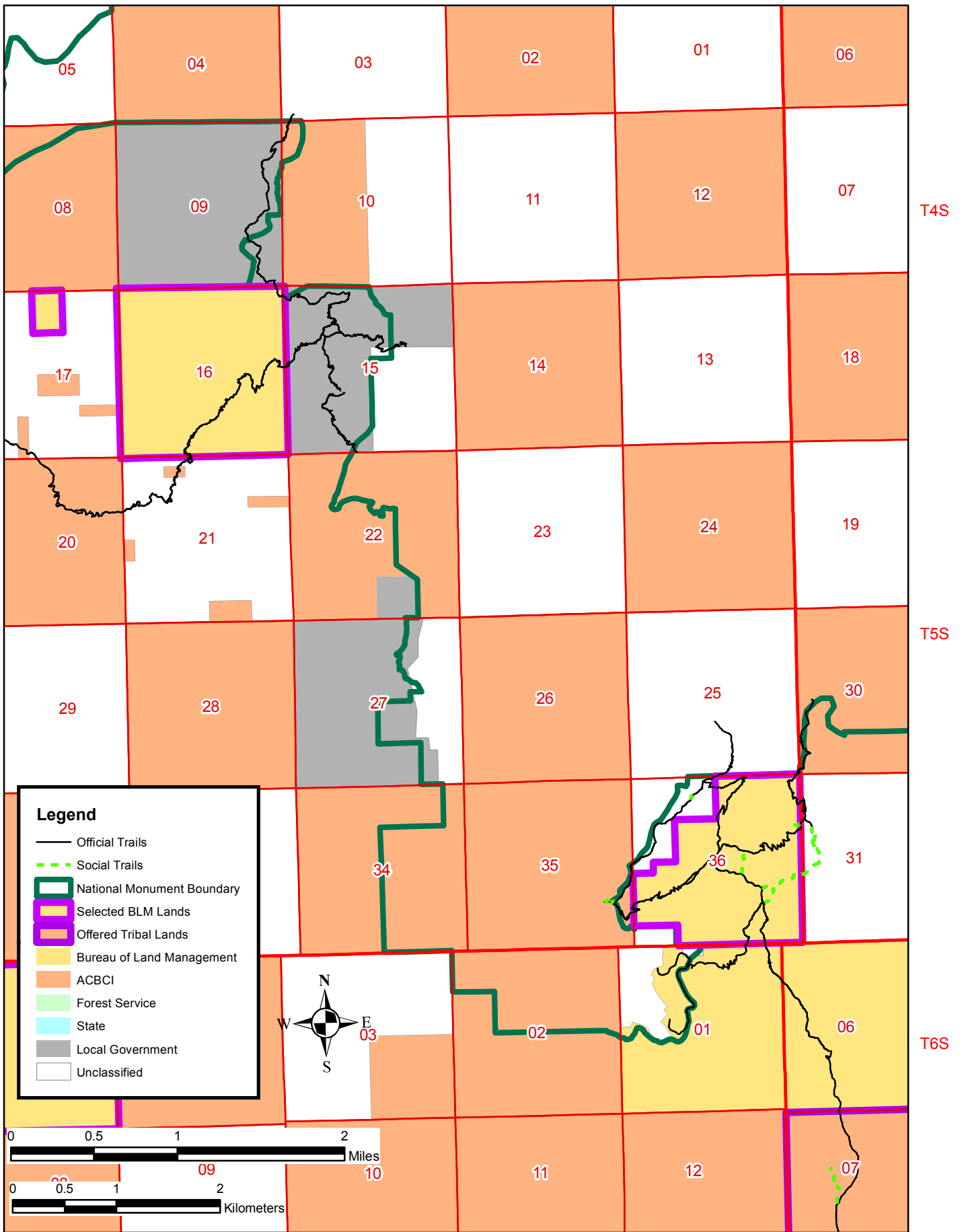


R3E

R4E

R5E

Figure 5b
Official and Social Trails - North



R3E

R4E

R5E

Figure 5c
Official and Social Trails - South

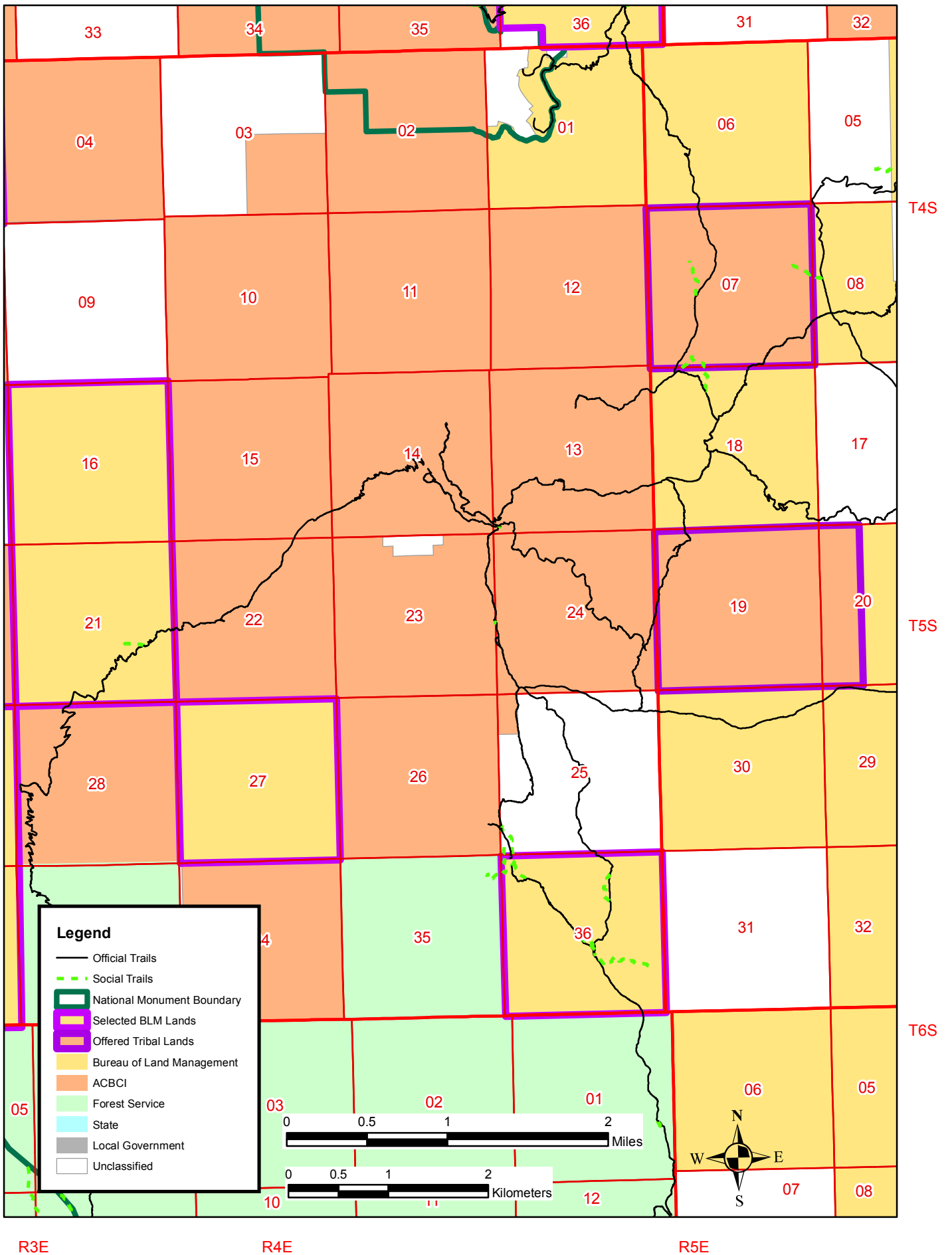


Figure 6
Peninsular Bighorn Sheep (PBS)
Critical and Essential Habitat

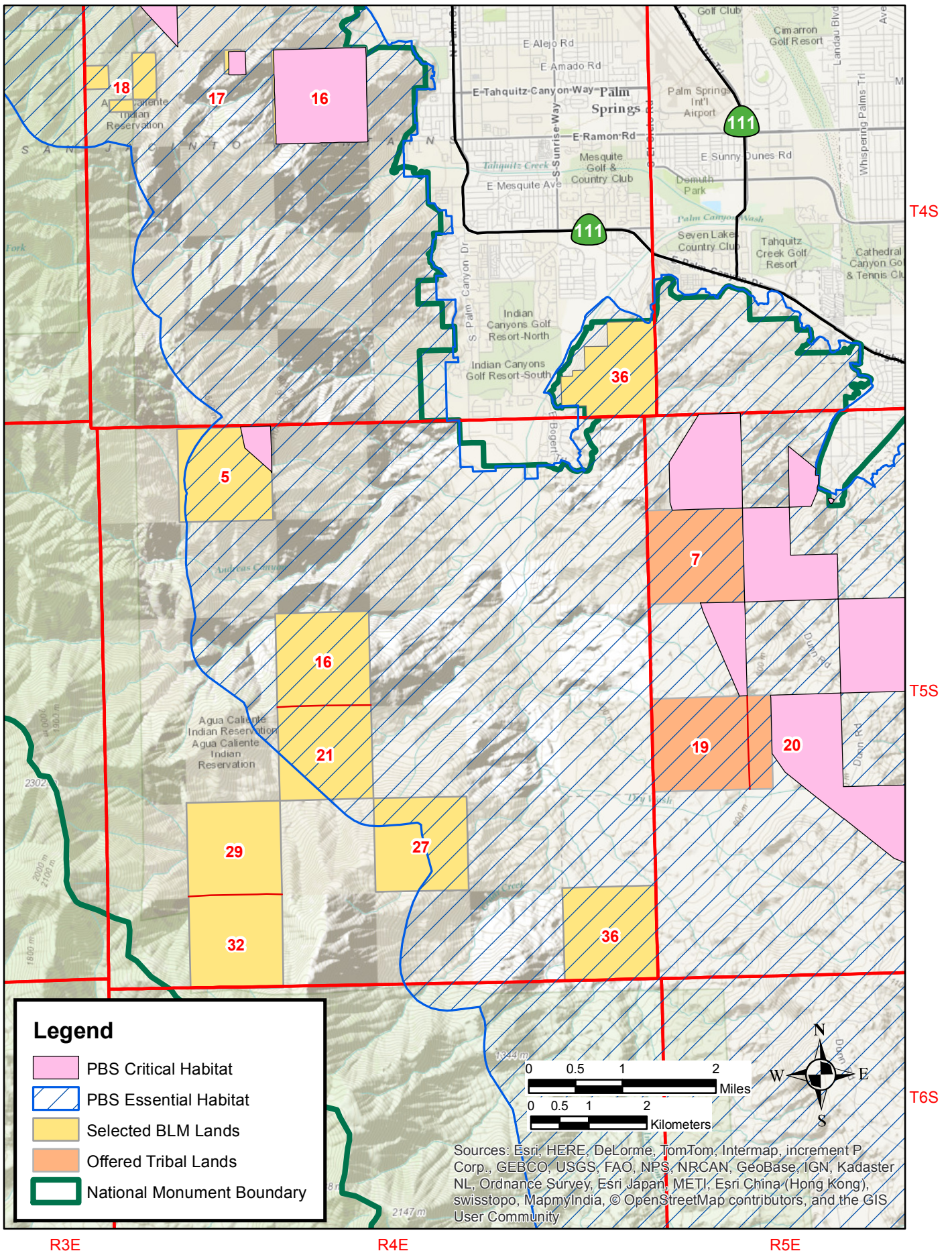


Figure 7a
Wilderness Inventory Units (WIU) - Preferred Alternative And
Proposed Land Exchange (Scenarios 1 & 2)

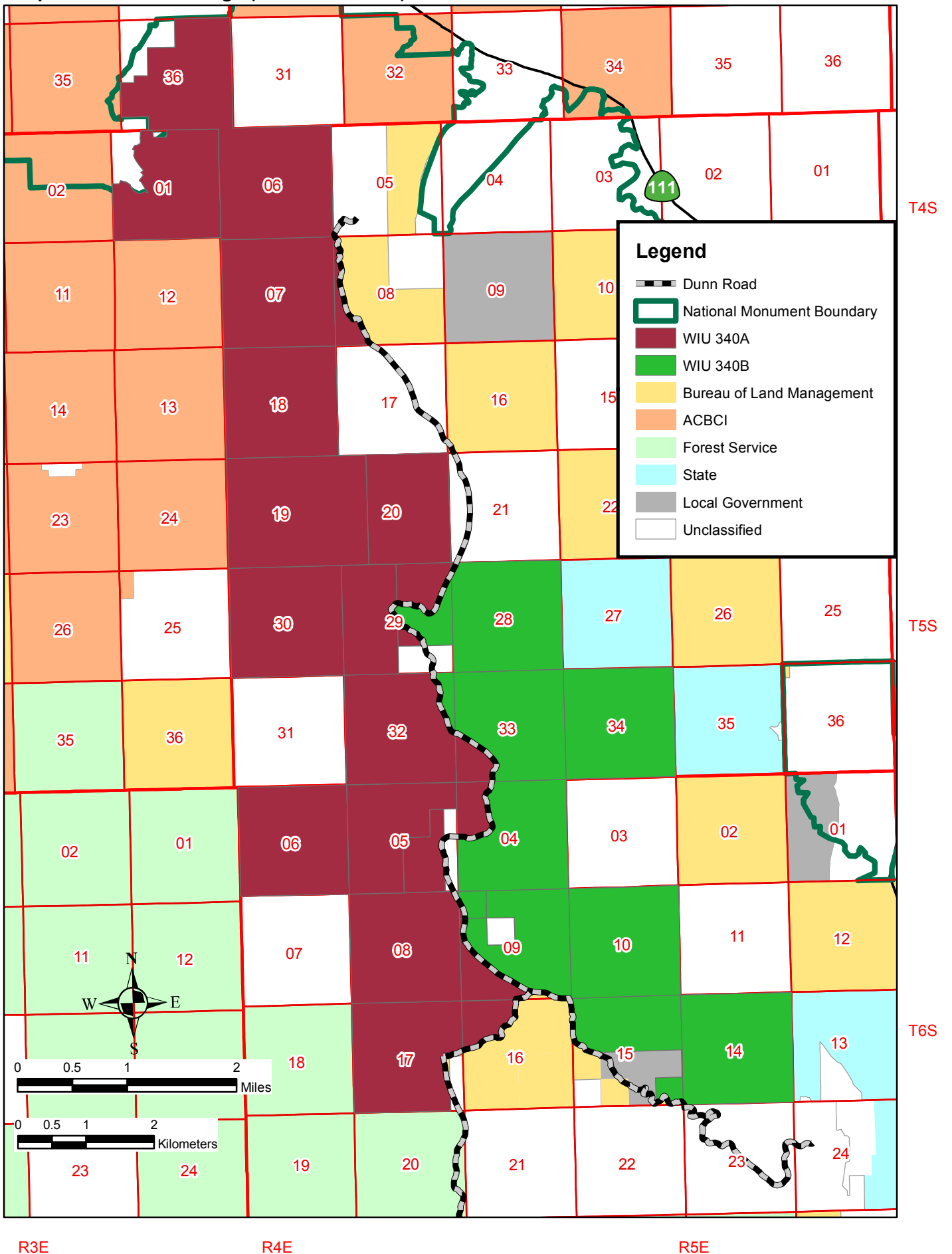


Figure 7b
Wilderness Inventory Units (WIU)
Proposed Land Exchange (Scenario 3)

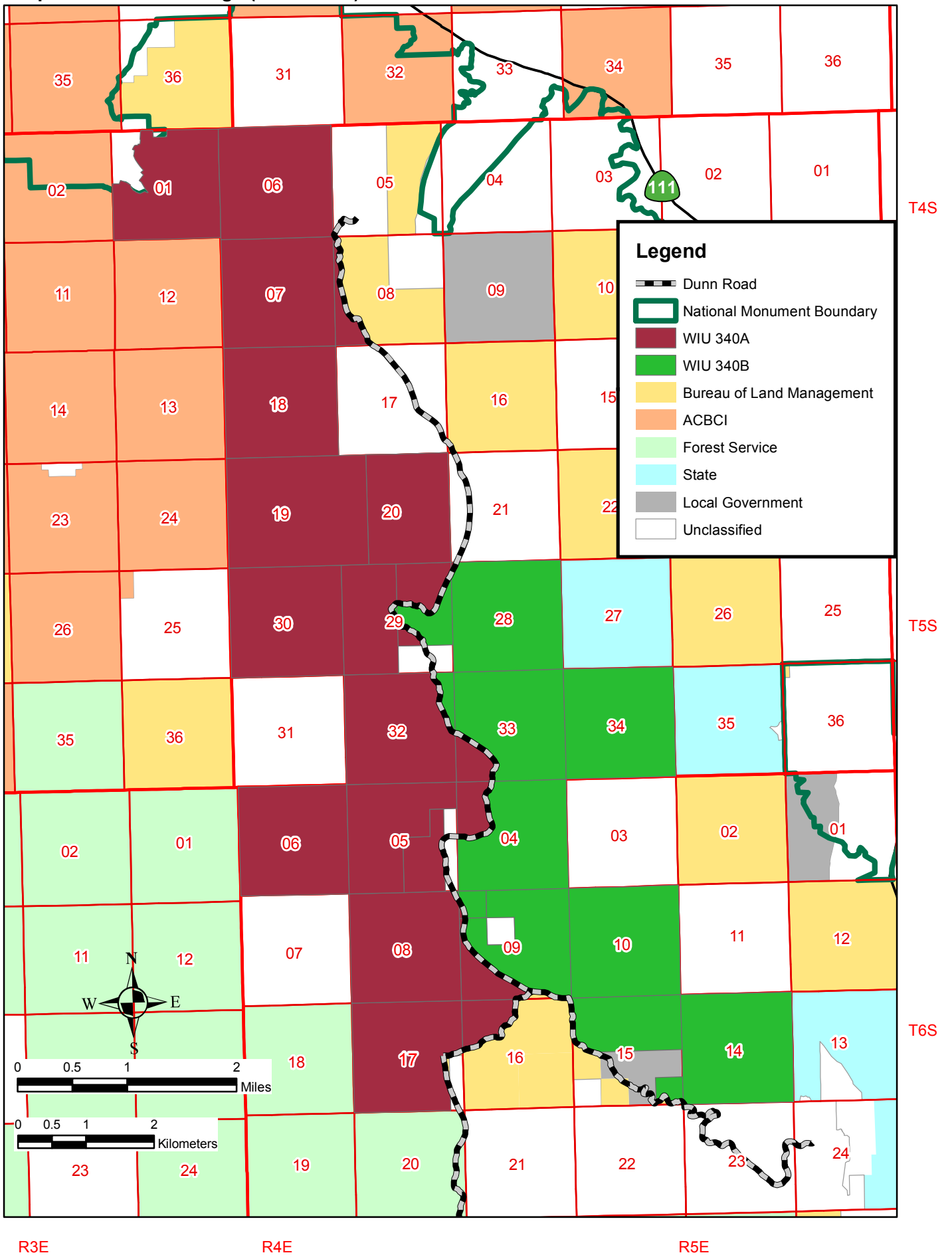
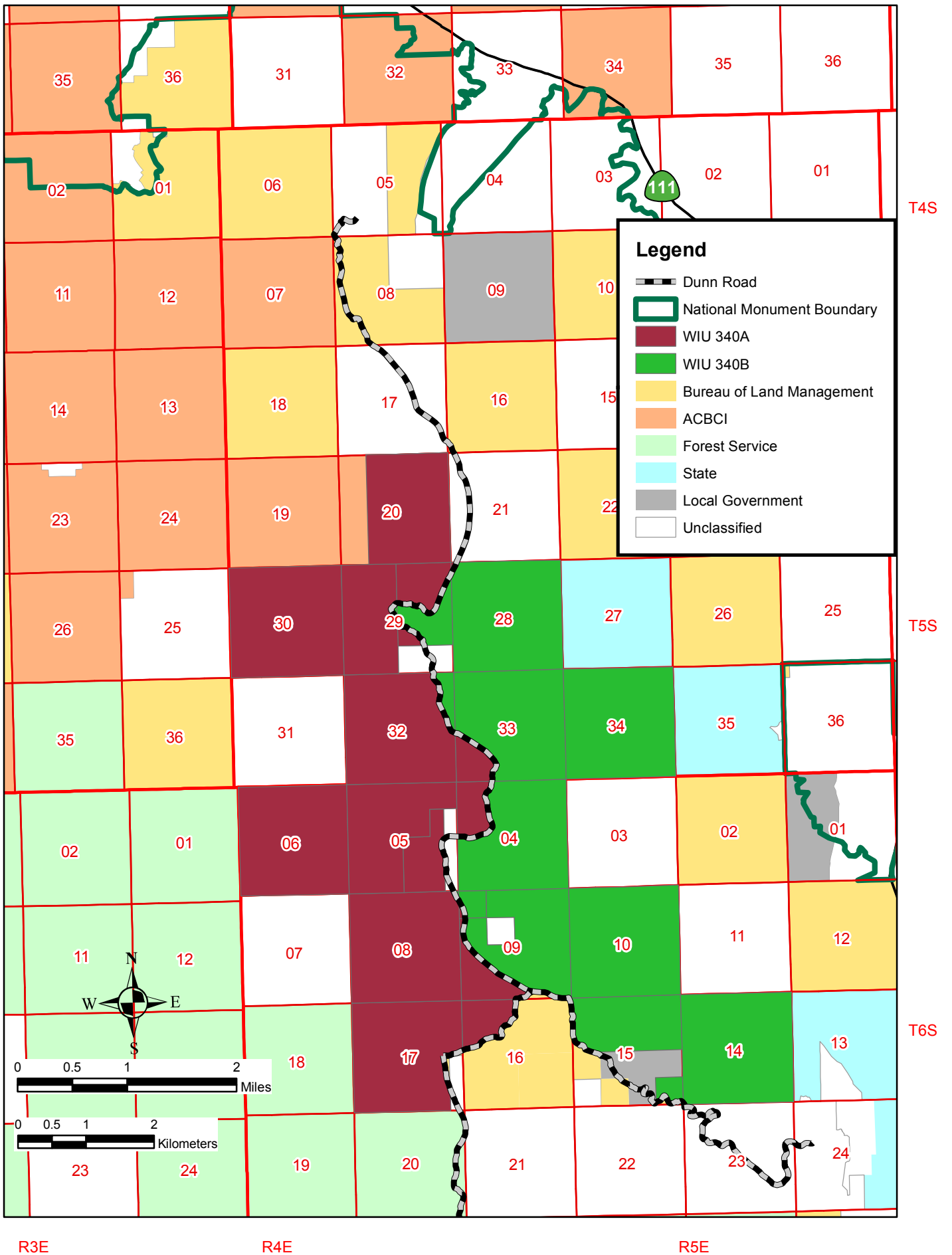


Figure 7c
Wilderness Inventory Units (WIU)
No Action Alternative



APPENDIX A
BLM – TRIBAL COOPERATIVE AGREEMENT



COOPERATIVE AGREEMENT
BETWEEN
THE U.S. DEPARTMENT OF INTERIOR-BUREAU OF LAND MANAGEMENT
AND
THE AGUA CALIENTE BAND OF CAHUILLA INDIANS
FOR THE SANTA ROSA AND SAN JACINTO MOUNTAINS

AGREEMENT NO. _____

I. STATEMENT OF JOINT OBJECTIVES

- A. Purpose. This cooperative agreement is made and entered into between the USDI Bureau of Land Management (BLM) and the Agua Caliente Band of Cahuilla Indians, herein after referred to as the BLM and the Tribe, respectively, to coordinate and cooperate in management of Federal lands within and outside the external boundaries of the Agua Caliente Indian Reservation within the Santa Rosa and San Jacinto Mountains proposed for National Monument (Monument) designation. This relationship will provide for more consistent, effective, and collaborative management of these lands. Specific programs in natural resource management, land tenure adjustment and land use planning, will enhance the values underlying the proposed Monument designation.
- B. Objective. This agreement provides the mechanism to coordinate land use planning, budget priorities, cooperative allocation of resources and development of long term resource management and programmatic goals between the signatories. The agreement is anticipated to improve BLM service to the community by increasing the effectiveness of land management efforts through cooperation, addressing Tribal issues, and developing mechanisms for increasing the effectiveness of Tribal government coordination and outreach efforts at all organizational levels. The agreement also provides a foundation for a Memorandum of Understanding (MOU) between the BLM and the Tribe pursuant to authorities provided under Section 206 of the Federal Land Policy and Management Act, as amended. The MOU provides the opportunity for the Tribe to acquire Federal lands.
- C. Authority. Federal Land Policy and Management Act of 1976, Sections 202 (C)(9) and 307(b), Public Law 94-579, provides that the Secretary of Interior may undertake programs of resource management through Cooperative Agreements with Indian Tribes.

A handwritten signature in black ink, appearing to read "R.M.M.", is located in the bottom right corner of the page.

BLM – ACBCI Land Exchange
Draft Environmental Impact Statement
Appendix A: BLM/Tribal Cooperative Agreement

- D. **Benefit:** This cooperative undertaking will result in increased public land management effectiveness, enhancement of natural resource program coordination, opportunity for joint public outreach, and a greater level of consistency and effectiveness in public and Tribal land use planning. This cooperative relationship provides the Bureau access to resources and services not otherwise obtainable and to the contributed involvement of Tribal officials, planners, resource specialists and general membership, in public land management. This relationship is critical to providing a higher level of service and to enhancing coordination and cooperation between the Tribal government and the BLM in the development of resource management programs, planning and opportunities.

II. DEFINITIONS

- A. **BLM:** Means the United States Department of Interior, Bureau of Land Management, California State Office. May be referred to as the Bureau.
- B. **TRIBE:** Means the Tribal Council of the Agua Caliente Band of Cahuilla Indians.
- C. **Cooperative Agreement:** Means this Cooperative Agreement.
- D. **Agreement Area:** Means all public lands managed by the BLM within the proposed Santa Rosa and San Jacinto Mountains National Monument.

III. SCOPE

- A. **BLM agrees to:**
 - 1. Coordinate and consult with the Tribe at least annually, to seek their participation and support in the development of public land use planning and public land management actions.
 - 2. Identify opportunities for development of initiatives to cooperatively initiate and conduct land management programs.
 - 3. Seek specific opportunities to actively involve the Tribe in public land management activities.
 - 4. Coordinate, organize, and assure appropriate government, professional and management involvement in programs within the scope of this agreement.
- B. **The TRIBE agrees to:**
 - 1. Coordinate and consult with BLM at least annually, to identify Tribal land management priorities, resources and opportunities for joint Tribal/BLM program development.



BLM – ACBCI Land Exchange
Draft Environmental Impact Statement
Appendix A: BLM/Tribal Cooperative Agreement

2. Coordinate, organize, and assure appropriate Tribal professional and executive involvement in programs within the scope of this agreement.
3. Identify and provide appropriate staff for planning and implementation of initiatives developed pursuant to this agreement.

C. The BLM and the Tribe agree to:

1. Cooperate in program development, budget preparation, and planning. Conduct specific programs for BLM managers, professional staff, Tribal officials and other appropriate parties to address critical resource management, Tribal and agency program priorities and comprehensive program issues.
2. Maintain a joint commitment to address areas of Tribal concern, including:
 - a. The protection of the rights of the Tribe and the allottees to access, development, and enjoyment of their property, consistent with applicable Federal and Tribal laws and regulations.
 - b. The need to identify, preserve, protect and, where necessary, recover cultural resources and artifacts.
 - c. The need to identify, preserve and protect federal reserve water rights.
 - d. The need to preserve and protect cultural and traditional uses, including gathering and access to sacred places.
3. Provide for review of projects, proposals, and management actions that may affect the other party's interests or management.
4. Jointly contribute to implementation of coordinated strategies to improve law enforcement efforts to protect natural and cultural resources, and to enhance public outreach services, within the agreement area.
5. Meet at least annually to identify specific resource management, land tenure adjustment and joint management goals, including but not limited to:
 - a. Implementation of a Memorandum of Understanding between BLM and the Tribe for acquisition and exchange of lands within the proposed Santa Rosa and San Jacinto Mountains National Monument.

Actively seek funding for joint management efforts, land acquisitions, and exchanges which meet the goals of this agreement.

- c. Undertake a cadastral survey and other land surveying and engineering tasks to support land management, acquisitions and exchanges.
- d. Complete a cultural resource survey of the proposed National Monument area to identify significant cultural resources, and provide for the management and protection of those resources.
- e. Provide technology and resources to accomplish the above goals.

IV. TERM OF THE AGREEMENT

This Cooperative Agreement shall become effective on the date of signature of the BLM Field Manager and the Tribal Chairman and shall remain in effect until cancelled or modified as provided in Section VI.

V. FINANCIAL SUPPORT

This document does not authorize the transfer of funds or anything of intrinsic monetary value, nor does it confer upon any signatories the authority to commit the Federal Government to the expenditure of funds. It is anticipated that, at a future date, the transfer of funds will be necessary to implement the intent of this Cooperative Agreement. Such transfers must be accomplished by a separate appropriate procurement or financial assistance instrument.

VI. MODIFICATION OR TERMINATION OF THIS AGREEMENT

This agreement may be modified, amended or supplemented by mutual consent of the parties. Either party may propose modification by notifying the other in writing. The parties agree to seek a mutually acceptable schedule to negotiate any modifications in the agreement.

This agreement may be terminated only by mutual consent of the parties. Termination may be requested in writing by either party through notification of the other signatory. Notification shall include a description of the basis for the request. The notified party shall respond within 30 days, proposing a schedule to negotiate unresolved issues offered as the basis for termination.

VII. GENERAL PROVISIONS

Nothing in this agreement shall abrogate the statutory responsibility or other authority of either party signatory to this agreement.

Each of the signatories warrants that he or she is authorized to enter into this agreement on behalf of the Party on whose behalf he or she has executed the agreement.

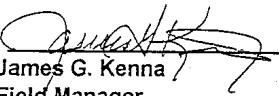
VIII. COUNTERPARTS

This agreement may be executed in counterpart originals and each copy will have the same force and effect as if signed by all the parties.

IN WITNESS WHEREOF, the parties have executed this agreement.

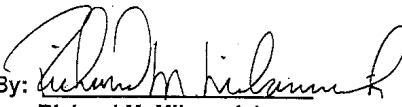
APPROVALS:

**U.S. DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT**

By: 
James G. Kenna
Field Manager
South Coast/Palm Springs Field Office

10/13/99
Date

AGUA CALIENTE BAND OF CAHUILLA INDIANS

By: 
Richard M. Milanovich
Chairman, Tribal Council

10-13-99
Date

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APPENDIX B
BLM – TRIBAL MEMORANDUM OF UNDERSTANDING



MEMORANDUM OF UNDERSTANDING
BETWEEN THE
AGUA CALIENTE BAND OF CAHUILLA INDIANS
AND
THE U.S. DEPARTMENT OF INTERIOR - BUREAU OF LAND MANAGEMENT
FOR
ACQUISITION AND EXCHANGE OF LANDS
WITHIN THE PROPOSED SANTA ROSA AND SAN JACINTO MOUNTAINS
NATIONAL MONUMENT

I. INTRODUCTION

Proposed legislation would designate a National Monument in the Santa Rosa and San Jacinto Mountains including lands south and west of Palm Springs California. The National Monument would be established to preserve the nationally significant biological, cultural, recreational, geological educational and scientific values of the mountains.

The proposed legislation specifically states that the establishment of the National Monument shall not affect any Indian Reservation and that the Congress does not intend for the designation of the National Monument to lead to the creation of protective perimeters or buffer zones.

The Agua Caliente Band of Cahuilla Indians is a federally recognized Tribe exercising jurisdiction over the Agua Caliente Indian Reservation with an existing agreement establishing procedures for government-to-government consultation with the U.S. Bureau of Land Management.

II. PURPOSE OF THE AGREEMENT

Certain tribal and allotted lands of the Agua Caliente Band of Cahuilla Indians are within the proposed boundaries of the National Monument. Thus, it is in the interest of the Agua Caliente Band and the U.S. Bureau of Land Management (herein after referred to as "the parties") to clarify, by this agreement, the government-to-government relationship that exists with respect to BLM lands that are within both the reservation and the proposed boundaries of the National Monument.

[Handwritten signature]
R.M.M.

It is also in the interests of the parties to the agreement to establish a framework for cooperation concerning acquisition and exchange of non-trust lands. To implement that framework, the parties may also seek to involve others to facilitate or support mutual objectives concerning the acquisition or exchange of land.

III. AGREEMENT

Effective upon execution of this agreement:

- A. The BLM shall:
1. Jointly identify opportunities with the Agua Caliente Band of Cahuilla Indians to exchange BLM administered public land parcels within the reservation. Exchanges will be based on fair market value appraisals and will be confined to the Santa Rosa and San Jacinto Mountains.
 2. Cooperate with the Tribal Council of the Agua Caliente Band of Cahuilla Indians to identify potential non-federal lands for acquisition within the exterior boundaries of the Agua Caliente Indian Reservation and assist the Tribe in seeking federal funding for acquisition, where appropriate.
 3. Consult with the Tribal Council on any proposed acquisition within the reservation and reject proposals unless they have been offered to the Tribal Council of the Agua Caliente Band of Cahuilla Indians as candidates for acquisition.
 4. Defer to the Agua Caliente Band of Cahuilla Indians and the USDI Bureau of Indian Affairs concerning requests to the Secretary to place title of lands acquired through exchange into trust with the United States for the Agua Caliente Band of Cahuilla Indians as additions to the Agua Caliente Indian Reservation, to the extent permitted by Federal law.
 5. Manage all lands received in exchange to preserve the nationally significant biological, cultural, recreational, geological, educational, and scientific values found in the Santa Rosa and San Jacinto Mountains as an enduring legacy of our heritage, and to secure for future generations the opportunity to experience the magnificent vistas, wildlife, landforms, and natural and cultural resources in these mountains.
- B. The Agua Caliente Band of Cahuilla Indians shall:
1. Jointly identify opportunities with the Bureau of Land Management to exchange BLM public land parcels within and outside the reservation. Exchanges will be based on fair market value appraisals and will be confined



to the Santa Rosa and San Jacinto Mountains.

2. Advise the BLM of the Agua Caliente Band of Cahuilla Indians' priorities for acquisition and resource management within the Santa Rosa and San Jacinto Mountains National Monument.
3. Participate in preparing federal funding requests when lands within the exterior boundaries of the reservation are proposed by the Tribal Council for purchase and inclusion in the reservation.
4. Consult with the Bureau of Land Management concerning known proposals for land acquisition within the Santa Rosa and San Jacinto Mountains.
5. Manage all lands received in exchange to preserve the nationally significant biological, cultural, recreational, geological, educational, and scientific values found in the Santa Rosa and San Jacinto Mountains as an enduring legacy of our heritage, and to secure for future generations the opportunity to experience the magnificent vistas, wildlife, landforms, and natural and cultural resources in these mountains.

C. The BLM and the Agua Caliente Band of Cahuilla Indians shall

1. Consider exchanges of BLM administered public lands outside the exterior reservation boundaries to the Agua Caliente Band of Cahuilla Indians if it determined through compliance with applicable law to be in the interest of both the Tribe and the public.

IV. MODIFICATION OF THIS AGREEMENT

This agreement may be modified, amended or supplemented by mutual consent of the parties. Either party may propose modification by notifying the other in writing. The parties agree to seek a mutually acceptable schedule to negotiate any modifications in the agreement.

This agreement may be terminated only by mutual consent of the parties. Termination may be requested in writing by either party through notification of the other signatory. Notification shall include the a description of the basis for the request. The notified party shall respond within 30 days, proposing a schedule to negotiate unresolved issues offered as the basis for termination.

V. APPROVAL

On behalf of the Agua Caliente Band of Cahuilla Indians and the United States

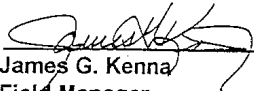

R.M.M.

BLM – ACBCI Land Exchange
Draft Environmental Impact Statement
Appendix B: BLM/Tribal Memorandum of Understanding

Bureau of Land Management, this agreement is approved on the ____th day of
October, 1999.

