MITIGATED FINDING OF NO SIGNIFICANT IMPACT FOR THE EWIIAAPAAYP TRIBAL COMMUNITY AND FEE-TO-TRUST PROJECT

AGENCY: Bureau of Indian Affairs, Pacific Region

ACTIONS: Mitigated Finding of No Significant Impact

SUMMARY

The Ewiiaapaayp Band of Kumeyaay Indians (Tribe) submitted a fee-to-trust application to the Bureau of Indian Affairs (BIA), Pacific Region, for the acquisition of an approximately 48.7-acre property located in San Diego County, California, consisting of APNs 4040802600, 4040901300, and 4040900700 (Project Site) into federal trust for the benefit of the Tribe (Proposed Action). Following acquisition of the Project Site into trust, the Tribe proposes to develop a Tribal office, library/community center, and two single-family houses, to maintain an existing re-purposed single-family residence as an emergency Tribal center, and to establish a conservation area along Viejas Creek (Proposed Project). The Proposed Action was analyzed in an Environmental Assessment (EA) dated December 2025 that was released to the public for a 30-day public comment period that ended on January 21, 2026. The comments received during the public review period are responded to in **Attachment 1**. The Final EA consists of the December 2025 EA[1] as amended by **Attachment 2**, EA Errata sheets. Based upon the entire administrative record, including analysis in the Final EA, and mitigation imposed, the BIA makes a finding of no significant impact (FONSI) for the Proposed Action. This finding constitutes a determination that the Proposed Action is not a federal action significantly affecting the quality of the human environment. Therefore, in accordance with Section 102(2)(c) of the National Environmental Policy Act (NEPA), 42 U.S.C § 4321 et seq., an Environmental Impact Statement is not required.

PURPOSE AND NEED

The purpose of the Proposed Action is to strengthen tribal self-determination and sovereignty, ensure that the Tribe has protected homelands where its citizens can maintain their tribal existence and way of life, and consolidate land ownership to strengthen tribal governance over reservation lands and reduce checkerboarding, thus satisfying the Department of the Interior's (DOI) land acquisition policy as articulated in the DOI's trust land regulations at 25 CFR Part 151.3. The need for the DOI to act on the Tribe's application is established by the Indian Reorganization Act (25 USC § 5108) and the Indian Land Consolidation Act (25 USC § 2202) and the relevant implementing federal regulations at 25 CFR § 151.

ALTERNATIVES CONSIDERED

Two alternatives are analyzed in the EA: the Proposed Project and the No Action alternative. The Proposed Project is the acquisition of the 48.7-acre Project Site in trust for the Tribe pursuant to the Secretary's authority under the Indian Reorganization Act, 25 USC § 5108, and the subsequent development of portions of the Project Site by the Tribe, including the construction of a Tribal office (1,440 square feet [sf]), library/community center (1,440 sf), and two single-family houses (720 sf each). Under the No Action alternative, no federal actions would occur, and the Tribe would not construct the Tribal office, library/community center, or Tribal housing. Additional details regarding the Proposed Action and Alternatives can be found in EA Section 2.

[1] The December 2025 EA is incorporated by reference.

ENVIRONMENTAL IMPACTS

Potential impacts to land resources, water resources, air quality, biological resources, cultural and paleontological resources, socioeconomic conditions, transportation and circulation, land use, public services and utilities, noise, hazardous materials, and visual resources were evaluated in the EA, with the following conclusions for the Proposed Action (see EA Section 3 for detailed analysis, EA Section 4 for mitigation measures, and EA Section 2.1.6 for BMPs). Consistent with requirements set forth in the DOI NEPA Handbook § 1.6, a Mitigation Monitoring and Compliance Plan (MMCP) has been prepared and is included in **Attachment 3**. Section 4 of the EA states that mitigation is enforceable if it is part of the project design or mandated by federal or tribal regulations. The Tribe would exercise governmental jurisdiction over the Project Site once acquired into trust and will have the authority to enforce the mitigation measures. The Tribe has committed to the implementation of these mitigation measures as a matter of tribal law (see Tribal Resolution included as **Attachment 4).**

Land Resources

The Proposed Project would not result in significant impacts to land resources during construction or operation. Implementation of Best Management Practices (BMPs) would further minimize any potential impacts.

Water Resources

Impacts to water resources could occur during construction and operation of the Proposed Project. With adherence to BMPs, including the National Pollutant Discharge Elimination System permitting program and implementation of a Stormwater Pollution Prevention Plan, no significant impacts would occur.

Air Quality

The Proposed Project would not result in significant impacts to air quality during construction or operation. Implementation of BMPs would further minimize any potential impacts.

Biological Resources

Impacts to biological resources could occur from the development of the Proposed Project. A Biological Assessment was prepared for the Proposed Project and submitted by the BIA to U.S. Fish and Wildlife Service (USFWS), along with a request for consultation pursuant to Section 7 of the Endangered Species Act. On September 11, 2024, the USFWS issued a letter that concurred with the findings of the Biological Assessment that the Proposed Project may affect but is not likely to adversely affect federally listed species. BMPs as well as mitigation measures detailed in EA Section 4 would ensure impacts to biological resources are less than significant.

Cultural Resources

Impacts to cultural resources could occur from the development of the Proposed Project. Mitigation measures detailed in EA Section 4 would ensure impacts to cultural resources are less than significant. The BIA has conducted consultation with the State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act. On January 22, 2026, the SHPO acknowledged that the BIA appropriately addressed the issues raised in the SHPO's prior correspondence, including clarification of the eligibility determinations for identified cultural resources and the treatment of the Jackass Mail Trail (P-37-040581). The SHPO also acknowledged the BIA's decision to treat the Jackass Mail Trail as eligible for the purposes of this undertaking only, consistent with the SHPO's recommendation, and to avoid the identified segment of Jackass Mail Trail within the Project Site through its inclusion within the designated conservation area for Arroyo toad (Confidential Exhibit A of Attachment 4). Pursuant to 36 CFR § 800.5(b), the SHPO did not object to the BIA's finding of No Adverse Effects (Exhibit B of Attachment 4).

Socioeconomics

The Proposed Project would not result in significant impacts to socioeconomics during construction or operation.

Transportation and Circulation

The Proposed Project would not result in significant impacts to transportation and circulation during construction or operation.

Land Use

The Proposed Project would not result in significant impacts to land use during construction or operation.

Public Services

The Proposed Project would not result in significant impacts to public services during construction or operation. Implementation of BMPs would further minimize any potential impacts.

Noise

Noise and vibration impacts could occur during construction and operation of the Proposed Project. BMPs as well as mitigation measures detailed in EA Section 4 would ensure impacts to noise are less than significant.

Hazardous Materials

The Proposed Project would not result in significant impacts to hazardous materials during construction or operation. Implementation of BMPs would further minimize any potential impacts.

Visual Resources

The Proposed Project would not result in significant impacts to visual resources during construction or operation. Implementation of BMPs would further minimize any potential impacts.

PUBLIC AVAILABILITY

A Notice of Availability for the December 2025 EA was provided to agencies, organizations, and interested parties announcing a comment period of 30 days (excluding federal holidays) starting December 19, 2025 and ending January 21, 2026. The BIA received four comment letters during the public comment period for the EA. Copies of the comment letters received during the comment period and responses to substantive comments are included in **Attachment 1**. Minor changes have been made to the December 2025 EA since the public comment period to reflect the conclusion of Section 106 consultation between the BIA and the SHPO in accordance with Section 106 of the NHPA. These revisions are presented in **Attachment 2** as errata sheets to the December 2025 EA, with changes shown in underline/strikeout format. These clarifications and additional details do not substantively alter the analysis or conclusions of the December 2025 EA.

DETERMINATION

The BIA, Pacific Region been determined that the Proposed Action to approve the acquisition of 48.7 acres (APNs 4040802600, 4040901300, and 4040900700) into federal trust for the Tribe for the purposes of tribal self-determination does not constitute a major federal action that would significantly affect the quality of the human environment.