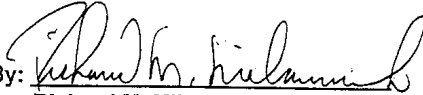
APPROVALS:

U.S. DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT

By: 
James G. Kenna
Field Manager
South Coast/Palm Springs Field Office

10/13/99
Date

AGUA CALIENTE BAND OF CAHUILLA INDIANS

By: 
Richard M. Milanovich
Chairman, Tribal Council

10-13-99
Date

APPENDIX C
FEASIBILITY REPORT



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Palm Springs-South Coast Field Office
690 West Garnet Avenue
P.O. Box 1260
North Palm Springs, CA 92258-1260



IN REPLY REFER TO:
2200
(CA-063.51)

JUL 24 2001

Memorandum

TO: State Director

THROUGH: District Manager, California Desert

FROM: Field Manager, Palm Springs-South Coast Field Office

SUBJECT: Feasibility Report, Exchange of Lands Within the Santa Rosa and San Jacinto Mountains National Monument with the Agua Caliente Band of Cahuilla Indians.

BACKGROUND Public Law 106-351 established the Santa Rosa and San Jacinto Mountains National Monument. The Act directed the Secretaries of Interior and Agriculture to make a special effort to consult with the Agua Caliente Band of Cahuilla Indians in preparing and implementing a management plan for the National Monument. The Act also provided specific authorization for Secretary of the Interior to exchange federal lands within the National Monument with the Agua Caliente, including lands which the Bureau of Land Management has acquired with appropriations under the Land and Water Conservation Fund Act.

Section 6(e) of PL 106-351 provides in part:

“In order to support the cooperative management agreement in effect with the Agua Caliente Band of Cahuilla Indians as of the date of enactment of this Act, the Secretary of the Interior may, without further authorization by law, exchange lands which the Bureau of Land Management has acquired using amounts previously provided under the LWCF Act of 1965 (16 U.S.C. 460) with the Agua Caliente Band of Cahuilla Indians. Any such land exchange may include the exchange of federally owned property within or outside the National Monument for property within or outside the ... National Monument.”

The designation of the National Monument has focused attention on the need to coordinate and consolidate ownership of land and management responsibilities in the Monument. The Palm Springs - South Coast Field Office has previously signed agreements with the Agua Caliente to coordinate management and exchange lands and now wish to enter into an Agreement to Initiate an Assembled Land Exchange.

The Agua Caliente wish to acquire public lands which are intermixed with lands in the reservation in T.4S.,R.5E. and T.5S., R.5E., San Bernardino Meridian. The Agua Caliente Reservation was established by several Executive Orders in 1876 and 1877, which withdrew even numbered sections in those townships. Sections 16 and 36 and lands previously conveyed were excepted from the withdrawals. Since Congress has sole jurisdiction to modify reservation boundaries, the Reservation is technically limited to those lands previously designated by Executive Order.

Some of the lands withdrawn for the Reservation were subsequently conveyed in a series of trust patents and in some cases Indian Fee patents. One section was withdrawn, conveyed in an Indian Fee patent, and later purchased by BLM with LWCF appropriations (Section 32, T.5S., R.4E.).

1. DESCRIPTION OF LANDS PROPOSED FOR EXCHANGE

A. The federal lands are shown on Exhibit A

The selected federal lands are all within the National Monument and are intermixed with lands of the Agua Caliente Indian Reservation. The federal lands include original public domain lands as well as lands acquired by exchange and purchase with LWCF appropriations.

LR2000, HI, Master Title Plats were searched with the following results:

There are no mining claims of record and because the lands are within the National Monument, the lands are no longer open to mineral entry.

Executive Order (E.O.) 6285, affecting sections 16 & 36, T.5S., R.4E., temporarily withdrew the lands for consideration for a national monument. Under its terms, the E.O. is in effect until revoked by the President or by an Act of Congress. We assume the legislation designating the National Monument effectively terminated this withdrawal.

Under CARI 1390 some of the lands were classified for multiple use, but the classification does not preclude the exchange.

The MTP shows a remaining Small Tract Classification in the N1/2SW1/4NW1/4SW1/4, sec. 36, T.4S., R.4E. This classification must be lifted before the lands can be exchanged.

The following rights of way are on the federal lands:

CARI 04966 for Flood Control purposes in sec. 16, T.4S., R.4E., SBM.

CACA 8568 for parking area in section 36, T.4S., R.4E., SBM.

CARI 4693 for Water Tank in section 36, T.4S., R.4E., SBM.

B. Offered non-federal lands:

The Agua Caliente have offered to purchase and transfer to the U.S. private lands within the National Monument. A priority would be given to the acquisition of bighorn sheep habitat within the National Monument. Generally the lands to be acquired in this exchange would be within the following townships and ranges:

T.5S., R.5&6E.

T.6S., R.5&6E.

T.7S., R.6&7E.

T.8S., R.7&8E.

Several specific parcels of private lands have been identified at this time and are shown on Exhibit B. These parcels are based on anticipated acquisition opportunities, and the Agua Caliente are currently negotiating to purchase these lands. As additional opportunities arise, we expect to amend this feasibility report to address specific additional private lands. Based on a 1992 title report, there are no encumbrances on the private lands.

2. CONSISTENCY WITH LAND USE PLAN

The federal and non federal lands proposed for exchange are all within the National Monument, which is within the California Desert Conservation Area (CDCA). Pending completion of a management plan for the National Monument, lands within the Monument are to be managed consistent with the 1980 CDCA Plan as amended. Under the CDCA Plan, "Lands will be acquired, disposed of, or exchanged in accordance with FLPMAto assure more efficient management of the public lands and to reduce conflicts with other public and private lands owners to provide more consistency and logic in desert-wide land use patterns." We believe the exchange would clearly assure more efficient management of the public lands and provide more consistency in desert-wide land use patterns.

3. INTENDED LAND USE

The selected federal lands are adjacent to and intermingled with lands within the Agua Caliente Reservation. Generally, the federal lands are isolated, with access typically controlled by the Agua Caliente. Unless subsequently placed into trust status, lands acquired by the Agua Caliente would be tribal fee lands. The Agua Caliente have expressed an interest in having the federal lands they acquire placed in trust status.

The Agua Caliente have agreed to manage the federal lands they receive to preserve their biological, cultural, recreational and scientific values, which would be consistent with the purposes of the National Monument. Although the lands would leave federal jurisdiction and may not be available for public use and enjoyment it is reasonable to assume that the resource values on those lands would not be lost to development.

Upon acquisition, the non-federal lands would be administered like other federal lands in the National Monument.

4. PRELIMINARY REVIEW OF RESOURCES

Because both the federal lands and the non-federal lands are within the National Monument, we expect the resource values on the lands to be acquired would generally be equivalent to the resource values on the federal lands to be exchanged.

Both the federal and non-federal lands are habitat for the Peninsular Big Horn sheep, an endangered species.

5. LAND VALUES

Selected Federal Lands:

We do not have current value estimates for federal lands, but have listed past appraised values used in acquisitions next to the lands in Exhibit A. For the public lands near the Monument boundary and close to development it is not possible to accurately estimate values. We expect the total value of the public lands to be in excess of \$2,000,000.

Offered Non-Federal Lands

We do not have current appraisals of the non-federal lands. However, most of these lands were appraised in 1992 and these values are shown on Exhibit B. We know from past transactions that values in the National Monument can vary significantly based on the potential for development. The total value of the non-federal lands in exhibit B is not likely to exceed \$2 million dollars. Any difference in value would be made up by adding or deleting lands to the extent feasible. We expect it will take several exchange transactions before all of the federal lands are transferred to the Agua Caliente and wish to utilize an assembled land exchange ledger to carry forward any differences in value in each transaction.

6. FUNDING AND STAFFING

BLM staff participation will involve geologist, appraiser, wildlife biologist, archeologist, and realty specialist. BLM will use 1430 funding for the exchange, or funds made available through the Bureau of Indian Affairs.

BLM would be responsible for:

1. Preparing and publishing the Notice of Exchange Proposal (NOEP).
2. Adjudicating the public land records for mining claims, withdrawals, classifications, authorizations, trespasses; and taking actions, when feasible, to allow disposal of the public lands.
3. Consulting with U.S. Fish & Wildlife Service and the California Department of Fish & Game regarding the exchange of lands.
4. Completing determinations regarding historic properties on the federal lands and, if necessary consulting with the State Historic Preservation Officer.
5. Preparing the NEPA document for the land exchange.
6. Preparing and publishing the Notice of Decision (NOD).
7. Drafting escrow instructions and all documents of conveyances.

The Agua Caliente would be responsible for:

1. Providing preliminary title evidence.
2. Arranging for appraisals of the Federal and non-Federal lands, consistent with 43 CFR 2201.3 to be completed by an appraiser under contract to BLM. Appraisals will be completed in stages based on the priorities agreed upon by the parties.
3. Providing the following studies, reports or clearances on the Federal lands:
 - a. Mineral potential
 - b. Cultural resources
 - c. Biological resources, including biological assessments
4. Contributing funds to the BLM to pay exchange processing costs in the absence of a specific federal appropriation to pay such costs.

BLM would agree to compensate the Agua Caliente for the assuming the costs of preparing reports on the federal lands. Compensation would be by means of adjusting the relative values in the exchange and conveying additional federal lands or using LWCF appropriated funds.

7. TIME FRAMES

1. 2001, BLM to complete review of feasibility report.
2. 2001, Agreement to Initiate land exchange to be signed.
3. 2001, BLM to publish Notice of Exchange Proposal.
4. 2001 BLM to remove small tract classification.
5. 2002 BLM & Agua Caliente to prepare reports.
6. 2002, BLM to publish Notice of Decision

7. 2002, complete first exchange transaction exchange.

8. OTHER INFORMATION

Due to the presence of habitat for the Peninsular Big Horn Sheep on the federal lands, the exchange would require consultation under section 7 of the Endangered Species Act.

The lands selected by the Agua Caliente are mixture of public domain lands, and public lands acquired by exchange and purchase using LWCF appropriations. Since BLM policy is to retain lands acquired with LWCF appropriations, this exchange would be an exception to that policy.

It is unclear if this exchange would be completed under the authority of section 206 of FLPMA or discretionary authority granted in the National Monument legislation. Section 207 of FLPMA provides that "No tract of land may be disposed of ...to any person who is not a citizen of the United States, or in the case of a corporation, subject to the laws of any State or of the United States." As a sovereign entity, the Agua Caliente are technically not subject to the State law in California.

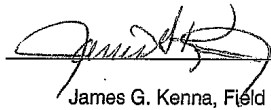
Regardless of the authority, the exchange would be processed consistent with the regulations at 43CFR2200.

9. RECOMMENDATION

In order to achieve the purposes of National Monument, BLM must enter into partnerships with other entities having jurisdiction over lands in the area. The exchange represents an opportunity to enlist the Agua Caliente as a partner in the management and preservation of lands in the National Monument.

The exchange would result in long term public benefits of consolidation of ownership and preservation of lands within the National Monument. The consolidation of ownership would facilitate greater accessibility to the public lands and reduce the potential for development incompatible with the public land management objectives.

Recommended by:

 7/19/01
James G. Kenna, Field Manager


 7-24-2001
Tim Salt, District Manager

EXHIBIT A
FEDERAL LANDS PROPOSED FOR EXCHANGE

- T.4S., R.4E., section 16, all (public domain)
section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of Lot1, N1/2 of lot2 (Acquired with LWCF in 1993 & 1994 for \$58,800)
section 36, lots 1-4, W1/2E1/2, E1/2SW1/4, SW1/4NW1/4, N1/2SW1/4SW1/4, E1/2NW1/4SW1/4, SW1/4NW1/4SW1/4, S1/2NW1/4NW1/4SW1/4, (public domain),
- T.5S., R.4E., section 5, lots 1-4, S1/2N1/2,S1/2, (Acquired with LWCF in 1992 for \$123,000)
section 16, (Public domain)
sections, 21, 27, & 29, all (Acquired by exchange)
section 32, all (Acquired with LWCF in 1996 for \$230,000)
section 36, (Public domain)

Total of approximately 5,783.07 acres

Note: the Master Title Plat (MTP), and Palm Springs Desert Access Guide (DAG) provide conflicting status information in this township. The DAG indicates sections 33 and 35 are National Forest lands, while the MTP and HI show these lands were part of a railroad grant patent in 1906. We have confirmed that these lands were acquired by the Forest Service using LWCF appropriations, but not noted to the HI or the MTP.

EXHIBIT B
NON - FEDERAL LANDS

T.5S., R.5E., section 7, (valued in 1992 at \$982,000)
section 19, (valued in 1992 at \$492,000)
section 20, W1/2W1/2 (valued in 1992 at \$120,000)

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APPENDIX D
SUPPLEMENT TO FEASIBILITY REPORT



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
California Desert District Office
6221 Box Springs Boulevard
Riverside, CA 92507-0714



SEP 25 2001

IN REPLY REFER TO:
2200
(CA-063.51)

Memorandum

TO: State Director

FROM: District Manager, California Desert

SUBJECT: Supplement to Feasibility Report for Exchange with the Agua Caliente Band of Cahuilla Indians.

The following information and corrections are provided in response to comments from your staff.

1. NEED FOR A MULTIPLE TRANSACTION ASSEMBLED LAND EXCHANGE

The federal lands consist of approximately 11 separate parcels with an estimated value in excess of \$2 million dollars. Since the Agua Caliente will be acquiring private lands to convey to the U.S., but do not currently own any lands, the number and timing of each exchange transaction will depend on the value of the private lands the Agua Caliente acquire for exchange purposes.

We anticipate needing to complete at least three exchange transactions in order to transfer all of the federal lands to the Agua Caliente. While we will attempt to complete all three transactions within three years, this will depend on the Agua Caliente successfully acquiring lands for exchange.

Since the value of each transaction is unknown at this time, we wish to have the flexibility of a ledger account to carry forward any imbalances in value. Since there are multiple parcels of federal lands, we expect to be able to keep each transaction relatively close in value. Because the Agua Caliente are financially self sufficient, we do not believe it is necessary to secure minor ledger imbalances in favor of the U.S., although we would expect to secure an imbalance over \$200,000.

We understand that once we complete the initial transaction, we will need to balance and close any ledger established for this assembled exchange within three years. If, after three years we balance and close the ledger, but there are remaining federal lands which the Agua Caliente wish to acquire, we expect to continue processing the exchange without further approval until all federal lands have been conveyed. If a new ledger is necessary, we would request separate approval for a new ledger.

2. JUSTIFICATION FOR COMPENSATION OF COSTS.

The regulations at 43 CFR 2201.3(b) give the authorized officer discretionary authority to compensate the non-federal party incurring costs normally borne by the U.S., when it is clearly in the public interest and 1.) the costs are reasonable, 2.) the exchange is a high priority, 3.) the land exchange must be expedited to protect congressionally designated areas, 4.) cash equalization funds are available, and 5.) there are no other practical means to meet federal processing costs.

The proposed exchange is clearly in the public interest because it will consolidate federal ownership of lands in the National Monument, allowing the U.S. to better manage the federal lands to protect wildlife habitat and enhance recreational opportunities. Since we expect the BLM will not have sufficient funds to cover federal processing costs, the public interest would be served if the Agua Caliente assume some of the federal processing costs.

We understand that prior to compensating the Agua Caliente for any federal exchange processing costs, we must make a separate determination that the costs are reasonable and accurate.

Because the National Monument legislation provides specific direction authorizing this exchange and directs the Secretary to make a special effort to consult with the Agua Caliente in the management of the Monument, we feel the exchange is clearly a high agency priority. The exchange must also be expedited to protect a Congressionally designated area and to protect habitat for the endangered Bighorn sheep in the Peninsular range.

Cash equalization funds are currently available, although there is no guarantee these funds will be available when the first exchange transaction is completed. Rather than using cash equalization funds for compensation, we would hope to convey additional federal lands as compensation for costs.

We anticipate that BLM will not have adequate staff or funding to complete the following reports on the federal lands; mineral potential reports, appraisal reports, cultural resource inventories and biological reports. In order to complete these reports in a timely manner, it is likely the Agua Caliente will need to assume the costs of preparing at least some of these reports.

3. ESTIMATED COSTS OF EXCHANGE PROCESSING STEPS

We have listed below the approximate costs of the steps in the exchange process. We have not estimated the cost of cultural resource and biological surveys as there is considerable uncertainty regarding the extent of necessary surveys.

The Agua Caliente have agreed to manage the federal lands they receive to preserve their biological, cultural, recreational and scientific values. Although BLM would normally complete 100% Class III cultural resource surveys of federal lands to be exchanged, in light of commitments made by the Agua Caliente, we hope to consult with the California State Historic Preservation Officer on a reduced level of inventory. We intend to pursue similar discussions with the U.S. Fish and Wildlife Service on the information needed to complete consultation under section 7 of the Endangered Species Act.

BLM costs:

1. Preparing and publishing the Notice of Exchange Proposal (NOEP). (\$2,500)
2. Adjudicating the public land records for mining claims, withdrawals, classifications, authorizations, trespasses; and taking actions, when feasible, to allow disposal of the public lands. (\$10,000)
3. Consulting with U.S. Fish & Wildlife Service and the California Department of Fish & Game regarding the exchange of lands. (\$2,000)
4. Completing determinations regarding historic properties on the federal lands and, if necessary consulting with the State Historic Preservation Officer. (Unknown)
5. Preparing the NEPA document for the land exchange. (\$4,000)
6. Preparing and publishing the Notice of Decision (NOD). (\$2,000)
7. Drafting escrow instructions and all documents of conveyances. (\$3,000)

Agua Caliente costs:

1. Providing title evidence for the non-Federal lands. (\$3,000)
2. Appraisals of the Federal and non-Federal lands. (\$50,000)
3. Providing reports of the Federal lands:
 - a. Mineral potential (\$10,000)
 - b. Cultural resources (unknown)
 - c. Biological resources (unknown)

4. MODIFYING THE AGREEMENT TO INITIATE A LAND EXCHANGE (ATI)

Prior to submitting this feasibility report, the draft ATI was developed in consultation with Agua Caliente and underwent multiple reviews by the tribal attorney. We are aware that we will need to modify the ATI to further clarify certain terms, particularly with regard to scheduling of appraisal reports.

In order to develop a realistic processing schedule and estimate certain processing costs, we feel it is essential to have some initial discussions with the Fish & Wildlife Service and the State Historic Preservation Officer on the biological and cultural resource inventories needed for the exchange. We wish to postpone further modifications to the ATI until after these discussions have occurred and the Agua Caliente have purchased, or signed an option to purchase, the lands in the first transaction.

Once these uncertainties have been resolved, we expect to develop a detailed processing schedule in consultation with the Agua Caliente and address other items of concern in the ATI.

5. MODIFICATION OF THE LEGAL DESCRIPTION AND CHANGES TO THE NOEP

In response to cadastral survey review, we have modified the legal description in the feasibility report, NOEP, and the ATI. The NOEP has been modified to reflect that this will be an assembled land exchange which may occur in several phases.



EXHIBIT A
FEDERAL LANDS PROPOSED FOR EXCHANGE

- T.4S., R.4E., section 16, all (public domain)
section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of Lot1, N1/2 of lot2 (Acquired with LWCF in 1993 & 1994 for \$58,800)
section 36, lots 1-4, W1/2NE1/4, W1/2SE1/4, E1/2SW1/4, SE1/4NW1/4, N1/2SW1/4SW1/4, E1/2NW1/4SW1/4, SW1/4NW1/4SW1/4, S1/2NW1/4NW1/4SW1/4, (public domain),
- T.5S., R.4E., section 5, lots 1-4, S1/2NE1/4, S1/2NW1/4, S1/2, (Acquired with LWCF in 1992 for \$123,000)
section 16, (Public domain)
sections, 21, 27, & 29, all (Acquired by exchange)
section 32, all (Acquired with LWCF in 1996 for \$230,000)
section 36, (Public domain)

Total of approximately 5,783.07 acres

Note: the Master Title Plat (MTP), and Palm Springs Desert Access Guide (DAG) provide conflicting status information in this township. The DAG indicates sections 33 and 35 are National Forest lands, while the MTP and HI show these lands were part of a railroad grant patent in 1906. We have confirmed that these lands were acquired by the Forest Service using LWCF appropriations, but not noted to the HI or the MTP.

EXHIBIT B
NON - FEDERAL LANDS

T.5S., R.5E., section 7, (valued in 1992 at \$982,000)
section 19, (valued in 1992 at \$492,000)
section 20, W1/2W1/2 (valued in 1992 at \$120,000)

Notice of Exchange Proposal Involving Lands in Riverside County, California, CACA 42965.

U.S. DEPARTMENT OF INTERIOR, Bureau of Land Management, Palm Springs- South Coast Field Office, 690 West Garnet Avenue, North Palm Springs, CA 92258-1260

Notice is hereby given that the Bureau of Land Management (BLM) is considering a proposal to exchange land pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended. The exchange would transfer all or portions of the following described public lands to the Agua Caliente Band of Cahuilla Indians:

San Bernardino Meridian, California

T.4S., R.4E., section 16, all
section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of Lot1, N1/2 of lot2,
section 36, lots 1-4, W1/2NE1/4, W1/2SE1/4, E1/2SW1/4, SE1/4NW1/4,
N1/2SW1/4SW1/4, E1/2NW1/4SW1/4, SW1/4NW1/4SW1/4,
S1/2NW1/4NW1/4SW1/4,

T.5S., R.4E., section 5, lots 1-4, S1/2NE1/4, S1/2NW1/4, S1/2,
sections 16, 21, 27, & 29, 32, & 36.

In exchange, the United States would acquire all or portions of the following described land from the Agua Caliente Band of Cahuilla Indians:

San Bernardino Meridian, California

T.5S., R. 5E., sections 7, 19 and the W1/2W1/2 of section 20.

The purpose of the exchange is to consolidate the ownership of federal lands within the Santa Rosa and San Jacinto National Monument and to transfer certain federal lands in the National Monument to the Agua Caliente Band of Cahuilla Indians. In completing this exchange, the BLM and the Agua Caliente may complete a series of exchange transactions. More detailed information concerning the proposed exchange may be obtained from Tom Gey, California Desert District Office, 6221 Box Springs Blvd., Riverside, California 92507.

The federal lands identified in this proposal were withdrawn from all forms of appropriation under the public land laws and mining laws under public law 106-351 dated October 24, 2000.

Interested parties are invited to submit comments concerning the proposed exchange and provide notice of any liens, encumbrances or claims on the lands involved, to Jim Kenna, Field Manager, Palm Springs- South Coast Field Office, 690 West Garnet Avenue, P.O. Box 1260, North Palm Springs, California 92258-1260. Where appropriate, comments should reference the specific parcels involved. In order to be considered in the environmental analysis of the proposed exchange, comments must be submitted in writing and be post marked or received within forty-five (45) days of the initial publication of this notice.

James G. Kenna
Field Manager

Date

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APPENDIX E
AGREEMENT TO INITIATE ASSEMBLED LAND EXCHANGE

RECEIVED
BUREAU OF LAND MANAGEMENT

02 AUG -8 PM 1: 38

UNITED STATES OF AMERICA
DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
PALM SPRINGS-SOUTH COAST
RESOURCE AREA

AGREEMENT TO INITIATE ASSEMBLED LAND EXCHANGE
BETWEEN THE BUREAU OF LAND MANAGEMENT AND
THE AGUA CALIENTE BAND OF CAHUILLA INDIANS

This agreement to initiate and complete an assembled land exchange ("Agreement") is made pursuant to Public Law 106-351 and the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. §§ 1701 et seq.), between the **Bureau of Land Management ("BLM")** on behalf of the **United States of America** and the **Agua Caliente Band of Cahuilla Indians**, hereinafter referred to as the Tribe. The BLM and the Tribe are sometimes hereinafter also referred to as a Party or collectively as the Parties.

RECITALS:

Whereas, the Parties signed a Memorandum of Understanding (MOU) for acquisition and exchange of lands within the proposed Santa Rosa and San Jacinto Mountains National Monument, dated October 13, 1999 (attached);

Whereas, the above referenced MOU states that the Parties shall jointly identify opportunities within the proposed Monument boundary to exchange BLM administered public lands as referenced in the MOU, for suitable lands outside the reservation boundary.

Whereas, the exchange of lands contemplated by this Agreement also implements portions of the BLM California Desert Conservation Area (CDCA) Plan of 1980, as amended, for the public lands it manages in the Santa Rosa Mountains. The CDCA Plan provides these two objectives involving land exchanges:

1. To provide for use of the public lands and resources including economic, educational, scientific, and recreational uses, in a manner which enhances wherever possible and which does not diminish, on balance, the environmental, cultural, and aesthetic values of the Desert and its productivity; and,
2. Land exchanges, acquisitions, and disposals are necessary for effective and efficient management in the CDCA. Non-federal lands designated in the CDCA Plan as sensitive or unique will require acquisition through exchange or purchases; and

Whereas, the Tribe has or will obtain legal title or control of any Offered Lands and the ability to convey title to such lands in accordance with the laws of the United States and the State of California,

Whereas, BLM has legal title or control of the Selected Lands and has the ability to convey title to such lands; and,

Whereas, each of the Parties desire to complete an exchange of lands as hereinafter described and to establish certain terms and conditions of the exchange.

NOW THEREFORE, the Parties do hereby agree as follows:

1. DESCRIPTION OF LANDS OR INTEREST IN LANDS BEING CONSIDERED FOR EXCHANGE.

The Parties agree to enter into land exchange transactions within the boundary of the Santa Rosa and San Jacinto Mountains National Monument.

The Tribe agrees to acquire and convey to BLM available non-Federal lands subject only to the reservations and exceptions shown thereon and which meet US Department of Justice Title Standards. The initial lands which the Tribe intends to seek an option to purchase and convey to the U.S. are shown in Exhibit B. In the event the Tribe is unable to acquire an option to purchase the lands in Exhibit B, the parties agree to work cooperatively to identify additional lands within the National Monument to be acquired and conveyed to the U.S.

The BLM agrees to convey to the Tribe the Federal lands subject only to the reservations and exceptions shown thereon, or required by law. These lands are shown in Exhibit A.

The following rights of way are on the federal lands:

CARI 04966 for Flood Control purposes in sec. 16, T.4S., R.4E., SBM.
CACA 8568 for parking area in section 36, T.4S., R.4E., SBM.
CARI 4693 for Water Tank in section 36, T.4S., R.4E., SBM.

All conveyances shall include all of the parties interest in the lands, including but not limited to minerals, timber, grazing use, and water rights, unless those interests are specifically reserved.

2. EXCHANGE PROCESSING RESPONSIBILITIES.

Each party will provide survey plats, maps, etc, as appropriate to aid in the identification of the lands to be exchanged.

The Tribe shall be responsible for the following items:

1. Providing preliminary title evidence on the non-Federal lands.
2. Arranging for appraisals of the Federal and non-Federal lands, consistent with 43 CFR 2201.3 to be completed by an appraiser under contract to BLM. Appraisals will be completed in stages based on the priorities agreed upon by the parties.
3. Providing the following studies, reports or clearances on the Federal lands:
 - a. Mineral potential
 - b. Cultural resources
 - c. Biological resources, including biological assessments
4. Contributing funds to the BLM to pay exchange processing costs in the absence of a specific federal appropriation to pay such costs.

The BLM will be responsible for the following processing steps:

1. Preparing and publishing the Notice of Exchange Proposal (NOEP).

2. Adjudicating the public land records for mining claims, withdrawals, classifications, authorizations, trespasses; and taking actions, when feasible, to allow disposal of the public lands.
3. Consulting with the U.S. Fish & Wildlife Service regarding the exchange of lands.
4. Completing determinations regarding historic properties on the federal lands and, if necessary consulting with the State Historic Preservation Officer.
5. Preparing the appropriate National Environmental Policy Act (NEPA) review for the exchange.
6. Preparing and publishing the Notice of Decision (NOD).
7. Drafting escrow instructions and all documents of conveyance.
8. Maintaining a ledger account tracking the value of lands exchanged.

3. HAZARDOUS SUBSTANCES

Each Party to this Agreement hereby declares that, to their knowledge, that there have been no known or suspected release, storage, or disposal of hazardous substances on the Federal or non-Federal lands in this exchange process. BLM will take whatever steps necessary to determine if hazardous substances are present on the lands involved in an exchange.

4. PHYSICAL ACCESS, RIGHT TO ENTER

Each of the Parties hereby grants permission to the other Party to enter and physically examine the exchange lands. Such examination shall be by non-surface disturbing methods. BLM's inspection of the non-Federal lands also requires the permission of the current owner.

5. RELOCATION

The Tribe certifies there are no tenants occupying the non-Federal lands considered in this process. No relocation benefits will be provided for as described under 49 C.F.R. § 24.101.

6. COMPENSATION FOR ASSUMPTION OF COSTS

The Parties agree to equally share the costs of processing this exchange. The BLM agrees, to the maximum extent permitted, consistent with 43 CFR 2201.1-3 and 2201.6, to compensate the Tribe for completing reports on the federal lands necessary to the exchange, including but not limited to appraisal reports, cultural resource reports, biological resource reports, and mineral potential reports. BLM will compensate the Tribe for these costs by conveying Federal lands equal in value to the non-Federal lands plus the approved assumed costs in an adjustment of relative values.

7. ASSEMBLED LAND EXCHANGE.

The BLM and the Tribe agree to enter into a multiple transaction assembled exchange process. Separate transactions do not need to be of equal value. In accordance with 43 CFR 2201.1, the initial and cumulative difference in value between the Federal lands and non-Federal lands conveyed, as reflected in the ledger account, may not exceed 25% of the total value of the federal lands conveyed. The ledger account must be balanced, equalized and closed with land and/or money within three years of completing the first transaction. Descriptions of the Federal and nonfederal lands proposed for inclusion in this assembled exchange will be developed in phases. Each phase will require a modification to the agreement to initiate an exchange that will identify specific lands.

Subsequent to the NOD, the BLM and the Tribe will enter into individual escrow transactions to transfer the Federal lands to the Tribe and transfer the non-Federal lands to BLM.

BLM will maintain a ledger account to track the values of this assembled land exchange. The ledger account shall be updated after each escrow transaction.

8. CLOSING INDIVIDUAL ESCROWS

The Tribe and the BLM shall jointly agree on the Federal and non-Federal lands to be part of individual escrow transactions, based on the priority of acquisition of the non-Federal lands.

Title to the Federal lands and non-Federal lands will be transferred simultaneously through escrow procedures with a mutually acceptable title company. BLM will obtain, at Tribes' expense, or the Tribe will provide, binders or commitments to title insurance and pro-forma title insurance policies, to the non-Federal lands, before entering escrow. Escrow instructions will be prepared by the BLM and reviewed and executed by both the BLM and the Tribe.

Decisions to approve or disapprove an exchange proposal are subject to protest for a period of 45 days after publication of the Notice of Decision. Accordingly, individual escrow transactions will not be initiated until any protests and appeals of BLM decisions to approve an exchange have been resolved in accordance with the regulations at 43 CFR 2201.7-1 and part 4.

If no protests are received, individual escrow transactions would normally begin approximately 60 days after the publication of a Notice of Decision for the exchange. If a protest is received, BLM's decision addressing the protest may be appealed to the Interior Board of Land Appeals under the procedures of 43 CFR part 4. If an appeal is filed, the exchange may be further delayed, and BLM may be unable to complete the exchange.

The Tribe shall pay all recording and escrow fees, including the cost of an acceptable title insurance policy to the offered lands. The Tribe may also procure title insurance to the Federal lands at its own expense.

9. TIME FRAME FOR FIRST TRANSACTION

The parties agree to work cooperatively to process the first exchange transaction in accordance with a tentative schedule shown in Exhibit C. The parties acknowledge that the processing schedule is dependent on the status of negotiations to purchase or secure an option to purchase the non-federal lands.

10. AMENDMENTS

This Agreement may be amended at any time upon written agreement of the Parties.

11. NON-BINDING NATURE OF AGREEMENT

Nothing in this agreement obligates the federal government in violation of the Anti-Deficiency Act (Public Law 97-258). The expenditure or advance of any money or the performance of any work by the United States, hereunder, may require appropriation of money by the U.S. Congress or the allotment of funds; this agreement is contingent upon such appropriation or allotment being made, unless an alternative funding source can be identified.

The United States of America is required to process this exchange in accordance with the Federal Land Policy and Management Act of 1976, as amended; the Federal Land Exchange Facilitation Act of 1988; the National Historic Preservation Act of 1966, as amended; the Endangered Species Act of 1973, as amended; the National Environmental Policy Act of 1969; Interior

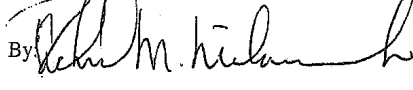
BLM – ACBCI Land Exchange
Draft Environmental Impact Statement
Appendix E: Agreement to Initiate Assembled Land Exchange

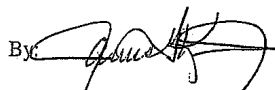
Department Manual 602 DM2; and 43 CFR 2200, which requires certain actions on the part of the United States, such as public notice and consideration of public comments to the exchange proposal. In the event that any exchange considered under this Agreement cannot be completed, no liability or obligation shall accrue to the Tribe or the United States.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate as of the last date shown.

Agua Caliente Band of Cahuilla Indians

Bureau of Land Management

By: 

By: 

Title: CHAIRMAN, TRIBAL COUNCIL

Title: Field Manager

Date: 7/31/02

Date: 8/9/02

EXHIBIT A
FEDERAL LANDS PROPOSED FOR EXCHANGE

- T.4S., R.4E., section 16, all (public domain)
section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of Lot1, N1/2 of lot2 (Acquired with LWCF in 1993 & 1994 for \$58,800)
section 36, lots 1-4, W1/2NE1/4, W1/2SE1/4, E1/2SW1/4, SE1/4NW1/4, N1/2SW1/4SW1/4, E1/2NW1/4SW1/4, SW1/4NW1/4SW1/4, S1/2NW1/4NW1/4SW1/4, (public domain),
- T.5S., R.4E., section 5, lots 1-4, S1/2NE1/4, S1/2NW1/4, S1/2, (Acquired with LWCF in 1992 for \$123,000)
section 16, (Public domain)
sections, 21, 27, & 29, all (Acquired by exchange)
section 32, all (Acquired with LWCF in 1996 for \$230,000)
section 36, (Public domain)

Total of approximately 5,783.07 acres

Note: the Master Title Plat (MTP), and Palm Springs Desert Access Guide (DAG) provide conflicting status information in this township. The DAG indicates sections 33 and 35 are National Forest lands, while the MTP and HI show these lands were part of a railroad grant patent in 1906. We have confirmed that these lands were acquired by the Forest Service using LWCF appropriations, but not noted to the HI or the MTP.

BLM – ACBCI Land Exchange
Draft Environmental Impact Statement
Appendix E: Agreement to Initiate Assembled Land Exchange

EXHIBIT B
NON - FEDERAL LANDS

T.5S., R.5E., section 7, (valued in 1992 at \$982,000)
section 19, (valued in 1992 at \$492,000)
section 20, W1/2W1/2 (valued in 1992 at \$120,000)

EXHIBIT C
PROCESSING SCHEDULE

1. December 2001, Agreement to Initiate land exchange to be signed.
2. December 2001, BLM to publish and distribute Notice of Exchange Proposal.
3. January 2001, BLM to initiate discussion with State Historic Preservation Officer (SHPO) regarding data necessary to complete consultation under section 106 of the National Historic Preservation Act.
4. January 2001, BLM to initiate informal consultation with U.S. Fish and Wildlife Service (F&WS).
5. February 2001, based on discussions with SHPO and F&WS, the parties will determine the scope, content and timing of reports.
6. March - July 2002 BLM & Tribe to prepare or contract for reports.
 - May 2002, mineral potential report on federal lands to be provided to BLM for review.
 - May 2002, cultural & biological reports to be provided BLM for review.
 - May 2002 BLM to initiate formal consultation with F&WS.
 - June 2002, appraisal reports to be provided to BLM for review.
 - June 2002 BLM to complete consultation with SHPO.
 - July 2002 BLM to complete environmental site assessments on federal and non-federal lands to be exchanged.
7. September 2002, BLM to complete environmental assessment, publish and distribute Notice of Decision.
8. December 2002, complete first exchange transaction.

**APPENDIX F
SUPPLEMENT TO
AGREEMENT TO INITIATE ASSEMBLED LAND EXCHANGE**

**SUPPLEMENT TO THE
AGREEMENT TO INITIATE ASSEMBLED LAND EXCHANGE
BETWEEN THE BUREAU OF LAND MANAGEMENT AND
THE AGUA CALIENTE BAND OF CAHUILLA INDIANS**

This supplement to the agreement to initiate an assembled land exchange between the **Bureau of Land Management ("BLM")** on behalf of the **United States of America** and the **Agua Caliente Band of Cahuilla Indians**, addresses the first exchange transaction between the Parties.