Therefore, in accordance with Section 102(2)(c) of NEPA, 42 USC § 4321 et seq., an Environmental Impact Statement is not required. This determination is supported by the findings described in this FONSI and the analysis contained in the entire administrative record, including the December 2025 EA and the mitigation imposed. This fulfills the requirements of NEPA as set forth in NEPA (42 USC § 4321 et seq.); the DOI's Procedures for the Implementation of NEPA (43 CFR Part 46); and the DOI NEPA Handbook.

Approved: **Date:**

RYAN HUNTER

Digitally signed by RYAN HUNTER
Date: 2026.07.17 14:20:04 -07'00'

Acting Regional Director
Bureau of Indian Affairs, Pacific Region

Attachments:

Attachment 1 – Responses to Comments on December 2025 EA
Attachment 2 – Final EA Errata
Attachment 3 – Mitigation Monitoring and Compliance Plan
Attachment 4 – Tribal Resolution Committing to Mitigation Implementation

Attachment 1

Responses to Comments on December 2025 EA

Responses to Comments on the December 2025 Environmental Assessment

Ewiiaapaayp Tribal Community and Fee-to-Trust Project

1.0 INTRODUCTION AND COMMENT LETTERS

The Bureau of Indian Affairs, as federal lead agency, directed the preparation of an Environmental Assessment (EA) to assess the potential environmental impacts associated with the proposed trust acquisition of approximately 48.7 acres of fee land owned by the Ewiiaapaayp Band of Kumeyaay Indians (EBKI or Tribe) within unincorporated San Diego County, California (Project Site) and the subsequent development of housing and Tribal community facilities (Proposed Action). The Proposed Action includes the transfer of the Project Site into federal trust status for the benefit of the Tribe under Section 5 of the Indian Reorganization Act (25 USC § 5108), with regulations codified at 25 Code of Federal Regulations (CFR) Part 151. The statutory authority for acquiring land in federal trust status and proclaiming it to be part of the Tribe's reservation is provided in the Indian Reorganization Act of 1934 (IRA; 25 U.S.C. §§ 5108, 5110), with regulations codified at 25 Code of Federal Regulations (CFR) Part 151. Pursuant to 25 CFR Part 151, the Assistant Secretary of Indian Affairs, who has delegated authority from the Secretary of the Interior (Secretary), is charged with reviewing and approving tribal applications to place land into federal trust status. The EA was completed in accordance with requirements set forth in the National Environmental Policy Act (NEPA) (42 USC § 4321 et seq.); the Department of the Interior's (DOI) Procedures for the Implementation of NEPA (43 CFR Part 46 [2008]); and the DOI NEPA Handbook (July 2025)[1,2,3]. The EA provides a detailed description of the Proposed Action and analysis of potential environmental consequences associated with the subsequent development of the Proposed Project.

[1] Executive Order 14154, Unleashing American Energy (Jan. 20, 2025), and a Presidential Memorandum, Ending Illegal Discrimination and Restoring Merit-Based Opportunity (Jan. 21, 2025), require the Department to strictly adhere to NEPA, 42 USC §§ 4321 et seq. Further, such Order and Memorandum repeal Executive Orders 12898 (February 11, 1994) and 14096 (April 21, 2023). Because Executive Orders 12898 and 14096 have been repealed, complying with such Orders is a legal impossibility. The BIA verifies that it has complied with the requirements of NEPA, including the Department's regulations and procedures implementing NEPA at 43 CFR § 46 and Part 516 of the Departmental Manual, consistent with the President's January 2025 Order and Memorandum. The BIA has also voluntarily considered the Council on Environmental Quality's (CEQ's) rescinded regulations implementing NEPA, previously found at 40 CFR § 1500–1508 (2020), as guidance to the extent appropriate and consistent with the requirements of NEPA and Executive Order 14154.

[2] During the course of the preparation of this EA, CEQ rescinded its NEPA implementing regulations at 40 CFR parts 1500–1508. CEQ has directed that agencies should consider voluntarily relying on those regulations in completing ongoing NEPA reviews. Consistent with this direction, the BIA is voluntarily considering the CEQ 2020 NEPA regulations, including where a page "means 500 words and does not include explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information."

[3] Although revised regulations at 43 CFR § 46 as well as the DOI NEPA Handbook became effective July 3, 2025, the associated Federal Register Notice (FR Doc. 2025–12499) states that "…revised agency procedures will have no effect on ongoing NEPA reviews, where the DOI, following CEQ guidance, will continue to apply the preexisting procedures to applications that are sufficiently advanced…" (43 CFR § 46 [2025]). See *supra* Response to Comment T1-3.

The EA also evaluated the potential environmental impacts of alternatives, including the Proposed Project (Alternative A) and the No Action alternative (Alternative B), and recommends mitigation measures to reduce potential environmental impacts.

A Notice of Availability (NOA) for the EA was published in The Alpine Sun newspaper on December 19, 2025 and mailed to interested parties. The EA was also filed with the State Clearinghouse (SCH) on December 19, 2025 (SCH #2025120953) for distribution to state agencies. The NOA, Alpine Sun newspaper proof of publication, and SCH Notice of Completion are included as Attachment 2. The NOA announced that the EA was available for public and agency review for 30 days ending on January 21, 2026. The NOA and EA were also made available online at https://www.EBKIEA.com. The BIA received four comment letters on the EA (**Table 1** and **Attachment 1**). Responses to substantive comments received are provided below. Once an issue has been addressed in a response to a comment, subsequent responses to similar comments reference the initial response. Responses to comments below also consider the DOI NEPA Handbook (February 2026).

TABLE 1: COMMENT LOG

Log #	Name	Affiliation	Date Received
Agencies and Organizations			
A1	Erick Dzeketey, NEPA Reviewer	U.S. Environmental Protection Agency	1/9/2026
A2	Ernie Bartley III, Program Manager	San Diego County Department of Public Works	1/21/2026
Tribes			
T1	Cody J. Martinez, Chair	Sycuan Band of the Kumeyaay Nation	1/21/2026
T2	John Christman, Chair	Viejas Band of Kumeyaay Indians	1/21/2026

Additionally, minor changes have been made to the EA since the comment period to reflect the conclusion of Section 106 consultation between the BIA and the State Historic Preservation Officer (SHPO) in accordance with the National Historic Preservation Act (NHPA). These revisions are presented as errata sheets to the December 2025 EA, which are included as Attachment 2 to the FONSI, with changes shown in underline/strikeout format. The clarifications and additional details do not substantively alter the analysis or conclusions of the December 2025 EA and therefore do not warrant recirculation of the Final EA for additional public review.

2.0 MASTER RESPONSES TO COMMENTS

Master responses in this section address comments with similar subject matter that were submitted multiple times in separate comments. Responses to separate comments may refer to these master responses as a whole or in part to avoid repetition.

Master Response 1: Expressions of Opinion and Non-Substantive Comments

Summary of Comments

Some comments received were expressions of opinion either for or against the Proposed Action or Proposed Project. Other comments summarized the findings of the EA, discussed previous decisions not associated with the currently Proposed Project, or discussed general environmental or concerns associated with potential future gaming development.

Response

Comments submitted to the BIA during the NEPA process, including expressions of opinion, have been included in the administrative record and will be considered by the BIA in its decision on the Proposed Action. The EA was prepared consistent with requirements set forth in NEPA (42 USC § 4321 et seq.); the DOI's Procedures for the Implementation of NEPA (43 CFR Part 46 [2008]); and the DOI NEPA Handbook (July 2025). Responses to comments herein also consider the DOI NEPA Handbook (February 2026). Consistent with the DOI NEPA Handbook (February 2026) Appendix § 1, substantive comments that demonstrate at least one of the following have been responded to herein: 1) question the accuracy of information presented in the EA with a reasoned basis; 2) question the adequacy of the analysis methodology with a reasoned basis; 3) present new information relevant to the analysis; 4) present reasonable alternatives or issues outside of those analyzed; 5) present relevant additional issues for analysis in the EA; or 6) prompt potential changes or revisions to one or more alternatives. Non-substantive comments that do not require a response include: 1) comments for or against the Proposed Action or alternatives without supporting criteria; 2) comments that only agree or disagree with bureau policy or resource decisions without justification; 3) comments that do not pertain to the Proposed Action; 4) open-ended questions or vague comments; or 5) comments citing other comments or sources without providing substantive reasoning.