Whereas, the Parties signed an Agreement to Initiate a Land Exchange in August of 2002 (ATI). The ATI provides at section 7 that: "Descriptions of the Federal and nonfederal lands proposed for inclusion in this assembled exchange will be developed in phases. Each phase will require a modification to the agreement to initiate an exchange that will identify specific lands."

Whereas the Tribe has acquired legal title to the Offered Lands shown in Exhibit B of the ATI and the Parties are prepared to agree on the lands to be in the first exchange transaction. Additionally, the Parties wish to update a schedule of tasks for completing the first transaction, including each Parties respective responsibilities and costs.

NOW THEREFORE, the Parties do hereby agree as follows:

1. DESCRIPTION OF LANDS TO BE CONSIDERED FOR EXCHANGE IN THE FIRST TRANSACTION. See exhibits A and B.

The purpose of identifying specific lands for a specific exchange transaction is to narrow the scope of work for required reports. Generally, reports would address only the specific lands expected to be in the first transaction. Reports needed for the federal lands include appraisals, mineral potential, cultural resources, and biological. Appraisal reports would be needed for the non-federal lands.

2. PROCESSING SCHEDULE, RESPONSIBILITIES AND COST SHARING. Because appraisal reports are time sensitive and should not be initiated until after all other reports are completed, the parties agree to suspend the regulatory deadlines for completing appraisals and reaching an agreement on values found at 43 CFR 2201.1(d) and 2201.4(a)(1). In lieu of those deadlines, the parties agree to the schedule shown in the attached Exhibit C.

IN WITNESS WHEREOF, the parties have executed this supplement as of the last date shown.

Agua Caliente Band of Cahuilla Indians

Bureau of Land Management

By:

Title:

Date:

John M. Kiehl
CHAIRMAN, TRIBAL COUNCIL

6/23/03

By:

Title:

Date:

James H. [Signature]
Field Manager

6/18/03

EXHIBIT A

Federal lands expected to be transferred to the Agua Caliente in first transaction.

T.4S., R.4E., section 17, (portion of NW1/4NE1/4)		
30 acres X \$400/acre	=	\$12,000
section 18, (W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of Lot 1, N1/2 of lot 2)		
144 acres X \$400/acre	=	\$58,000

T.5S., R.4E., section 5, all, 647.24 acres X \$350/acre	=	\$224,000
section 16, all, 640 acres X \$350/acre	=	\$224,000
section 21, all, 640 acres X \$350/acre	=	\$224,000
section 27, all, 640 acres X \$350/acre	=	\$224,000
section 29, all, 640 acres X \$350/acre	=	\$224,000
section 32, all, 640 acres X \$350/acre	=	\$224,000

Total estimated value* = \$1,414,000

Federal lands which may be in first transaction if necessary to equalize values.

T.5S., R.4E., section 36, all, 640 acres X \$350/acre	=	\$224,000
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Federal lands not proposed for inclusion in the first transaction.

T.4S., R.4E., section 16,	640 acres, (no estimated value)
section 36,	lots 1-4, W1/2NE1/4, W1/2SE1/4, E1/2SW1/4, SE1/4NW1/4, N1/2SW1/4SW1/4, E1/2NW1/4SW1/4, SW1/4NW1/4SW1/4, S1/2NW1/4NW1/4SW1/4, (no estimated value)

* estimated values are based on most recent appraisal information, but may not reflect current market value for exchange purposes

EXHIBIT B

Lands expected to be transferred to the U.S. in the first transaction (portions of the former Lovekin properties)

T.5S., R..5E., section 7, all, 640 acres X \$1,000/acre	= \$640,000
section 19, all,, 640 acres X \$900/acre	= \$576,000
section 20, W1/2W1/2 160 acres X \$900/acre	= \$144,000
Total estimated value	= \$1,360,000

* estimated values are based on most recent appraisal information, but may not reflect current market value for exchange purposes.

EXHIBIT C
PROCESSING SCHEDULE, RESPONSIBILITY AND ESTIMATED COSTS

- 1. Publish Notice of Exchange Proposal. July, 2003.** Published once a week for four consecutive weeks and distributed to interested parties. Notice provides a 45 day public comment period. Comments will be considered in the environmental assessment for the exchange. In practice, even late comments may be addressed. Responsibilities:
BLM to prepare and distribute Notice. Estimated cost: \$1,500
Tribe to publish in Desert Sun. Estimated cost: \$1,500
- 2. Initiate consultation with Fish and Wildlife Service. July 2003.** Determine information needed for consultation. Responsibility:
BLM. Estimated cost: \$5,000
Tribe may be asked to contract for biological report. Estimated cost: undetermined.
- 3. Prepare cultural resource report on federal lands. July, 2003.** Hire consultant to suggest survey strategy. If consultant recommends less than Class III survey, BLM to consult with State Historic Preservation Officer (SHPO) on level of survey. Responsibilities:
Tribe to hire consultant. Estimated cost: to be determined.
BLM responsible for consultation with SHPO. Estimated BLM cost: \$5,000
- 4. Prepare mineral potential report on federal lands. September, 2003.** Mineral potential report needed for appraisal purposes.
Responsibility: BLM. Estimated Cost: \$4,000
- 5. Prepare Environmental Assessment. October, 2003.**
Responsibility: BLM. Estimated cost: \$8,000.
- 6. Prepare appraisal. December 2003.** BLM and Tribe to select appraiser from BLM list. Recommend we not hire appraiser until consultation with Fish and Wildlife Service is completed and consultation with SHPO is completed. Responsibilities:
Tribe responsible for contracting costs. Estimated costs: \$25,000
BLM responsible for appraisal instructions and appraisal review. Estimated cost \$5,000
- 7. Reach agreement on value of lands, based on appraisals reviewed and approved by BLM's Chief State Appraiser, and approved by the Tribal Council. March, 2004.**
- 8. BLM to tentatively approve compensation for assumption of costs. March 2004.**
Requirements: Documentation of costs incurred by Tribe for publishing Notice, and contracting for appraisal reports, cultural resources report, and biological resources report. Cost must be reasonable and accurately reflect cost of goods or service provided.
Limitations: Compensation may not exceed 25% of value of federal lands. Compensation limited to amount the Tribe's cost incurred in processing the exchange exceed BLM's costs.

9. Reach agreement on components of first transaction. April, 2004.

Requirements: Values of non-federal lands must be within 25% of federal land.

Provide for compensation of approved costs by adjusting relative values.
Reduce difference in value requiring cash equalization to extent possible.

Options: Cash equalization payment.
Carry difference in value forward in ledger account to next transaction.

10. Prepare decision record, publish and distribute Notice of Decision. June, 2004

Responsibility: BLM. Estimated cost: \$4,000.

11. Prepare escrow instructions and conveyance documents. August, 2004.

Responsibility: BLM. Estimated cost: \$3,000.

12. Complete first exchange transaction. September 2004.

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APPENDIX G
NOTICES

NOTICE OF EXCHANGE PROPOSAL

Published in *The Desert Sun*, Palm Springs, California: November 15, 22, and 29, and December 6, 2008

Public Notice
No. 4039

Notice of Exchange Proposal involving Lands in Riverside County, California, CACA 42965

U.S. DEPARTMENT OF THE INTERIOR, Bureau of Land Management, Palm Springs-South Coast Field Office, 690 West Garnet Avenue, North Palm Springs, CA 92258-1260

Notice is hereby given that the Bureau of Land Management (BLM) is considering a proposal to exchange lands with the Agua Caliente Band of Cahuilla Indians pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended.

The purpose of the exchange is to consolidate the ownership of federal lands within the Santa Rosa and San Jacinto Mountains National Monument and to transfer certain federal lands in the National Monument to the Agua Caliente Band of Cahuilla Indians. The BLM expects to complete a series of exchange transactions with the Agua Caliente Band of Cahuilla Indians to transfer the federal lands described in this notice.

The exchange would transfer all or portions of the following described federal lands to the Agua Caliente Band of Cahuilla Indians:

San Bernardino Meridian, California

T.4S., R.4E., section 16, all
section 17, W1/2NW1/4NE1/4, W1/2E1/2NW1/4NE1/4,
section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of Lot1, N1/2 of lot2,
section 36, lots 1-4, W1/2NE1/4, W1/2SE1/4, E1/2SW1/4, SE1/4NW1/4, N1/2SW1/4SW1/4,
E1/2NW1/4SW1/4, SW1/4NW1/4SW1/4, S1/2NW1/4NW1/4SW1/4,

T.5S., R.4E., section 5, lots 1-4, S1/2NE1/4, S1/2NW1/4, S1/2
Sections 16, 21, 27, & 29, 32, & 36.

In the first exchange transaction, the United States could acquire all or portions of the following described land from the Agua Caliente Band of Cahuilla Indians:

San Bernardino Meridian, California

T.5S., R.5E., sections 7, 19 and the W1/2W1/2 of section 20.

The Agua Caliente Band of Cahuilla Indians may acquire and convey additional non-federal lands to the U.S. in later exchange transactions. Any additional non-federal lands would be within the boundary of the National Monument as described in Public Law 106-351, the Act establishing the Santa Rosa and San Jacinto Mountains National Monument in California. Generally,

additionally [*sic*] non-federal lands which would be conveyed to the U.S. would be within T.3S., R.2, 3&4E, T.4S., R.5E., T.5S., R.5&6E., T.6S., R.4,5,6&7E., T.7S., R.5,6,7&8E., and T.8S., R.5,6,7&8E., San Bernardino Meridian. Once additional non-federal lands have been identified, the BLM will publish and distribute a separate Notice.

More detailed information concerning the proposed exchange may be obtained from Allison Shaffer, Palm Spring-South Coast Field Office, 690 West Garnet Avenue, P.O. Box 581260, North Palm Springs, California, 92258.

The federal lands identified in this proposal were withdrawn from all forms of appropriation under the public land laws and mining laws under public law 106-351 dated October 24, 2000.

Interested parties are invited to submit comments concerning the proposed exchange and provide notice of any liens, encumbrances or claims on the lands involved, to John Kalish, Field Manager, Palm Springs-South Coast Field Office, 690 West Garnet Avenue, P.O. Box 581260, North Palm Springs, California, 92258. Where appropriate, comments should reference the specific parcels involved. In order to be considered in the environmental analysis of the proposed exchange, comments must be submitted in writing and be post marked or received within forty-five (45) days of the initial publication of this notice.

By/s/ Johne [*sic*] R. Kalish
Filed [*sic*] Manager
Date: 10/21/08

Published: 11/15,22,29,12/6/2008

NOTICE OF INTENT

Federal Register
Vol. 77, No. 28
Friday, February 10, 2012

[Page 7179]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA 53257, LLCAD06800 L17110000 FD0000]

Notice of Intent to prepare a Draft Environmental Impact Statement for a Proposed Land Exchange Between the Bureau of Land Management and Agua Caliente Band of Cahuilla Indians in the Santa Rosa and San Jacinto Mountains National Monument, Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (NEPA), as amended, and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, the Bureau of Land Management (BLM) Palm Springs-South Coast Field Office intends to prepare a Draft Environmental Impact Statement (EIS) for a proposed land exchange between the BLM and the Agua Caliente Band of Cahuilla Indians (Tribe) in the Santa Rosa and San Jacinto Mountains National Monument (Monument). This notice announces the beginning of the BLM scoping process, invites public participation, and describes how the time and place of public scoping meetings will be announced.

DATES: One or more public scoping meetings will be held in Palm Springs, California, to solicit public input on the issues and impacts that will be addressed in the Draft EIS as well as the extent to which those issues and impacts will be analyzed. All public scoping meetings will be announced at least 15 days in advance of their occurrence through local news media and the BLM Web site at <http://www.blm.gov/ca/st/en/fo/palmsprings.html>. In order to be addressed in the Draft EIS, all comments must be received no later than 30 days after the last public scoping meeting. Additional opportunities for public participation and formal comment will occur upon publication of the Draft EIS.

ADDRESSES: You may submit written comments on issues and impacts to be addressed in the Draft EIS by any of the following methods:

- *Email:*
AguaCalienteExchange@blm.gov.
- *Mail:* Field Manager, Palm Springs-South Coast Field Office, 1201 Bird Center Drive, Palm Springs, California 92262.

Documents pertinent to this proposed land exchange will be available for public review at the BLM Palm Springs-South Coast Field Office located at 1201 Bird Center Drive, Palm Springs, California, during regular business hours of 8 a.m. to 4:30 p.m., Monday through Friday, except holidays, and may be published as part of the EIS.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Jim Foote, National Monument Manager, (760) 833-7136, or by email, jfoote@blm.gov.

SUPPLEMENTARY INFORMATION: On October 24, 2000, Public Law 106-351 established the Santa Rosa and San Jacinto Mountains National Monument. In accordance with section 2(b) of the Monument's enabling legislation, its purpose is to “preserve the nationally significant biological, cultural, recreational, geological, educational, and scientific values found in the Santa Rosa and San Jacinto Mountains and to secure now and for future generations the opportunity to experience and enjoy the magnificent vistas, wildlife, land forms, and natural and cultural resources in these mountains and to recreate therein.”

On October 13, 1999, the BLM and the Tribe entered into an agreement to coordinate and cooperate in the management of Federal lands within and outside the boundaries of the Agua Caliente Indian Reservation (Reservation) within the Monument. The BLM and the Tribe agreed to meet annually to identify specific resource management, land tenure adjustment, and joint

management goals, including implementation of a Memorandum of Understanding for joint identification of opportunities for acquisition and exchange of lands within the Monument.

On July 27, 2010, the BLM released Environmental Assessment (EA) No. CA-060-0010-0005 and Finding of No Significant Impact for public review and comment. This EA addressed the environmental effects of the proposed land exchange between the BLM and the Tribe. The public comment period for the EA concluded on November 19, 2010; 141 individuals, eight organizations, and three governmental entities submitted comments.

[Page 7180]

Based on public comments and upon further internal review, it was determined that preparation of an EIS is necessary to address potentially significant effects of this proposed exchange. Information in the EA will be integrated into the Draft EIS.

Public scoping will help determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide development of the EIS. At present, the BLM has identified potential effects of the proposed land exchange on cultural resources, Native American concerns, minerals, threatened and endangered species, invasive species, wild and scenic rivers, and non-motorized recreation access as preliminary issues for analysis.

All public comments submitted to the BLM about the EA released on July 27, 2010, will be retained, used to formulate alternatives and environmental analyses for the Draft EIS, and responded to in the Draft EIS. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment--including your personal identifying information--may be made publicly available at any time. While you can request that your personal identifying information be withheld from public review, there is no guarantee that we will be able to do so.

Jim Foote,

Acting Field Manager, Palm Springs-South Coast Field Office, California Desert District, Bureau of Land Management.

Authority: 43 U.S.C. 1701 *et seq.*, 43 U.S.C. 1715-1716, 16 U.S.C. 431 note, 40 CFR 1507.7, 1508.22, and 43 CFR Subpart 2200.

[FR Doc. 2012-3118 Filed 2-9-12; 8:45 am]

BILLING CODE 4310-40-P

APPENDIX H
ENVIRONMENTAL ASSESSMENT CA-060-0010-0005



Santa Rosa and San Jacinto Mountains National Monument
United States Department of the Interior, Bureau of Land Management
United States Department of Agriculture, Forest Service
1201 Bird Center Drive
Palm Springs, CA 92262
Tel (760) 833-7100 Fax (760) 833-7199

July 27, 2010

In Reply refer to:
CACA-42965
2200
(CA-066.62)

Dear Citizen:

Enclosed for your review and comment is Environmental Assessment (EA) No. CA-060-0010-0005, which addresses environmental effects of a proposed land exchange between the Bureau of Land Management (BLM) and Agua Caliente Band of Cahuilla Indians (Tribe). The proposed land exchange would occur within the Santa Rosa and San Jacinto Mountains National Monument (SRSJMNM).

In October 1999, the Tribe and the BLM entered into an agreement to coordinate and cooperate in the management of Federal lands within and outside the external boundaries of the Agua Caliente Indian Reservation (Reservation) within the proposed SRSJMNM. The Tribe and the BLM agreed to meet annually to identify specific resource management, land tenure adjustments, and joint management goals, including implementation of a Memorandum of Understanding (MOU) for acquisition and exchange of lands within the proposed SRSJMNM.

On October 24, 2000, Public Law 106-351 established the Santa Rosa and San Jacinto Mountains National Monument. Section 4(c) of the enabling legislation supports the use of cooperative agreements and shared management arrangements for the purposes of management, interpretation, and research and education regarding the resources of the National Monument. Section 6(e) of the legislation, in supporting the cooperative management agreement between the Tribe and the BLM, allows the Secretary of the Interior, without further authorization by law, to exchange lands which the BLM has acquired using funds provided under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.).

Public comments regarding the proposed land exchange must be received on or before September 15, 2010. Comments should be sent John R. Kalish, Field Manager, Bureau of Land Management, 1201 Bird Center Drive, Palm Springs, California 92262.

For more information regarding the land exchange between the BLM and the Tribe, please contact Diane Gomez, Realty Specialist, at (760) 833-7152. Your interest in shared stewardship of the public lands and resources is appreciated.

Sincerely,

/s/ Jim Foote

Jim Foote
Monument Manager

Enclosure

**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
PALM SPRINGS-SOUTH COAST FIELD OFFICE**

**ENVIRONMENTAL ASSESSMENT
EA Number CA-060-0010-0005**

DATE: July 20, 2010

TITLE / PROJECT TYPE: Land exchange between BLM and Agua Caliente Band of Cahuilla Indians

CASE FILE / PROJECT NO: CACA #42965

BLM OFFICE: Palm Springs-South Coast Field Office
1201 Bird Center Drive
Palm Springs, CA 92262

APPLICANT / PROPONENT: Agua Caliente Band of Cahuilla Indians (“Tribe”)
Bureau of Land Management (“BLM”)

LOCATION OF PROPOSED ACTION:

Palm Springs, Riverside County, California
T5S, R4E, Sections 5, 16, 21, 27, 29, 32, 36
T4S, R4E, Section 16 & portions of 17, 18 & 36
T5S, R5E, Sections 7 & 19, and portion of 20

PROJECT ACREAGE:

BLM	<u>5,799 acres</u>
Other Federal	_____
State	_____
Private	_____
Other (specify)	<u>1,470 (Tribal)</u>

USGS TOPOGRAPHIC MAP: Palm Springs Quad

LAND USE PLAN CONFORMANCE and Other Regulatory Compliance:

In accordance with Title 43 Code of Federal Regulations 1610.5-3, the proposed action and alternatives are in conformance with the following approved land use plan: California Desert Conservation Area (CDCA) Plan (1980), as amended, for lands managed by the Bureau of Land Management (BLM) in the Santa Rosa and San Jacinto Mountains.

Consultation with U.S. Fish and Wildlife Service

The BLM will complete consultation with the U.S. Fish and Wildlife Service (USFWS) pending completion of the public review and comment period.

Cultural Resources Review

Under the Federal Land Policy and Management Act of 1976 (FLPMA), the BLM is charged with managing public lands in a manner that will “protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archaeological values.” Section 106 of the National Historic Preservation Act (NHPA), as implemented at 36 CFR Part 800, requires federal agencies to take into account the effects of their undertakings on historic properties. The Revised State Protocol Agreement (2007) between the California State Director of the BLM and the California and Nevada State Historic Preservation Officers (SHPOs) defines the roles and relationships between the SHPOs’ offices and the BLM under the National Programmatic Agreement. The State protocol is intended to insure that the California BLM operates “efficiently and effectively in accordance with the intent and requirements of the NHPA.” The protocol streamlines the 106 process by not requiring case by case consultation with the SHPO on most individual undertakings.

Minerals

Under the 1872 Mining Law, the public has the statutory right to secure claim to mineral deposits located on public lands, consistent with the Federal Land Policy and Management Act of 1976, applicable federal and State statutes and regulations, and County ordinances. In accordance with the Santa Rosa and San Jacinto Mountains National Monument Act (Public Law 106-351, October 24, 2000), however, the federal lands and interests in land included within the national monument are withdrawn from location, entry, and patent under the public land mining laws, subject to valid existing rights.

NEED FOR THE PROPOSED ACTION

The proposed land exchange implements provisions of the Cooperative Agreement (October 1999) between the Tribe and BLM for coordination and cooperation in the management of federal lands within the proposed national monument; and Memorandum of Understanding (October 1999) between the Tribe and BLM for acquisition and exchange of lands within the proposed national monument. The proposed exchange will facilitate effective and efficient management of the national monument through consolidation of the land base, i.e., reducing the extent of “checkerboard” land ownership.

For the Tribe, the exchange will support the resource preservation goals of the Indian Canyons Master Plan (ICMP, May 2008) and the effective implementation of its Tribal Multiple Species Habitat Conservation Plan, currently in draft form (Draft THCP), by placing the exchange lands under Tribal management.

DESCRIPTION OF THE PROPOSED ACTION and ALTERNATIVES

Background

In October 1999, the Tribe and the BLM entered into a cooperative agreement to coordinate and cooperate in management of Federal lands within and outside the external boundaries of the Agua Caliente Indian Reservation (Reservation) within the proposed Santa Rosa and San Jacinto Mountains National Monument. Within the scope of the cooperative agreement, the Tribe and BLM agreed to meet annually to identify resource management, land tenure adjustment, and joint management goals, including the implementation of a memorandum of understanding (MOU) for acquisition and exchange of lands within the proposed national monument.

In October 1999, concurrent with approval of the cooperative agreement described above, the Tribe and the BLM entered into an MOU specifically addressing the acquisition and exchange of non-trust lands within the proposed national monument. Through the MOU, the two parties agreed to jointly identify opportunities to exchange lands within and outside the Reservation. The proposed action is the culmination of such process.

The Santa Rosa and San Jacinto Mountains National Monument was established by an Act of Congress on October 24, 2000 (Public Law 106-351). In accordance with section 2(b) of the Act, its purpose is to "preserve the nationally significant biological, cultural, recreational, geological, educational, and scientific values found in the Santa Rosa and San Jacinto Mountains and to secure now and for future generations the opportunity to experience and enjoy the magnificent vistas, wildlife, land forms, and natural and cultural resources in these mountains and to recreate therein."

Section 4(c) of the Act supports the use of cooperative agreements and shared management arrangements, consistent with the management plan and existing authorities, for the purposes of management, interpretation, research and education regarding resources of the national monument. Such agreements and arrangements may include special use permits with any person, including the Agua Caliente Band of Cahuilla Indians.

Section 6(e) of the Act, in supporting the October 1999 cooperative agreement between the Tribe and the BLM, allows the Secretary of the Interior, without further authorization by law, to exchange with the Tribe those lands which the BLM has acquired using funds provided under the Land and Water Conservation Fund Act of 1965. Further, any such land exchange may include the exchange of federally owned property within or outside of the boundaries of the national monument for property owned by the Tribe within or outside of the boundaries of the national monument. The exchanged lands acquired by the Secretary within the boundaries of the national monument shall be managed for the purposes described in Section 2(b).

The California Desert Conservation Area (CDCA) Plan Amendment for the Coachella Valley (2002)¹ established criteria for land exchanges as follows:

- (1) facilitate effective and efficient management of conservation areas;²
- (2) be conducted in coordination with the local jurisdictions;
- (3) would result in a net benefit to the conservation areas or divert intensive uses away from sensitive areas;
- (4) not remove rare species or their habitat, nor remove rare habitat types from conservation management;
- (5) not remove eligible historic properties from conservation management; and
- (6) not divest of public domain lands in a manner which eliminates a significant public benefit. This environmental assessment addresses the manner by which the proposed exchange conforms to these criteria.

¹ The California Desert Conservation Area Plan (1980), as amended, constitutes the underlying resource management plan for BLM-managed public lands within the National Monument. All discretionary actions addressed by the BLM must conform to the plan.

² Conservation areas are public lands with a special designation in order to protect biological resources, such as Areas of Critical Environmental Concern, Wildlife Habitat Management Areas, Wilderness Areas, the Santa Rosa and San Jacinto Mountains National Monument, and conservation areas established through the Coachella Valley Multiple Species Habitat Conservation Plan.

The Santa Rosa and San Jacinto Mountains National Monument’s Proposed Management Plan and Final Environmental Impact Statement (October 2003) specifically identified and proposed lands for transfer between the Tribe and BLM within Township 4 South, Range 4 East; Township 5 South, Range 4 East; and Township 5 South, Range 5 East, San Bernardino and Base Meridian, Riverside County, California. Depending on appraisal values, the management plan allows for additional lands to be identified for transfer to the United States.

In July of 2002, the BLM and the Tribe entered into “Agreement to Initiate Assembled Land Exchange” to allow the transfer of certain properties located within the boundary of the CDCA for properties outside the boundary of the Tribe’s reservation. The agreement sets forth the lands to be exchanged and the responsibility of each party in the exchange process. Since that time, the Tribe has secured the lands for Phase I of the exchange, prepared a Draft Tribal Multiple Species Habitat Conservation Plan and Draft Environmental Impact Statement, which identified and analyzed the proposed exchange lands, and prepared a Historic Properties Management Plan (HPMP).

1. Proposed Action

The exchange of lands between the BLM and the Tribe is anticipated to be a multiple-transaction assembled land exchange, depending on appraised values.

The proposed exchange would result in the transfer of the following lands from the Bureau of Land Management to the Agua Caliente Band of Cahuilla Indians:

San Bernardino and Base Meridian, California

T.4 S., R.4 E., section 16 all,
section 17, W1/2NW1/4NE1/4, W1/2E1/2NW1/4NE1/4,
section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of lot 1, N1/2 of lot 2,
section 36, lots 1-4, W1/2NE1/4, W1/2SE1/4, E1/2SW1/4, SE1/4NW1/4,
N1/2SW1/4SW1/4, E1/2NW1/4SW1/4, SW1/4NW1/4SW1/4,
S1/2NW1/4NW1/4SW1/4

T.5 S., R.4 E., section 5, lots 1-4, S1/2NE1/4, S1/2NW1/4, S1/2,
sections 16, 21, 27, & 29, 32, & 36 all

In exchange, the United States would acquire all or portions of the following described land from the Tribe:

San Bernardino and Base Meridian, California

T.5 S., R. 5 E., sections 7 and 19 all,
section 20, W1/2W1/2

Phase I of the exchange will include all lands mentioned above, except for sections 16 and 36 in Township 4 South, Range 4 East, which are identified for Phase II of the exchange process. Tribal lands to be transferred to the BLM as part of Phase II have not been identified.³ This environmental assessment, however, addresses

³ Need for a second phase of the exchange was predicated on a preliminary assessment that the anticipated appraised value of the BLM lands identified for exchange exceeds the anticipated appraised value of the Tribal lands identified for exchange, therefore necessitating the acquisition of additional lands by the Tribe to complete the overall exchange.

potential impacts associated with all lands currently identified for exchange, including both Phase I and II lands.

Should appraised values of all BLM and Tribal lands identified above fall within legal parameters that would allow for the exchange to occur in a single transaction, then a second phase will not occur. A supplement to this environmental assessment will be prepared only if additional Tribal lands not herein described are necessary to conclude the exchange.

Neither the BLM nor the Tribe proposes development or other land disturbing activities on the exchange parcels at this time. Future proposals on lands acquired by the BLM would be reviewed separately in accordance with the National Environmental Policy Act (NEPA), and addressed in accordance with other applicable laws. Lands acquired by the Tribe through the exchange would be designated Tribal Reserve under the recently approved Land Use Code for the Agua Caliente Indian Reservation, and would be subject to the preservation and management controls specified in the code, ICMP, and THCP (upon approval). The ICMP and Draft THCP allow for limited environmentally and culturally compatible development on lands designated Tribal Reserve; however, no development is foreseen at this time. Should development be proposed in the future, it will be subject to Tribal Environmental Policy Act (TEPA) review at the time it is proposed.

2. No Action Alternative

The proposed action would not be undertaken. Existing management and use of BLM-managed public lands would continue subject to applicable statutes, regulations, policies, and land use plans. A finding of unnecessary or undue degradation conditions the no action alternative decision, pursuant to Title 43 Code of Federal Regulations 3809.0-3(b).

Lands under the control of the Tribe would be subject to the Tribe's approved Land Use Code, ICMP, and THCP (upon approval).

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Exhibit 1 Regional Location Map

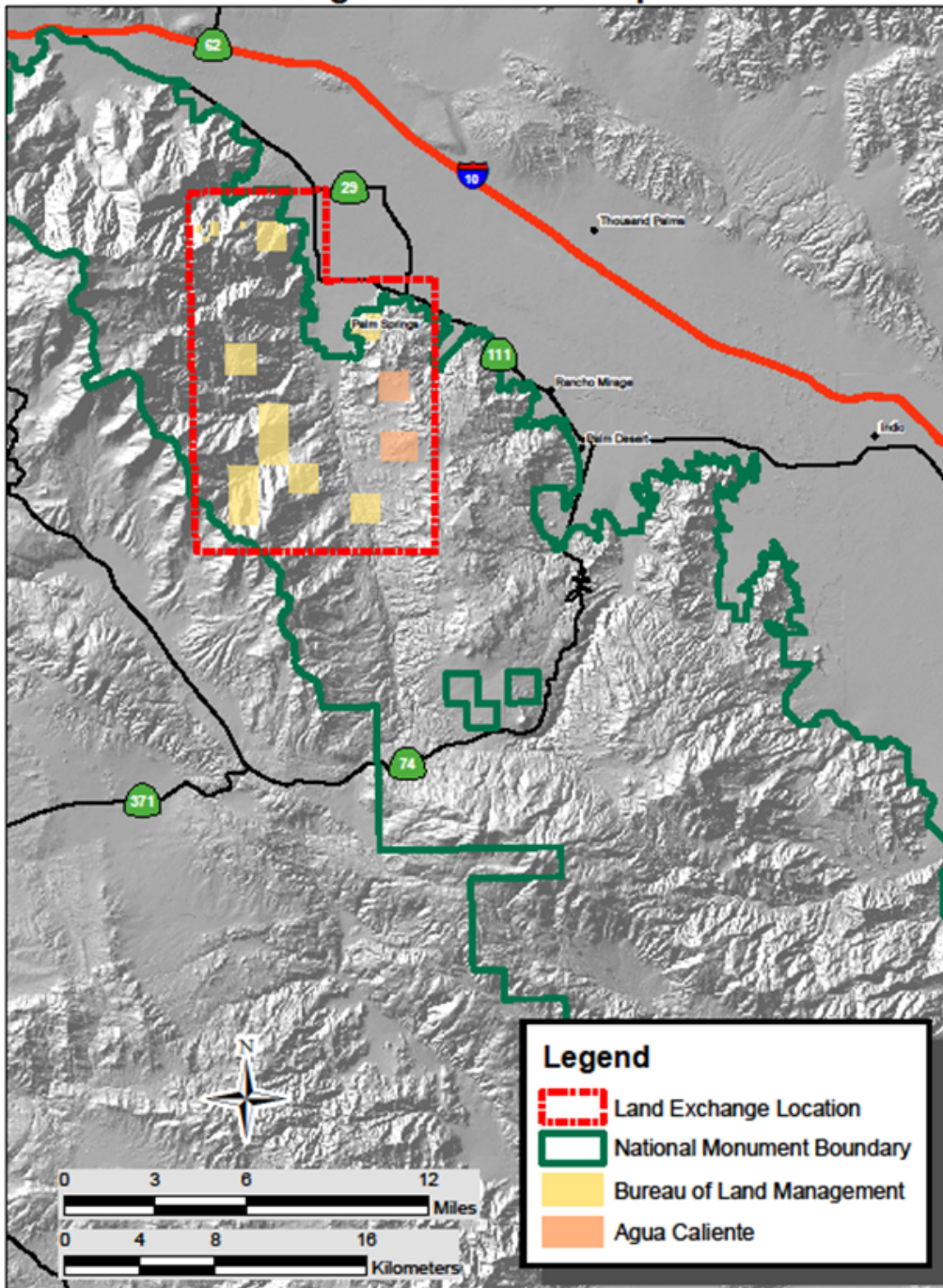
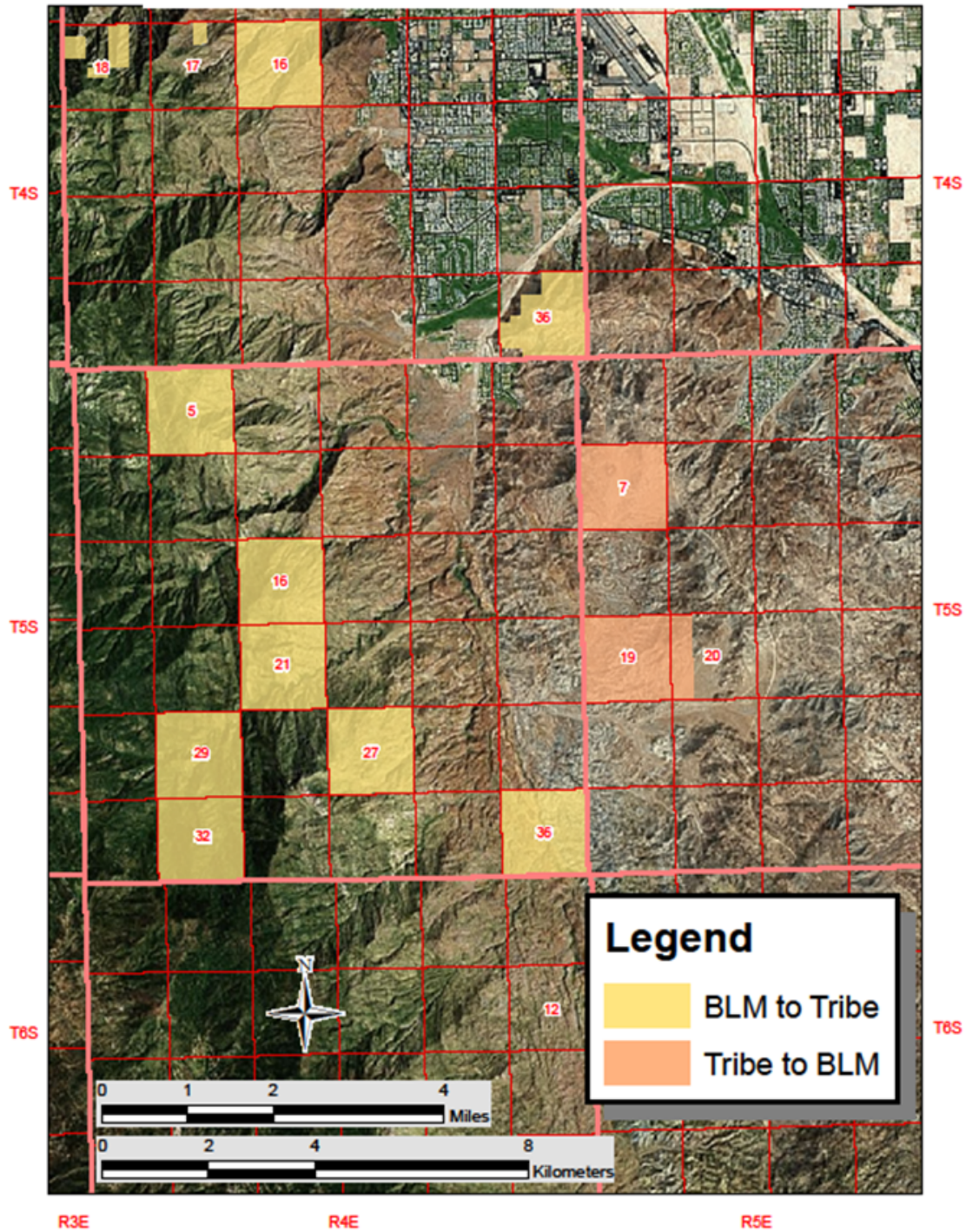


Exhibit 2 BLM and Tribal Lands Proposed for Exchange



AFFECTED ENVIRONMENT

1. Area Description

Air Quality

The Coachella Valley is subject to strong and sustained winds. Annual winter rains cause erosion of the adjacent mountains, and water runoff produces, transports, and sorts substantial deposits of gravel and sand throughout the major drainage areas of the valley. As the desert floor heats up, it creates a thermal low-pressure area, which draws cooler, denser coastal air masses through the narrow San Geronio Pass, generating strong winds that cross the extensive alluvial plains of the valley. These winds pick up and carry fine particulate matter (PM₁₀ and PM_{2.5}) and transport other air pollutants throughout the area. The valley also is susceptible to air inversions, in which a layer of stagnant air is trapped near the ground, where it is further loaded with pollutants. This process, when combined with chemical aerosols and other pollutants emitted by automobiles, furnaces, and other sources, can result in considerable haziness and increased pollutant levels, particularly in the form of ozone.