Responses are not provided to comments that do not further the purpose of the NEPA process, which is to help public officials make decisions based on an understanding of environmental consequences and to take actions that protect, restore, and enhance the environment. Lastly, under the DOI NEPA Handbook § 3.7 (February 2026), "…[a] bureau should not undertake new scientific and technical research to inform its analyses unless the bureau anticipates that the results of that research would be essential to a reasoned choice among alternatives and the overall costs and time frame of such undertaking are not unreasonable. Rather, the bureau should make use of reliable existing data and resources."

Master Response 2: Gaming Concerns

Summary of Comments

Several comments stated that the Tribe's future intent is to develop a gaming project on the Project Site, and therefore the EA should include a gaming alternative.

Response

NEPA requires the analysis of "reasonably foreseeable environmental effects of the proposed agency action…" (42 USC § 4321 et seq. Sec. 102(c)(i)). NEPA does not require the consideration of remote, speculative, or worst-case effects. Additionally, the DOI NEPA Handbook § 6.1 (k) (February 2026) includes the following definitions:

> Effects or impacts means changes to the human environment from the proposed action or action alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or action alternatives….A "but for" causal relationship is insufficient to make an agency responsible for a particular effect under NEPA. Effects should generally not be considered if they are remote in time, geographically remote, or the product of a lengthy causal chain but may be considered to the extent it assists in reasoned decision-making. Effects do not include those effects that the agency has no ability to prevent due to the limits of its regulatory authority, or that would occur regardless of the proposed action, or that would need to be initiated by a third party.

A scenario where a gaming facility is constructed and operated in the future on the proposed trust parcels is speculative and not reasonably foreseeable. A long list of actions would need to occur for a hypothetical gaming project to come to fruition, including initiation of such a course of action by the Tribe and Federal approvals, including but not limited to, the issuance of an Indian Lands Determination. A *hypothetically possible* future outcome differs significantly from one that is *reasonably foreseeable*. Hypothetical future operation of a gaming facility on the proposed trust parcels is not required under NEPA as it would be *remote in time* and *the product of a lengthy causal chain* (DOI NEPA Handbook § 6.1(k)(February 2026).

Additionally, the Viejas Band of Kumeyaay Indians (comment letter T2) relies upon the Assistant Secretary for Indian Affairs' decision from February 10, 2020 to allege gaming is reasonably foreseeable on the Project Site. In that decision, the Assistant Secretary found that development of gaming on the *Clinic* parcel was reasonably foreseeable and connected with the Tribe's 20-year-old Walker parcel application, because the record was unclear and stale concerning various factors under the prior 25 C.F.R. Part 151 regulations. Since then, the Tribe has submitted a new fee-to-trust application with updated materials under the new Part 151 regulations which have different standards and rules regarding what the federal government may consider as part of a Tribe's fee-to-trust application. Further, the Clinic parcel is not the parcel which the BIA is considering taking into trust, it is the Project Site, and the EA properly focuses its analysis on what is reasonably foreseeable on the Project Site to be taken into trust.

In the case "Seven County Infrastructure Coalition v. Eagle County" (cited in comment letter T2), supports the EA. There, the Supreme Court clarified the scope of NEPA reviews, holding that a "'proposed action'" is 'the project at hand—not other future or geographically separate projects that may be built (or expanded) as a result of or in the wake of the immediate project under consideration'", and that agencies are generally not required to analyze the environmental effects of separate, independent projects that might be indirectly caused by the project under review. 605 U.S. 168, 187 (2025).

Master Response 3: Mitigation Enforceability

Summary of Comments

Several comments question the enforceability of mitigation measures and Best Management Practices (BMPs) within the EA.

Response

Mitigation measures to reduce potentially significant impacts of the proposed alternatives are listed in Section 4 of the EA. Mitigation recommendations were informed by extensive research and studies prepared by qualified experts including, but not limited to, biologists, transportation engineers, civil engineers, and registered professional archaeologists. Per Section 4 of the EA, mitigation is enforceable because it is (1) inherent to the project design; and/or (2) required by federal or tribal regulations. In addition, the Tribe has certified a resolution that the Tribe adopts and agrees to enforce, fund, and implement the mitigation measures and BMPS and will incorporate such measures into the specifications of design documents and construction contracts as appropriate. This resolution is included as Attachment 4 to the FONSI. The BIA recognizes, consistent with federal law and policy, that supporting tribal sovereignty and self-determination includes respecting a Tribe's commitment to ensure compliance with mitigation measures in accordance with tribal policies and laws, similar to a State's commitment to enforce mitigation under State law. In this case, any mitigation required by the FONSI will be enforceable as a matter of Tribal law.

In accordance with DOI NEPA Handbook § 1.6 (February 2026), the FONSI for the Proposed Action will "[s]tate the authority for and describe any mitigation that the Responsible Official has adopted and any applicable monitoring or enforcement provisions. If the Responsible Official finds that the proposed action will not have significant effects due to mitigation, the mitigated finding of no significant impact will identify the mitigation measures that will be undertaken to avoid significant effects and the mechanisms to ensure their implementation." Consistent with these requirements, a Mitigation Monitoring and Compliance Plan (MMCP) has been prepared and incorporated into the BIA's FONSI.

Regulatory considerations applicable to pre- and post-trust status are noted throughout Section 3 of the EA and expanded on in Appendix D of the EA. The parties responsible for oversight of each mitigation measure listed in Section 4 of the EA have been identified in the MMCP. The parties responsible for oversight of the Biological Resources mitigation measures are the USFWS, BIA, and Tribe, and mitigation measures would be implemented pursuant to the Endangered Species Act and Migratory Bird Treaty Act. The Biological Assessment (BA) prepared for the Proposed Action was included as Appendix F-1 of the EA, and the Biological Opinion (BO) (Appendix F-4 of the EA) is the binding document issued by the USFWS. On June 12, 2002, the Tribe adopted the Ordinance of the Ewiiaapaayp Band of Kumeyaay Indians Cuyapaipe Band Indian Reservation Alpine, California (Arroyo Toad Ordinance) to ensure permanent preservation of the 4.58-acre conservation area in order to comply with the terms and conditions of the BO. The Arroyo Toad Ordinance authorized the Tribe to enter into a Memorandum of Agreement (MOA) with the USFWS related to a previous project that was never constructed. As the existing MOA may require modifications, the Tribe shall consult with the USFWS and, if necessary, shall enter into a new or amended MOA to provide for the management of the conservation area and the legal means to ensure adequate preservation of the conservation area.

The parties responsible for oversight of the Cultural Resources mitigation measures are the BIA, Tribe, and SHPO should the Tribe not have a Tribal Historic Preservation Officer, and mitigation measures would be implemented pursuant to the NHPA, Archaeological Resources Protection Act, and Native American Graves Protection and Repatriation Act. The party responsible for oversight of the Noise mitigation measures includes the Tribe pursuant to its adopted resolution and federal Noise Abatement Criteria, Federal Transit Administration thresholds for perceptible vibration, and the noise standards of San Diego County.

3.0 RESPONSES TO AGENCY/ORGANIZATION COMMENT LETTERS

Response to Comment Letter A1: USEPA

Response to Comment A1-1

The commenter states that they offer no formal comments, but note that using Tier 4 engines for trucks, excavators, and graders during construction, if available, would allow for the highest standards in engine performance and lead to lower emissions overall. The Tribe has agreed to incorporate this recommendation into the proposed project as a BMP, which has been included in the FONSI and tribal resolution.

Response to Comment Letter A2: San Diego County Department of Public Works

Response to Comment A2-1

Thank you for providing information regarding the County's Cut Policy. As stated in EA Section 2.1, Alternative A includes the development of a new access road off Alpine Boulevard. The Tribe will coordinate with the Department of Public Works to ensure compliance with County requirements as applicable as stated in the County's Cut Policy. Furthermore, as applicable, the Tribe will apply for an encroachment permit from the Department of Public Works for any construction work that would occur within the Alpine Boulevard right-of-way of the Project Site.

Response to Comment A2-2

Grading and drainage associated with the Proposed Project was described in Section 2.1.4 of the EA and detailed within Appendix C of the EA. As described in the EA and shown within the hydrography map in Appendix C of the EA, runoff on the Project Site flows generally into Viejas Creek, or into a tributary that feeds into Viejas Creek. Per Section 2.1.4 and Appendix C of the EA, grading required for the Proposed Project would be minimal and would not alter drainage patterns.