The project area is subject to air quality standards as defined by the Federal Clean Air Act, 42 U.S.C. 7401 et seq. (1970), the Air Quality Element of the Riverside County and Palm Springs Comprehensive General Plans, the threshold criteria of the Air Quality Handbook, 1993, South Coast Air Quality Management District (SCAQMD) and the 1990 State Implementation Plan for PM₁₀ and PM_{2.5} (fine dust and particulates at 10 and at 2.5 microns or less).

In 1971, the Environmental Protection Agency (EPA) established National Ambient Air Quality Standards (NAAQS). The state of California adopted the California Clean Air Act in 1989, requiring the air quality standards be established at the State level. These standards were developed by the California Air Resources Board (CARB). In general, California standards are more restrictive than their federal equivalents. Regional air quality management districts were also established, including the South Coast Air Quality Management District (SCAQMD). The SCAQMD manages several air basins, including the Salton Sea Air Basin, in which the project area is located. The federal and State standards for criteria pollutants are displayed in Table 1 (below).

Table 1: State and Federal Ambient Air Quality Standards

Pollutant	State Standards		Federal Standards	
	Averaging Time	Concentration	Averaging Time	Concentration
Ozone	1 hour	0.09 ppm	1 hour	0.12 ppm
	8 hour	0.07 ppm	8 hour	0.08 ppm
Carbon Monoxide	1 hour	20.0 ppm	1 hour	35.0 ppm
	8 hours	9.0 ppm	8 hours	9.0 ppm
Nitrogen Dioxide (NO ₂)	1 hour	0.18 ppm	AAM	0.053 ppm
	AAM	0.030 ppm		
Sulfur Dioxide	1 hour	0.25 ppm	AAM	0.03 ppm
	24 hours	0.04 ppm	24 hours	0.14 ppm
Particulate Matter (PM ₁₀)	24 hours	50 µg/m ³	24 hours	150 µg/m ³
	AAM	20 µg/m ³	AAM	50 µg/m ³
Particulate Matter (PM _{2.5})	AAM	12 µg/m ³	AAM	15 µg/m ³
			24 hours	35 µg/m ³

Notes: ppm = parts per million; µg/ m³ = micrograms per cubic meter of air;
 AAM = Annual Arithmetic Mean.

Source: California Air Resources Board, March 2008

SCAQMD monitors a number of pollutants, including ozone, carbon monoxide, nitrogen oxides, sulfur dioxide and particulate matter, in the project area. The western district areas of Riverside County, in which the project is located, are generally non-attainment areas with regard to ozone, PM₁₀ and PM_{2.5}. The Salton Sea Air Basin is classified as “severe 17” for ozone, and “serious” nonattainment for PM₁₀.

SCAQMD operates air quality monitoring stations throughout its jurisdiction. The project area is located within Source Receptor Area (SRA) 30, which includes monitoring stations in Palm Springs and Indio. The Indio site has been operational since 1985 and the Palm Springs site since 1987.

Table 2 (below) shows the maximum concentration of PM₁₀, and the number of days exceeding state and federal standards in the Coachella Valley from 1990 through 2007. PM₁₀ levels have not exceeded federal standards since 1996, but PM₁₀ levels continue to exceed state standards.

Table 2: Coachella Valley Air Quality Monitoring, Exceedance of PM₁₀ Standards

Monitoring Station	Year	Maximum Concentration (µg/m ³ /24hours)	No. (%) Samples Exceeding 24-hr. Standards		Annual Average (µg/m ³)	
			Federal ¹	State ²	AAM ³	AGM ⁴
Palm Springs	1990	83	0 (0.0%)	9 (15.3%)	34.5	30.5
	1991	197	1 (1.8%)	14 (25.0%)	42.9	36.6
	1992	175	1 (1.7%)	4 (6.7%)	29.6	24.3
	1993	58	0 (0.0%)	1 (1.7%)	27.0	23.6
	1994	97	0 (0.0%)	23 (38.3%)	48.7	45.3
	1995 [^]	199	1 (1.6%)	27 (44.3%)	52.0	47.2
	1996	130	0 (0.0%)	2 (3.3%)	29.3	25.2
	1997 ^{a)}	63	0 (0.0%)	1 (1.8%)	26.4	23.6
	1998	72	0 (0.0%)	3 (5.2%)	26.4	23.8
	1999	104	0 (0.0%)	3 (5.0%)	28.8	26.1
	2000	44	0 (0.0%)	0 (0.0%)	24.4	22.7
	2001*	53	0 (0.0%)	1 (2.0%)	26.7	23.9
	2002*	75	0 (0.0%)	3 (5.1%)	27.1	24.6
	2003	108	0 (0.0%)	4 (6.7%)	27.1	N/A
	2004	79	0 (0.0%)	2 (3.4%)	26.4	N/A
	2005	66	0 (0.0%)	2 (3.4%)	25.9	25.4
	2006	73	0 (0.0%)	2 (3.5%)	24.5	ID
2007	83	0 (0.0%)	6 (11.0%)	30.5	N/A	

¹ = > 0.12 parts per million in 1 hour

² = > 0.09 parts per million in 1 hour

* Less than 12 full months of data; may not be representative.

Source: Annual air quality site monitoring reports, prepared by SCAQMD.

Ozone levels at the Palm Springs monitoring station are illustrated in Table 3 (below). Ozone levels in the Coachella Valley have significantly decreased since 1996.

Table 3: Coachella Valley Air Quality Trends, Exceedance of Ozone Standards

Monitoring Station	Year	Max. Concentration in 1 Hour	No. Days Standard Exceeded Federal¹	State²
Palm Springs	1990	0.17 ppm	27	73
	1991	0.18 ppm	22	72
	1992	0.15 ppm	21	69
	1993	0.17 ppm	20	79
	1994 ³	0.17 ppm	13	71
	1995 ³	0.16 ppm	12	60
	1996	0.16 ppm	12	60
	1997*	0.16 ppm*	4*	45*
	1998	0.17 ppm	8	40
	1999	0.13 ppm	1	27
	2000	0.12 ppm	0	40
	2001	0.14 ppm	6	53
	2002	0.14 ppm	2	49
	2003	0.14 ppm	4	54
	2004	0.13 ppm	1	36
	2005	0.14 ppm	4	41
2006	0.13 ppm	2	37	
2007	0.13 ppm	1	29	

¹ = > 0.12 parts per million in 1 hour

² = > 0.09 parts per million in 1 hour

* Less than 12 full months of data; may not be representative.

Source: Annual air quality site monitoring reports, prepared by SCAQMD.

The proposed exchange will have no impact on air quality, as no construction will occur as a direct result of the exchange. Should future projects be proposed on lands exchanged to the Tribe or the BLM, these projects will be reviewed individually based on the Tribe’s or the BLM’s regulations.

Construction potential in the project area is extremely limited due to both CDCA and Tribal land use designations; the environmental and cultural preservation goals set forth in the ICMP; the physical constraints associated with the topography of the parcels; and the conservation values of the lands as defined in both the CDCA Plan and the Draft THCP. Construction activities on land conveyed to the Tribe will also be limited by the THCP upon its approval, which significantly limits development on lands designated as potential habitat for Peninsular bighorn sheep (see “Threatened and Endangered Species,” below).

Climate Change and Global Warming

The byproduct from the combustion of fossil fuels can contain a number of air polluting substances. Some air polluting agents are also greenhouse gases (GHG), such as carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and fluorinated gases (hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride), which are released into the atmosphere through natural processes and human activities. These gases are termed “greenhouse gases” because they trap heat and may be responsible for the global average increase in surface temperatures of 1.0-1.7°F that were observed during the 20th century. The quantity of greenhouse gases in the atmosphere has increased drastically over a relatively short period – since the beginning of industrialized societies in the mid-1800’s to 2005, the concentration of CO₂ in the atmosphere had increased by 36%, methane by 148%, and nitrous oxide by 18%.

Carbon dioxide is the primary greenhouse gas of concern, due to its projected increased levels, and its correlated temperature increase. Currently, carbon dioxide concentrations in the atmosphere are 382 parts per million (ppm). Comparatively, prior to the Industrial Revolution, CO₂ levels were 278 ppm.

There is general consensus that the levels of emissions need to be reduced to minimize air pollution and limit the amount of carbon dioxide released. Carbon dioxide levels are projected to increase to at least 540 ppm, and as much as 970 ppm, by the year 2100.

California was the first state to establish regulations requiring reductions in the emissions from automobiles and trucks. In 2004, the California Air Resources Board adopted a bill that requires all 2009 and later vehicles to reduce their greenhouse gas emissions by about 30% by the year 2016.⁴ The California Global Warming Solutions Act of 2006 comprehensively limits GHG emissions by establishing an annual reporting program of GHG emissions for significant sources and setting emissions limits to cut the state's GHG emissions to 1990 levels by 2020.

Areas of Critical Environmental Concern (ACECs)

The project area is not located within an ACEC.

Cultural Resources

A Historic Properties Management Plan was prepared for the proposed Exchange.⁵ The affected environment described in that report is summarized below.

The earliest human use of the Southern California region dates from approximately 10,000 to 6,000 BC. From about 6,000 BC to approximately AD 500 is the Archaic period, followed by the Late Prehistoric period, dating from about AD 500 to the early 1700s, or the time of Euro-American contact with Native American groups in this portion of Southern California. The protohistoric period begins at about this time and extends into the late 1700s. The Historic period is characterized by Euro-American/Native American interaction up to the present time. The earliest evidence of occupations in the Coachella Valley consists of temporary camps dating to between 1000 BC and 1 AD in Tahquitz Canyon (Bean et al. 1995).

Most archaeological resources within the project area date to the Late Prehistoric period and include a variety of cultural resources associated with the Lake Cahuilla shoreline, as well as other important cultural resources associated with springs, wells, and major drainages. The Murray, Andreas, and Tahquitz canyons were significant population centers during the Late Prehistoric period, as was the nearby Agua Caliente Hot Springs.

Archaeological investigations in the mountainous region, which includes the project area, have revealed occupations dating back to at least 200 BC. Most sites were small processing sites associated with the grinding of vegetal resources. Larger habitation sites were less common, but displayed a wider range of activities and longer periods of occupation than other Late Prehistoric period sites.

⁴ http://www.ucsusa.org/clean_vehicles/vehicles_health/californias-global-warming-vehicle-law.html

⁵ “Historic Properties Management Plan Regarding the Santa Rosa and San Jacinto Mountains Land Exchange between the Agua Caliente Band of Cahuilla Indians (ACBCI) and the Bureau of Land Management,” prepared by Richard Begay, THPO, July 2008.

The Cahuilla inhabited the Santa Rosa and San Jacinto Mountains, the Coachella Valley, and nearby regions during this period. Ecological habitats included the full range of mountains, valleys, passes, foothills, and desert areas. Cahuilla villages were typically situated in canyons or on alluvial fans near water and food resources, and a village's lineage owned the surrounding land.

Throughout the project area are well-developed trails that were used for hunting and travel to other villages. These trails formed the basis of an extended trade network within and between tribal groups, and are often associated with offering places.

Acorns, mesquite and screw beans, piñon nuts, and various cacti formed the basis of the local diet. Important but less frequently utilized plants included seeds, wild fruits and berries, tubers, roots, and greens.

The Cahuilla were severely impacted by disease introduced by the Europeans in the mid-1700s. Following establishment of the San Bernardino *estancia* and the San Gorgonio *rancho* in 1820, European contact and influence increased in this area. The Cahuilla incorporated European agricultural techniques, especially the use of irrigation, with earlier methods they probably learned from Colorado River tribes. They soon built well-designed open-ditch irrigation systems in all of the major canyons in the Palm Springs area.

The first white settler to inhabit the region was Charles Thomas, who arrived in Garner Valley after the discovery of gold in California in the 1860s. He homesteaded the area. Other early ranching families included the Arnaiz, Flores, Omstotts, and Wellmans. The early miners and ranchers living in Garner Valley and the Pinyon Flat area established wagon roads and cattle driveways along trails long used by the Cahuilla and their ancestors. In July of 1932 the Palms to Pines Highway opened, connecting the Coachella Valley to Pinyon Flat and other mountain settlements.

In 1876, the Federal government allotted the Southern Pacific Railway the odd-numbered sections of land on either side of the railroad line extending through the Coachella Valley, thereby establishing the "checkerboard" land ownership pattern that still exists in parts of the national monument. Even-numbered sections were retained in federal ownership and some were incorporated in the lands held in trust as reservation lands for the Cahuilla Indians. The Southern Pacific line from Yuma through the Salton Sink and San Gorgonio Pass was completed in 1877 (summarized from pp 3-29 to 3-30, USDO, BLM, October 2003).

The Agua Caliente Indian Reservation was established through Executive Order by President Grant in 1876. The Tribe was able to add additional lands to its reservation through subsequent Executive Orders, purchases, and land exchanges.

The Bureau of Land Management has determined that the proposed exchange of parcels between it and the Agua Caliente Band of Cahuilla Indians constitutes an "Undertaking," as defined in 36 CFR 800.16(y). A Historic Properties Management Plan (HPMP) was prepared for the proposed land exchange in April of 2008. The HPMP was circulated for comment to interested parties and agencies, including the SHPO. The HPMP was signed by all parties on July 1, 2008.

The implementation of the Tribe's HPMP will result in a determination of No Adverse Effect for the purposes of the exchange, as the proposed exchange will not result in any disturbance of exchange lands.

The HPMP includes management strategies and requirements which will be implemented for any development within the project area which occurs after the exchange, including surveys and monitoring, if necessary. The HPMP requires that the Tribal Historic Preservation Officer complete the following:

1. Search existing records and conduct site investigation of any action proposed on lands to be transferred to the Tribe;
2. Evaluate the historic significance of any identified resource;
3. Apply the Criteria for Adverse Effects to determine if any identified resource will be significantly impacted by the proposed action, and if found adverse determine what mitigation is required, with avoidance being the preferred alternative.

Native American Concerns

For this land exchange between the Tribe and the BLM, Native American Concerns are addressed through conformance with various statutes, regulations, protocols, and guidelines, including:

1. California Desert Conservation Area (CDCA) Plan (1980), as amended (BLM);
2. Tribal Multiple Species Habitat Conservation Plan (ACBCI, in draft);
3. Historic Properties Management Plan (ACBCI, 2008);
4. Cooperative Agreement between the Tribe and the BLM (1999);
5. Memorandum of Understanding between the Tribe and the BLM (1999);
6. Agreement to Initiate Assembled Land Exchange (2002);
7. Section 106 of the National Historic Preservation Act (NHPA) as implemented at 36 CFR Part 800; and the Revised State Protocol Agreement (2007); and
8. Protocols and guidelines established in the BLM Cultural Resources Program.

Farmlands

There are no farmlands within the project area.

Floodplains

There are no designated floodplains within the project area. Drainages occur throughout the Santa Rosa and San Jacinto Mountains, including drainages through portions of the project area. There is no disturbance of these drainages expected as a direct result of the proposed exchange, insofar as no development is proposed as part of the exchange. Future development by either the BLM or the Tribe, should it propose alteration of designated blue line streams, would be subject to review by the U. S. Army Corps of Engineers, and the completion of a 404 permit should it be required. The BLM and the Tribe consult with the U.S. Army Corps of Engineers prior to authorizing any activities on public lands that may affect waters of the U.S. and related floodplains.

Energy (E.O. 13212)

Executive Order 13212 facilitates the processing of projects which would increase the production and transmission of energy. No energy projects are proposed on the exchange lands, nor are the exchange lands located in an area which would support the production or transmission of energy. The exchange lands are not identified as high wind locations, and BLM national policy prohibits construction of wind energy facilities in national monuments. The rough terrain and inaccessibility of the exchange lands makes them unsuitable for solar energy production. The proposed exchange will therefore have no impact on the production or transmission of energy.

Minerals

A Mineral Report was prepared for the proposed project.⁶ The affected environment described in that report is summarized below.

Exchange lands occurring on the east flank of the San Jacinto Mountains are underlain by metasedimentary bedrock that has been intruded by igneous granitic rocks, which is part of the southern California batholith.

Based on BLM land classifications, the exchange lands have a low potential for the accumulation and occurrence of tungsten resources where tungsten-enriched skarn deposits exist along contacts between marble/limestone and granitic rocks. Limestone deposits observed on two BLM parcels and one Tribal parcel were found to be thin and discontinuous. Small, thin sand and gravel deposits were encountered on one BLM parcel and three Tribal parcels, but deemed too small and discontinuous by the reporting geologist to be mined economically. All exchange lands have a low potential for locatable and saleable minerals and no potential for leaseable minerals.

The BLM parcels consist primarily of granitic rock consisting of quartz diorite, with lesser amounts of gabbro, diorites, metasedimentary schist, quartzite, limestone lenses, foliated schist and alluvial fan boulder deposits.

The Tribe's parcels are similar in geology to those currently owned by the BLM, and consist of foliated schist, quartz diorites, boulder deposits, and a thin limestone lens.

Research conducted by the reporting geologist shows that the mineral resources are likely to be related to tungsten in skarn deposits associated with granitic intrusions into carbonate rock, and hydrothermal vein deposits within shear zone in metamorphic and granitic intrusive rocks. These resources occur in small quantities and are not concentrated, leading the reporting geologist to conclude that they have little importance. There is a moderate potential for limestone deposits on the project area. The geologist found these to be thin and discontinuous, and interbedded with other types of rock which make the deposits unsuitable for commercial or industrial use. These deposits are thought to be too small to be effectively mined.

No active mining claims, mineral leases, or mineral material disposals exist on any of the exchange lands. There are no applications for development pending with the BLM or other state or local agencies. No evidence of prospecting, exploration, or mining activities were observed during field examination in either the BLM or Tribal lands included in the exchange. Evidence of a small, historic tungsten prospect, known as the Maynard Mine, was observed on private land adjacent to a federal parcel designated for exchange. The mine was active during World War II, but there is no record of reportable amounts of tungsten ore being mined. The geology of the exchange lands does not support the accumulation of metallic, non-metallic or industrial mineral, or construction material mineral resources.

No potential exists for accumulation and occurrence leasing or geothermal steam act minerals on the exchange lands. The exchange lands are not valuable, either prospectively or otherwise, for leasing or geothermal steam act minerals.

⁶ “Mineral Report, Mineral Potential, Proposed Land Exchange between the Agua Caliente Band of Cahuilla Indians and the Bureau of Land Management,” prepared by Steven Kupferman, December, 2008.

Threatened & Endangered Animal Species

Information about threatened and endangered species was primarily gathered from the Draft THCP EIS.⁷ This analysis includes lands being considered in both Phase I and Phase II of the exchange.⁸ The mapping of these areas in the Draft THCP results in slightly different acreages than those identified in the October 1999 memorandum of understanding, thereby resulting in differing total acreage calculations in the discussion below.

The project area consists primarily of Sonoran mixed woody and succulent scrub and Interior live oak chaparral. A number of vegetation communities occur on the proposed exchange lands, as illustrated in Table 4.

Table 4: Vegetation Communities

Vegetation community types from CDCA Plan Amendment for the Coachella Valley (BLM 2002)	Vegetation communities from THCP	Acres
Desert Scrub Communities	Sonoran creosote bush scrub	164
	Sonoran mixed woody and succulent scrub	4,308
Chaparral Communities	Interior live oak chaparral	1,715
	Red shank chaparral	223
Riparian Communities	Desert fan palm oasis woodland	148
	Southern sycamore-alder riparian woodland	104
Woodland and Forest Communities	Peninsular juniper woodland and scrub	229
	Black oak forest	268
Urban development		37*
Total		7,196
*Consists primarily of Palm Canyon Wash		

The Draft THCP and CDCA Plan rely upon habitat models developed for the CVMSHCP to assess the potential for certain wildlife species to occur in the various habitats. Modeled habitat occurring within the project area includes habitat for the Peninsular bighorn sheep, Least Bell’s vireo, southwestern willow flycatcher, and desert tortoise.

Within the federal lands to be transferred from the BLM to the Tribe, federally-listed species include the Peninsular bighorn sheep, Least Bell’s vireo, southwestern willow flycatcher, and desert tortoise.

Modeled habitat for the federally-listed endangered Peninsular bighorn sheep (*Ovis canadensis nelsoni*) occurs within the entirety of the lands to be transferred from the Tribe to the BLM.⁹ These areas have not been

⁷ “Agua Caliente Band of Cahuilla Indians Tribal Habitat Conservation Plan Draft Environmental Impact Statement,” November, 2007.

⁸ As indicated under the Proposed Action, should appraised values of all BLM and Tribal lands identified above fall within legal parameters that would allow for the exchange to occur in a single transaction, then a second phase will not occur.

⁹ “Agua Caliente Band of Cahuilla Indians Tribal Habitat Conservation Plan Draft Environmental Impact

identified as part of a linkage or movement corridor for Peninsular bighorn sheep, although Township 5 South, Range 5 East, section 7 connects with section 12 to the west, the southern half of which is targeted for 100 percent conservation to facilitate sheep movement. Additionally, no springs or sheep water sources are identified on any of the lands to be transferred from the Tribe to the BLM. Tribal lands were excluded from the most recent bighorn sheep critical habitat designation. No other listed species are anticipated to occur on lands transferred from the Tribe to the BLM.

Modeled habitat for the following listed species occurs within the federal lands to be transferred from the BLM to the Tribe:¹⁰

- Peninsular bighorn sheep - endangered (Township 4 South, Range 4 East, sections 16, 17, 18, and 36; Township 5 South, Range 4 East, sections 5, 16, 21, 27, and 36)
- Least Bell's vireo (*Vireo bellii pusillus*) - endangered (Township 4 South, Range 4 East, section 16; Township 5 South, Range 4 East, sections 5, 16, 21, 29, and 36)
- Southwestern willow flycatcher (*Empidonax traillii extimus*) - endangered (Township 4 South, Range 4 East, section 16; Township 5 South, Range 4 East, sections 5, 16, 21, 29, and 36)
- Desert tortoise (*Gopherus agassizii*) – threatened (Township 4 South, Range 4 East, sections 16, 27, 18, and 36; Township 5 South, Range 4 East, sections 5, 16, 21, 27, and 36)

The BLM exchange lands contain 4,914 acres of modeled Peninsular bighorn sheep habitat, including a portion of the identified use area in Township 4 South, Range 4 East, sections 16 and 17, and Township 5 South, Range 4 East, section 5 (based on tracking data). Of this, 731 acres (in Township 4 South, Range 4 East, sections 16 and 17; and Township 5 South, Range 4 East, section 5) are designated as critical habitat for this population of bighorn sheep. These habitat areas have not been identified as part of a linkage or movement corridor for the Peninsular bighorn sheep. Two springs (Landslide Spring and Agua Fuerte Spring) are identified in Township 5 South, Range 4 East, sections 29 and 32, although there is no documented recent use of this area by bighorn sheep.

Two hundred and fifty-one (251) acres of modeled habitat for the Least Bell's vireo and southwestern willow flycatcher occur within Township 4 South, Range 4 East, section 16; and Township 5 South, Range 4 East, sections 5, 16, 21, 29, and 36 of the BLM exchange lands.¹¹ However, in annual surveys conducted in riparian areas of the Reservation between 2002 and 2005, only two to three pairs of Least Bell's vireo were observed per year. Breeding pairs have been observed at various times in Chino, Palm, Murray, and Andreas Canyons (Township 4 South, Range 4 East section 6; and Township 5 South, Range 4 East, sections 3, 11, 14, and 22) on the Reservation. None of these pairs have been observed within the BLM exchange lands. Southwestern willow flycatcher has been observed in the vicinity of Township 5 South, Range 4 East, sections 10 and 11, but no suitable breeding habitat for the species occurs there.

Two thousand, five hundred and sixty (2,560) acres of desert tortoise habitat have been modeled in Township 4 South, Range 4 East, sections 16, 27, 18, and 36; and Township 5 South, Range 4 East, sections 5, 16, 21, 27, and 36 of the BLM exchange lands.¹² Desert tortoises occur in low densities in the Coachella Valley region,

Statement," November, 2007.

¹⁰ Ibid.

¹¹ Ibid.

and the lands in this region are outside of critical habitat or recovery units for the species.

Threatened & Endangered Plant Species

There are no threatened or endangered plant species within the exchange lands.

Invasive, Nonnative Species

Invasive species such as tamarisk generally occur in riparian areas and dry washes where surface and/or subsurface water is available, at least on a sporadic basis. The Tribe and the BLM regularly cut and treat tamarisk where infestations occur, though such removals are not permanent and required future action. Hence, while there is a likelihood that invasive nonnative species occur on the exchange lands, regular treatments have reduced their extent.

Wastes (hazardous/solid)

The Tribe has completed environmental site assessments for its lands to be exchanged. Surveys identify no issues of concern, and no potential for hazardous materials on lands currently under Tribal control.

A preliminary assessment of lands managed by the BLM also found no issues of concern as no hazardous materials were located. Prior to completing the exchange, the BLM will complete the required documentation in this regard.

Water Quality (surface and ground)

The proposed exchange will have no impact on surface or ground waters as it will not directly result in development of the exchange lands. Should development be proposed on lands acquired by the BLM through this exchange, the BLM would analyze the effects of the proposal in accordance with NEPA, and require compliance with all applicable laws and regulations, including those addressing the quality of surface and ground waters. Similarly, should development be proposed on lands acquired by the Tribe through this exchange, the Tribe would implement storm water control standards and other measures to ensure the protection of water quality.

Wetlands/Riparian Zones

There are no wetlands within the exchange lands. As shown in Table 4 (above), 252 acres of riparian habitat occur within the exchange lands, all of which would be acquired by the Tribe through the exchange. Under the requirements of the THCP, and applicable to lands acquired by the Tribe through the exchange, existing riparian habitats (especially those occupied by covered species¹³) must be avoided to the maximum extent practicable, with a minimum of 90 percent of this habitat required to be preserved, and any impacts mitigated through creation/restoration at a minimum 1:1 ratio such that no net loss of habitats suitable to support covered species occurs within the THCP area.

¹² Ibid.

¹³ “Covered species” are the various species addressed by the THCP for which protective measures are established.

Conservation of riparian habitat could decrease by up to 22 acres following the exchange based on the THCP's 90% conservation requirement. However, potential impacts to these habitats must be avoided to the maximum extent practicable and mitigated to ensure no net loss of habitat in accordance with the terms of the THCP. Based on these requirements, no impacts to riparian habitats would occur as a result of the exchange.

Wild and Scenic Rivers

The segment of Palm Canyon in section 36 of Township 5 South, Range 4 East, was identified in BLM's CDCA Plan Amendment for the Coachella Valley (2002) as eligible for designation as a Wild and Scenic River. Section 1852 of the Omnibus Public Land Management Act of 2009, in amending Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) by designating the 8.1-mile segment of Palm Canyon Creek on lands managed by the U.S. Forest Service¹⁴ as a wild river, requires the Secretary of Agriculture to enter into a cooperative management agreement with the Tribe to protect and enhance river values. The segment of Palm Canyon on BLM lands (section 36), however, was not addressed by the Act. Should this section be transferred to the Tribe, its management would be addressed in the cooperative management agreement required by the Act.

Noise

The exchange lands are undeveloped parcels with an acoustical environment dominated by natural sounds. Human activity on the exchange lands consists predominantly of non-motorized recreation—hiking, mountain biking (where allowed), and horseback riding—that occurs on existing trails. The existing noise environment is very quiet, and would not be expected to exceed any local, State or federal standard for noise, including those established by the Federal Highway Administration.

Wilderness

The proposed exchange lands do not occur in a designated wilderness area. The exchange will therefore have no impact on designated wilderness areas.

Environmental Justice

The proposed exchange will have no impact on environmental justice. The exchange will not result in any construction or other activity and will not impact low income persons, or have any effect on existing residents in the area.

Health and Safety Risks to Children

The proposed exchange will have no impact on the health and safety of children. As previously stated, the exchange will not result in any construction activity, and will not introduce children to the area.

¹⁴ The Forest Service lands designated as a wild and scenic river are located contiguous to and south of section 36, T. 5 S., R. 4 E. Section 36 is herein identified as an exchange parcel.

Visual Resource Management

The project area occurs in the Santa Rosa and San Jacinto Mountains, a north-south trending range which provides an impressive backdrop for the Coachella Valley and its surroundings. The mountains are the result of complex and active geological forces which have created a low desert surrounded by the ranges, ridges and peaks of the San Jacinto, San Bernardino, Little San Bernardino, and Santa Rosa Mountains. Portions of the mountain ranges are frequently snow-covered during winter months, presenting a startling visual foil to the low desert of the valley. The unique topographical relief of the Coachella Valley provides attractive, highly valued viewsheds.

In accordance with the California Desert Conservation Area Plan Amendment for the Coachella Valley (BLM 2002), the subject public lands are designated as Visual Resource Management Class 2. In Class 2 areas, management activities must remain subordinate to the characteristic landscape. Changes in any of the basic landscape elements—form, line, color, and texture—caused by a management activity should not be evident. Contrasts may be visible, but must not attract attention. The proposed exchange will not result in any change in visual contrasts, and therefore will have no impact on visual resource management.

Recreation Resources

A number of trails utilized by non-motorized recreationists occur on the exchange lands. Table 5 (below) lists all trail segments which will be affected by the exchange, including whether they would be transferred to or from the BLM; their location by section, township, and range; the length of the affected segment; and the total length of the trail or trail segment. No trailheads are located within the exchange lands.

Table 5: Trails on Exchange Lands

Trail name	Location	Trail segment within exchange lands (miles)	Total length of trail (miles)	Exchange from/to
Dunn Road Trail	sec 7, T5S, R5E	0.5	1.1	Tribe to BLM
Wild Horse	sec 7, T5S, R5E	1.1	4.5	
East Fork Loop	sec 19, T5S, R5E	0.7	1.8	
TOTAL		2.3		
Skyline	sec 16, T4S, R4E	1.6	7.6	BLM to Tribe
Araby	sec 36 T4S, R4E	0.3	1.3	
Berns	sec 36 T4S, R4E	0.9	1.0	
Garstin	sec 36 T4S, R4E	1.0	1.5	
Henderson	sec 36 T4S, R4E	0.2	1.4	
Shannon	sec 36 T4S, R4E	0.7	0.7	
Thielman	sec 36 T4S, R4E	0.3	1.3	
Wild Horse	sec 36 T4S, R4E	1.0	4.5	
Jo Pond	sec 21, T5S, R4E	1.2	7.0	
Indian Potrero	sec 36, T5S, R4E	0.9	2.2	
Palm Canyon	sec 36, T5S, R4E	1.2	16.0	
TOTAL		9.3		

BLM’s management of lands acquired from the Tribe through the exchange will be subject to existing laws, regulations, policies, and land use plans, including the CDCA Plan, as amended, and the Santa Rosa and San Jacinto Mountains National Monument Management Plan. In accordance with the national monument’s enabling legislation, public lands within the national monument are managed for the protection of resource values, and to ensure opportunities for recreation. The Tribe’s management of lands acquired from the BLM will be subject to the land use requirements and management prescriptions of the Indian Canyons Master Plan and the Land Use Code. Since all lands in the exchange fall under the Mountains and Canyons Overlay, the conservation requirements of that overlay, and the requirements of the Draft THCP (upon approval) will apply.

The CVMSHCP trails plan, which was developed by the Coachella Valley Association of governments in collaboration with the BLM, establishes management parameters for trails within the Santa Rosa and San Jacinto Mountains Conservation Area.¹⁵ These management parameters include prohibition of dogs on most trails, seasonal prohibition on cross-country travel and camping from January 1 to September 30, and prohibition of bicycles on selected trails.

2. Land Status

1. **Land Use Classification:** The public lands affected in this proposal are designated Multiple Use Class L (“Limited Use”) under the CDCA Plan. Class L protects sensitive, natural, scenic, ecological, and cultural resource values. Public lands designated as Class L are managed to provide for generally lower-intensity, carefully controlled multiple use of resources, while ensuring that sensitive values are not significantly diminished.

The Indian Canyons Master Plan and Tribal Land Use Code designate the exchange lands Tribal Reserve, which significantly limits development potential. The Land Use Code also assigns the Mountains and Canyons Overlay to the exchange lands. This overlay restricts development consistent with the preservation goals of the Draft THCP, thereby assuring limited development potential which protects those species identified in the Draft THCP (please also see “Threatened and Endangered Species” discussion below). The lands are currently vacant.

2. **Valid Existing Rights:** No mining claims, rights-of-way, or other valid existing rights occur on the exchange lands.

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¹⁵ The BLM will render a separate decision for the federal lands portion of the CVMSHCP trails plan, pending receipt of a biological opinion from the U.S. Fish and Wildlife Service.

ENVIRONMENTAL CONSEQUENCES

A. Elements of the Human Environment

The following table summarizes various elements of the human environment subject to requirements specified in statute, regulation, or executive order. Elements for which there are no impacts will not be discussed further in this document.

Table 6: Summary of Environmental Impacts

Environmental Element	Proposed Action	No Action Alternative
Air Quality	No Impacts	No Impacts
ACEC's	N/A	N/A
Cultural Resource	No Impacts	No Impacts
Native American Concerns	No Impacts	No Impacts
Farmlands	N/A	N/A
Floodplains	N/A	N/A
Energy (E.O. 13212)	No Impacts	No Impacts
Minerals	No Impacts	No Impacts
T&E Animal Species	Beneficial Effects	No Impacts
T&E Plant Species	N/A	N/A
Invasive, Nonnative Species	No Impacts	No Impacts
Wastes (hazardous/solid)	No Impacts	No Impacts
Water Quality (surface and ground)	No Impacts	No Impacts
Wetlands/Riparian Zones	No Impacts	No Impacts
Wild and Scenic Rivers	No Impacts	No Impacts
Noise	No Impacts	No Impacts
Wilderness	N/A	N/A
Environmental Justice	No Impacts	No Impacts
Health and Safety Risks to Children	No Impacts	No Impacts
Visual Resource Mgmt.	No Impacts	No Impacts
Recreation Resources	Minor Adverse Effects	No Impacts

B. Discussion of Impacts

1. **Proposed Action:**

Threatened and Endangered Animal Species

The CDCA Plan Amendment for the Coachella Valley commits BLM to conserving at least 99 percent of vegetation community types on the lands it administers in conservation areas. Thus, under existing ownership, potential development/disturbance could occur on a maximum of 58 acres (1 percent) of the 5,799 acres of

BLM lands. The 1,470 acres proposed for exchange from the Tribe to the BLM are designated for 85 percent conservation under the terms of the Tribal HCP, thus allowing potential development on 221 acres (15 percent). Hence, prior to the exchange, conservation is required for a total of 6,990 acres of the exchange lands, and potential development or disturbance could occur on no more than 279 acres of the exchange lands.

As a condition of the exchange, the Tribe would reserve 221 acres of development potential on the 5,799 acres acquired from the BLM (3.8 percent)—221 acres represents 15 percent of the 1,470 acres of Tribal land to be acquired by the BLM. Of the 1,470 acres to be acquired by the BLM from the Tribe, 99 percent would be conserved, allowing for a maximum of 15 acres of disturbance. Thus, the net result of the exchange is that the total development potential would be reduced by 43 acres, from 279 acres before the exchange to 236 acres after the exchange. Conversely, the amount of land conserved would increase by 43 acres from 6,990 to 7,033 acres, as shown in Table 7.¹⁶

Table 7: Summary of Land Exchange Conservation/Development Potential (acres)

Current land ownership	Before exchange			After exchange		
	Conservation	Potential development / disturbance	Total	Conservation	Potential development / disturbance	Total
Tribe	1,249	221	1,470	5,578	221	5,799
BLM	5,741	58	5,799	1,455	15	1,470
TOTAL	6,990	279	7,269	7,033	236	7,269

The lands to be acquired by the Tribe in Township 4 South, Range 4 East, sections 16 and 17, as well as the northwestern corner of Township 5 South, Range 4 East, section 5 are considered Peninsular bighorn sheep use areas and are identified in the Draft THCP for 100 percent conservation.

A summary of conservation and potential development/disturbance allowed on lands acquired by the Tribe under the terms of the THCP, and on lands acquired by the BLM in accordance with the CDCA Plan, as amended, are presented in Tables 8 and 9.

¹⁶ The assessment of environmental impacts in this section is predicated upon approval of the Tribal Habitat Conservation Plan, which commits the Tribe to a conservation/development ratio of 85:15, except on the lands to be acquired from the BLM under the exchange. Of the 5,799 acres acquired from the BLM, the Tribe could potentially develop up to 221 acres (3.8 percent).