Post development runoff would continue to flow into Viejas Creek and the tributary feeding Viejas Creek, not into unincorporated County rights-of-way or County-maintained stormwater infrastructure. Although on-site drainage would not be modified such that runoff would be newly directed towards a County right-of-way, it is noted that the Proposed Project would include the installation of two stormwater detention basins that would capture and treat stormwater runoff from the built environment and would be sized to accommodate a 100-year 24-hour storm event. This would prevent post-development runoff rates from exceeding pre-development runoff rates. Hydrology data was generated consistent with the San Diego County Hydrology Manual. Because stormwater does not flow to a County right-of-way, and because the Proposed Project would implement on-site stormwater facilities, the EA did not identify impacts to County stormwater infrastructure.

As the Project Site would be acquired into trust prior to construction, and no on or off-site County stormwater facilities would be altered, the County would not have jurisdiction over the Project Site. Additionally, as noted in Section 2.1 and 3.3 of the EA, coverage would be obtained under the National Pollution Discharge Elimination System (NPDES) Construction General Permit prior to construction of the Proposed Project. A Storm Water Pollution Prevention Plan (SWPPP) would be developed and would include BMPs presented in Table 2.1-1 of the EA to reduce erosion and the risk of soil contamination from construction.

Response to Comment A2-3

The following bullet points respond to comments provided by the San Diego County's Department of Public Works Transportation Unit.

- As stated by the commenter, the TIS was finalized in January 2024 with an existing conditions analysis that was based on traffic counts collected in September 2023. The length of time between the two dates is between 3 and 4 months, which does not represent a significant amount of time requiring any additional documentation or consideration of possible changes to background conditions.

- Regarding construction dates and opening year dates, the dates presented in the TIS are based on project assumptions that were available at the time of preparation. While these dates may differ slightly from those presented in the EA, these are estimated dates only, and do not represent finite start and finish dates. Such discrepancies do not affect the impact analysis provided in the TIS and, therefore, do not necessitate any revisions.
- While not specified in the TIS or the EA, the facilities that would be developed as part of the Proposed Action would be for the sole use of the Tribe. This distinction does not affect the impact analysis provided in the TIS and, therefore, does not necessitate any revisions.
- With respect to design considerations for the proposed driveway off Alpine Boulevard, please refer to **Response to Comment A2-1**. Furthermore, the Tribe will conform to the Department of Public Works Public Road Standards as it pertains to any proposed off-site modifications to Alpine Boulevard at the intersection with the proposed driveway.
- With respect to project trip generation, the Traffic Impact Study (EA Appendix B) was prepared to support the evaluation of project impacts and determination of the level of significance of any such impacts in the EA. Section 7 of the Traffic Impact Study details the methodology used to calculate the project's trip generation, which includes land use assumptions that are consistent with those described for Alternative A in EA Section 2. While not anticipated, any change to the Proposed Project land uses that would result in a substantial increase in the trip generation disclosed in the EA may trigger the need for additional evaluation, as specified in DOI NEPA Handbook § 3.6 (a)(February 2026). The BIA is not required to undertake speculative analysis.

4.0 RESPONSES TO TRIBAL COMMENT LETTERS

Response to Comment Letter T1: Sycuan Band of the Kumeyaay Nation

Response to Comment T1-1

Refer to **Master Response 1** and **Master Response 2**.

Response to Comment T1-2

Refer to **Master Response 1** and **Master Response 2**. The BIA has received two separate applications from Tribe requesting the acquisition of tribal properties into trust, including the application for the 48-.7-acre Project Site, which was the subject of the EA, and an application for the "Willows" parcels, also known as the Beck, Berg, Hayden-Jacobs, and Faucett parcels, which comprise approximately 5.9 acres, and are currently developed with rural residential housing uses. The Tribe submitted a separate and independent fee-to-trust application for these parcels, indicating that it has no plans to change the existing uses on those parcels. The BIA has adopted a NEPA Categorical Exclusion for "Land Conveyance and Other Transfers" where no change in land use is proposed, barring extraordinary circumstances (516 DM (10.5)(I). The separate federal actions related to each application are independent and unrelated. For example, the requested federal action to acquire the Willows parcels into trusts would not necessitate or negate the acquisition of the Project Site into trust, or vice versa, nor would it alter the reasonably foreseeable environmental consequences. The BIA frequently receives multiple fee-to-trust requests from various Tribes and routinely assesses these requests as separate actions under NEPA. Regarding the potential for combined or cumulative impacts, because there is no proposed change to the existing rural residential nature of the Willows parcels, there is no potential for environmental effects associated with that federal action that would contribute to the environmental considerations related to the Proposed Action.

Furthermore, Section 2.4.1 of the EA discusses these parcels as an alternative location to support development of the Proposed Project, but this alternative was eliminated from detailed consideration in the EA as the parcels were already developed and could not accommodate the Proposed Project. Further, the Willow parcels are located north of Interstate-8 (I-8), whereas the Project Site is located to the south of I-8, and thus the two properties are geographically isolated by roadways that provide a physical barrier to wildlife migration, drainage patterns, and other matters of environmental concern.

Per the DOI NEPA Handbook § 2.1 (a)(February 2026), "[a] bureau should prepare an environmental impact statement [EIS] only with respect to proposed actions that the bureau reasonably foresees would have a significant effect on the quality of the human environment. NEPA section 106(b)(1); 42 U.S.C. § 4336(b)(1). Whether an impact rises to the level of "significant" is a matter for a bureau's expert judgment." The BIA has determined that potentially significant impacts of the Proposed Project would be reduced to less-than-significant levels with the implementation of mitigation measures listed in Section 4 of the EA.

Therefore, BIA has determined that a FONSI is appropriate for the Proposed Project and an EIS is not required.

Response to Comment T1-3

Section 1 of the EA states that the EA was completed in accordance with requirements set forth in NEPA (42 USC § 4321 et seq.); the DOI's Procedures for the Implementation of NEPA (43 CFR Part 46); and the DOI NEPA Handbook (July 2025). Responses to comments herein also consider the DOI NEPA Handbook (February 2026), which was released after circulation of the EA.

Footnote 2 of Section 1 of the EA states:

> "[d]uring the course of the preparation of this EA, CEQ rescinded its NEPA implementing regulations at 40 CFR parts 1500–1508. CEQ has directed that agencies should consider voluntarily relying on those regulations in completing ongoing NEPA reviews. Consistent with this direction, the BIA is voluntarily considering the CEQ 2020 NEPA regulations, including where a page "means 500 words and does not include explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information."

Footnote 3 of Section 1 of the EA notes:

> "Although revised regulations at 43 CFR § 46 as well as 516 DM 1 – U.S. Department of the Interior Handbook of NEPA Implementing Procedures became effective July 3, 2025, the associated Federal Register Notice (FR Doc. 2025–12499) states that "…revised agency procedures will have no effect on ongoing NEPA reviews, where the DOI, following CEQ guidance, will continue to apply the preexisting procedures to applications that are sufficiently advanced…" (43 CFR § 46 [2025])."

The Council on Environmental Quality (CEQ) has expressly directed federal agencies not to delay ongoing NEPA reviews while agencies revise their implementing procedures in response to recent statutory, regulatory, and policy changes.

In its February 19, 2025 memorandum on NEPA implementation, CEQ instructed agencies that, while they update their NEPA procedures, they "…should continue to follow their existing practices and procedures…" and "…should not delay pending or ongoing NEPA analyses while undertaking these revisions..." Consistent with this direction, CEQ further advised that agencies may continue relying on existing or prior NEPA procedures during the transition period and even "consider voluntarily relying on" the former CEQ NEPA regulations when completing ongoing reviews or defending analyses initiated under those regulations.

Here, the BIA received the fee-to-trust application for the Project Site in early 2024, including an initial draft Environmental Assessment (EA), well before the issuance of the 2025 CEQ implementation guidance and related updates to DOI NEPA Handbook issued in July 2025, and recently finalized in February 2026. Given the stage of the application and the progress already made in the NEPA review, the project review was reasonably determined to be sufficiently advanced to continue under applicable preexisting procedures while the BIA transitioned to updated guidance. At the same time, CEQ's implementation guidance emphasizes efficiency, continuity, and predictability in the permitting process, encouraging agencies to proceed with ongoing reviews rather than restart analyses when regulatory changes occur.