Currently, requirements of the Coachella Valley Multiple Species Habitat Conservation Plan are applicable to the 1,470 acres to be acquired by the BLM from the Tribe, pending approval of the THCP. In accordance with the CVMSHCP, these 1,470 acres are subject to a conservation/development ratio of 90:10. A summary of land exchange effects in accordance with the 90:10 ratio is contained in Appendix A.

**Table 8: Summary of Land Exchange Effects on Critical and Modeled Habitat (acres)
 BEFORE EXCHANGE**

Species	Conservation			Potential development / disturbance		
	Tribe	BLM	Total	Tribe	BLM	Total
Peninsular bighorn sheep, critical habitat	0	724	724	0	7	7
Peninsular bighorn sheep, modeled habitat	1,249	4,141	5,390	221	42	263
TOTAL	1,249	4,865	6,114	221	49	270
Least Bells' vireo / southwestern willow flycatcher	0	248	248	0	3	3
Desert tortoise	1,249	2,534	3,783	221	26	247

Peninsular bighorn sheep

Of the total acreage to be acquired by the Tribe from the BLM (5,799 acres), 731 acres are designated critical habitat for Peninsular bighorn sheep—which will remain as designated critical habitat under management of the Tribe—and 4,183 acres are identified as modeled habitat, totaling 4,914 acres. In accordance with the Draft THCP, all Peninsular bighorn sheep critical habitat acquired by the Tribe would be within areas designated for 100 percent conservation. Since no designated critical habitat occurs on lands to be acquired by the BLM from the Tribe, no critical habitat would be conserved or potentially developed by the BLM after the exchange.¹⁷ The exchange, therefore, would result in the avoidance of any potential adverse impacts to 731 acres of designated critical habitat. (See Table 9.)

As a condition of the exchange in accordance with the THCP, the Tribe would limit development potential to 221 acres (3.8 percent) of the 5,799 acres of lands acquired from the BLM, but the location of such potential development is not specified. Therefore, if the 3.8 percent of lands allocated for development potential was to be evenly spread across all lands acquired by the Tribe, except for bighorn sheep critical habitat, it would be anticipated that development potential on the 4,183 acres of modeled bighorn sheep habitat acquired by the Tribe would be 159 acres, thereby committing 4,024 acres to conservation. Given the 99:1 conservation/disturbance ratio that would be applicable to the 1,470 acres acquired by the BLM from the Tribe, all of which is modeled habitat for Peninsular bighorn sheep, 1,455 acres would be conserved while 15 acres would be subject to potential disturbance. (See Table 9.)

Therefore, conservation of designated critical habitat for Peninsular bighorn sheep would be expected to increase 7 acres (from 724 acres managed for conservation by the BLM before the exchange to 731 acres managed for conservation by the Tribe after the exchange), while conservation of modeled habitat would be expected to increase by 89 acres (from a total of 5,390 acres managed for conservation by the Tribe and the BLM before the exchange, to a total of 5,479 acres managed for conservation by both entities after the

¹⁷ Lands acquired by the BLM from the Tribe would not automatically become designated critical habitat. Such designation is the responsibility of the U.S. Fish and Wildlife Service.

exchange). At the same time, the potential for development/disturbance would be expected to be reduced by 89 acres (from a total of 263 acres allocated for potential development by the Tribe and the BLM before the exchange, to a total of 174 acres allocated for potential development by both entities after the exchange).

Least Bell's vireo / southwestern willow flycatcher

Of the total acreage to be acquired by the Tribe from the BLM (5,799 acres), 251 acres are identified as modeled habitat for Least Bell's vireo and southwestern willow flycatcher. As a condition of the exchange in accordance with the THCP, the Tribe would limit development potential to 221 acres (3.8 percent) of the 5,799 acres of lands acquired from the BLM, but the location of such potential development is not specified. Therefore, if the 3.8 percent of lands allocated for development potential was to be evenly spread across all lands acquired by the Tribe, it would be anticipated that development potential on the 251 acres of modeled habitat acquired by the Tribe would be 10 acres, thereby committing 241 acres to conservation for Least Bell's vireo and southwestern willow flycatcher. Since no modeled habitat for these two species occurs on the lands to be acquired by the BLM from the Tribe, overall conservation and potential for development would occur only on Tribal lands after the exchange. (See Table 9.)

Therefore, conservation of modeled habitat for Least Bell's vireo and southwestern willow flycatcher would be expected to be reduced by 7 acres (from 248 acres managed for conservation by the BLM before the exchange to 241 acres managed for conservation by the Tribe after the exchange). Concomitantly, the potential for development/disturbance would be expected to increase by 7 acres (from a total of 3 acres allocated for disturbance by the BLM before the exchange to 10 acres allocated for development by the Tribe after the exchange).

Desert tortoise

Of the total acreage to be acquired by the Tribe from the BLM (5,799 acres), 2,560 acres are modeled habitat for desert tortoise; no critical habitat occurs within the exchange area. As a condition of the exchange in accordance with the THCP, the Tribe would limit development potential to 221 acres (3.8 percent) of the 5,799 acres of lands acquired from the BLM, but the location of such potential development is not specified. Therefore, if the 3.8 percent of lands allocated for development potential was to be evenly spread across all lands acquired by the Tribe, it would be anticipated that development potential on the 2,560 acres of modeled habitat acquired by the Tribe would be 97 acres, thereby committing 2,463 acres to conservation. Given the 99:1 conservation/disturbance ratio that would be applicable to the 1,470 acres acquired by the BLM from the Tribe, all of which is modeled habitat for desert tortoise, 1,455 acres would be conserved while 15 acres would be subject to potential disturbance. (See Table 9.)

Therefore, conservation of modeled habitat for desert tortoise would be expected to increase by 135 acres (from a total of 3,783 acres managed for conservation by the Tribe and the BLM before the exchange, to a total of 3,918 acres managed for conservation by both entities after the exchange). Concomitantly, the potential for development/disturbance would be expected to be reduced by 135 acres (from a total of 247 acres allocated for development by the Tribe and the BLM before the exchange, to a total of 112 acres allocated for development by both entities after the exchange). (See Table 9.)

**Table 9: Summary of Land Exchange Effects on Critical and Modeled Habitat (acres)
 AFTER EXCHANGE**

Species	Conservation			Potential development / disturbance		
	Tribe	BLM	Total	Tribe	BLM	Total
Peninsular bighorn sheep, critical habitat	731	0	731	0	0	0
Peninsular bighorn sheep, modeled habitat	4,024	1,455	5,479	159	15	174
TOTAL	4,755	1,455	6,210	159	15	174
Least Bells' vireo / southwestern willow flycatcher	241	0	241	10	0	10
Desert tortoise	2,463	1,455	3,918	97	15	112

It should be noted, however, that the lands to be exchanged from the BLM to the Tribe exhibit low development potential due to remoteness and steepness. It is unlikely that the full amount of allowable future disturbance would occur. As there is no area that appears to exhibit substantial development potential, it is more likely that any future impacts would occur in small increments spread evenly (3.8 percent) throughout the various wildlife habitats.

As previously indicated, no more than 221 acres of lands acquired by the Tribe from the BLM would be allocated for potential development. No new trails would be authorized under the Tribal HCP. Any development proposed in the future on these lands would be subject to the Conditional Use Permit process described in Section 4.8 of the Draft THCP. This process requires that the proposed development envelope (which includes all proposed structures, access roads or driveways, fuel modification zones, non-native landscaping, necessary maintenance areas, and domestic animal use areas) be sited to avoid impacts to the parcel's most sensitive biological resources and the most sensitive portions of the site to the maximum extent practicable. Priorities are to be placed on avoiding riparian habitats, especially those occupied by covered species; maximizing buffer areas adjacent to conserved habitat and riparian areas; minimizing edge effects; and using sound conservation planning principles. A minimum of 90 percent of existing riparian habitat must be preserved, and any impacts would be mitigated through creation/restoration at a minimum 1:1 ratio such that no net loss of habitats suitable to support covered species occurs. A number of measures would be imposed to minimize the potential for indirect impacts of development on covered species, including a prohibition on the use of plant species that are toxic to Peninsular bighorn sheep, restrictions on lighting, and requirements that fences/walls be erected at the edge of the development area to control human and pet access into natural habitats and exclude Peninsular bighorn sheep from urban areas. These measures would help to ensure that biological impacts from the up to 221 acres of development that could be authorized on the lands to be transferred to the Tribe would be minimized.

Those portions of any development site outside of the approved development envelope would be dedicated to the Habitat Preserve, thus becoming subject to its management requirements. As detailed in Section 4.11 of the Draft THCP, management measures are intended to maintain the exchange lands in a condition similar to or

better than the conditions at the time of land dedication and include, but are not limited to:

1. Control of unauthorized access.
2. Fire management activities.
3. Removal of invasive and toxic species (including removal of at least 80 acres of tamarisk and fountain grass).
4. If Least Bell’s vireo are observed on the proposed exchange lands and cowbirds are determined to be occupying the habitat, the Tribe would assess and implement the most appropriate measure(s) for minimizing cowbird impacts on the vireo.
5. Access control measures currently applied by the Tribe in its conservation areas would extend to the exchange areas. These measures include ample signage to help hikers stay on trails, education of the visiting public, and routine patrols/monitoring by Tribal rangers and maintenance crews to discourage off-trail trespassing.
6. Future trail re-routing or temporary closures would be undertaken if research conducted as part of the Coachella Valley Multiple Species Habitat Conservation Program indicates there are negative effects on Peninsular bighorn sheep.

All the Tribal lands to be transferred to the BLM are within Sonoran mixed woody and succulent scrub. Impacts to the remaining vegetation communities could increase slightly over what would be authorized in the absence of the exchange, as shown in Table 10.

Table 10: Conservation of Vegetation Communities Resulting from Exchange (acres)

Vegetation community types from CDCA Plan Amendment for the Coachella Valley (BLM 2002)	Vegetation communities from THCP	Current	Conserved without exchange	Conserved upon exchange
Desert Scrub Communities	Sonoran creosote bush scrub	164	162	156
	Sonoran mixed woody and succulent scrub	4,308	4,058	4,207
Chaparral Communities	Interior live oak chaparral	1,715	1,698	1,646
	Red shank chaparral	223	221	214
Riparian Communities	Desert fan palm oasis woodland	148	147	133
	Southern sycamore-alder riparian woodland	104	103	94
Woodland and Forest Communities	Peninsular juniper woodland and scrub	229	226	219
	Black oak forest	268	265	257
Urban development		37*	37	33
Total		7,196	6,917	6,959

*Land mapped as urban development primarily consists of Palm Canyon Wash.

With the exception of the potential decreases in conservation to desert fan palm oasis woodland and southern sycamore-alder riparian forest upon the exchange—potential decreases of 10% and 9%, respectively—and potential increase of Sonoran mixed woody and succulent scrub (about 4%), such differences are not substantial; such decreases in potential conservation range from 3 to 4 percent.

Although there is a potential for an increase in impacts to most vegetation communities consequent to the land exchange, and to the desert fan palm oasis woodland and southern sycamore-alder riparian forest in particular, any impacts to these habitats on Tribal lands would need to be avoided to the maximum extent practicable and mitigated through creation/restoration at a minimum 1:1 ratio to ensure no net loss of habitat in accordance with the terms of the Draft THCP. These requirements, combined with other applicable permitting requirements and engineering/financial constraints, make it unlikely that the land exchange would result in any increased impact to riparian vegetation communities.

Recreation Resources

Lands managed by the BLM after the exchange would be subject to existing laws, regulations, policies, and land use plans, including the CDCA Plan, as amended, and the Santa Rosa and San Jacinto Mountains National Monument Management Plan. The direction provided by these statutes, regulations, policies, and plans promote the management of the exchange lands for conservation and recreation. Lands managed by the Tribe after the exchange would be subject to the land use requirements and management prescriptions of the Indian Canyons Master Plan and the Land Use Code. Since all lands in the exchange fall under the Mountains and Canyons Overlay, the conservation requirements of that overlay and the requirements of the Draft THCP (upon approval) would apply.

Various organizations have expressed concern that the public benefit could be jeopardized upon exchange of sections 16 and 36, Township 4 South, Range 4 East, and that proper mitigation measures should be applied to protect public access to trails, or exclusion or substitution of these parcels occur within the context of this exchange.

Upon approval of the land exchange, trail segments located in sections 16 and 36, now managed by the BLM, would be managed by the Tribe. Currently, permits are not required for use of the trails within Section 36, but a permit will be required for access to the Skyline Trail in Section 16 upon BLM's issuance of a decision for the federal land portion of the multi-jurisdictional trails plan addressed in the CVMSHCP. The proposed land exchange has the potential to impact access to these trails, and the creation of new trails. Each of these potential effects is discussed separately below.

Existing trails within the project area that are currently managed by the BLM would be transferred to Tribal ownership. The Draft THCP includes a Trail Management Plan which addresses the maintenance and construction of trails. The Draft THCP also allows trails within conservation areas, based on the same criteria and standards required for other uses. The Indian Canyons Master Plan, which includes lands currently used for trails, supports various types of low impact recreation activities, including hiking and horseback riding. As part of the exchange, the BLM and Tribe have approved a management agreement addressing sections 16 and 36, Township 4 South, Range 4 East, upon which public trail access has been identified as an issue (Appendix B). The management agreement stipulates that such exchange lands shall remain accessible and subject to the

reasonable use and enjoyment by the general public, and the Tribe may adopt rules and regulations for the use and enjoyment of the exchange lands that conform to and are consistent with the policies and guidelines set forth in the Indian Canyons Master Plan and the THCP, and with similar measures now in effect regarding existing Tribal Reserves. The management agreement also requires that the Tribe maintain existing facilities, including trails, through the life of the management agreement. This includes all trail segments shown in Table 5 (see “Affected Environment”), which will be transferred from the BLM to the Tribe. The long-term maintenance of these facilities will assure that these facilities will not be impacted by the proposed exchange.

The construction of new trails upon lands conveyed to the Tribe is addressed in the Draft THCP’s Trail Management Plan, and the Draft THCP itself. The management agreement described above stipulates that the Tribe may undertake new development, construction, or improvements to enhance public recreational facilities on the exchange lands, subject to conditions of the Indian Canyons Master Plan and the Draft THCP, and review under the Tribal Environmental Policy Act. Under the Draft THCP, trail construction is subject to the same restrictions and review as other uses in areas with limited development potential, and will require a conditional use permit. Such review will assure that the management programs and protection standards imposed in the Draft THCP are applied to the construction of new trails.

Under the CVMSHCP trails plan, which sets management parameters for the BLM on trails within the Santa Rosa and San Jacinto Mountains Conservation Area, trails are required to operate within specific restrictions, including the prohibition of dogs on most trails, seasonal prohibition on cross-country travel and camping from January 1 to September 30, and prohibition of bicycles on selected trails. Under the requirements of the THCP, the provisions are equivalent or more stringent: dogs and bicycles are prohibited altogether, and cross-country travel and camping are prohibited year-round.

Whereas access for hiking and horseback riding would not be affected by the exchange, opportunities for mountain biking would be reduced. Given the general prohibition of bicycles on lands managed by the Tribe and an assumption that bicycles are allowed on lands managed by the BLM, Tables 5 and 11 suggest that 2.3 miles of trails would become additionally available to bicycles upon acquisition of Tribal lands by the BLM, and 9.3 miles of trails would be closed to bicycles upon transfer of BLM lands to the Tribe, thereby resulting in a net loss of bicycling opportunities on 7.0 miles of trails. However, such analysis fails to account for the prohibition of bicycles on certain trails identified in Tables 5 and 11 under the CVMSHCP trails plan (which include the Araby, Berns, Garstin, Henderson, and Shannon Trails), the allowance for bicycles on Tribal lands in Palm Canyon south of Dry Wash, and the allowance for bicycles on Tribal lands outside the Reservation to provide for connectivity with other trails and trail segments (which include the Dunn Road Trail, Wild Horse Trail, and East Fork Loop Trail).

Table 11: Current and Future Access for Bicycles on Exchange Lands

Trail name	Location	Trail segment within exchange lands (miles)	Current bicycle access	Exchange from/to	Future bicycle access
Dunn Road Trail	sec 7, T5S, R5E	0.5	open	Tribe to BLM	open
Wild Horse	sec 7, T5S, R5E	1.1	open		open
East Fork Loop	sec 19, T5S, R5E	0.7	open		open
TOTAL		2.3			
Skyline	sec 16, T4S, R4E	1.6	open	BLM to Tribe	closed
Araby	sec 36 T4S, R4E	0.3	closed		closed
Berns	sec 36 T4S, R4E	0.9	closed		closed
Garstin	sec 36 T4S, R4E	1.0	closed		closed
Henderson	sec 36 T4S, R4E	0.2	closed		closed
Shannon	sec 36 T4S, R4E	0.7	closed		closed
Thielman	sec 36 T4S, R4E	0.3	open		closed
Wild Horse	sec 36 T4S, R4E	1.0	open		open
Jo Pond	sec 21, T5S, R4E	1.2	open		closed
Indian Potrero	sec 36, T5S, R4E	0.9	open		open
Palm Canyon	sec 36, T5S, R4E	1.2	open	open	
TOTAL		9.3			

Therefore, opportunities for mountain biking would be reduced by a total of 3.1 miles on the Skyline Trail (1.6 miles), Thielman Trail (0.3 mile), and Jo Pond Trail (1.2 miles) only. Closures on these trails upon conclusion of the land exchange would protect habitat consistent with the THCP.

Provisions of the management agreement assure that existing trails within the exchange lands, and potential new trails which may be constructed in the future, would remain open for public use, except as noted above with respect to bicycles. The management agreement requires that the Tribe maintain existing facilities, including trails, through the life of the management agreement, which ensures that these facilities will not be impacted by the proposed exchange, and that the network of trails in and around the proposed exchange lands will remain intact.

C. Mitigation Measures

None.

D. Residual Impacts

Residual impacts are those that remain after the application of mitigation measures to the proposed action. As no mitigation measures are required, no residual impacts would remain. Impacts resulting from implementation of the proposed action are fully described above.

E. Cumulative Impacts

The land exchange results in a change of title only to the subject lands. No specific projects are herein proposed that would directly result in changes to the existing landscape.

However, the potential for enhanced conservation of Peninsular bighorn sheep habitat is increased under the proposed action, with an increase of 7 acres to be conserved as critical habitat and 89 acres to be conserved as modeled habitat. Likewise, the potential for enhanced conservation of desert tortoise habitat is increased under the proposed action, with an increase of 135 acres to be conserved as modeled habitat. In light of historic losses of such wildlife habitats resulting from urbanization of the Coachella Valley and other causes, the potential for enhanced conservation constitutes a beneficial cumulative effect.

Conversely, the potential for development or disturbance of Least Bell's vireo and southwestern willow flycatcher habitat contributes to historic losses of such wildlife habitats. Therefore, the potential for loss constitutes an adverse cumulative effect. However, as indicated above, no specific projects are herein proposed that would alter the existing landscape. An analysis of cumulative impacts would occur when such projects are proposed.

The reduction of mountain biking opportunities by 3.1 miles is an adverse cumulative impact when considered in light of previous reductions of such opportunities. By resolution of the City of Palm Springs Parks and Recreation Commission, certain trails within and outside the exchange area were closed to bicycles to increase safety for equestrians. The Tribe has also closed trails in the Indian Canyons to bicycles. Hence, additional prohibitions of bicycles on trails upon implementation of the proposed action increase adverse cumulative impacts for this type of recreation.

FREEDOM OF INFORMATION ACT CONSIDERATIONS:

Public comments submitted for this environmental assessment, including names and street addresses of respondents, will be available for public review at the Palm Springs-South Coast Field Office during regular business hours (8:00 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

PERSONS / AGENCIES CONSULTED:

U.S. Fish and Wildlife Service, in progress
Tribal Historic Preservation Officer, Agua Caliente Band of Cahuilla Indians

APPENDIX A

POTENTIAL LAND EXCHANGE EFFECTS ON THREATENED AND ENDANGERED SPECIES UNDER THE COACHELLA VALLEY MULTIPLE SPECIES HABITAT CONSERVATION PLAN AND PRIOR TO APPROVAL OF THE TRIBAL HABITAT CONSERVATION PLAN

Tables 8 and 9 in this environmental assessment reflect the pre-exchange and post-exchange scenarios for conservation and potential development/disturbance of critical and modeled habitat for Peninsular bighorn sheep, and modeled habitat for Least Bell's vireo, southwestern willow flycatcher, and desert tortoise. The analyses contained in Tables 8 and 9 are predicated on management prescriptions described in the Draft THCP, including the reservation of no more than 221 acres of development potential on the 5,799 acres acquired from the BLM (3.8 percent), and 100 percent conservation of all Peninsular bighorn sheep critical habitat acquired from the BLM.

However, requirements of the Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP) are currently applicable to the 1,470 acres to be acquired by the BLM from the Tribe. Also, the Draft THCP has yet to be approved. In accordance with the CVMSHCP, these 1,470 acres are subject to a conservation/development ratio of 90:10. Tables A-1 through A-4 (below) compare (1) potential land exchange effects before the land exchange under the 90:10 conservation/development ratio as applicable to the 1,470 acres to be transferred to the BLM, and (2) potential land exchange effects after the exchange, but under an assumption that the 5,799 acres to be acquired by the Tribe would be conserved at an 85:15 conservation/development ratio without a development limit of 221 acres (as would be required under the THCP) and without 100 percent conservation of all Peninsular bighorn sheep critical habitat (as would also be required under the THCP).

[Note: For the purposes of this analysis, it is reasonable to assume an 85:15 conservation / development ratio for lands acquired by the Tribe in the absence of the THCP, as conversely it would be unreasonable to assume that absent the THCP, the Tribe would exceed the 15 percent development allowance, particularly since the lands to be transferred from the BLM to the Tribe exhibit low development potential due to remoteness and steepness, thereby making it unlikely that the full amount of allowable future disturbance would occur.]

Lands managed by the BLM, whether before or after the exchange, would be subject to the 99:1 conservation/disturbance ratio in accordance with the CDCA Plan Amendment for the Coachella Valley (2002).

**Table A-1: Summary of Land Exchange Effects on Critical and Modeled Habitat (acres)
 BEFORE EXCHANGE (85:15 ratio, no THCP conservation assumptions)**

Species	Conservation			Potential development / disturbance		
	Tribe	BLM	Total	Tribe	BLM	Total
Peninsular bighorn sheep, critical habitat	0	724	724	0	7	7
Peninsular bighorn sheep, modeled habitat	1,323	4,141	5,464	147	42	189
TOTAL	1,323	4,865	6,188	147	49	196
Least Bells' vireo / southwestern willow flycatcher	0	248	248	0	3	3
Desert tortoise	1,249	2,534	3,783	221	26	247

**Table A-2: Summary of Land Exchange Effects on Critical and Modeled Habitat (acres)
 AFTER EXCHANGE (85:15 ratio, no THCP conservation assumptions)**

Species	Conservation			Potential development / disturbance		
	Tribe	BLM	Total	Tribe	BLM	Total
Peninsular bighorn sheep, critical habitat	621	0	621	110	0	110
Peninsular bighorn sheep, modeled habitat	3,556	1,455	5,011	627	15	642
TOTAL	4,177	1,455	5,632	737	15	752
Least Bells' vireo / southwestern willow flycatcher	213	0	213	38	0	38
Desert tortoise	2,176	1,455	3,631	384	15	399

Tables A-3 and A-4 (below) summarize the differences between the pre-exchange and post-exchange analyses of the Proposed Action as described in Tables 8 and 9, and the pre-exchange and post-exchange analyses provided in this appendix.

**Table A-3: Summary of Differences between Proposed Action per Table 8 and Table A-1
 BEFORE EXCHANGE**

Species	Conservation			Potential development / disturbance		
	Tribe	BLM	Total	Tribe	BLM	Total
Peninsular bighorn sheep, critical habitat	---	---	---	---	---	---
Peninsular bighorn sheep, modeled habitat	74	---	74	(74)	---	(74)
TOTAL	74	---	74	(74)	---	(74)
Least Bells' vireo / southwestern willow flycatcher	---	---	---	---	---	---
Desert tortoise	---	---	---	---	---	---

**Table A-4: Summary of Differences between Proposed Action per Table 9 and Table A-2
 AFTER EXCHANGE**

Species	Conservation			Potential development / disturbance		
	Tribe	BLM	Total	Tribe	BLM	Total
Peninsular bighorn sheep, critical habitat	110	---	110	(110)	---	(110)
Peninsular bighorn sheep, modeled habitat	468	---	468	(468)	---	(468)
TOTAL	578	---	578	(578)	---	(578)
Least Bells' vireo / southwestern willow flycatcher	28	---	28	(28)	---	(28)
Desert tortoise	287	---	287	(287)	---	(287)

In summary, the land exchange between the BLM and the Tribe in accordance with management prescriptions contained in the Draft THCP, when compared with an absence of the THCP as described above, would result in the following: (1) conservation of 110 more acres of Peninsular bighorn sheep critical habitat; (2) conservation of 394 more acres of Peninsular bighorn sheep modeled habitat (488 acres post-exchange minus 74 acres pre-exchange); (3) conservation of 28 more acres of Least Bell's vireo and southwestern willow flycatcher modeled habitat; (4) conservation of 287 more acres of desert tortoise modeled habitat; and (5) a total of 819 fewer acres of wildlife habitat potentially available for development/disturbance.

APPENDIX B

**MANAGEMENT AGREEMENT
between the
AGUA CALIENTE BAND OF CAHUILLA INDIANS
and
U.S. DEPARTMENT OF THE INTERIOR – BUREAU OF LAND MANAGEMENT
for management of
EXCHANGE LANDS**

This Management Agreement ("Agreement") is made and entered into this 11th day of November 2009, by and between the Agua Caliente Band of Cahuilla Indians (Tribe) and the U.S. Department of the Interior, Bureau of Land Management (BLM).

WHEREAS, the Tribe and the BLM entered into a Cooperative Agreement on October 13, 1999, to coordinate land use planning, budget priorities, cooperative allocation of resources and development of long-term resource and programmatic goals;

WHEREAS, upon execution of the Cooperative Agreement the BLM and the Tribe agree to “[p]rovide for review of projects, proposals, and management actions that may affect the other party’s interests or management,” and implement a “Memorandum of Understanding for acquisition and exchange of lands within the proposed Santa Rosa and San Jacinto Mountains National Monument”;

WHEREAS, the Tribe and the BLM entered into Memorandum of Understanding (MOU) on October 13, 1999, to establish a framework for cooperation concerning acquisition and exchange of non-trust lands within the exterior boundaries of the Agua Caliente Indian Reservation (Reservation);

WHEREAS, upon execution of the MOU the BLM shall “[j]ointly identify opportunities with the Agua Caliente Band of Cahuilla Indians to Exchange BLM administered public lands within the [R]eservation,” the Tribe shall “[j]ointly identify opportunities with the Bureau of Land Management to exchange BLM public land parcels within and outside the [R]eservation,” and the BLM and the Tribe shall “[m]anage all lands received in exchange to preserve the nationally significant biological, cultural, recreational, geological, educational, and scientific values found in the Santa Rosa and San Jacinto Mountains as an enduring legacy of our heritage, and to secure for future generations the opportunity to experience the magnificent vistas, wildlife, landforms, and natural and cultural resources in these mountains”;

WHEREAS, the Santa Rosa and San Jacinto Mountains National Monument (SRSJMNM) Act of 2000 (16 USC 431 note), “[i]n order to support the cooperative management agreement in effect with the Agua Caliente Band of Cahuilla Indians,” authorized the Secretary of the Interior “without further authorization by law” to “exchange lands which the Bureau of Land Management has acquired using amounts provided under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.), with the Agua Caliente Band of Cahuilla Indians”;

WHEREAS, the SRSJMNM Act further stipulates that “[a]ny such land exchange may include the exchange of federally owned property within or outside of the boundaries of the National Monument for property owned by the Agua Caliente Band of Cahuilla Indians within or outside of the boundaries of the National Monument”;

WHEREAS, per the MOU and as authorized by the SRSJMNM Act, the Tribe and the BLM have identified certain lands to be exchanged;

WHEREAS, the California Desert Conservation Area (CDCA) Plan Amendment for the Coachella Valley (2002) established criteria to be applied in evaluating the suitability of land exchanges, and that exchanges may be considered if they, in part, “[f]acilitate effective and efficient management of conservation areas,” and “[n]ot divest of public domain lands in a manner which eliminates a significant public benefit”;

WHEREAS, lands managed by the BLM and proposed for transfer to the Tribe are identified in the SRSJMNM Management Plan of 2004;

WHEREAS, this Agreement is made for the purpose and objective of establishing and clarifying the roles and responsibilities of the Tribe and the BLM in the management and operation of the lands to be exchanged;

WHEREAS, for lands to be acquired by the BLM, the proposed exchange will implement the provisions of the CDCA Plan of 1980, as amended, and the SRSJMNM Management Plan (2004), and enhance public land resources for economic, educational, scientific and recreational uses; and

WHEREAS, for lands to be acquired by the Tribe, the proposed exchange will support the resource preservation goals of the Indian Canyons Master Plan and the effective implementation of its Tribal Multiple Species Habitat Conservation Plan, by placing the exchange lands under their control for preservation and management.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto do hereby covenant and agree as follows:

1. EXCHANGE LANDS: The land subject to the provisions of this Agreement is limited to all real property contained within Sections 16 and 36, Township 4 South, Range 4 East, San Bernardino Base Meridian, proposed for transfer to the Tribe by the BLM. Said lands are to be managed as an integral part of the existing Tribal Reserves established pursuant to Section 3(c) of the Act of September 3, 1959 (73 Stat 603), and as a unified ecological entity in the same manner as the Tribe already manages the existing Tribal Reserves, subject to the provisions of this Agreement.
2. MANAGEMENT: Upon the execution of this Agreement, the Tribe agrees to manage the Exchange Lands in accordance with the resource preservation goals of the Indian Canyons Master Plan and the habitat preservation requirements of the Tribal Habitat Conservation Plan.
3. USE: The Tribe agrees that the Exchange Lands remain accessible and subject to the reasonable use and enjoyment by the general public. The Tribe may adopt rules and regulations for the use and enjoyment of the Exchange Lands. Any such rules and regulations adopted shall conform to and be consistent with the

policies and guidelines set forth in the Indian Canyons Master Plan and the Tribal Habitat Conservation Plan, and with similar measures now in effect regarding existing Tribal Reserves. Exchange Lands shall not be used for any other purpose than those herein described, or for any unlawful purpose or use.

4. TERM: The term of this Agreement shall commence upon the close of escrow for the transfer of the Exchange Lands from the BLM to the Tribe and shall continue until terminated by one year's written notice by either party and the mutual consent of the Tribe and the BLM.
5. CONSTRUCTION: The Tribe may undertake new development, construction, or improvements to enhance public recreational facilities upon the Exchange Lands. Such development, construction, or improvements within the Exchange Lands shall be in accordance with the Indian Canyons Master Plan and the Tribal Habitat Conservation Plan. Prior to any construction, the Tribe shall comply with the requirements of the Tribal Environmental Policy Act.
6. OWNERSHIP OF IMPROVEMENTS: All improvements constructed in and upon the Exchange Lands shall become part of the realty and title to said improvements shall vest in the Tribe.
7. MAINTENANCE: During the term of this Agreement, the Tribe shall provide for upkeep and maintenance of the Exchange Lands and all improvements of any kind which may be erected, installed, or placed thereon in a safe, good condition, and in substantial repair.
8. CONCESSIONS: The Tribe may grant concessions in or upon the Exchange Lands which are consistent with the provisions of the Indian Canyons Master Plan and the Tribal Habitat Conservation Plan. No concession shall be granted by Tribe within the Exchange Lands which will exploit these lands or resources for commercial purposes.
9. ASSIGNING AND SUBLETTING: This Agreement shall not, nor shall any interest herein or hereunder be assigned, delegated, mortgaged, hypothecated or transferred either by the Tribe by operation of law, nor shall the Tribe let or sublet, or grant any licenses or permits with respect to the use and occupancy of the Exchange Lands or any portion thereof, without coordinating and consulting with the BLM as set forth in the Cooperative Agreement of October 13, 1999. This paragraph does not apply to the provisions of Paragraph 7 (MAINTENANCE) and Paragraph 8 (CONCESSIONS) above.
10. BREACH OF AGREEMENT: In the event of any breach of this Agreement by the BLM, the Tribe shall notify the BLM in writing of such breach, and the BLM shall have thirty (30) days in which to initiate action to cure said breach.

In the event of any breach of this Agreement by the Tribe, the BLM shall notify the Tribe in writing of said breach, and the Tribe shall have thirty (30) days in which to initiate action to cure said breach.

11. NOTICES: All written notices pursuant to this Agreement shall be addressed as set forth below or as either party may hereafter designate by written notice and shall be personally delivered or sent through the United States mail:

Palm Springs - South Coast Field Office (LLCAD06000)
Bureau of Land Management
1201 Bird Center Drive
Palm Springs, CA 92262

Tribal Council
Agua Caliente Band of Cahuilla Indians
5401 Dinah Shore Drive
Palm Springs, CA 92264

12. LIMITATION: This Agreement is subject to all valid and existing contracts, leases, licenses, encumbrances, and claims of title which may affect the Exchange Lands.
13. PARAGRAPH TITLES: The paragraph titles in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope or intent of this Agreement or in any way affect this Agreement.
14. AGREEMENT IN COUNTERPARTS: This Agreement is executed in counterparts, each of which shall be deemed an original.
15. ACCESS TO EXCHANGE LANDS: The BLM or BLM's designated representative(s) shall have access to the Exchange Lands for the purpose of reviewing and evaluating the Tribe's compliance with the terms and conditions of this Agreement. In the event problems or issues regarding performance under this Agreement are identified, the BLM and the Tribe shall arrange to meet and confer regarding resolution of the problem(s) or issue(s) within two weeks from such determination.
16. PARTIAL INVALIDITY: If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.
17. WAIVER OF RIGHTS: The failure of the BLM or the Tribe to insist upon strict performance of any of the terms, conditions, and covenants in this Agreement shall not be deemed a waiver of any right or remedy that the BLM or the Tribe may have, and shall not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions, and covenants herein contained. This Agreement will be governed by and construed according to applicable federal law. By executing this Agreement, no party waives or limits any right or immunity that it may have under such law.