Accordingly, the EA for the Project Site was prepared to remain generally consistent with the most recent rules and guidance where feasible while avoiding unnecessary delay to an already-initiated review process. Neither CEQ's recent guidance, NEPA, nor the DOI NEPA Handbook prohibit the BIA from applying a practical, transitional approach to NEPA compliance for ongoing reviews. To the contrary, the current framework anticipates that agencies may rely on a combination of existing agency procedures, prior regulatory frameworks, and updated statutory requirements while new NEPA implementing procedures are being developed and finalized.

Response to Comment T1-4

There are infinite potential project alternatives that could be considered within an EA. NEPA requires that an EA evaluate "…a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal… consistent with the provisions of this Act, study, develop, and describe technically and economically feasible alternatives (42 USC 4332)." The DOI NEPA Handbook (July 2025) defines "reasonable alternatives" as "…a reasonable range of alternatives that are technically and economically feasible, meet the purpose and need for the proposed action, are within the jurisdiction of the bureau, and, where applicable, meet the goals of the applicant." NEPA also requires than an EA "…shall not exceed 75 pages…" Therefore, it is not possible to assess every possible alternative. As described in EA Section 1.3:

> The purpose of the Proposed Action is to strengthen tribal self-determination and sovereignty, ensure that the Tribe has protected homelands where its citizens can maintain their tribal existence and way of life, and consolidate land ownership to strengthen tribal governance over reservation lands and reduce checkerboarding.

The commenter's suggestion to include a "Trust Acquisition without Immediate Development" alternative would not achieve the stated purpose and need, be technically and economically feasible, meet the goals of the applicant, and impacts would not be greater than those already assessed in the EA. Furthermore, the environmental effects of such an alternative would be substantially similar to the effects of Alternative B (No Action), assessed in the EA.

Potential impacts to the Arroyo toad were thoroughly analyzed in EA Section 3.5.3, and mitigation measures listed in Section 4 would reduce impacts to a less than significant level. The USFWS previously determined in a BO issued for the same site in 2002 that Arroyo toad may occur within Viejas Creek and the intermittent channel on the Project Site. The 2023 survey confirmed these habitats unchanged since the BO and that this habitat was degraded from past and ongoing use, including grazing (Appendix F-1 of the EA). Consistent with the 2002 BO, the Tribe entered into an MOA with the USFWS identifying an Arroyo toad conservation area (USFWS, 2002). The Tribe adopted a Tribal Ordinance setting aside a conservation area in perpetuity that captures the totality of Viejas Creek crossing the Project Site as well as the immediately adjacent suitable upland habitat. The Proposed Project would be set back from the areas previously identified by USFWS as the uppermost bounds of suitable upland habitat for Arroyo toad and therefore suitable habitat for Arroyo toad would not be directly impacted. Therefore, analysis of an additional alternative involving a different configuration of land uses would not reduce potential environmental effects of the Proposed Project, especially related to potential impacts on federally listed species.

Response to Comment T1-5

The commenter states that the EA "…finds 'less than significant' cumulative effects without adequately establishing baselines." Refer to **Master Response 1**. While no specific comment is provided in regards to baselines in general, it is noted that each resource section in the EA includes an "Environmental Setting" section that describes pre-project, baseline conditions as it relates to each issue area. For example, under 3.2 Land Resources, the Environmental Setting is provided in Section 3.2.2. The comment specifically states that there was not adequate quantification of project increments for groundwater, lighting adjacent to critical habitat, and traffic safety. These are discussed below.

Project increments related to groundwater are quantified in the EA. As stated in Section 3.3.3 of the EA, the Proposed Project has an extremely conservative water demand estimate of 2,400 gallons per day (gpd), which is an increase from the estimated 670 gpd currently used. These values were considered in the project specific and cumulative impact analysis provided in Section 3.3.3 of the EA. The cumulative impact analysis considered water demands of the Proposed Project and notes that the County land use designation of the Project Site anticipated up to 96 single family homes, which would have demanded much more groundwater than the Proposed Project. Per the General Plan, full buildout of the plan (including up to 96 residences on the Project Site) would leave the associated underlying groundwater at 72 percent capacity, which is well over the 50 percent or lower capacity determined by the County as the threshold for significance.

The cumulative impact analysis further noted that the Project Site previously irrigated several acres for hay production and consistently utilized the existing groundwater well at rates much higher than the Proposed Project would. Finally, the cumulative impact analysis considered that 95 percent of water use in the County is derived from surface waters, not groundwater.

Potential impacts on critical habitat were assessed in Section 3.5.3 of the EA and through consultation with the USFWS pursuant to Section 7 of the Endangered Species Act. Critical habitat for Arroyo toad is designated within the Project Site. On September 11, 2024, the USFWS concurred that Alternative A is not likely to adversely affect federally listed species or critical habitat with consideration of conservation measures contained within the letter of concurrence (Appendix F-4 of the EA). These measures are included in Section 4 of the EA as mitigation measures. Section 3.5.3 of the EA also acknowledges that development can indirectly affect habitat through overspilling of artificial lighting.

However, lighting currently already occurs on the Project Site and in the surrounding area, therefore lighting impacts associated with the Proposed Project, if any, would be minimal. Mitigation in Section 4 of the EA includes requiring lighting to be downcast and shielded with motion detection systems for lights within the development footprint required for safety purposes. Because lighting would be designed such that it would not overspill into critical habitat, no cumulatively contributing impacts to designated critical habitat regarding artificial lighting were identified. This analysis was included in the BA submitted to the U.S. Fish and Wildlife Service (USFWS)(Appendix F-1 of the EA), as described in Section 3.5.3 of the EA. The USFWS concurred that, with consideration of the design standards, the Proposed Project may affect, but is not likely to adversely affect Arroyo toad, or its critical habitat (Appendix F-4 of the EA).

As stated in EA Section 3.8.3, an annual traffic growth rate of 2 percent was assumed for the Opening Year traffic impact analysis to account for regional growth occurring between the existing count year (2023) and the estimated opening year (2026). The Proposed Action includes a new stop-controlled driveway off Alpine Boulevard. The stop sign would control northbound traffic exiting onto Alpine Boulevard and is calculated to operate at LOS A during the AM and LOS B during the PM peak hours in the Opening Year analysis.

Given that the proposed driveway would not cause service levels to decrease to an acceptable level, this impact is less than significant. Furthermore, since the proposed driveway would connect to a County-operated roadway (Alpine Boulevard), any off-site modifications needed would be required to comply with County roadway design requirements, which include traffic safety considerations.

Response to Comment T1-6

Refer to **Response to Comment T1-5** regarding cumulative analysis of groundwater impacts. As stated in Section 3.3.3 of the EA, the well has been tested and can sustainably produce over 100 gallons per minute (gpm) and has historically been used sustainably for irrigation at a much higher demand than the Proposed Project would incur. Precise capacity is not known, but well testing suggests the well is suitable in its current condition to serve the Proposed Project. While well production can be useful in determining a minimum sustainable groundwater yield, it is not a direct replacement for actual groundwater data given that well design (such as the casing and pump size) can greatly affect well production independent of groundwater availability. Note that the well is set back approximately 700 feet from the Viejas Creek riparian habitat, and groundwater use would be much lower than what was historically used for irrigation.

As described in **Response to Comment T1-5**, the potential impacts to groundwater were based on the characteristics of the groundwater underlying the Project Site. While the well is anticipated to adequately serve the Proposed Project based on test results and past more intensive use, any modifications to the well would be reflective of well design needs, not on the ability of the underlying groundwater to support the Project. While the quality of groundwater would not affect projected pumping rates, it is noted that the well has been used for both potable water and irrigation without quality concerns.

Response to Comment T1-7

Refer to **Master Response 3** and **Response to Comment T1-5**. Potential impacts on federally listed species and critical habitat were assessed in Section 3.5.3 of the EA and through consultation with the USFWS pursuant to Section 7 of the Endangered Species Act. The BA and EA included maps of the conservation area, which identified an Arroyo toad conservation area inclusive of Viejas Creek, its riparian corridor, and a 100-foot buffer. Thus, mapping and buffers were already included within the BA and EA, as recommended by the commentor.

On September 11, 2024, the USFWS concurred that Alternative A is not likely to adversely affect federally listed species or critical habitat with consideration of conservation measures contained within the letter of concurrence (Appendix F-4 of the EA). These measures are already included in the BA, BO issued by the USFWS, and in Section 4 of the EA as mitigation measures, and include permanent preservation of the 4.58-acre Arroyo toad conservation area in order to comply with the terms and conditions of the BO and to mitigate for impacts on Arroyo toad critical habitat. The Arroyo Toad Ordinance was adopted by the Tribe on June 12, 2002 regarding permanent preservation of the 4.58-acre Arroyo toad conservation area and authorized the Tribe to enter into an MOA with the USFWS related to a previous project that was never constructed. As the existing MOA may require modifications, the Tribe shall consult with the USFWS and, if necessary, shall enter into a new or amended MOA to provide for the management of the conservation area and the legal means to ensure adequate preservation of the conservation area. Lastly, mitigation in the BA, BO, and in Section 4 of the EA also specifies that "to ensure avoidance and minimization measures from the USFWS consultation process are implemented, all activities conducted for construction and clearing will be monitored by a USFWS-approved biologist." Therefore, monitoring is already required, and a stop work would occur in the event that Arroyo toad is observed in the Project Site during construction.

Response to Comment T1-8

Please see Response T1-5 regarding traffic safety at the proposed access driveway off Alpine Boulevard.

Response to Comment T1-9

As discussed in Section 3.6.3 of the EA, the Project Site primarily contains tertiary volcanic rocks and Fallbrook series soils (Appendix G of the EA). These soils are alfisols that typically lack organic materials and date to the late Pleistocene (22,000-11,500 years ago) and predate human occupation of the region of the Project Site. Therefore, the potential for the presence of intact buried archaeological deposits within the Project Site was concluded to be low.

The Native American Heritage Commission supplied a list of Native American individuals and groups who may have additional information about cultural resources in the vicinity of the Project Site. These individuals and groups, including the Sycuan Band of the Kumeyaay Nation, were contacted by Natural Investigations as part of the research methods for the cultural resources study and a reply was received only from Viejas Band of Kumeyaay Indians, who stated that cultural resources have been located within or adjacent to the Project Site and a Kumeyaay cultural monitor should be present during ground disturbing activities. Accordingly, mitigation measures are included in Section 4 of the EA for the treatment of unanticipated archaeological discoveries. Mitigation measures include requiring a tribal monitor or qualified archaeologist to be present during initial ground disturbance to monitor for potential inadvertent discoveries during construction. Any unanticipated potential finds would be handled in accordance with applicable regulations and associated notification procedures.

Lastly, the BIA has conducted consultation with the SHPO pursuant to Section 106 of the NHPA. On January 22, 2026, the SHPO acknowledged that the BIA appropriately addressed the issues raised in the SHPO's prior correspondence, including clarification of the eligibility determinations for identified cultural resources and the treatment of the Jackass Mail Trail (P-37-040581). The SHPO also acknowledged the BIA's decision to treat the Jackass Mail Trail as eligible for the purposes of this undertaking only, consistent with the SHPO's recommendation, and to avoid the identified segment of Jackass Mail Trail within the Project Site through its inclusion within the designated conservation area for Arroyo toad. Pursuant to 36 CFR § 800.5(b), the SHPO did not object to the BIA's finding of No Adverse Effects.

Response to Comment T1-10

The EA provides a transparent analysis of potential socioeconomic impacts that could occur from the removal of the proposed trust parcels from San Diego County property tax assessments. As stated in EA Section 3.7.3, the removal of these parcels from the County's property tax rolls would result in an annual property tax reduction of approximately $24,295.24. This represents 0.0004% of the over $6.5 billion the County collects in taxes, and thus this impact is considered less than significant. On December 19, 2024, the County of San Diego received the Notice of Non-Gaming Land Acquisition Application, signed December 6, 2024, from the BIA. The County acknowledged the tax reduction in their response letter dated Januyary 6, 2025.

Response to Comment T1-11

Refer to **Master Response 2** and **Response to Comment T1-2.** Refer also to **Responses to Comments T1-1 through T1-10.**

Response to Comment Letter T2: Viejas Band of Kumeyaay Indians

Response to Comment T2-1

Comment noted. Refer to **Master Response 1.**

Response to Comment T2-2

Refer to **Master Response 2, Master Response 3, Response to Comment T1-2, Response to Comment T1-5, Response to Comment T1-4,** and **Response to Comment T1-10.**

Response to Comment T2-3

Refer to **Master Response 1** and **Master Response 2**.

Response to Comment T2-4

Refer to **Master Response 1** and **Master Response 2**.

Response to Comment T2-5

Refer to **Master Response 1, Master Response 2**, and **Response to Comment T1-2**.

Response to Comment T2-6

Refer to **Response to Comment T1-2**. Cumulative impact analysis is provided in Section 3.3.3 of the EA.

Response to Comment T2-7

Refer to Response to Comment T1-3.

Response to Comment T2-8

Refer to **Response to Comment T1-4**.

Response to Comment T2-9

Refer to **Response to Comment T1-4**, **Response to Comment T1-5**, and **Response to Comment T1-7**.

The proposed development footprint for the Proposed Project includes the proposed buildings, parking areas, detention basins, and access driveways, which totals approximately 2.2 acres. Impacted acreage would be minimal compared to the size of the 48.5-acre Project Site, and associated impacts would therefore already be minimal as proposed. As discussed further in **Response to Comment T1-**4, analysis of an additional alternative involving a different configuration of land uses would not reduce potential environmental effects of the Proposed Project, especially related to potential impacts on federally listed species.

Response to Comment T2-10

Refer to **Response to Comment T1-4, Response to Comment T1-5, Response to Comment T1-7,** and **Response to Comment T2-9.**

Response to Comment T2-11

Refer to **Master Response 3**.

Response to Comment T2-12

Refer to **Master Response 2** and **Master Response 3**.

Response to Comment T2-13

Refer to **Master Response 2** and **Master Response 3**.

Response to Comment T2-14

Refer to **Master Response 3**. Additionally, parties have been given the opportunity to comment on the adequacy and effectiveness of specific proposed methods of enforcement for each mitigation measure through the 30-day public comment period for the EA, consistent with NEPA requirements.

Response to Comment T2-15

Please refer to **Response to Comment T1-5**. Data sources are disclosed in the EA in the "References" section. It is incorrect to state that the EA did not present thresholds. For each issue area, a "Significance Criteria" header was provided that enumerated applicable thresholds and/or standards that the subsequent analysis considered. For example, in Section 3.2, the impact analysis in Section 3.2.3 begins with a header outlining the significance criteria and what would constitute a significant impact to land resources. Refer to **Response to Comment T1-5** regarding the EA's analysis of groundwater use, ambient lighting, and traffic.

Response to Comment T2-16

The EA acknowledges that the capacity and quality of the existing well is not known, however this does not affect the groundwater analysis. As detailed in **Response to Comment T1-5** the capacity of the well is reflective of the design of the well, not the volume of available groundwater. While the exact capacity and quality of the well are not known, it is known that the well has been used for both potable water and irrigation and can sustain 100 gpm. This is sufficient information to conclude that it is likely that the well design would not require modification to support the Proposed Project. Even if modifications are necessary, it would not change the fact that groundwater is available to support the Project (see **Response to Comment T1-5**).

Response to Comment T2-17

Refer to **Response to Comment T1-5**.

Response to Comment T2-18

The commenter argues that the EA did not provide adequate detail regarding the traffic analysis assumptions, analysis, and impact conclusions. EA Section 3.8 provides a more concise analysis of the full analysis detailed in the Traffic Impact Study (Appendix B of the EA). This style of presenting information in the EA and its appendices is required in order to meet the 75-page limit per NEPA requirements. The EA is transparent in providing references to the full analysis provided in the appendices.