18. BLM's REPRESENTATIVE: The Field Manager of the Palm Springs - South Coast Field Office is the BLM's representative for administration of this Agreement. The Field Manager is the Tribe's initial contact with the BLM for information, Agreement coordination, and any problems which might arise. The Chairman of the Tribal Council is the BLM's initial contact for such purposes.
19. AGREEMENT IN WRITING: This Agreement contains and embraces the entire Agreement between the parties hereto and neither it nor any part of it may be changed, altered, modified, limited, or extended orally, or by any Agreement between the parties unless such Agreement be expressed in writing, signed, and acknowledged by the BLM and the Tribe, or their successors in interest.
20. APPROVAL OF AGREEMENT: It is understood and agreed that this Agreement, amendments, modifications, or termination thereof will be effective only upon approval by the United States Department of the Interior, Bureau of Land Management and the Agua Caliente Band of Cahuilla Indians.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

AGUA CALIENTE BAND OF CAHUILLA INDIANS

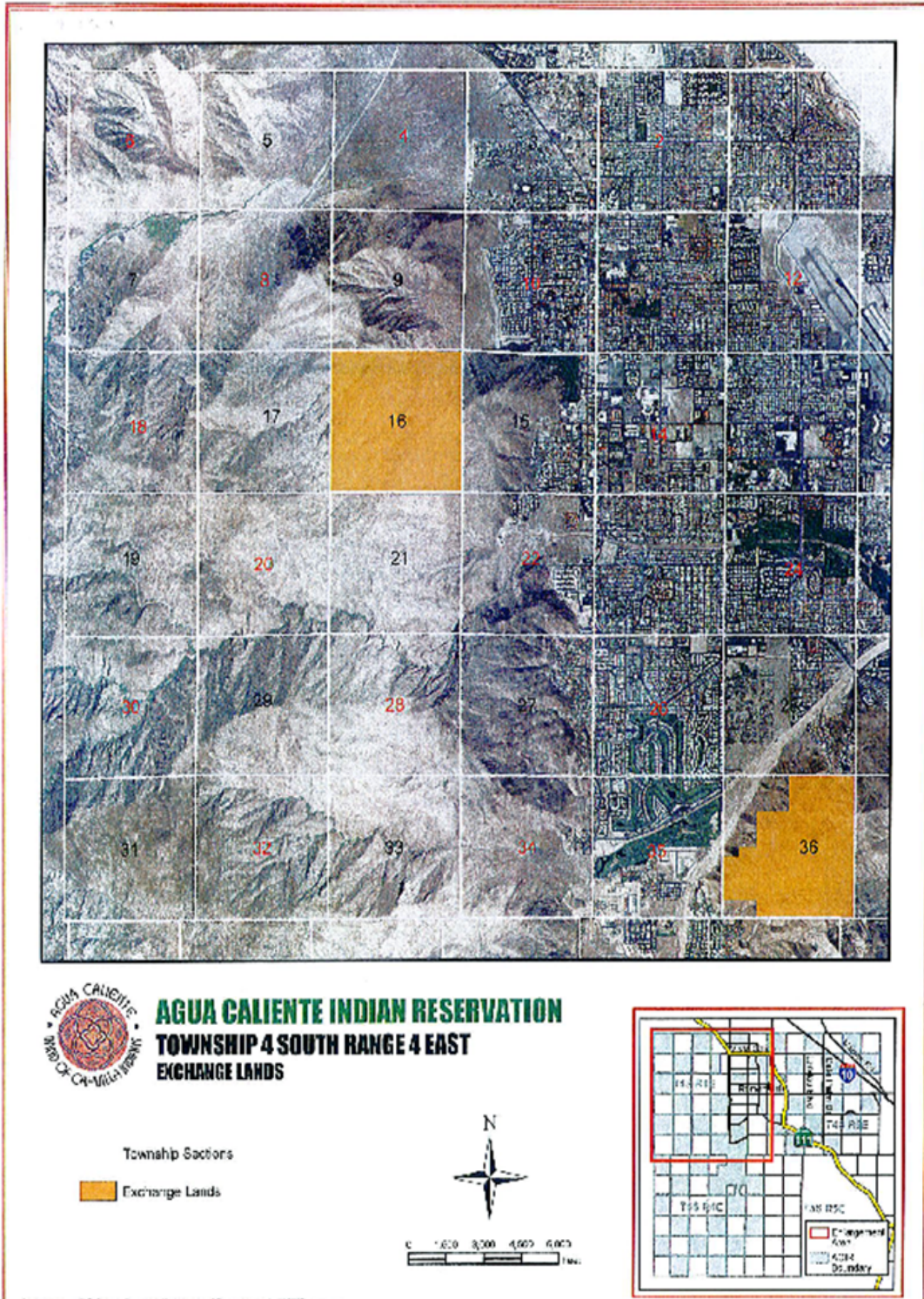
By: /s/ Richard M. Milanovich
Richard M. Milanovich
Chairman, Tribal Council

Date: November 3, 2009

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

By: /s/ John R. Kalish
John R. Kalish
Field Manager
Palm Springs - South Coast Field Office

Date: November 10, 2009



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APPENDIX I
SCOPING REPORT

PROPOSED LAND EXCHANGE
between
U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
and
AGUA CALIENTE BAND OF CAHUILLA INDIANS

The Bureau of Land Management (BLM) is proposing to exchange certain public lands within the Santa Rosa and San Jacinto Mountains National Monument (Monument) for nonfederal lands within the Monument that were purchased by the Agua Caliente Band of Cahuilla Indians (Tribe) expressly for this purpose. This scoping report addresses issues, impacts, and potential alternatives identified by agency staff and the public that will be analyzed in an environmental impact statement (EIS) to be prepared for the proposed land exchange.

INTRODUCTION

Purpose and Need for the Proposed Land Exchange

The purpose and need for land exchanges, in general, is to improve opportunities for the use or protection of public lands and to promote their effective and efficient management, provided that the public interest will be served by making such exchanges. When considering the public interest, full consideration is to be given to the needs of state and local people. The values of the nonfederal lands and the public objectives they could serve if acquired shall be equal to or exceed the values and public objectives of not undertaking an exchange and retaining the selected federal lands in federal ownership.

The proposed land exchange between the BLM and the Tribe, in reducing the extent of “checkerboard” landownership, would facilitate effective and efficient management of public lands by consolidating the land base. As expressed in the Monument’s management plan (2004), the exchange would provide the BLM and the Tribe with more logical and consistent land management responsibility in the Monument.

Appendix 1 of this scoping report identifies relevant statutory provisions, planning guidance, and management agreements to assist the public in understanding the basis of the proposed land exchange between the BLM and the Tribe.

Description of BLM and Tribal Lands Proposed for Exchange

As described in the Monument’s management plan (2004) and environmental assessment (EA) no. CA-060-0010-0005 (2010), the following federal lands are proposed for transfer to the Tribe:

- T.4S. R.4E.
 - section 16 (all)
 - section 17, W1/2NW1/4NE1/4, W1/2E1/2NW1/4NE1/4
 - section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of Lot 1, N1/2 of lot 2

- section 36, lots 1-4, W1/2NE1/4, W1/2SE1/4, E1/2SW1/4, SE1/4NW1/4, N1/2SW1/4SW1/4, E1/2NW1/4SW1/4, SW1/4NW1/4SW1/4, S1/2NW1/4NW1/4SW1/4
- T.5S. R.4E.
 - sections 5, 16, 21, 27, 29, 32, and 36 (all)

In exchange, the following Tribal lands would be transferred to the BLM:

- T.5S. R.5E.
 - sections 7 and 19 (all)
 - section 20, W1/2W1/2

The federal lands identified above total 5,799 acres; the Tribal lands identified above total 1,470 acres. Depending on appraised values, additional lands may be identified for transfer to the BLM in order to equalize values.

Notice of Exchange Proposal Involving Lands in Riverside County, California

On November 15, 22, and 29, and December 6, 2008, the BLM published a notice in *The Desert Sun* regarding its consideration of a proposal to exchange lands with the Tribe pursuant to section 206 of the Federal Land Policy and Management Act of 1976, as amended. The notice stated that the purpose of the land exchange is to consolidate the ownership of federal lands within the Santa Rosa and San Jacinto Mountains National Monument and to transfer certain lands to the Tribe, expecting to complete a series of exchange transactions to transfer all lands described in the notice. Interested parties were invited to submit comments concerning the proposed land exchange and provide notice of any liens, encumbrances, or claims on the lands involved. No comments were received.

Notice of Intent to Prepare a Draft Environmental Impact Statement

On February 10, 2012, the BLM published a notice in the *Federal Register* regarding its intent to prepare an environmental impact statement for the proposed land exchange between the BLM and the Tribe (77 FR 7179). The notice announced the beginning of the scoping process, invited public participation, and described how the time and place of public scoping meetings would be announced. It explained that the BLM was soliciting public input on the issues and impacts to be addressed in the EIS, as well as the extent to which those issues and impacts would be analyzed. The notice identified how written comments could be submitted by email or regular mail, indicating that all comments must be received no later than 30 days after the last public scoping meeting.

Description of the Scoping Process

Land exchange processing is often highly complex as the agency determines land values, weighs public interests, and effectively involves the public in the process. Regarding these matters, the BLM is required to comply with applicable statutes, regulations, and policies to ensure that the public interest is properly considered and protected in evaluating land exchange proposals.

Scoping is the process by which the BLM solicits internal and external input on the issues, impacts, and potential alternatives that will be addressed in an environmental impact statement or

environmental assessment, as well as the extent to which those issues and impacts will be analyzed in the National Environmental Policy Act (NEPA) document. As indicated above, the BLM determined that preparation of an EIS is necessary to address potentially significant effects of the proposed land exchange.

The notice of intent to prepare an EIS, which was published in the *Federal Register* on February 10, 2012, was followed by a news release on February 23, 2012 identifying public scoping meeting dates, times, and locations (BLM California Desert District news release no. CA-CDD-12-28). Notices of the public scoping meetings were published in *The Desert Sun* on March 8 and 9, 2012; a website article at www.kcet.org and an article in *The Desert Sun* about the proposed land exchange, including dates, times, and locations of the public scoping meetings, were published on March 14, 2012, and March 18, 2012, respectively; and an article about the first public scoping meeting, including details about the upcoming second meeting and how to submit public comments, appeared in *The Desert Sun* on March 23, 2012. Additionally, a notice regarding the March 22 and 27 public scoping meetings was sent to individuals and organizations that submitted comments on EA no. CA-060-0010-0005, as well as to other interested parties: approximately 140 notifications were sent via email message and about 120 via regular mail; some notices were sent to the same individuals via both email and regular mail.

Public scoping meetings were held at two locations in Palm Springs, California, on March 22 and 27, 2012: the Agua Caliente Spa Hotel and the BLM Palm Springs-South Coast Field Office, respectively. The public was provided a document that preliminarily identified issues extracted from public comments submitted to the BLM regarding EA no. CA-060-0010-0005, which addressed the proposed land exchange between the BLM and the Tribe; this EA was released for public review and comment on July 27, 2010. The primary purpose of the public scoping period, therefore, was to identify issues in addition to those extracted from public comments submitted in response to the EA. Each public meeting began with an historical overview of how checkerboard landownership came to exist, the purpose and need for the proposed land exchange, the purpose of public scoping, and opportunities for public participation in the NEPA process. Maps of the BLM and Tribal lands identified for exchange were available for review and taking home. The deadline for submitting public comments was announced as April 27, 2012.

Approximately 75 people attended the first public scoping meeting on March 22, 2012; about 50 people attended the second meeting on March 27, 2012. Oral comments were provided by 24 individuals, six of whom represented non-governmental organizations. In addition, the BLM received scoping comment letters and email messages from 62 individuals, five of whom represented non-governmental organizations and two who represented governmental entities, thereby supplementing the issues previously extracted from public comments submitted in response to the EA. Some individuals who provided comments on the EA also provided written and/or oral comments during the public scoping period (see appendix 2). Some oral and written comments were as brief as a few sentences; others were up to 14 pages long. Some offered substantive comments, while others conveyed a want or an opinion. They all indicated an interest in the management of public lands and resources.

While the Council of Environmental Quality's (CEQ) regulations at 40 CFR Parts 1500-1508 do not explicitly define the term "issue," the CEQ explains that issues may be identified through scoping and only significant issues must be the focus of the environmental document. Significant issues are those related to significant or potentially significant effects. "Significance" has specific meaning in the NEPA context. It is defined as effects of sufficient context and intensity that an

EIS is required. Specifically in accordance with 40 CFR § 1508.27, “significantly” as used in the NEPA requires considerations of both context and intensity:

- (a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action such as the proposed land exchange, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.
- (b) Intensity. This refers to the severity of impact. The following should be considered in evaluating intensity:
 1. Impacts that may be both beneficial and adverse. A significant effect may exist even if the federal agency believes that on balance the effect will be beneficial.
 2. The degree to which the proposed action affects public health or safety.
 3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
 4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.
 5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
 6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.
 7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.
 8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.
 9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.
 10. Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.

Although the CEQ regulations refer to both significant effects and significant issues, the meaning of significance should not be interpreted differently for issues than for effects: significant issues are those issues that are related to significant or potentially significant effects.

For the purpose of analysis when preparing the EIS in conformance with the NEPA, **an issue**, as defined in BLM’s NEPA Handbook H-1790-1 (January 2008):

- has a cause and effect relationship with the proposed action or alternatives;
- is within the scope of the analysis;
- has not been decided by law, regulation, or previous decision; and
- is amenable to scientific analysis rather than conjecture.

While many concerns were raised during scoping for the proposed land exchange, not all of these concerns constitute issues that warrant analysis in the EIS. Analysis of the issues raised will occur if: (1) it is necessary to make a reasoned choice between alternatives, that is, if it relates to how the proposed action or alternatives respond to the purpose and need; and (2) the issue is significant (as described above), that is, it is associated with a significant direct, indirect, or cumulative impact, or where analysis is necessary to determine significance of impacts. When identifying issues to be analyzed, it is helpful to ask, “Is there disagreement about the best way to use a resource, or resolve an unwanted resource condition or potentially significant effects of the proposed land exchange or alternative?” If the answer is “yes,” it may be of benefit to subject the issue to analysis in the EIS.

Issues identified by the public and the BLM that conform to the definition of an issue or meet the analysis “criteria” as described above are presented below. In some instances, requests were made for clarification of the purpose and need for the proposed land exchange, or for an explanation of how the proposed land exchange conforms to the BLM’s land use plan. While such requests do not lend themselves to an analysis of environmental impacts, they are integral to preparation of an EIS; hence, they are identified as “issues” in the next section.

ISSUE SUMMARY

Summary of Public Comments

During the public comment period that occurred in 2010 for environmental assessment no. CA-060-0010-0005, which addressed environmental effects of the proposed land exchange between the BLM and the Tribe, the BLM received comments from 144 individuals, ten non-governmental organizations, and three governmental entities. During public scoping in 2012 in advance of preparing an EIS for the proposed land exchange, the BLM received comments from 62 individuals, seven of whom represented non-governmental organizations and two who represented governmental entities. Twenty-six of these individuals had previously provided comments on the EA (see appendix 2).

Consistent with the definition of an issue with respect to significance, as described above in the context of preparing an EIS in conformance with the NEPA, the following issues were identified from internal agency discussions, comments received from the public in 2010 regarding the EA, and during the public scoping period in 2012. Many comments are combined and summarized to limit the number of issue statements or questions, the intent being to reduce unnecessary complexity of this scoping report while retaining the public’s expressions of concern. While various nuances of issues were identified by the public, their treatment as separate issues would do little, if anything, to enhance environmental analyses in the EIS, which isn’t to say that they will not be addressed. Should certain nuances of the identified issues be overlooked during preparation of the draft EIS but deemed by the public as necessary to adequately evaluate the effects of the proposed action and alternatives on the human environment, the BLM would respond to comments submitted in this regard and modify the final EIS, as appropriate.

Issues are presented below in six subject categories.

1. Purpose and Need for the Proposed Land Exchange

How would the proposed land exchange and alternatives facilitate effective management of federal and Tribal lands through consolidation of lands and a reduction of checkerboard land ownership, particularly with respect to sections 16 and 36, T.4S. R.4E.? Conversely, how would continuation of current management as expressed in a no action alternative adversely affect the management of federal and Tribal lands?

How would the proposed land exchange and alternatives support the resource preservation goals identified in the Indian Canyons Master Plan and enhance implementation of the Tribal Habitat Conservation Plan?

How would the proposed land exchange and alternatives support the conservation of resource values in the project area?

2. Conformance with Statutes, Regulations, Policies, Plans, and Management Strategies

How do the proposed land exchange and alternatives conform to the Federal Land Policy and Management Act of 1976; the Santa Rosa and San Jacinto Mountains National Monument Act of 2000; the Omnibus Public Land Management Act of 2009; Secretarial Order No. 3308 regarding management of the National Landscape Conservation System (November 15, 2010); the BLM's 15-Year Strategy for the National Landscape Conservation System (2010-2025); BLM Manual 6220 regarding management of national monuments, national conservation areas, and similar designations (July 13, 2012); and the BLM-California's five-Year Strategy for National Conservation Lands (2013-2018), particularly with respect to protection of the resource values for which the Monument was designated?

How do the proposed land exchange and alternatives conform to the BLM's California Desert Conservation Area (CDCA) Plan, as amended, particularly with respect to the land tenure exchange and sale criteria described in the CDCA Plan Amendment for the Coachella Valley which establish that land exchanges and sales may be considered if they would, in part, result in a net benefit to conservation areas (which include the Santa Rosa and San Jacinto Mountains National Monument, and the Santa Rosa and San Jacinto Conservation Area established through the Coachella Valley Multiple Species Habitat Conservation Plan), not remove rare species nor their habitat, and not divest of public domain lands in a manner which eliminates a significant public benefit?

How does the Tribe's suspension of consultation with the U.S. Fish and Wildlife Service to acquire a section 10(a) permit under the Endangered Species Act for the Tribal Habitat Conservation Plan affect analyses in the EIS?

How would the disposal of section 36, T.5S. R.4E., within which the BLM determined through its CDCA Plan Amendment for the Coachella Valley that certain public lands were eligible for designation as a national wild and scenic river, conform to the plan amendment and be consistent with statutory requirements to protect the values which comprise the basis for the eligibility determination?

3. Development of Alternatives and Mitigation Measures

Will alternatives be developed that identify mitigation in the form of reserved federal rights or interests for public access to the exchanged lands, as well as variations of properties to be included in the exchange, such as BLM’s retention of sections 16 and 36, T.4S. R.4E.?

Could conditions be incorporated in the title deed such that specific areas in the exchange parcels acquired by the Tribe will not be developed in order to protect Peninsular bighorn sheep and other species?

What are the advantages and disadvantages of ongoing coordinated management of the proposed exchange lands as would occur under the no action alternative?

4. Public Access to Trails

How would the management of lands acquired by the Tribe, pursuant to the Indian Canyons Master Plan and Tribal Habitat Conservation Plan, affect current and future public use and enjoyment of existing trails, acknowledging Tribal sovereignty over the lands it manages and the absence of a regulatory mechanism for public involvement in future decision-making processes.?

How would the trails management plan element of the Coachella Valley Multiple Species Habitat Conservation Plan be affected by the proposed land exchange and alternatives, particularly with respect to the public’s access to trails that comprise the identified trail system, and construction of the proposed Garstin to Thielman perimeter trail and its use by hikers with dogs?

How will the qualitative characteristics of trails affected by the proposed land exchange and alternatives, such as aesthetics, variety, steepness, condition, and ecology that establish a trail’s importance to the public, be addressed in the EIS?

How will the BLM ensure that the inventory of trails affected by the proposed land exchange and alternatives is complete for purposes of environmental analysis, including trails that have not previously been mapped but are currently used?

How would opportunities to hike cross-country and on “social” trails (i.e., trails established by use, not construction) be affected by the proposed land exchange and alternatives?

How would current and future levels of trail use be affected by the proposed land exchange and alternatives?

5. Protection of Threatened and Endangered Species

How would the proposed land exchange and alternatives support recovery of Peninsular bighorn sheep and protect its designated critical habitat, as well as support recovery of the desert tortoise, least Bell’s vireo, and southwestern willow flycatcher, particularly considering foreseeable future management of the exchanged lands?

Upon exchanging lands as proposed or under one of the alternatives, how would Peninsular bighorn sheep and designated critical habitat be affected by recreational trail access, particularly during the lambing and water stress seasons?

How would the effects of climate change be addressed as it relates to the BLM’s responsibility to provide for the recovery of threatened and endangered species?

6. Potential Development of Exchanged Lands

How would the proposed land exchange and alternatives affect potential development on the exchanged parcels, i.e., would the potential for development overall be increased, decreased, or remain the same?

How will potential development of the eastern portion of section 36, T.4S. R.4E., upon acquisition by the Tribe be addressed in the EIS, acknowledging the potential for development of private lands in the adjacent section (section 31, T.4S. R.5E.)?

Acknowledging Tribal sovereignty over lands managed by the Agua Caliente Band of Cahuilla Indians and the absence of a regulatory mechanism for public involvement in future decision-making processes, how will the EIS address potential future changes to the Indian Canyons Master Plan which, in part, establishes a framework for guiding conservation efforts and development, as well as address changes in land use allocations under the Tribal Habitat Conservation Plan that could increase or decrease levels of development and conservation through modification of the development/conservation ratios, particularly in the Mountains & Canyons Conservation Area?

Public Comments Not Construed as Issues

Commonly, the public expressed wants or opinions instead of identifying issues as described above for analysis in the EIS. Many comments submitted to the BLM did not have a cause and effect relationship with the proposed action; were not within the scope of the analysis; have already been decided by law, regulation, or previous decision; and are not amenable to scientific analysis, instead being conjecture. For example, many individuals urged that the BLM withdraw the proposal based on a perceived inequity in value of the proposed land exchange, asserting that the BLM lands identified for exchange far exceed the value of the Tribal lands. This is not an issue subject to analysis in the EIS, rather it is a matter that has already been decided by law and regulation, that is, application of an established land appraisal process must be followed by the BLM. The relative value of the exchange parcels in itself does not result in an impact to the human environment.

Related to the issue of exchange equity, an often expressed request was for the BLM to conduct an appraisal of the subject properties and make it available to the public to ascertain whether the proposed land exchange constitutes a benefit to the public. Again, this is not an issue subject to analysis in the EIS. While it may appear of value to conduct an appraisal and release the information to the public prior to a decision being rendered for the land exchange, approved Appraisal Service Directorate (ASD) appraisals and review reports are official records used by the BLM in setting the price and reaching agreement on realty transactions; they are internal documents that are not subject to public release until the BLM has taken action utilizing the information in the report. The appraisal report and appraisal review, however, must be made available when the notice of decision is issued pursuant to 43 CFR § 2201.7-1(a). The BLM authorized officer in consultation with ASD may release an appraisal and review report earlier on a case-by-case basis, though the earliest time an appraisal would be available for public review would be when the BLM documents the acceptance for agency use. Appraisals or appraisal review reports may contain confidential or proprietary business information and should be

managed in accordance with BLM Manual Section 1273—Vital Records, and Manual Section 1278—External Access to BLM Information. Confidential or proprietary information in an appraisal report would be redacted before releasing the report under the Freedom of Information Act or for public review.

A number of other comments identified aspects of environmental analyses that are required by statute, regulation, and policy, particularly the regulations at 40 CFR Parts 1500-1508 which constitute the Council on Environmental Quality's regulations for implementing the NEPA; the BLM's NEPA Handbook, H-1790-1 (January 2008) which was developed to assist the agency in complying with the CEQ's NEPA regulations; the regulations at 43 CFR Part 2200 which apply to processing land exchange proposals; and the BLM's Land Exchange Handbook H-2200-1 (August 2005) which contains specific instructions for processing land exchange proposals to help ensure that all regulatory standards are adhered to as a part of considering land exchange proposals. Therefore, in the realm of public scoping, statutory, regulatory, and policy requirements do not generally constitute issues that warrant their identification under the summary of issues above.

In some instances, commenters asserted that the BLM, to date, has failed to comply with a variety of applicable regulations as well as provisions of its land exchange handbook, suggesting that the agency should therefore abandon the land exchange process. Certain individuals asserted that BLM's environmental assessment no. CA-060-0010-0005, which was prepared to address the proposed land exchange and released for public review and comment in July 2010, was flawed for a variety of reasons, including the lack of an appraisal regarding fair market value of the exchange parcels. These commenters failed to acknowledge that based on public comments regarding the environmental assessment, in part, the BLM determined it is necessary to prepare an EIS; hence, the environmental assessment process achieved its purpose and will not constitute the basis for BLM's decision on the proposed land exchange.

The NEPA process is intended to help public officials make decisions that are based on understanding environmental consequences and take actions that protect, restore, and enhance the environment. Analysis and disclosure of the effects of a proposed action and alternatives are the underlying NEPA principles that move agencies toward achieving this goal. Whether a particular parcel is worth \$10,000 or \$100,000 is an appraisal issue, not an issue that relates to environmental consequences of the proposed action and alternatives; hence, comments in this regard do not constitute issues to be addressed in the context of preparing an EIS. Rather, they are opinions based on interpretations of regulations and the land exchange handbook to be addressed in a different context.

A number of individuals petitioned for the removal of sections 16 and 36, T.4S. R.4E., from the land exchange proposal, citing the importance of trails in these sections for outdoor recreation and the potential for large-scale development on private lands adjacent to section 36 which could adversely affect recreational opportunities. It was suggested that upon acquisition of sections 16 and 36 by the Tribe, public access to them could be limited or precluded—assumptions were made that the Tribe might close trails that are currently open for public use, require a fee for the use of trails that are currently free, and/or restrict access to certain times of the day or seasons of the year for trails that are currently open with no temporal restrictions. It was also suggested that the eastern half of section 36 could be developed in concert with the adjacent private lands. While it would be inappropriate to remove consideration of these sections from the proposed land exchange altogether—it cannot be reasonably assumed that the public's position is universal in this regard—at least one alternative will be developed that does not include one or both in the

exchange. Issues regarding the effects to recreation and public access emanating from an exchange of these sections, as well as issues pertaining to potential development of section 36, have been included above in the summary of issues.

Finally, some individuals suggested that all Tribal lands within the Santa Rosa and San Jacinto Mountains National Monument be transferred into public ownership or control, all lands be designated as federal wilderness or as a national park, or all lands be used to create an international park. Further, it is suggested that such alternatives be proposed, considered, and fully discussed in the EIS. Such considerations are outside the scope of analysis for the proposed land exchange as they would require enactment of a law or laws by the U.S. Congress. Hence, they do not constitute issues to be addressed in the EIS.

NEXT STEPS FOR PUBLIC INVOLVEMENT

Based on comments submitted to the BLM during the public scoping period and identification of issues as summarized in this report, preparation of a draft EIS will occur in accordance with statutory, regulatory, and policy requirements. The draft EIS will be released for public review and comment, anticipated during the first half of 2014.

It should be noted that during the scoping period in advance of preparing a draft EIS, some individuals commented on the adequacy of environmental assessment no. CA-060-0010-0005 with respect to regulatory compliance with provisions of the NEPA. While these comments were not summarized as issues in this report because they address a document that will not be the basis for the decision-making process, they will be considered during development of the EIS to ensure that public concerns with adequacy of the NEPA document are addressed.

Upon publication of the draft EIS, the public will be afforded an opportunity to determine whether the issues they raised during the public scoping period were addressed; whether the draft EIS complies with applicable statutes, regulations and policies; and whether the proposed land exchange conforms to applicable land use plans. The final EIS will reflect comments submitted on the draft EIS, as appropriate. Upon issuance of the final EIS, including the various reports required to support a land exchange, and the proposed record of decision, the public has another opportunity to determine whether the agency has complied with regulatory processes in reaching its decision, and if the public interest has been properly considered and protected in evaluating the proposed land exchange. Should the public believe that the agency has failed in this regard, the proposed decision may be administratively challenged, i.e., it may be protested. Instructions for filing protests will be provided with the proposed decision.

SCOPING REPORT APPENDIX 1 **BACKGROUND**

This section of the scoping report provides context to assist the public in understanding the basis of the proposed land exchange between the BLM and the Tribe, including statutory provisions, planning guidance, and relevant agreements, which are identified in chronological order.

1876-1877: Establishment of the Agua Caliente Indian Reservation

The Agua Caliente Indian Reservation (Reservation) was established by Executive Orders in 1876 and 1877. On May 15, 1876, President Ulysses S. Grant withdrew from sale and set apart the following lands as the Reservation: section 14 (all), the east half of the southeast quarter of section 22, and the northeast quarter of section 22, T.4S., R.4E., San Bernardino Meridian. On September 29, 1877, President Rutherford B. Hayes expanded the Reservation by withdrawing from sale and settlement and setting apart the following lands: all even-numbered sections in, and all unsurveyed portions of, T.4S., R.4E.; T.4S., R.5E.; and T.5S., R.4E, except for sections 16 and 36 and any tract or tracts the title to which have passed out of the United States Government.

Some of the lands withdrawn for the Reservation were subsequently conveyed in a series of trust patents and in some cases Indian fee patents. One section was withdrawn, conveyed in an Indian fee patent, and later purchased by BLM with Land and Water Conservation Fund appropriations (section 32, T.5S. R.4E.).

1976: Federal Land Policy and Management Act of 1976, as amended

The Federal Land Policy and Management Act of 1976 (Public Law 94-579, 43 U.S.C. 1701 et seq.) constitutes the BLM's "organic act," thereby establishing the manner in which the public lands are to be managed, to include protecting the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.

Section 206 of FLPMA provides that a tract of public land or interests therein may be disposed of by exchange where the Secretary of the Interior determines that the public interest will be well served by making that exchange, provided that when considering the public interest the Secretary shall give full consideration to better federal land management and the needs of state and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife, and the Secretary finds that the values and the objectives which federal lands or interests to be conveyed may serve if retained in federal ownership are not more than the values of the nonfederal lands or interests and the public objectives they could serve if acquired.

Section 601 of FLPMA established the California Desert Conservation Area (CDCA) and required the Secretary of the Interior to prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of the public lands within the CDCA.

1980: California Desert Conservation Area Plan, as amended

The California Desert Conservation Area Plan was approved in 1980, and has been regularly amended. The plan, where it addresses land tenure adjustments, declares that intermingled land ownership patterns in much of the CDCA make management difficult for BLM and other federal agencies, as well as state and local agencies, Indian reservations, and private landowners. Selected land exchanges will be required to improve the opportunities for use or protection of all lands in the desert, and to promote effective management of public lands administered by the BLM.

The plan further states that land exchanges, acquisitions, and disposals are necessary for effective and efficient land management in the CDCA. Private or state-owned parcels within areas designated in the plan that are sensitive or unique will require acquisition through exchange or purchases, unless the management of those resources is assured by another appropriate agency or entity. Additionally, BLM-managed land mixed in with mostly private land is difficult to manage due to access problems, lack of identified boundaries, and cost efficiency. These isolated and scattered parcels (where they do not contain legally protected species of plants or animals and cultural artifacts or affect Native American cultural values) will eventually be disposed.

The CDCA Plan Amendment for the Coachella Valley (2002) established specific criteria to be applied in evaluating the suitability of land exchanges and sales (see below).

1999: Cooperative Agreement between Bureau of Land Management and Agua Caliente Band of Cahuilla Indians

On October 13, 1999, a cooperative agreement was entered into between the U.S. Department of the Interior-Bureau of Land Management and the Agua Caliente Band of Cahuilla Indians to coordinate and cooperate in management of federal lands within and outside the external boundaries of the Agua Caliente Indian Reservation where it occurs within the proposed Santa Rosa and San Jacinto Mountains National Monument. This relationship provides for more consistent, effective, and collaborative management of these lands.

This agreement provided the foundation for entering into a memorandum of understanding (MOU) between the BLM and the Tribe addressing the opportunity for the Tribe to acquire federal lands pursuant to the authorities provided under section 206 of the Federal Land Policy and Management Act of 1976, as amended. The BLM and the Tribe agreed to meet at least annually to identify specific resource management, land tenure adjustment, and joint management goals to include implementation of a memorandum of understanding for acquisition and exchange of lands within the proposed national monument.

1999: Memorandum of Understanding between Bureau of Land Management and Agua Caliente Band of Cahuilla Indians for Acquisition and Exchange of Lands within the Proposed Santa Rosa and San Jacinto Mountains National Monument

On October 13, 1999, a memorandum of understanding was entered into between the BLM and the Tribe to clarify the government-to-government relationship that exists with respect to BLM lands that are within both the Reservation and the proposed national monument, and establish a framework for cooperation concerning acquisition and exchange of non-trust Tribal lands. Specifically, the BLM and the Tribe agreed to jointly identify opportunities to exchange BLM-administered public land parcels and non-trust Tribal land parcels.

2000: Establishment of the Santa Rosa and San Jacinto Mountains National Monument

On October 24, 2000, the Santa Rosa and San Jacinto Mountains National Monument was established by Public Law 106-351 (16 U.S.C. 431 note). Section 4(c) of the designating legislation provided that the Secretary of the Interior and the Secretary of Agriculture, consistent with the management plan to be prepared for the Monument and existing authorities, may enter into cooperative agreements and shared management arrangements with any person, including the Agua Caliente Band of Cahuilla Indians, for the purposes of management, interpretation, and research and education regarding resources of the Monument. Section 6(e) of the designating legislation, in order to support the cooperative management agreement in effect with the Agua Caliente Band of Cahuilla Indians, provided that the Secretary of the Interior may, without further authorization by law, exchange lands which the BLM has acquired using funds provided under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.), with the Agua Caliente Band of Cahuilla Indians. Further, any such land exchange may include the exchange of federally owned property within or outside the Monument boundaries for property owned by the Tribe within or outside the Monument boundaries.

Section 4 of the statute required the Secretary of the Interior and the Secretary of Agriculture to complete a management plan for the conservation and protection of the Monument consistent with the statute, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), and other applicable provisions of law.

2001: Feasibility Report, Exchange of Lands within the Santa Rosa and San Jacinto Mountains National Monument with the Agua Caliente Band of Cahuilla Indians

On July 24, 2001, the BLM completed a feasibility report for the proposed land exchange, citing the Tribe's desire to acquire public lands which are intermixed with lands in the Reservation. The selected federal lands were identified as being within the Monument and intermixed with lands of the Reservation. Valid existing rights (none) and rights-of-way (three) on the federal lands were addressed. The report cited the Tribe's offer to purchase and transfer to the U.S. private lands within the Monument, and identified the areas of highest priority in which these lands would be purchased. The BLM concluded that the exchange would assure more efficient management of the public lands, provide consistency in desert-wide land use patterns, protect resource values consistent with the purposes for which the Monument was established, and result in long-term public benefits of consolidation of ownership by facilitating greater accessibility to the public lands and reducing the potential for development incompatible with public land management objectives.

A supplement to the feasibility report was approved by the BLM on September 25, 2001. It established the need for a multiple-transaction assembled land exchange, anticipating at least three exchange transactions in order to transfer all of the federal lands to the Tribe. Since the value of each transaction was unknown at the time, a desire to have the flexibility of a ledger account to carry forward any imbalances in value was expressed. The supplement reiterated that the proposed exchange is clearly in the public interest because it would consolidate federal ownership of lands in the Monument, thereby allowing the BLM to better manage the federal lands to protect habitat for the endangered Peninsular bighorn sheep and enhance recreational

opportunities. It acknowledged the Tribe having agreed to manage the federal lands it receives to preserve their biological, cultural, recreational, and scientific values.

2002: Indian Canyons Master Plan

In January 2002, the Agua Caliente Band of Cahuilla Indians adopted the original Indian Canyons Master Plan as the land use master plan for all lands within the Indian Canyons Heritage Park and all surrounding allotted trust and fee properties within the Tribe's land use jurisdiction. It outlines the Tribe's goals and objectives for the Indian Canyons and establishes a framework for guiding future land acquisitions, natural and cultural resource conservation efforts, recreation improvements, and development within the Indian Canyons planning area. A comprehensive update of the master plan was adopted by the Tribe on March 25, 2008. The current 2008 master plan provides for lower development densities and allows less recreational development than envisioned in the 2002 plan.

The boundaries of the Indian Canyons Master Plan planning area include all of Township 5 South, Range 4 East. When determining the boundaries of the planning area, two key objectives were considered: (1) prevent the introduction of incompatible land uses within the prime resource area of the Indian Canyons Heritage Park, and (2) protect the valuable natural, cultural, and scenic resources. Specifically, the master plan recommends that key properties be acquired to prevent potential incompatible development which would compromise the land's natural integrity and degrade cultural resources.

With respect to trails, the master plan acknowledges that an extensive trail system currently exists in the Indian Canyons and surrounding areas, and indicates that future proposals for new trails providing connectivity to adjacent public lands should consider management prescriptions established for those lands through the trails management plan for the Santa Rosa and San Jacinto Mountains, an element of the Coachella Valley Multiple Species Habitat Conservation Plan.

2002: Agreement to Initiate a Land Exchange

On August 9, 2002, the BLM and the Tribe entered into an agreement to initiate and complete an assembled land exchange pursuant to the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 (16 U.S.C. 431) and the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 et seq.). The agreement outlined responsibilities of the BLM and the Tribe, and addressed other matters such as hazardous substances, physical access/right to enter, compensation for assumption of costs, parameters of the assembled land exchange, closing individual escrows, time frame for the first transaction, ability to amend the agreement, and the non-binding nature of the agreement. It also identified specific federal lands proposed for exchange and estimated values of the lands that were expected to be transferred to the Tribe in the first transaction, as well as nonfederal lands expected to be transferred to the BLM in the first transaction upon acquisition by the Tribe—legal title had not been obtained to these lands as of the date of the agreement.

On June 23, 2003, a supplement to the agreement to initiate an assembled land exchange was approved by the BLM and the Tribe. The supplement was necessary as the Tribe had acquired legal title to the offered lands described in the August 9, 2002 agreement, and the BLM and the Tribe wished to update the schedule of tasks for completing the first exchange transaction, including each party's respective responsibilities and costs. It identified specific lands expected to be transferred in the first transaction in order to narrow the scope of work for required documents,

such as land appraisals, and reports addressing mineral potential, cultural resources, and biological values. The supplement included the revised processing schedule, responsibilities of the BLM and the Tribe, and estimated costs. It also estimated values of federal and Tribal lands anticipated to be transferred in the first transaction:

- Federal lands in T.4S. R.4E. (excepting sections 16 and 36 which were not proposed for inclusion in the first transaction) have a total estimated value of \$70,000.
- Federal lands in T.5S. R.4E. (excepting section 36 which could be included in the first transaction if necessary to equalize values) have a total estimated value of \$1,344,000.
- Total estimated value of the parcels identified above is \$1,414,000.
- Nonfederal lands purchased by the Tribe in T.5S. R.5E. have a total estimated value of \$1,360,000.
- Federal lands in T.5S. R.4E. (section 36) which could be included in the first transaction if necessary to equalize values have a total estimated value of \$224,000.
- If the estimated values for lands in T.4S. R.4E. (excepting sections 16 and 36) and T.5S. R.4E. (excepting section 36) accurately reflect current market values, section 36 (T.5S. R.4E.) would not be included in the first transaction to equalize values since the total value of the selected federal lands (see the first two bullets above) exceeds the total value of the offered nonfederal lands (see fourth bullet above).