Response to Comment T2-19

Refer to **Master Response 3, Response to Comment T1-7,** and **Response to Comment T1-5.**

Response to Comment T2-20

Refer to Response to Comment T1-9. Additionally, mitigation measures included in Section 4 of EA also include notification of any cultural resource finds during construction to the Viejas Band of Kumeyaay Indians.

Response to Comment T2-21

Refer to **Response to Comment T1-10**.

Response to Comment T2-22

Refer to **Master Response 2** and **Response to Comment T1-2.** Refer also to **Responses to Comments T2-1** through **T2-21.**

Attachment 1

Comments Received on the Environmental Assessment

From: Dzeketey, Erick <Dzeketey.Erick@epa.gov>
Sent: Friday, January 9, 2026 10:25 AM
To: Hayden, Jennifer A <Jennifer.Hayden@bia.gov>
Cc: Gordon, Laney <Gordon.Laney@epa.gov>
Subject: [EXTERNAL] Ewiiaapaayp Tribal Community and Fee-to-Trust Project

Good morning, my name is Erick Dzeketey, and I am part of EPA's Region 9 NEPA team. I was the lead reviewer for the Ewiiaapaayp Tribal Community and Fee-to-Trust Project. FYI, the Region 9 NEPA team's BIA lead continues to be Laney Gordon, who I've cc'd on this email.

EPA would like to express its appreciation to the BIA and Tribe for making efforts to minimize environmental impacts and affording extra space for the conservation area to protect the Arroyo toad. While we have no formal comments, we wanted to note that using Tier 4 engines for trucks, excavators, and graders during construction, if available, would aid in environmental protection. This addition to the already planned air quality BMPs concerning vehicles (such as idling times) would allow for the highest standards in engine performance and lead to lower emissions overall. Thank you for considering this recommendation and for the protection efforts displayed in this EA. Please let me know if you have any questions for me or if I can be of assistance in any way. A1-1

Best,

Erick Dzeketey
NEPA Reviewer
U.S. Environmental Protection Agency, Region IX
Environmental Review Section 1
75 Hawthorne St., San Francisco, CA 94105
(415) 972-3582
dzeketey.erick@epa.gov

PUBLIC WORKS
5510 OVERLAND AVENUE, SUITE 410, SAN DIEGO, CALIFORNIA 92123-1237
(858) 694-2212

MARISA K. BARRIE, PE
DIRECTOR

KATHRYN A. STEWART, PE
ASSISTANT DIRECTOR

January 21, 2026

VIA E-MAIL

Mr. Will Micklin, CEO
Ewiiaapaayp Band of Kumeyaay Indians
4054 Willows Road
Alpine, CA 91901
ceo@ebki-nsn.gov

Ms. Jennifer Hayden
Environmental Protection Specialist
Bureau of Indian Affairs, Pacific Region
2800 Cottage Way
Sacramento, CA 95825
Jennifer.Hayden@bia.gov

Ms. Kaitlan Alonzo, Project Manager
Acorn Environmental
5170 Golden Foothill Parkway
El Dorado Hills, CA 95762
kalonzo@acorn-env.com

Subject: County of San Diego Public Review Comments to Environmental Assessment for Ewiiaapaayp Tribal Community and Fee-to-Trust Project

Dear Ms. Hayden,

The County of San Diego (County) staff reviewed the Ewiiaapaayp Tribal Community and Fee-to-Trust Project Environmental Assessment (Project). County staff appreciate the opportunity to review the Project and offer the following comments for your consideration. Please note, none of the comments should be construed as the County's support for the Project.

FIELD ENGINEERING

The County's Department of Public Works (DPW) Field Engineering Unit supports stormwater pollution prevention and environmental regulatory programs, and provides maintenance management support, including scheduling, coordination and productivity of road maintenance activities. Field Engineering completed their review and offer the following comments.

PAVEMENT SECTION

- If any County-maintained roads are trenched or cut within three years of the roads being resurfaced, this will constitute a violation of the County's Cut Policy, and the Ewiiaapaayp Band of Kumeyaay Indians will be required to resurface impacted sections of the roadway with the same treatment. Please coordinate with Bharath Mallikarjun, County's Utility Coordinator, prior to construction and for updates on which County roads were resurfaced and when. He can be reached at (858) 505-6942 or at Bharath.Mallikarjun@sdcounty.ca.gov. A2-1

- The Ewiiaapaayp Band of Kumeyaay Indians can visit the County's Resurfacing Projects mapping application to view the resurfacing status of the County-maintained roadways, including those classified as "completed", "in-construction", and "programmed" for resurfacing.

A2-1 cont.

DRAINAGE SECTION

- The current topography of both parcels of the proposed project causes stormwater runoff to leave the parcels and drain to areas within the unincorporated County, ultimately reaching the County's right-of-way and roadway drainage facilities. Any development or alteration of the proposed parcels should be routed to County DPW for review to ensure there are no adverse impacts to the County's drainage facilities or roadways

A2-2

TRANSPORTATION DIVISION

The County's DPW Transportation Unit maintains a safe and efficient County Maintained Road system for motorists, bicyclists, pedestrians, and equestrians. The Transportation Unit completed their review and offer the following comments:

- The Traffic Impact Study (TIS) is dated January 2024 and the existing traffic count data was collected in September 2023. The TIS should state that no new development has occurred within the study area that would significantly change the Existing Conditions analysis and assumptions.
- The TIS states that project construction was to begin in January 2025 and Opening Day in 2026. The Environmental Assessment (EA) document indicates that construction would begin Summer of 2025. The EA and TIS should update the projected schedule for project construction and Opening Day.
- The TIS should indicate whether the new proposed facilities would be available only to the tribal members and not the general public.
- The project proposes to take access from an existing driveway located along Alpine Boulevard. The Ewiiaapaayp Band of Kumeyaay Indians should coordinate with the County to assess traffic operations and safety conditions for the Alpine Boulevard access driveway, such as the adequacy of corner sight distance and assess the need for Alpine Boulevard frontage improvements.
- It should be noted that any future proposed onsite development that would potentially increase the number of vehicle trips would require an update to TIS.

A2-3

Let us know if you have any questions by contacting Richard Chin, DPW Project Manager, at Richard.chin@sdcounty.ca.gov.

Thank you,



Ernest (Ernie) Bartley III, Program Manager
County of San Diego, Department of Public Works
Traffic Engineering

T1

Cody J. Martinez
Chairman

Joshua Muse
Vice Chairman

Jade Martinez
Secretary

Brianna Scharnow
Treasurer

Nathan LaBrake
Council Member

Jamie LaBrake
Council Member

Willie Tucker, Jr.
Council Member

Bureau of Indian Affairs, Pacific Region
Attn: Jacilyn Snyder
2800 Cottage Way
Sacramento, California 95825
Email: Jacilyn.Snyder@bia.gov

January 21, 2026

Re: Comments on Environmental Assessment for the Ewiiaapaayp Band's Tribal Community and Fee-to-Trust Project

Dear Ms. Snyder:

The Sycuan Band of the Kumeyaay Nation ("Sycuan") submits these comments on the Ewiiaapaayp Band of Kumeyaay Indians ("Ewiiaapaayp Band"), California's Environmental Assessment ("EA") for the proposed trust acquisition by the U.S. Bureau of Indian Affairs ("BIA") of three parcels of land (the Walker, Walker II, and Salerno parcels), totaling approximately 48.7 acres in trust ("Subject Property").
The EA violates the National Environmental Policy Act ("NEPA") for the following reasons:

1. **The EA does not enable the BIA to make an informed decision.**

The basic purpose of NEPA is to enable agencies to make informed decisions. To that end, an applicant must describe its proposed action and its purpose so that an agency can determine and analyze the impacts the proposed action will have. That goal is thwarted when, as here, an applicant does not disclose the true purpose of its proposed action. T1-1

The Ewiiaapaayp Band's true purpose for its various acquisitions/reservation proclamations is the same as it has been for the last 25 years—developing a casino. The BIA cannot ignore that history and pretend as if the purpose is really housing and a community center for its seven members. As Sycuan detailed in its prior comments on the Ewiiaapaayp Band's pending applications for the Subject Property and another four parcels on nearby land called the Willows parcels, there is ample evidence that shows that the Ewiiaapaayp Band's plan is to develop a casino, including its insistence that the Subject Property is contiguous to the Southern Indian Health Clinic parcel, despite being separated by two public roads owned by San Diego County and an interstate highway owned by the State of California. The BIA must evaluate the impacts of a tribal casino to satisfy NEPA.