(Estimated values were based on the most recent appraisal information, but may not reflect current market value for exchange purposes.)

2002: California Desert Conservation Area Plan Amendment for the Coachella Valley

On December 27, 2002, the BLM approved the California Desert Conservation Area Plan Amendment for the Coachella Valley which (1) provides for multiple use and sustainable development of the public lands while making progress towards healthy, properly functioning ecosystems; (2) provides for the recovery of federal and state listed species; (3) manages sensitive species to avoid future listing; (4) provides recreational opportunities on public lands; (5) makes available mineral and energy resources on public lands; and (6) facilitates land management consistency, management effectiveness, and cost efficiency across jurisdictional boundaries through collaboration with local governments of the Coachella Valley, State and other federal agencies, Indian tribes, and private entities.

Section 2.4.9 of the plan amendment establishes criteria to be applied in evaluating the suitability of land exchanges and sales. Land exchanges and sales may be considered if they would:

- facilitate effective and efficient management of conservation areas—the term “conservation areas” refers to areas with a special designation in order to protect biological resources, such as areas of critical environmental concern, wildlife habitat management areas, wilderness areas, the Santa Rosa and San Jacinto Mountains National Monument, and conservation areas established through the Coachella Valley Multiple Species Habitat Conservation Plan;
- be conducted in coordination with the local jurisdictions;
- would result in a net benefit to the conservation areas or divert intensive uses away from sensitive areas;
- not remove rare species nor their habitat, nor remove rare habitat types from conservation management;

- not remove eligible historic properties from conservation management; and
- not divest of public domain lands in a manner which eliminates a significant public benefit.

2004: Santa Rosa and San Jacinto Mountains National Monument Management Plan

The Santa Rosa and San Jacinto Mountains National Monument Management Plan was approved on February 5, 2004. It provides management guidance and identifies land use decisions to be implemented for the management of public lands in the Monument, including amendments to the CDCA Plan for specific program areas. One decision amending the BLM's CDCA Plan pertains to a land acquisition strategy. The following criteria were adopted to supplement existing BLM and Forest Service acquisition policies:

- Strategic significance. Agencies may have different priorities based on their specific missions. Among factors that may be significant to one agency or another are biological resource values such as lambing habitats or water sources for bighorn sheep, right-of-way needs for trails, or other access purposes, geological values, and cultural resource values. The Coachella Valley Multiple Species Habitat Conservation Plan identifies the areas with high biological value and delineates trails alignments.
- Threat level. Areas within the Monument where there is a threat of development or a potential for a land use conflict are of high priority.
- Opportunity. Lands sometimes become available for acquisition through a tax sale agreement with the county tax collector. Other lands may be offered as a donation or sale at below market value if the owner wishes to seek tax credits or tax deductions. Such opportunities enable acquisitions to be made at relatively little cost.
- Funding availability. Various agencies have access to a number of funding sources that typically have restrictions as to where or for what purposes the funds can be used.

The Monument's management plan indicated that the proposed land exchange would provide the BLM and the Tribe with more logical and consistent land management responsibility in the Monument, and identified the following federal lands for transfer to the Tribe:

- T.4S. R.4E.
 - section 16 (all)
 - section 17, W1/2NW1/4NE1/4, W1/2E1/2NW1/4NE1/4
 - section 18, W1/2NE1/4, N1/2NE1/4SW1/4, S1/2 of Lot 1, N1/2 of lot 2
 - section 36, lots 1-4, W1/2NE1/4, W1/2SE1/4, E1/2SW1/4, SE1/4NW1/4, N1/2SW1/4SW1/4, E1/2NW1/4SW1/4, SW1/4NW1/4SW1/4, S1/2NW1/4NW1/4SW1/4
- T.5S. R.4E.
 - sections 5, 16, 21, 27, 29, 32, and 36 (all)

In exchange, the following Tribal lands would be transferred to the BLM:

- T.5S. R.5E.
 - sections 7 and 19 (all)
 - section 20, W1/2W1/2

The plan indicated that depending on appraised values, additional lands may be identified for transfer to the BLM.

2008: Coachella Valley Multiple Species Habitat Conservation Plan

On October 1, 2008, with issuance of permits by the U.S. Fish and Wildlife Service and the California Department of Fish and Game (now California Department of Fish and Wildlife), the Coachella Valley Multiple Species Habitat Conservation Plan, which was prepared by the Coachella Valley Association of Governments, became operational. The plan provides a regional vision for balanced growth to meet the requirements of federal and state endangered species laws, while promoting enhanced opportunities for recreation, tourism, and job growth. The plan established 21 conservation areas, which comprise six reserve management units; reserve management unit number 6 consists solely of the Santa Rosa and San Jacinto Mountains Conservation Area, which is completely contained within the Santa Rosa and San Jacinto Mountains National Monument. The habitat conservation plan also required that reserve management unit plans be prepared for each reserve management unit to define specific management actions, schedules, and responsibilities.

The habitat conservation plan includes a multi-jurisdictional trails management plan for the Santa Rosa and San Jacinto Mountains. Although the BLM is not subject to commitments made through the habitat conservation plan, the agency: (1) prepared the California Desert Conservation Area Plan Amendment for the Coachella Valley (2002) in tandem with the habitat conservation plan in order to provide the framework for those implementation actions which will support the landscape-level approach to conservation and provide for community needs; (2) participated as a cooperator in development of the trails management plan element of the habitat conservation plan; and (3) may utilize the environmental impact report/environmental impact statement prepared for the habitat conservation plan as the basis for its activity-level decision for the management of trails in the Santa Rosa and San Jacinto Mountains. As of 2013, the BLM has not issued its decision for the federal lands component of the trails management plan, which includes trails on lands identified for exchange with the Tribe. Nevertheless, the trails management plan is in the process of being revised.

2009: Tribal Land Use Ordinance

On July 14, 2009, the Agua Caliente Band of Cahuilla Indians adopted its Tribal Land Use Ordinance, which is applicable to all development, public and private, within areas of the Agua Caliente Indian Reservation not covered under a land use agreement between the Tribe and a local jurisdiction. It was adopted to promote the public health, safety, and general welfare of residents and visitors to the Agua Caliente Indian Reservation. The land use ordinance establishes minimum requirements for the issuance of any permit, certificate, or development approval within the Reservation.

2009: Management Agreement between Agua Caliente Band of Cahuilla Indians and Bureau of Land Management for Management of Exchange Lands

On November 11, 2009, the Tribe and the BLM entered into an agreement to address management of the exchange lands contained within sections 16 and 36, T.4S. R.4E., proposed for transfer to the Tribe by the BLM. The Tribe agreed to manage the exchange lands as part of the existing Tribal reserves established pursuant to section 3(c) of the Act of September 3, 1959 (73 Stat 603), and in accordance with the resource preservation goals of the Indian Canyons

Master Plan (ICMP) and the habitat preservation requirements of the Tribal Habitat Conservation Plan (THCP). The Tribe agreed that sections 16 and 36 would remain accessible and subject to the reasonable use and enjoyment by the general public. Any rules and regulations adopted by the Tribe regarding the public's use and enjoyment of the exchange lands shall conform to and be consistent with the policies and guidelines of the ICMP and the THCP, and with similar measures now in effect regarding Tribal reserves. Concessions in or upon the exchange lands may be granted by the Tribe if they are consistent with provisions of the ICMP and the THCP, but shall not be granted if they would exploit these lands or resources for commercial purposes.

2010: Environmental Assessment CA-060-0010-0005

On July 27, 2010, the BLM released environmental assessment no. CA-060-0010-0005—which addressed environmental effects of the proposed land exchange between the BLM and the Tribe—for public review and comment. The initial deadline for submitting comments was September 15, 2010; it was subsequently extended on two occasions, ultimately closing on November 19, 2010.

Comments were received from 144 individuals, ten organizations, and three governmental entities. Based on public comments and upon further internal review, it was determined that preparation of an environmental impact statement is necessary to address potentially significant effects of the proposed land exchange. The BLM's evaluation of potential significance of the effects was consistent with the regulations at Title 40 Code of Federal Regulations (CFR) § 1508.27 (also see *Description of the Scoping Process* above regarding “significantly” as used in the NEPA). In reaching the determination to prepare an EIS, consideration was given to location of the proposed action within the Santa Rosa and San Jacinto Mountains National Monument, its proximity to the Palm Canyon Creek National Wild and Scenic River, the inclusion of designated critical habitat for the endangered population of bighorn sheep occupying the Peninsular Ranges of California, the absence of a regulatory mechanism for public participation in future decision-making processes affecting lands transferred to the Tribe, and the high level of controversy stimulated by the proposal.

2010: Tribal Habitat Conservation Plan

On November 2, 2010, the Agua Caliente Band of Cahuilla Indians approved its Tribal Habitat Conservation Plan to provide the means for protecting and contributing to the conservation of wildlife species federally listed as threatened or endangered, and species deemed by the Tribe and U.S. Fish and Wildlife Service to be sensitive and potentially listed in the future. The plan provides mechanisms to permit and guide development, serves as an adaptive management tool for updating and/or revising baseline biological resource information and management conservation goals and priorities, and complements other existing and planned conservation efforts in the region.

The THCP divides the Agua Caliente Indian Reservation into two distinct areas: the Valley Floor Planning Area and the Mountains & Canyons Conservation Area. In the Valley Floor Planning Area, the goal is to conserve 1,455 acres with one acre being conserved for every four acres of development; additional restrictions would be imposed near the base of the mountains to protect Peninsular bighorn sheep. In the Mountains & Canyons Conservation Area, the goal is to conserve 17,403 acres with 5.67 acres being conserved for every one acre of development; 85% of this conservation area would be conserved, thereby allowing 15% of development in the mountains, though no net loss of riparian areas and palm groves would be allowed. The plan

avoids impacts to Peninsular bighorn sheep lambing and use areas, with 100% conservation of identified lambing areas; maintains a bighorn sheep movement corridor between the San Jacinto Mountains and Northern Santa Rosa Mountains; and establishes a 1/4-mile buffer around water sources.

2010: Secretarial Order No. 3308: Management of the National Landscape Conservation System

On November 15, 2010, the Secretary of the Interior issued order no. 3308 to further the purposes of the Omnibus Public Land Management Act of 2009, which established the National Landscape Conservation System (NLCS) under the jurisdiction of the BLM in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations, and the President's initiative on America's Great Outdoors.

Key elements of the order relative to the proposed land exchange between the BLM and the Tribe are as follows:

- The NLCS components shall be managed as an integral part of the larger landscape, in collaboration with the neighboring land owners and surrounding communities, to maintain biodiversity, and promote ecological connectivity and resilience in the face of climate change.
- Components of the NLCS shall be managed to offer visitors the adventure of experiencing natural, cultural, and historic landscapes through self-directed discovery.
- The NLCS shall serve as a place to build and sustain diverse communities of partners and volunteers dedicated to conserving, protecting, restoring, and interpreting our natural and cultural heritage.
- The NLCS shall recognize the importance of a diversity of viewpoints when considering management options. Accordingly, the NLCS shall be managed from an interdisciplinary perspective. In so doing, the NLCS shall draw upon the expertise of specialists throughout the BLM, in coordination with the tribes, other federal, state, and local government agencies, interested landowners, adjacent communities, and other public and private interests.

2011: The National Landscape Conservation System: 15-Year Strategy 2010-2025

On October 13, 2011, the BLM released a 15-year strategy to guide National Landscape Conservation System (NLCS) land management efforts in coming years. The new NLCS strategy supports the BLM's multiple-use mission by ensuring that NLCS management will focus on conservation, while still allowing for other compatible uses, consistent with the designating legislation or presidential proclamation. In addition to conservation, the strategy emphasizes continued collaboration, public involvement, and youth engagement. The Santa Rosa and San Jacinto Mountains National Monument is a unit of the NLCS.

Among the four themes identified in the strategy, the first and second themes are particularly relevant to the proposed land exchange between the BLM and the Tribe: *Ensuring the Conservation, Protection, and Restoration of NLCS Values*, and *Collaboratively Managing the NLCS as Part of the Larger Landscape*. Since the NLCS represents a small portion of the land managed by the BLM and other federal, state, tribal, and local government entities, these special conservation areas must be managed within the context of the larger landscape. By establishing connections across boundaries with other jurisdictions, management of NLCS areas will

complement conservation areas within the respective jurisdictions. Taking a collaborative landscape approach to NLCS management provides better opportunities to promote healthy landscapes and contribute to the local economy and social fabric of the community.

Goals identified under the first theme of the strategy include:

- Clearly communicate that the conservation, protection, and restoration of NLCS values is the highest priority in NLCS planning and management, consistent with the designating legislation or presidential proclamation.
- Limit discretionary uses to those compatible with the conservation, protection, and restoration of the values for which NLCS lands were designated.
- Provide for public access and opportunities.

Goals identified under the second theme of the strategy include:

- Maintain or increase habitat connectivity with other important habitat areas to provide for sustainable populations of native species.
- Manage cultural resources within the context of the cultural landscape and adjoining lands to provide the greatest conservation benefit.
- Engage tribal, local, state, and other federal government agencies and members of the public at the earliest opportunity possible in NLCS planning, management, and resource and geospatial data sharing.
- Work with partners and communities to understand the effects of NLCS management and planning on adjacent lands, including social, economic, and ecological impacts.
- Give higher priority to land acquisitions that enhance ecological connectivity and protect nationally significant landscapes that have outstanding cultural, ecological, and scientific values.

2012: Reserve Management Unit Plan, Santa Rosa and San Jacinto Mountains Conservation Area

As described above, the Coachella Valley Multiple Species Habitat Conservation Plan established 21 conservation areas, which comprise six reserve management units; reserve management unit number 6 consists solely of the Santa Rosa and San Jacinto Mountains Conservation Area, which is completely contained within the Santa Rosa and San Jacinto Mountains National Monument. The habitat conservation plan also required that reserve management unit plans be prepared for each reserve management unit to define specific management actions, schedules, and responsibilities.

The reserve management unit plan for the Santa Rosa and San Jacinto Mountains Conservation Area was approved in January 2012 by the Coachella Valley Conservation Commission, a joint powers authority established to implement the habitat conservation plan. The reserve management unit plan acknowledges that public access is covered extensively in section 7 of the habitat conservation plan and should be referred to for specific management and planning decisions as they relate to trails (see www.cvmshcp.org).

2012: BLM-California’s Five-Year Strategy for National Conservation Lands, 2013-1018

BLM-California’s five-year strategy tiers, or steps down, from the national 15-year management strategy. Actions to implement BLM-wide actions listed in the national strategy, as well as California-specific actions based on the national framework, are identified. BLM-California’s five-year strategy advances the four main themes and priority goals developed in the national strategy.

2012: BLM Manual 6220 – Management of National Monuments, National Conservation Areas, and Similar Designations

On July 13, 2012, the BLM approved Manual 6220 to provide line managers and program staff professionals with general policies for the administration and management of national monuments, national conservation areas (NCA), and similar designations that are components of the BLM’s National Landscape Conservation System (NLCS) pursuant to the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7202), section 2002(b)(2)(E). The Santa Rosa and San Jacinto Mountains National Monument is a unit of the NLCS and, therefore, subject to the policies established in manual 6220. Included among the numerous policies identified in the manual, the BLM, when establishing priorities for acquisition of lands and other interests within or adjacent to monument and NCA boundaries, will emphasize lands that would enhance the objects and values for which the NLCS unit was designated and lands with significant at-risk resources. Further, the BLM will strive to retain ownership of public land within monuments and NCAs unless otherwise provided for in law (section 1.6H(1) and (2))

In addition, monuments and NCAs will be available for a variety of recreation opportunities, consistent with the purposes for which each area was designated. Where recreation values are identified in the designating legislation or proclamation, these values will be conserved, protected, and restored pursuant to the establishing authority.

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SCOPING REPORT APPENDIX 2
SCOPING PARTICIPANTS

This appendix identifies individuals, organizations, and governmental entities that submitted written comments on environmental assessment no. CA-060-0010-0005, which addressed the proposed land exchange between the BLM and the Tribe; this EA was released for public review and comment on July 27, 2010. It also identifies individuals, organizations, and governmental entities that submitted oral and/or written comments during the public scoping period in advance of preparing the environmental impact statement. Oral comments were provided at the March 22 and/or March 27, 2012 public scoping meetings. Personal contact information is not provided.

[Note: If an individual did not include his/her name or the name is illegible, he/she is identified as “unknown.” Where a name is somewhat legible, an attempt is made to spell it, though it may be inaccurate. If the individual’s city of residence or organizational address is not identified, the entry in the “city” column is left blank; all cities are in California unless otherwise identified. Organization names are provided where individual indicates he/she represents the organization. If an individual indicates he/she is a member of an organization only, the organization’s name is not shown. An asterisk identifies individuals who submitted comments on EA no. CA-060-0010-0005 *and* during the public scoping period.]

Table 1: Individuals submitting comments on EA No. CA-060-0010-0005

Name	Organization	City	Letter	Email
Alwood, David				X
Anderson, Christy*		Indian Wells	X	
Aniello, Peter*		Redlands		X
Arredondo, Jonathan		Desert Hot Springs	X	
Baker, Dixie		Palm Springs	X	
Baker, Duane*		Palm Springs	X	
Ballen, Brad		Sky Valley	X	
Barlow, Mary	Desert Trails Hiking Club			X
Barsman, Rachel	Sierra Club	San Diego		X
Belenky, Lisa*	Ctr for Biological Diversity	San Francisco	X	X
Beltran, Ceila			X	
Benoit, John	County of Riverside, 4 th Dist	Palm Desert	X	
Beyar, Michael		Palm Desert	X	
Blackmore, Norma		Palm Desert	X	
Blaeloch, Janine	Western Lands Project	Seattle, WA	X	
Boggs, Russell			X	X
Boyd, Florian		Palm Springs	X	
Bradford, Donald*		Palm Springs		X
Brady, Thomas		Rancho Mirage	X	
Braun, Bill		Palm Springs	X	
Braun, Ingrid*		Palm Springs	X	
Burnsted, Robert		Rancho Mirage	X	
Burt, Charles		Palm Springs	X	
Buswell, Justin				X
Carlson, ---		Palm Desert	X	
Castro, Miguel				X

Name	Organization	City	Letter	Email
Challis, Ian		Palm Springs	X	
Chappell, Alishia		Cathedral City	X	
Clark, Thomas		Cathedral City	X	
Coleman, Ellen		Riverside	X	
Connelly, Scott*		Palm Springs	X	X
Conrad, Tracy*	Smoke Tree Ranch	Palm Springs		X
Courtney, Barbara				X
Crites, Buford		Palm Desert	X	
Crocker, Mark		Palm Springs	X	
Crumley, Roger		Santa Ana	X	
D’Alessio, Italo		San Diego		X
Datta, Kaustuv				X
Day, Janie		Cathedral City	X	
Dempsey, Alfred		Palm Desert	X	
Dent, David		Portland, OR	X	
Dent, Marilyn		Portland, OR	X	
Dumas, Roger		Rancho Cucamonga	X	X
Dynes, Ryan		Oceanside		X
Evans, Douglas	Desert Riders Trail Fund	Palm Springs	X	
Ewing, Craig	City of Palm Springs	Palm Springs	X	X
Fausset, Steve		La Mesa		X
Ferranti, Philip				X
Flavin, Robert		Palm Springs	X	
Fletcher, Sharon	Desert Bicycle Club	Palm Desert	X	
Foley, Thomas		Palm Desert	X	
Ford, Tracey			X	
Forster, Gary*		Palm Springs	X	
Frey, Charles		Rescue		X
Frick, Michael			X	
Kees, Karen		Poway		X
Ganly, Win		Palm Desert	X	
Gardner, Grady	San Diego Mtn. Biking Assoc			X
Genett, Donna*		Palm Springs	X	
Gerber, Lance		La Quinta	X	
Goodman, Don				X
Gorretta, Carl		Rancho Mirage		X
Green, Bill				X
Hague, Bob*		Cathedral City	X	
Hague, Diana*		Cathedral City	X	
Hall, Gregory		San Marcos	X	X
Harman, Nan		La Quinta	X	
Harman, Reed		La Quinta	X	
Harris, David		Upland	X	
Henderson, Peta		Palm Springs	X	
Hernandez, Celia			X	
Hollinger, Taina		Palm Springs	X	
Holstad, Darold		Desert Hot Springs	X	X

Name	Organization	City	Letter	Email
Horvath, Greg		La Jolla		X
Irish-Re, Christine		Colton	X	
Jarvinen, Rich		Indio	X	X
Johnson, Daniel		Palm Springs	X	
Koenig, Sheila*		Cathedral City		X
Lacote, Jerome		San Diego		X
Lahtinen, Lee		Rancho Mirage	X	
Lantz, Ben		Mountain Center	X	
Larson, Eric		Palm Springs	X	
Larson, Patricia		Palm Springs	X	X
Latus, Mary		Palm Springs	X	
Lewis, Cutler*		Palm Springs	X	
Liguori, Robin				X
Lockwood, Steven		Palm Springs		X
Luansing-Aguilar, Tara		San Diego	X	X
Lueders, Gary*	Desert Trails Coalition	Rancho Mirage	X	
Mack, Mary Bono	45 th Congressional District	California	X	
Martin, Joan*		Palm Springs	X	
Matthews, Heidi		Bend, OR	X	X
McNellis, Carla				X
Meerloo, Timo		San Diego		X
Meyer, Michael		Palm Desert	X	
Migliore, Joseph		Cathedral City	X	
Mikuteit, Rob		San Diego		X
Miller, John		Palm Desert	X	
Mills, Mike		Palm Desert	X	
Morgan, Jeff*		Rancho Mirage	X	
Morley, Sally		Temecula		X
Myers, Christine		Rancho Mirage		X
Neal, Kevin				X
Nisbet, Charles*	Coachella Vlly Hiking Club	Palm Springs	X	
Nisbet, Charles*	Desert Trails Coalition	Palm Springs	X	
Nixon, Brian		San Diego		X
Owen, Mike		Palm Springs	X	
Palka, John		La Mesa		X
Peregrin, Kathy*		Palm Desert	X	
Peregrin, Richard		Palm Desert	X	X
Pollock, Frank		Palm Springs	X	
Pougnnet, Stephen*	City of Palm Springs	Palm Springs	X	
Price, Contessa		La Quinta	X	
Quill, Dori		La Quinta	X	
Raab, Robert		San Diego		X
Reynolds, Dan		Cathedral City	X	
Riddell, John			X	
Rieder, Don		Canada	X	
Rieder, Dot		Canada	X	
Riley, Esther		Indio	X	

Name	Organization	City	Letter	Email
Roos, David		Palm Springs	X	
Rossler, David		Cathedral City	X	
Rother, John*		La Quinta	X	
Schlecht, James	Smoke Tree Ranch	Palm Springs	X	
Schmedt, Christian		San Diego		X
Scott, Scott		Palm Springs		X
Selzer, Kay		Palm Springs	X	
Selzer, Paul		Palm Springs	X	
Settle, Mary		La Quinta	X	
Shands, Bond		Palm Springs	X	X
Silvers, Dan*				X
Sledzinski, Ted		San Diego		X
Slerysut, John		Palm Springs	X	
Smolik, Mike				X
Snyder, Shawn		Palm Springs	X	
Sollberger, Evan		San Diego	X	X
Solomon, Abby		Palm Springs	X	
Stadelmann, Mirjam		Yucaipa	X	
Stern, Eileen*		Palm Springs	X	X
Stock-Brady, Heide		Rancho Mirage	X	
Taff, Roger		Palm Springs	X	
Taylor, Joan*	Sierra Club	Palm Springs	X	
Tee, David		Banning	X	
Thomas, Cecil			X	
Tirpak, Frank		San Diego		X
Tjader, Richars		Barrington, RI		X
Toas, Sam				X
Tsutsui, Kim				X
Unknown		Cathedral City	X	
Unknown		Palm Springs		X
Valvo, Mario		Rancho Mirage	X	
Virgiel, Katharine		Palm Springs	X	
Walling, Michael				X
Wang, Haiyin				X
Wascher, Peter*		Palm Springs	X	
Wattenbarger, Jeff				X
Williams, Cynthia*		Cathedral City	X	
Willinger, Ellen		Palm Springs	X	
Winbigler, Randy		Cathedral City	X	
Van Zandt, Elizabeth		Indio	X	X
Zien, Richard		Palm Springs	X	

Table 2: Individuals submitting comments during public scoping period

Name	Organization	City	Letter	Email	Oral
Alm, Erik					
Anderson, Christy*		Indian Wells		X	
Anderson, Walt		Palm Springs		X	
Aniello, Peter*		Redlands		X	
Baker, Duane*		Chelan, WA	X		X
Belenky, Lisa*	Ctr for Biological Diversity	San Francisco		X	
Bradford, Donald*		Palm Springs		X	
Braun, Ingrid*		Palm Springs			X
Collier, Brendan		Idyllwild			X
Connelly, Scott*		Palm Springs	X	X	X
Conrad, Tracy*	Smoke Tree Ranch	Palm Springs		X	
Ehrhardt, Paul		Palm Springs		X	
Ellenbogen, Eric		Palm Springs		X	
Ewoldsen, Hans		Palm Springs		X	
Faipeus, Connie					X
Fine, Jeffrey					X
Finnan, Mary		Canada		X	
Forster, Gary*		Palm Springs			X
Fuchs, Steven		Palm Desert		X	
Jones, Lee		Palm Springs		X	
Krueper, Ron	California State Parks	Perris		X	
Gainer, Vic	Save Murray Pk & Skyline Tr	Palm Springs	X		X
Garrett, Kenneth		San Diego	X	X	
Genett, Donna*		Palm Springs			X
Gettis, Robert					X
Gomez, Dan				X	
Gonzales, Vincent					X
Guth, Christopher				X	
Hague, Bob*		Cathedral City		X	
Hague, Diana*		Cathedral City		X	
Karpiak, Jim		San Francisco		X	
Knott, Everett		Desert Hot Springs	X		X
Koenig, Sheila*		Cathedral City	X		
Lewis, Cutler*		Palm Springs		X	
Liguori, Larry	CV Hiking Club	Palm Springs			X
Lueders, Gary*	Desert Trails Coalition	Rancho Mirage		X	X
Maples, Robert				X	
Martin, Joan*		Palm Springs			X
McLain, Elaine		Palm Springs			X
Moir, Allison					X
Morgan, Jeff*		Rancho Mirage	X	X	X
Neuhauser, Alice		Manhattan Beach		X	
Nisbet, Charles*	Desert Trails Coalition	Palm Springs	X		
Omberg, Ed		Rancho Mirage		X	
Peregrin, Kathy*		Palm Desert	X		
Pougnnet, Stephen*	City of Palm Springs	Palm Springs	X	X	

Name	Organization	City	Letter	Email	Oral
Rother, John*		La Quinta			X
Silvers, Dan*				X	
Solomon, Stephen				X	
Sparks, Lyle		Palm Springs		X	
Stern, Eileen*		Palm Springs		X	
Swerman, Karen				X	
Swerman, Sid				X	
Taylor, Joan*	Sierra Club	Palm Springs			X
Therault, Dave		Joshua Tree	X		
Tobey, Elisabeth				X	
Unknown			X		
Wascher, Peter*		Palm Springs		X	X
Wharton, Richard		San Diego	X		
Williams, Cynthia*		Cathedral City			X
Wolfe, Dave					X
Wood, Richard		Palm Desert		X	X

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**APPENDIX J
 ACRES, PERIMETERS, AND CONSOLIDATION:
 PUBLIC AND TRIBAL LANDS**

Table J.1: Acres and Perimeters, Selected Public Lands¹

Township, Range	Section	Acres	Perimeter (miles)
4S 4E	16, all	634.89	3.98
	17, parcel	28.95	0.86
	18, NE parcel	81.27	1.51
	18, NW parcel	40.72	1.01
	18, SW parcel	20.15	0.75
	36, portion	507.89	4.00
5S 4E	5, all	643.06	4.01
	16, all	638.51	3.99
	21, all	642.12	4.00
	27, all	638.63	3.99
	29, all	637.14	3.99
	32, all	644.40	4.01
	36, all	641.25	4.00
Total		5,798.98	

Table J.2: Acres and Perimeters, Offered Tribal Lands²

Township, Range	Section	Acres	Perimeter (miles)
5S 5E	7, all	656.29	4.05
	19/20, all/portion	813.71	4.54
Total		1,470.00	

¹ Acreages and mileages provided in these tables suggest accuracy to one-hundredth of an acre and one-hundredth of a mile, respectively. These figures are derived from GIS calculations using current databases. GIS projections of land ownership and section lines, however, do not precisely equate to surveyed property boundaries. Therefore, while the acreages and mileages herein provided are considered accurate for the purposes of this draft EIS, they may not be precise to the level of exactitude represented.

² GIS calculation for total of offered Tribal lands is 1,468.66 acres. To avoid inconsistency with documents wherein the offered Tribal lands proposed for exchange total 1,470 acres, the acreages for each of the of the three sections or portions of sections offered for the exchange is multiplied by 1.0009116, reflecting that 1,468.66 is 99.908843 percent of 1,470 (100 minus 99.908843 = 0.09116).

Table J.3: Acres and Perimeters, Non-Selected Public Lands Relevant to Consolidation

Township, Range	Section	Acres	Perimeter (miles)
5S 4E	1, portion	537.11	4.05
5S 5E	6, all	669.04	4.09
	8, portion	479.68	4.00
	18, all	657.23	4.05
	20, portion	481.32	3.50
	28, all	641.91	4.00
	29, portion	562.57	4.01
	30, all	658.27	4.06
	32, all	642.55	4.01
	33, all	643.64	4.01
	34, all	641.80	4.01
6S 5E	4, all	638.13	4.00
	5, portion	578.86	4.00
	6, all	628.77	3.96
	8, all	641.15	4.00
	9, portion	602.47	5.00
	10, all	640.17	4.00
	14, all	647.62	4.02
	15, portion	398.52	4.50
	16, all	641.21	4.00
	17, portion	603.80	4.01
Total		12,635.82	

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Table J.4: Blocks of Consolidated Selected Public Lands by Category (see section 2.2)

Block	Constituent Sections	Acres	Perimeter (miles)
Category 1			
1	<u>T4S R4E</u> Sec. 17 (parcel)	28.95	0.86
2	<u>T4S R4E</u> Sec. 18 (NE parcel)	81.27	1.51
3	<u>T4S R4E</u> Sec. 18 (NW parcel)	40.72	1.01
4	<u>T4S R4E</u> Sec. 18 (SW parcel)	20.15	0.75
5	<u>T5S R4E</u> Sec. 5	643.06	4.01
6	<u>T5S R4E</u> Sec. 16 & 21	1,280.63	5.99 (3.99 + 4.00 = 7.99 – 2.00 [1-mile coincident boundary between sec. 16 & 21])
7	<u>T5S R4E</u> Sec. 27	638.63	3.99
8	<u>T5S R4E</u> Sec. 29 & 32	1,281.54	6.00 (3.99 + 4.01 = 8.00 – 2.00 [1-mile coincident boundary between sec. 29 & 32])
Subtotal		4,014.95	24.12
Category 2			
9	<u>T5S R4E</u> Sec. 36	641.25	4.00
Subtotal		641.25	4.00
Category 3			
10	<u>T4S R4E</u> Sec. 16	634.89	3.98
11	<u>T4S R4E</u> Sec. 36 (portion)	507.89	4.00 (0.625 of the 4.00- mile perimeter is coincident with public lands not selected for exchange: sec. 1, T5S R4E & sec. 6, T5S R5E)
Subtotal		1,142.78	7.98
Total		5,798.98	36.10

Table J.5: Blocks of Non-Selected Public Lands Relevant to Consolidation³

Block	Constituent Sections	Acres	Perimeter (miles)
1	<u>T5S R4E</u> Sec. 1 (portion) <u>T5S R5E</u> Sec. 6	1,206.15	6.14 (8.14 – 2.00 [1-mile coincident boundary between sec. 1 & 6; 0.625 of the 6.14-mile boundary is coincident with public lands selected for exchange: sec. 36, T4S R4E)
2	<u>T5S R5E</u> Sec. 8 (portion)	479.68	4.00
3	<u>T5S R5E</u> Sec. 18	657.23	4.05
4	<u>T5S R5E</u> Sec. 20 (portion), 28, 29 (portion), 30, 32, 33, 34 <u>T6S R5E</u> Sec. 4, 5 (portion), 6, 8, 9 (portion), 10, 14, 15 (portion), 16, 17 (portion)	10,292.76	32.84 (accounts for [subtracts] 18.125 miles of coincident boundaries between sections of public lands within the block; accounts for 4.25 miles of boundaries with three nonpublic inholdings within the block: 69.09 – 36.25 [2 x 18.125] = 32.84)
Total		12,635.82	47.03

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³ Since the purpose and need for the proposed land exchange (as described in section 1.3 of this draft EIS) is to reduce the extent of checkerboard landownership by consolidating public and Tribal lands, this and other tables in Appendix J reflect how certain public lands not selected for the exchange may be included in blocks (or consolidations) of lands as a consequence of the exchange.

Table J.6: Blocks of Consolidated Public Lands, Category 1, 2, and 3 Lands Exchanged⁴

Block	Constituent Sections	Acres	Perimeter (miles)
1	<u>T5S R4E</u> Sec. 1 (portion) <u>T5S R5E</u> Sec. 6, 7, 8 (portion), 18, 19, 20, 28, 29 (portion), 30, 32, 33, 34 <u>T6S R5E</u> Sec. 4, 5 (portion), 6, 8, 9 (portion), 10, 14, 15 (portion), 16, 17 (portion)	14,105.82	42.85
		Ratio of public-nonpublic land interfaces to acres managed: 1:329.19	

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⁴ This portrayal of consolidation assumes all selected public lands (BLM Categories 1, 2, and 3) are exchanged for the offered Tribal lands (consistent with scenario three of the proposed action as described in chapter four); none of the selected public lands would be retained by the BLM. As indicated in section 1.2 of this draft EIS, however, the extent of public lands to be exchanged may be reduced if the *relative* estimated value of the combined public lands compared to that of the combined Tribal lands has not substantially changed since 2003 when estimates of value were first identified in “Supplement to the Agreement to Initiate Assembled Land Exchange between the Bureau of Land Management and the Agua Caliente Band of Cahuilla Indians” (BLM and ACBCI 2003). While *actual* land values may have changed over the last decade, the *relative* value between the selected public lands and the offered Tribal lands is of primary importance in this land exchange, i.e., whether the combined value of the public lands is less than, equal to, or more than the combined value of the Tribal lands. If the extent of public lands is reduced consequent to the value equalization process described in section 2.2, the ratio of public-nonpublic land interfaces to acres managed will change.

Table J.7: Blocks of Consolidated Public Lands, Category 1 & 2 Lands Exchanged⁵

Block	Constituent Sections	Acres	Perimeter (miles)
1	<u>T4S R4E</u> Sec. 16	634.89	3.98
2	<u>T4S R4E</u> Sec. 36 (portion) <u>T5S R4E</u> Sec. 1 (portion) <u>T5S R5E</u> Sec. 6, 7, 8 (portion), 18, 19, 20, 28, 29 (portion), 30, 32, 33, 34 <u>T6S R5E</u> Sec. 4, 5 (portion), 6, 8, 9 (portion), 10, 14, 15 (portion), 16, 17 (portion)	14,613.71	45.60
Total		15,248.60	49.58
		Ratio of public-nonpublic land interfaces to acres managed: 1:307.56	

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⁵ This table portrays the result of the value equalization process described in section 2.2 of this draft EIS if BLM Category 1 and Category 2 lands only are exchanged for the offered Tribal lands (consistent with scenario two of the proposed action as described in chapter four). In this scenario, the BLM would retain all Category 3 lands, i.e., sections 16 (all) and 36 (portion), T4S R4E.

Table J.8: Blocks of Consolidated Public Lands, Category 1 Lands Exchanged⁶

Block	Constituent Sections	Acres	Perimeter (miles)
1	<u>T4S R4E</u> Sec. 16	634.89	3.98
2	<u>T5S R4E</u> Sec. 36	641.25	4.00
3	<u>T4S R4E</u> Sec. 36 (portion) <u>T5S R4E</u> Sec. 1 (portion) <u>T5S R5E</u> Sec. 6, 7, 8 (portion), 18, 19, 20, 28, 29 (portion), 30, 32, 33, 34 <u>T6S R5E</u> Sec. 4, 5 (portion), 6, 8, 9 (portion), 10, 14, 15 (portion), 16, 17 (portion)	14,613.71	45.60
Total		15,889.85	53.58
		Ratio of public-nonpublic land interfaces to acres managed: 1:296.56	

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⁶ This table portrays the result of the value equalization process described in section 2.2 of this draft EIS if BLM Category 1 lands only are exchanged for the offered Tribal lands (consistent with scenario one of the proposed action as described in chapter four). In this scenario, the BLM would retain all Category 2 and Category 3 lands, i.e., sections 16 (all) and 36 (portion), T4S R4E, and section 36 (all), T5S R4E.

Table J.9: Blocks of Consolidated Public Lands, Preferred Alternative⁷

Block	Constituent Sections	Acres	Perimeter (miles)
1	<u>T4S R4E</u> Sec. 36 (portion) <u>T5S R4E</u> Sec. 1 (portion) <u>T5S R5E</u> Sec. 6, 7, 8 (portion), 18, 19, 20, 28, 29 (portion), 30, 32, 33, 34 <u>T6S R5E</u> Sec. 4, 5 (portion), 6, 8, 9 (portion), 10, 14, 15 (portion), 16, 17 (portion)	14,613.71	45.60
		Ratio of public-nonpublic land interfaces to acres managed: 1:320.48	

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⁷ This table portrays the result of the value equalization process described in section 2.3 of this draft EIS if BLM Category 1, Category 2, and Category 3 lands, except the selected public lands in section 36, T4S R4E, are exchanged for the offered Tribal lands. In this scenario, the BLM would retain only the selected public lands in section 36, T4S R4E.

Table J.10: Blocks of Consolidated Public Lands, No Action Alternative

Block	Constituent Sections	Acres	Perimeter (miles)
1	<u>T4S R4E</u> Sec. 16	634.89	3.98
2	<u>T4S R4E</u> Sec. 17 (parcel)	28.95	0.86
3	<u>T4S R4E</u> Sec. 18 (NE parcel)	81.27	1.51
4	<u>T4S R4E</u> Sec. 18 (NW parcel)	40.72	1.01
5	<u>T4S R4E</u> Sec. 18 (SW parcel)	20.15	0.75
6	<u>T5S R4E</u> Sec. 5	643.06	4.01
7	<u>T5S R4E</u> Sec. 16 & 21	1,280.63	5.99
8	<u>T5S R4E</u> Sec. 27	638.63	3.99
9	<u>T5S R4E</u> Sec. 29 & 32	1,281.54	6.00
10	<u>T5S R4E</u> Sec. 36	641.25	4.00
11	<u>T4S R4E</u> Sec. 36 (portion) <u>T5S R4E</u> Sec 1 (portion) <u>T5S R5E</u> Sec. 6	1,714.04	8.89
12	<u>T5S R5E</u> Sec. 8 (portion)	479.68	4.00
13	<u>T5S R5E</u> Sec. 18	657.23	4.05
14	<u>T5S R5E</u> Sec. 20 (portion), 28, 29 (portion), 30, 32, 33, 34 <u>T6S R5E</u> Sec. 4, 5 (portion), 6, 8, 9 (portion), 10, 14, 15 (portion), 16, 17 (portion)	10,292.76	32.84
Total		18,434.80	81.88
		Ratio of public-nonpublic land interfaces to acres managed: 1:225.14	

Table J.11: Summary, Consolidation of Public Lands by Alternative

Alternative		Blocks (# managed by BLM) ⁸	Acres of public lands exchanged	Acres of public lands retained ⁹	Ratio of public- nonpublic land interfaces to acres managed
Proposed Action ¹⁰	Cat. 1	3	4,014.95	1,784.03	1:296.56
	Cat. 1, 2	2	4,656.20	1,142.78	1:307.56
	Cat. 1, 2, 3	1	5,798.98	0	1:329.19
Preferred Alternative ¹¹		1	5,291.09	507.89	1:320.48
No Action Alternative		14	0	5,798.98	1:225.14

⁸ This column indicates the number of blocks of lands to be managed by the BLM upon implementation of the various alternatives, including blocks formed through incorporation of public lands not selected for the proposed land exchange, as appropriate.

⁹ Whereas the tables in this appendix address public lands not selected for the proposed land exchange (see previous footnote), acres of public lands identified in this column include only those public lands selected for the exchange. Hence, the combination of acres in this column and the column to the left equal the total acreage of the public lands identified for the exchange, i.e., 5,798.98 acres.

¹⁰ As described in section 2.2 of this draft EIS, the land value equalization process occurs in a prescribed sequence, starting with BLM Category 1 lands and proceeding to include Categories 2 and 3 dependent on appraised values of the selected public lands relative to the offered Tribal lands. This table compares potential outcomes of the value equalization process. The columns to the right portray the outcome if only BLM Category 1 lands are exchanged, if only Category 1 and 2 lands are exchanged, and if all Category 1, 2, and 3 lands are exchanged.

¹¹ As described in section 2.3 of this draft EIS, the preferred alternative is identical to the proposed action except that it eliminates all public lands in section 36, T.4S. R.4E., from the land exchange in order to better conform to the stated purpose and need for the land exchange. Hence, there would be no difference between the proposed action and the preferred alternative regarding acres of public lands exchanged and retained, or the ratio of public-nonpublic land interfaces to acres managed, if only BLM Category 1 lands are exchanged, if only BLM Category 1 and 2 lands are exchanged, and if BLM Category 1, 2, and 3 lands are exchanged, except for section 36, T.4S. R.4E.

APPENDIX K
WILDERNESS CHARACTERISTICS INVENTORY

Preliminary
Summary of Findings and Conclusion
CA-060-340A

Unit Name and Number: CA-060-340A

Results of Analysis:

1. Does the area meet any of the size requirements? Yes No
2. Does the area appear to be natural? Yes No
3. Does the area offer outstanding opportunities for solitude
or a primitive and unconfined type of recreation? Yes No
4. Does the area have supplemental values? Yes No

Conclusion:

The area, or a portion of the area, has wilderness characteristics.

The area does not have wilderness characteristics.

Prepared by:

Jim Foote, Monument Manager, Santa Rosa and San Jacinto Mountains National Monument,
BLM Palm Springs-South Coast Field Office
Greg Hill, Wilderness Coordinator, BLM California Desert District

This form documents information that constitutes a preliminary inventory finding on wilderness characteristics. It does not represent a formal land use allocation or a final agency decision subject to administrative remedies under either 43 CFR Part 4 or § 1610.5-2.

Preliminary
Summary of Findings and Conclusion
CA-060-340B

Unit Name and Number: CA-060-340B

Results of Analysis:

1. Does the area meet any of the size requirements? Yes¹ No
2. Does the area appear to be natural? Yes No
3. Does the area offer outstanding opportunities for solitude
or a primitive and unconfined type of recreation? Yes No
4. Does the area have supplemental values? Yes No

Conclusion:

The area, or a portion of the area, has wilderness characteristics.

The area does not have wilderness characteristics.

Prepared by:

Jim Foote, Monument Manager, Santa Rosa and San Jacinto Mountains National Monument,
BLM Palm Springs-South Coast Field Office
Greg Hill, Wilderness Coordinator, BLM California Desert District

This form documents information that constitutes a preliminary inventory finding on wilderness characteristics. It does not represent a formal land use allocation or a final agency decision subject to administrative remedies under either 43 CFR Part 4 or § 1610.5-2.

¹ Wilderness Inventory Unit 340B is approximately 4,655 acres, or 345 acres shy of the 5,000-acre criterion. Of greater importance than it being just below the acreage threshold is whether the unit is of sufficient size to make practicable its preservation and use in an unimpaired condition. The affirmative conclusion in this regard is discussed in Form 2—Documentation of Current Wilderness Inventory Conditions—for WIU 340B.

Form 1
Documentation of BLM Wilderness Inventory Findings on Record
CA-060-340

Inventory Unit Name: CA-060-340

1. Is there existing BLM wilderness inventory information on all or part of the area? Yes

Inventory source: California Desert Conservation Area Wilderness Inventory: Final Descriptive Narratives (March 31, 1979)

Inventory unit name(s)/number(s): CA-060-340

Map name(s)/number(s): BLM California Desert Conservation Area Wilderness Final Inventory, December 1979

BLM district(s)/field office(s): California Desert District, Palm Springs-South Coast Field Office

2. BLM inventory findings on record

Existing inventory information regarding wilderness characteristics: The site has a checkerboard landownership pattern and, therefore, does not contain 5,000 acres of contiguous public land. In addition, the checkerboard tracts are not of sufficient size to make practicable their preservation and use in an unimpaired condition.

Inventory source: California Desert Conservation Area Wilderness Inventory: Final Descriptive Narratives (March 31, 1979)

Unit #/name	Size (historic acres)	Natural condition? Yes/No	Outstanding solitude? Yes/No	Outstanding primitive & unconfined recreation? Yes/No	Supplemental values? Yes/No
340	<5,000	N/A	N/A	N/A	N/A

Summarize any known primary reasons for prior findings in this table: The 1979 final inventory report concluded that the unit did not contain 5,000 or more acres of contiguous public lands, and was therefore dropped from further consideration. The report did not describe the physical features of the area or evaluate any of the wilderness characteristics.

Form 2
Documentation of Current Wilderness Inventory Conditions
CA-060-340A

Area unique identifier: CA-060-340A

Acreage: 5,033 (approximate)

1. Is the area of sufficient size? Yes

Description

Unit boundary: This subunit of CA-060-340 is bounded by public, Tribal (Agua Caliente Band of Cahuilla Indians), U.S. Forest Service (San Bernardino National Forest), and private lands, some of which are remnants of the checkerboard landownership pattern described in *California Desert Conservation Area Wilderness Inventory: Final Descriptive Narratives* (BLM 1979). Its eastern boundary is established primarily by Dunn Road, constructed in the late 1960s and early 1970s. This road separates Wilderness Inventory Unit (WIU) CA-060-340A from adjoining public lands comprising WIU CA-060-340B, which is addressed later in this appendix.

Whether Dunn Road constitutes a “road” for the purpose of establishing the boundaries of WIUs 340A and 340B has not been determined, but is not subject to resolution through this EIS for the proposed land exchange. As indicated in section 3.2.22, the determination whether these WIUs have wilderness characteristics is *preliminary* pending preparation of an amendment to the CDCA Plan, including whether Dunn Road constitutes a “wilderness inventory road.” Should it be determined that Dunn Road is a road for wilderness inventory purposes, WIUs 340A and 340B would be merged into a single unit of approximately 10,293 acres.²

From BLM Instruction Memorandum No. 2011-154 (BLM 2011a):

For the purpose of inventorying wilderness characteristics only, the BLM will continue to base the “road” definition on the FLPMA’s legislative history. The following language is from the House of Representatives Committee Report 94-1163, dated May 15, 1976, on what became the FLPMA: “The word ‘roadless’ refers to the absence of roads which have been improved and maintained by mechanical means to insure relatively regular and continuous use. A way maintained solely by the passage of vehicles does not constitute a road.”

The BLM refers to routes that meet the above definition as wilderness inventory roads. The BLM previously adopted and will continue to use sub-definitions of certain words and phrases in the BLM wilderness inventory road definition stated above. Routes which have been improved and maintained by mechanical means to insure relatively regular and continuous use are wilderness inventory roads.

- a. Improved and maintained – Actions taken physically by people to keep the road open to vehicle traffic. “Improved” does not necessarily

² This acreage includes about 604 acres of public lands segregated from WIUs 340A and 340B by two southerly branches of Dunn Road, and less than two acres segregated from WIU 340A due to adjacent nonfederal lands east of Dunn Road (see Appendix L and Figure 7c).

mean formal construction. “Maintained” does not necessarily mean annual maintenance.

b. Mechanical means – Use of hand or power machinery or tools.

c. Relatively regular and continuous – Vehicular use that has occurred and will continue to occur on a relatively regular basis. Examples are: access roads for equipment to maintain a stock water tank or other established water sources; access roads to maintain recreation sites or facilities; or access roads to mining claims.

A route that was established or has been maintained solely by the passage of vehicles would not be considered a road for the purposes of wilderness inventory, even if it is used on a relatively regular and continuous basis. Vehicle routes constructed by mechanical means but that are no longer being maintained by mechanical methods are not wilderness inventory roads. Sole use of hands and feet to move rocks or dirt without the use of tools or machinery does not meet the definition of “mechanical means.” Wilderness inventory roads need not be “maintained” on a regular basis but rather “maintained” when road conditions warrant actions to keep it in a usable condition. A dead-end (cherry-stem) road can form the boundary of an inventory area and does not by itself disqualify an area from being considered “roadless.”

A route or a segment of a route, which was mechanically improved to permit the passage of vehicles, but which to date has not needed any further mechanical improvement or maintenance to facilitate the relatively regular and continuous passage of vehicles, can be a road in those circumstances where the road would be maintained if the need were to arise.

While the purpose of a route is not a deciding factor to consider in determining whether a route is a road for wilderness inventory purposes, it does provide context in which to consider the criteria for a road determination. For example, the purpose of the route provides context when the BLM considers whether maintenance of the route insures relatively regular and continuous use and whether maintenance, that may so far have been unnecessary to insure the use, would occur when the need arises.

While the California Desert Conservation Area Plan Amendment for the Coachella Valley (in section 2.4.17, Motorized Vehicle Route Designation) clearly establishes Dunn Road as a motorized-vehicle route (BLM 2002a), it has not been maintained in recent years to keep it open for regular and continuous administrative vehicle uses as provided for in the plan.³ Whether and at what point in the future the BLM may initiate repair and maintenance of the road to facilitate these motorized-vehicle uses is currently unknown. Does the road’s current condition affect the determination whether it is a wilderness inventory road? Perhaps, but such determination is not

³ The CDCA Plan Amendment for the Coachella Valley provides that vehicle access in the Dunn Road area be managed for administrative purposes such as flood control, law enforcement, search and rescue, and fire control, as well as controlled levels of permitted uses such as research and commercial recreation. Public land portions of Dunn Road are closed to the public, except for administrative and permitted access.

relevant to the decision to be made for the proposed land exchange; hence, it is not further addressed in this EIS.

Land ownership: The unit contains approximately 5,033 acres of contiguous public lands (see Appendix L and Figure 7c). It is entirely within the Santa Rosa and San Jacinto Mountains National Monument. Since publication of *California Desert Conservation Area Wilderness Inventory: Final Descriptive Narratives*, land acquisitions have increased the extent of public lands in the project area, thereby changing the pattern of checkerboard landownership such that the 1979 conclusion stemming from the 5,000-acre criterion is no longer applicable. Tracts of contiguous public lands in this area are now of sufficient size that an inventory and assessment of wilderness characteristics is appropriate.

One five-acre parcel of private land (N1/2NE1/4NE1/4NW1/4NW1/4 section 1, T.5S. R.4E.) appears to occur within WIU 340A as depicted in Figures 7a and 7b. Located east of the Andreas Hills residential community and approximately 250 feet from the unit's boundary, this parcel contains two large water storage tanks and ancillary facilities, and is accessed via road from the residential area. The parcel and its access road, however, are excluded from WIU 340A; the scale of figures 7a and 7b does not allow for this exclusion to be accurately depicted.

Location: WIU 340A is located generally south of the cities of Palm Springs, Cathedral City, and Rancho Mirage; west of the city of Palm Desert; and north of the Pinyon Pines, Alpine Village, and Pinyon Crest communities. It adjoins the outer boundary of the Agua Caliente Indian Reservation to the west, and the San Bernardino National Forest to the south and west.

The San Bernardino National Forest is in the process of amending its land management plan. Both the proposed action and preferred alternative of the Southern California National Forests Land Management Plan Amendment (Forest Service 2013) include the same lands recommended for wilderness designation as identified in the 2005 revised plan for the San Jacinto Ranger District of the San Bernardino National Forest (SBNF) (Forest Service 2005). At its closest point—the southwest corner of section 6, T.6S. R.5E.—WIU 340A is less than one-quarter mile east of the existing *Recommended Wilderness* land use zone for the “Pyramid Peak A” Inventoried Roadless Area (IRA); the entire western boundary of section 6 is contiguous with the SBNF's existing *Back Country Non-Motorized* land use zone. With respect to the proposed action and preferred alternative of the 2013 plan amendment, public lands in section 17, T.6S. R.5E. (within WIU 340A), are contiguous with National Forest System lands that are proposed for designation as *Back Country Non-Motorized*; these lands are currently designated as *Back Country Motorized Use Restricted*.⁴

Under the recommended wilderness emphasis alternative of the 2013 plan amendment (alternative three)—which would not be adopted per the draft Record of Decision for the Southern California National Forests Land Management Plan Amendment (Forest Service n.d.)—public lands in sections 6 and 17, T.6S. R.5E. (within WIU 340A), are contiguous with the *Recommended Wilderness* land use zone. Rationale for retaining the existing *Recommended Wilderness* land use zone under the proposed action and preferred alternative, and rejecting an increase in the size of this zone under the recommended wilderness emphasis alternative is as follows:

⁴ *Back Country Motorized Use Restricted* zones comprise areas where administrative access is permitted on designated National Forest System routes (roads and trails). Otherwise, these areas are managed for non-motorized public access and recreation use.

The 7,387 acres of the Pyramid Peak A IRA [Inventoried Roadless Area] adjacent to the existing designated San Jacinto Wilderness and National Forest Boundary is classified as RW [Recommended Wilderness] because it has an impressive and expansive scenic vistas [*sic*], is within the Santa Rosa and San Jacinto Mountains National Monument, has segments of the Palm Canyon wild river (with its distinctive California fan palms), is relatively natural and free from disturbance, and has high feelings of solitude and primitive recreation opportunities. It is a key habitat for the peninsular bighorn sheep. This area's size, shape and uses can be effectively managed as wilderness.

Another 2,326 acres of the Pyramid Peak A IRA offer limited opportunities for solitude and challenge, has [*sic*] low wilderness values and characteristics, has [*sic*] uses that cannot be effectively managed as wilderness, and is [*sic*] not needed as part of the wilderness preservation system. It is my decision that this additional BCNM [Back Country Non-Motorized] zoning here will provide the best mix of suitable uses for this portion of the IRA.

Topography: This unit is within the Santa Rosa Mountains, which are part of the Peninsular Ranges that extend from the San Jacinto Mountains to the United States-Mexico international border, and further south to the Volcan de Tres Virgenes Mountains in Baja California, Mexico. The topography of the area is characterized by steep mountain slopes and rugged canyons. Elevations of the unit range from about 1,700 feet in the Dry Wash area to about 4,500 feet near its southern boundary. The steep topography is the result of geologic processes from the convergence of tectonic plates to the north and east (as evidenced by the San Andreas Fault), and up-thrust of the Peninsular Ranges to the south and west.

Vegetation features: WIU 340A is comprised primarily of desert scrub communities at the lower elevations and woodland/forest communities at the upper elevations (BLM 2002a). The desert scrub communities include species from Sonoran creosote bush scrub and desert dry wash woodland, with no single species clearly dominating. Most stands have desert agave (*Agave deserti*), brittlebush (*Encelia* sp.), ocotillo (*Fouquieria splendens*), and Mohave yucca (*Yucca schidigera*) in varying proportions. The woodland/forest communities are dominated by California juniper (*Juniperus californica*) and four-leaf pinyon (*Pinus quadrifolia*). (ACBCI 2010)

Major human uses/activities. Non-motorized recreation, particularly hiking and mountain biking on established trails, is popular within the unit; trails include the Hahn Buena Vista, Dry Wash, and Potrero Canyon Trails. Opportunities for cross-country (off-trail) travel by non-motorized means throughout the unit are also available at this time. Dunn Road, which generally forms the unit's eastern boundary, is also popular with hikers and mountain bikers, but is designated "closed" to motorized vehicles, except for administrative and permitted vehicular access until bighorn sheep populations recover (BLM 2002a).⁵

⁵ Access to Dunn Road by four-wheeled vehicles is not currently available as a result of significant rainfall events that occurred about ten years ago. Sections of the road on public lands were washed out near its northern and southern ends (section 5, T.5S. R.5E., and section 16, T.6S. R.5E., respectively); repair of the road is not being considered at this time. An extension of Palm Canyon Drive that provides motorized-vehicle access to Dunn Road from Highway 74 can still be traveled, though locked gates on private and National Forest System lands preclude unauthorized motorized-vehicle access to public lands in the WIU.

2. Does the area appear to be natural? Yes

Description: Overall, public lands within WIU 340A are primarily affected by natural processes with little evidence of human activity or occupation other than segments of three non-motorized trails: Hahn Buena Vista, Dry Wash, and Potrero Canyon Trails. The unit is not bounded by motorized-vehicle routes open to public access, nor is it bounded by residential areas from which intrusions could emanate. Adjacent public, Tribal, National Forest System, and private lands also appear to be natural.⁶

3. Does the area (or the remainder of the area if a portion has been excluded due to unnaturalness and the remainder is of sufficient size) have outstanding opportunities for solitude? Yes

Description: As previously indicated, the unit is characterized by steep mountain slopes and rugged canyons; these natural features provide many opportunities to escape the sights and sounds of other recreationists. In addition, access to segments of non-motorized trails within the unit is challenging, especially from the urban Coachella Valley. Whether via the Art Smith Trail, Cathedral Canyon Trail to Dunn Road, Wild Horse Trail to Hahn Buena Vista Trail, Palm Canyon Trail to Dry Wash Trail, or Palm Canyon Trail to Potrero Canyon Trail, or more directly via Dunn Road from Cathedral City Cove, a hiker, mountain biker, or horseback rider must climb steeply for more than two miles to gain access to WIU 340A. This substantially limits the number of recreationists one might encounter once within the unit, thereby further enhancing opportunities for solitude.

4. Does the area (or the remainder of the area if a portion has been excluded due to unnaturalness and the remainder is of sufficient size) have outstanding opportunities for primitive and unconfined recreation? Yes

Description: As described above, segments of the Hahn Buena Vista, Dry Wash, and Potrero Canyon Trails occur within WIU 340A. These trails, which in themselves offer a variety of challenges in a highly scenic setting, connect to other trails in the northern Santa Rosa Mountains, thereby providing numerous and outstanding opportunities for hiking, mountain biking, and horseback riding in the Santa Rosa and San Jacinto Mountains National Monument.

5. Does the area have supplemental values (ecological, geological, or other features of scientific, educational, scenic, or historical value)? Yes

Description: Wilderness Inventory Unit 340A is fully contained within the Santa Rosa and San Jacinto Mountains National Monument. The U.S. Congress established the Monument in 2000 “in order to preserve the nationally significant biological, cultural, recreational, geological, educational, and scientific values found in the Santa Rosa and San Jacinto Mountains and to

⁶ To provide context to this assessment of naturalness, it is important to acknowledge that virtually all natural environments in the United States have been degraded to some extent by the impacts of human activities. Even relatively pristine ecosystems are affected by the loss of contiguous habitats and other changes to the landscape. (EPA 1993) The intent of this assessment, therefore, is to determine whether the area *appears* to be natural and affected *primarily* by the forces of nature, not whether it is pristine.

secure now and for future generations the opportunity to experience and enjoy the magnificent vistas, wildlife, land forms, and natural and cultural resources in these mountains and to recreate therein” (section 2(b), Santa Rosa and San Jacinto Mountains National Monument Act of 2000). While not all these values are uniformly spread throughout the Monument, the WIU possesses its share of them, including essential habitat for the endangered Peninsular bighorn sheep.

6. Comments

The BLM’s preliminary findings and conclusion that Wilderness Inventory Unit CA-060-340A has wilderness characteristics appears to contradict the draft Record of Decision (ROD) for the Southern California National Forests Land Management Plan Amendment (Forest Service n.d.). In accordance with the draft ROD, National Forest System lands contiguous with public lands comprising WIU 340A offer limited opportunities for solitude and challenge, have low wilderness values and characteristics, have uses that cannot be effectively managed as wilderness, and are not needed as part of the wilderness preservation system. Yet the contiguous public lands, which the BLM preliminarily determines (though this EIS) have wilderness characteristics—naturalness, outstanding opportunities for solitude, and outstanding opportunities for a primitive and unconfined type of recreation—are substantially similar in nature. Why, then, do the evaluations differ?

The phrase, “have uses that cannot be effectively managed as wilderness,” is the key to understanding the Forest Service’s rationale for not designating National Forest System lands east of Palm Canyon as *Recommended Wilderness*. The term “uses” in this context refers to mountain bike recreation on the Palm Canyon Trail. The San Bernardino National Forest intends to relocate Palm Canyon Trail east of its current location to avoid trail-based recreation in the canyon bottom, thereby providing for mountain biking outside the *Recommended Wilderness* zone and affording increased protection of riparian habitat (Colwell pers. comm.). Therefore, providing continued use of Palm Canyon Trail by mountain bikers—a nonconforming use in designated wilderness and National Forest System lands designated *Recommended Wilderness*—segregates 2,326 acres of the “Pyramid Peak A” Inventoried Roadless Area located east of Palm Canyon from the existing *Recommended Wilderness* zone. As such, this relatively small area cannot be effectively managed as wilderness, and its limited size substantially diminishes its wilderness values and characteristics.

Also, there is an important distinction between the BLM’s findings and conclusions herein provided and the draft ROD for the Forest Service’s land use plan. Whereas the BLM’s findings and conclusions are *preliminary* pending an amendment to the California Desert Conservation Area Plan whereupon lands outside designated wilderness and Wilderness Study Areas would be inventoried and assessed to determine if they possess one or more wilderness characteristics, the Forest Service decision assigns National Forest System lands to various land use zones, each of which is to be managed in a prescribed manner. In other words, the Forest Service decision is a land use allocation; the BLM’s preliminary findings and conclusions, on the other hand, do not constitute such an allocation.

Form 2
Documentation of Current Wilderness Inventory Conditions
CA-060-340B

Area unique identifier: CA-060-340B

Acreage: 4,655 (approximate)

1. Is the area of sufficient size? Yes (see *Land ownership* below)

Description

Unit boundary: This subunit of CA-060-340 is bounded by public, State of California (Magnesia Spring and Carrizo Canyon Ecological Reserves), and private lands. As with WIU 340A, some of these lands are remnants of the checkerboard landownership pattern described in *California Desert Conservation Area Wilderness Inventory: Final Descriptive Narratives* (BLM 1979). The unit's western boundary is established primarily by Dunn Road, which separates it from adjoining public lands comprising WIU CA-060-340A. (See *Form 2* for WIU 340A regarding identification of Dunn Road as a "wilderness inventory road.")

Land ownership: WIU 340B contains approximately 4,655 acres of contiguous public lands (see Appendix L and Figure 7c). It is entirely within the Santa Rosa and San Jacinto Mountains National Monument. As described above for WIU 340A, land acquisitions have increased the extent of public lands in the project area, thereby changing the pattern of checkerboard landownership. One 40-acre parcel of private land (SE1/4NW1/4 section 9, T.6S. R.5E.) occurs within WIU 340B. Located generally south of Haystack Mountain, north of Asbestos Mountain, and about 0.15 mile from Dunn Road at its closest point, there is no direct access by road to the parcel. No improvements or other indications of use by the landowner are known to exist.

As indicated in *Preliminary Summary of Findings and Conclusion*, Wilderness Inventory Unit 340B is approximately 345 acres shy of the 5,000-acre criterion, though of greater importance than it being just below the acreage threshold is whether the unit is of sufficient size to make practicable its preservation and use in an unimpaired condition. The affirmative conclusion in this regard is based primarily on the nature of the contiguous federal and nonfederal lands and the manner in which they are used and managed, i.e., threats of degradation to public lands in WIU 340B emanating from adjoining lands are minimal, if they occur at all.

Location: WIU 340B is located generally south of the cities of Palm Springs, Cathedral City, and Rancho Mirage, west of the city of Palm Desert, and north of the Pinyon Pines, Alpine Village, and Pinyon Crest communities. It adjoins WIU 340A to the west, and parts of Magnesia Spring and Carrizo Canyon Ecological Reserves to the east.

Topography: As with WIU 340A, this unit is within the Santa Rosa Mountains and consists largely of the same general landforms and topography; see *Documentation of Current Wilderness Inventory Conditions* for WIU 340A.

Vegetation features: The vegetative composition of WIU 340B is essentially the same as WIU 340A; see *Documentation of Current Wilderness Inventory Conditions* for WIU 340A.

Major human uses/activities. As with WIU 340A, non-motorized recreation, particularly hiking and mountain biking on established trails, is popular within the unit, though such trails are fewer in number and extent, limited to the Art Smith Trail. Opportunities for cross-country (off-trail) travel by non-motorized means throughout the unit are also available at this time. Dunn Road, which generally forms the unit's western boundary, is also popular with hikers and mountain bikers, but is designated "closed" to motorized vehicles, except for administrative and permitted vehicular access until bighorn sheep populations recover (BLM 2002a).

2. Does the area appear to be natural? Yes

Description: Overall, public lands within WIU 340B are primarily affected by natural processes with little evidence of human activity or occupation other than a segment of the Art Smith Trail. The unit is not bounded by motorized-vehicle routes open to public access, or by residential areas from which intrusions could emanate. Adjacent public, State of California, and private lands also appear to be natural.

3. Does the area (or the remainder of the area if a portion has been excluded due to unnaturalness and the remainder is of sufficient size) have outstanding opportunities for solitude? Yes

Description: Circumstances in this regard are essentially the same as described for WIU 340A; see *Documentation of Current Wilderness Inventory Conditions* for WIU 340A.

4. Does the area (or the remainder of the area if a portion has been excluded due to unnaturalness and the remainder is of sufficient size) have outstanding opportunities for primitive and unconfined recreation? Yes

Description: Circumstances in this regard are essentially the same as described for WIU 340A; see *Documentation of Current Wilderness Inventory Conditions* for WIU 340A, though trail-based opportunities are available to a lesser extent.

5. Does the area have supplemental values (ecological, geological, or other features of scientific, educational, scenic, or historical value)? Yes

Description: Circumstances in this regard are essentially the same as described for WIU 340A; see *Documentation of Current Wilderness Inventory Conditions* for WIU 340A.

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APPENDIX L
WILDERNESS INVENTORY UNITS

Table L.1: Contiguous tracts of public lands possessing wilderness characteristics, in acres
 (Wilderness Inventory Unit CDCA 340, partial)

WIU subunit	Proposed Action			Preferred Alternative	No Action Alternative
	<i>scenario 1</i>	<i>scenario 2</i>	<i>scenario 3</i>		
340A: west of Dunn Road	8,948.57	8,948.57	8,440.68	8,948.57	5,032.52
340B: east of Dunn Road	4,654.75	4,654.75	4,654.75	4,654.75	4,654.75

Table L.2: Composition of Wilderness Inventory Unit 340A, by sections

Alternative	Township, Range	Section	Acres
Proposed Action: <i>scenario 1</i>	4S 4E	36, portion	507.89
Proposed Action: <i>scenario 1</i>	5S 4E	1, portion	537.11
Proposed Action: <i>scenario 1</i>	5S 5E	6, all	669.04
		7, all	656.29
		8, portion	74.78
		18, all	657.23
		19, all	651.83
		20, all	643.20
		28, portion	1.92
		29, portion	452.09
		30, all	658.27
		32, portion	601.37
Proposed Action: <i>scenario 1</i>	6S 5E	4, portion	92.65
		5, portion	577.21
		6, all	628.77
		8, portion	639.70
		9, portion	121.67
		16, portion	106.81
		17, portion	595.40
		Total	8,948.57
Proposed Action: <i>scenario 2</i>	Same as <i>scenario 1</i>		
		Total	8,948.57
Proposed Action: <i>scenario 3</i>	Same as <i>scenario 1</i> minus public lands in section 36, T.4S. R.4E. (507.89 acres)		
		Total	8,440.68
Preferred Alternative	Same as <i>scenarios 1</i> and <i>2</i>		

Alternative	Township, Range	Section	Acres
		Total	8,948.57
No Action Alternative	5S 5E	20, portion	481.32
		28, portion	1.92
		29, portion	452.09
		30, all	658.27
		32, portion	601.37
		33, portion	75.34
No Action Alternative	6S 5E	4, portion	92.65
		5, portion	577.21
		6, all	628.77
		8, portion	639.70
		9, portion	121.67
		16, portion	106.81
		17, portion	595.40
		Total	5,032.52

Table L.3: Acreage of Wilderness Inventory Unit 340B, by sections

Alternative	Township, Range	Section	Acres	
	5S 5E	28, portion	639.99	
		29, portion	110.48	
		32, portion	41.18	
		33, portion	568.30	
		34, all	641.80	
	6S 5E	4, portion	545.48	
		8, portion	1.45	
		9, portion	471.21	
		10, all	640.17	
		14, portion	647.59	
		15, portion	346.49	
		16, portion	0.61	
			Total	4,654.75

Table L.4: Acreage of Non-contiguous Public Lands Described in Appendix J¹

Township, Range	Section	Acres
6S 5E	5, portion	1.65
	9, portion	9.60
	14, portion	0.03
	15, portion	52.03
	16, portion	533.79
	17, portion	8.40
	Total	605.50

¹ Table L.4 is provided to account for public lands described in Appendix J (Acres, Perimeters, and Consolidation: Public and Tribal Lands) that are segregated from Wilderness Inventory Units 340A and 340B by two southerly branches of Dunn Road (603.85 acres), and 1.65 acres in section 5 which are segregated from WIU 340A due to adjacent nonfederal lands east of the road.

APPENDIX M
DISTRIBUTION OF DRAFT ENVIRONMENTAL IMPACT STATEMENT

The following is a list of agencies, jurisdictions, organizations, and individuals contacted regarding availability of the Draft EIS for review and comment.

Federal Agencies

- Bureau of Indian Affairs
- National Park Service, Joshua Tree National Park
- U.S. Army Corps of Engineers
- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service
- U.S. Forest Service, San Bernardino National Forest

California State Agencies

- California Department of Fish and Wildlife
- California Department of Parks and Recreation, California State Parks
- Coachella Valley Mountains Conservancy
- State Historic Preservation Officer (SHPO)

Local Government

- City of Cathedral City
- City of Coachella
- City of Desert Hot Springs
- City of Indian Wells
- City of Indio
- City of La Quinta
- City of Palm Desert
- City of Palm Springs
- City of Rancho Mirage
- Coachella Valley Association of Governments
- Coachella Valley Conservation Commission
- Coachella Valley Water District
- Desert Water Agency
- Imperial Irrigation District
- Riverside County Board of Supervisors
- Riverside County Flood Control and Water Conservation District
- Riverside County Regional Park and Open Space District
- Riverside County Waste Resources Management District

Indian Tribes and Councils

- Agua Caliente Band of Cahuilla Indians
- Augustine Band of Cahuilla Mission Indians
- Cabazon Band of Mission Indians
- Cahuilla Band of Mission Indians
- Los Coyotes Band of Cahuilla Mission Indians
- Morongo Band of Cahuilla Mission Indians
- Ramona Band of Mission Indians

San Manuel Band of Mission Indians
Santa Rosa Band of Mission Indians
Soboba Band of Luiseno Indians
Torres-Martinez Desert Cahuilla Indians

Congressional Representatives

U.S. Senate

Honorable Dianne Feinstein (California)

Honorable Barbara Boxer (California)

U.S. House of Representatives

Honorable Raul Ruiz (36th Congressional District, California)

California State Legislature

State Senate

Honorable Ben Hueso (Senate District 40)

State Assembly

Honorable Brian Nestande (Assembly District 42)

Honorable V. Manuel Perez (Assembly District 56)

Honorable Brian Jones (Assembly District 71)

Organizations

Center for Biological Diversity

Coachella Valley Hiking Club

Desert Bicycle Club

Desert Riders Trails Fund

Desert Trails Coalition

Desert Trails Hiking Club

Friends of the Desert Mountains

Robert Hope (right-of-way holder)

San Diego Mountain Biking Association

Save Murray Peak and Skyline Trail

Sierra Club

Smoke Tree Ranch

Western Lands Project

Individuals

See Appendix I, Scoping Report (Scoping Report Appendix 2, Tables 1 and 2)