2. **The EA fails to analyze the impacts of the Ewiiaapaayp Band's related proposed action.**
The EA defines the "Proposed Action" as the trust acquisition plus development of an office, library/community center, two houses, an emergency center, and a conservation area, all of T1-2

which is limited to the development "footprint" of 4.6 acres. But that is not the Ewiiaapaayp Band's only proposed action. It has also requested that the BIA acquire the Willows parcels in trust and also issue a reservation proclamation for that land. While NEPA allows agencies to draw a "manageable line" around the proposed action, it does not permit the agency to ignore a virtually identical proposed action involving nearby land, proposed by the same applicant, at roughly the same time, and serving overlapping purposes. Here, the record warrants a clearer explanation.

The EA improperly omits analysis of the potential impacts associated with the Ewiiaapaayp Band's related proposed action to have the Willows parcels acquired in trust. Because that action is reasonably foreseeable, geographically proximate, and part of a broader pattern of related trust acquisitions by the same applicant, the EA must consider these applications jointly. Absent such joint analysis, the EA does not provide a sufficient basis for informed decision-making. T1-2 cont.

The agency failed to reasonably explain its line drawing between the trust decision and "subsequent development," given the long record of gaming efforts nearby and the Assistant Secretary - Indian Affairs' 2020 direction that such plans were reasonably foreseeable. At minimum, the EA should have addressed whether any extraordinary circumstances or precedential, growth-inducing, or cumulative effects of the trust decision warranted an Environmental Impact Statement ("EIS") rather than an EA.

3. The EA does not adequately address key issues and deficiencies related to scope, alternatives, cumulative and indirect effects, mitigation, and project-specific concerns.

While the two threshold issues discussed above apply broadly to the EA as a whole, the comments below identify additional, specific deficiencies in the EA. T1-3

1. The EA ambiguously identifies the applicable NEPA framework and merely references the Department's "voluntar[y]" consideration of the CEQ 2020 regulations, without specifying which rules apply and explaining how that choice affected scoping, alternatives, page limits, cumulative-effects analysis, and mitigation documentation.

2. The EA unreasonably limits its alternatives analysis to only the proposed project and fails to consider feasible site configuration variants or a "Trust Acquisition without Immediate Development" alternative, despite the presence of sensitive Arroyo toad habitat and evidence that the program could be accommodated on a subset of one parcel. T1-4

3. The EA defines reasonably foreseeable actions as those within 10 miles, but it largely finds "less than significant" cumulative effects without adequately establishing baselines or quantifying project increments for groundwater, lighting adjacent to critical habitat, and traffic safety. T1-5

4. Because well capacity and quality are unknown and demand is projected to increase, the EA should require hydrogeologic testing and modeling or enforceable performance conditions to ensure adequate supply and prevent adverse impacts to peak flow, runoff quality, and riparian areas. T1-6

5. The EA must convert conservation area and Arroyo toad commitments into enforceable mitigation by including mapping, buffers, criteria, standards, funding, compliance access, monitoring, stop work authority, and incorporation of the Biological Assessment and U.S. Fish and Wildlife Service agreement. T1-7

6. Project level design specifics should include a clear safety analysis for the new Alpine Boulevard access with key traffic findings incorporated into the decision, and visual/noise controls should set enforceable construction hours, equipment tiers, and barriers rather than aspirational management practices. T1-8

7. Cultural resource protections should explicitly designate Sycuan as the monitor or co-monitor, establish written notification protocols, and require preconstruction coordination on sensitive areas reflecting the Tribe's site-specific knowledge. T1-9

8. The EA should provide a reasoned, transparent explanation of socioeconomic impacts by disclosing the effects of removing approximately $24,295/year in property taxes on local fire, sheriff, and school district revenues, and identifying any service agreements or offsets. T1-10

The EA does not satisfy NEPA's core requirement to inform decision-making. It accepts an unduly narrow purpose-and-need, omits analysis of reasonably foreseeable casino development, and segments related, near-concurrent trust requests, obscuring the true scope and intensity of impacts. It also leaves key issues unaddressed, as set forth in the comments below. The BIA should (1) revise and recirculate the EA to evaluate the full proposed action (including casino development) and the connected Willows filing in a single document with enforceable mitigation and clarified governing procedures, or (2) prepare an EIS given the record, extraordinary-circumstances indicators, and cumulative impacts at issue. Failing these steps, approval based on the current EA would be arbitrary and capricious. T1-11

Should you require any additional information or documentation, please do not hesitate to contact our CAO, Adam Day at 619-445-2613 or our General Counsel, Kele Bigknife at kbigknife@sycuan.gov. Thank you for your consideration and for allowing Sycuan time to participate.

Sincerely,



Cody J. Martinez
Chairman

T2

VIEJAS

TRIBAL GOVERNMENT

P. O. Box 908
Alpine, CA 91903
1 Viejas Grade Road
Alpine, CA 91901

Phone: 619.445.3810
Fax: 619.445.5337
viejas.com

John A. Christman, Chairman
Victor E. Woods, Vice Chairman
Rene Curo, Tribal Secretary
Samuel Q. Brown, Tribal Treasurer
Adrian M. Brown, Councilman
Gabriel T. TeSam, Jr., Councilman
Kevin M. Carrizosa, Councilman

January 21, 2026

Mr. Ryan Hunter, Acting Regional Director
Ms. Jacilyn Snyder
Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825
Jacilyn.Snyder@bia.gov

Re: Comments of the Viejas Band of Kumeyaay Indians on the Environmental Assessment (EA) dated December 2025

Dear Acting Regional Director Hunter:

The Viejas Band of Kumeyaay Indians (Viejas) submits these comments on the Draft Environmental Assessment (EA) dated December 2025 for the Ewiiaapaayp Tribal Community and Fee-to-Trust Project assessing the potential environmental impacts that could result from the acquisition by the Bureau of Indian Affairs of approximately 48.7 acres within unincorporated San Diego County, California (Project Site) into federal trust status (Proposed Action) for the benefit of the Ewiiaapaayp Band of Kumeyaay Indians (Tribe). T2-1

The Assistant Secretary for Indian Affairs retained jurisdiction over any final decision in this matter in *Viejas Band of Kumeyaay Indians v. Pac. Reg'l Dir.* (IBIA Feb. 10, 2020).[1] Viejas therefore requests a meeting with the Assistant Secretary before any final decision is issued.

Thank you for your consideration of these comments.

Sincerely,

John Christman
Chairman, Viejas Band of Kumeyaay Indians

cc: Assistant Secretary for Indian Affairs William Kirkland

[1] Decision of Assistant Secretary for Indian Affairs Tara Sweeney at 8, *Viejas Band of Kumeyaay Indians v. Pac. Reg'l Dir.* (IBIA Feb. 10, 2020) ("If the [Tribe] chooses to submit a new fee-to-trust application for the Walker Parcel it is encouraged to update the justification regarding its need for additional land, clarify the purposes for which the land will be used, and provide sufficient information to allow the Secretary to comply with the requirements of § 151.1 0(h). Only then will I be able to make an informed decision on whether to exercise my discretion to take the Walker Parcel into trust. My decision is final for the Department." (citation omitted)).

Comments of the Viejas Band of Kumeyaay Indians on the Environmental Assessment dated December 2025 for the Ewiiaapaayp Band of Kumeyaay Indians Tribal Community and Fee-to-Trust Project

Ewiiaapaayp Band of Kumeyaay Indians' Fee-to-Trust Application
Walker, Walker II, and Salerno Parcels (48.7 Acres)
APNS 4040901300, 4040802600, 4040900700

January 21, 2026

Submitted to:

Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825

Submitted by:

Perkins Coie LLP
on behalf Viejas Band
of Kumeyaay Indians

I. Introduction

The Viejas Band of Kumeyaay Indians (Viejas) submits these comments objecting to the Environmental Assessment (EA)[1] prepared for the application of the Ewiiaapaayp Band of Kumeyaay Indians (Ewiiaapaayp or Tribe), formally known as the Cuyapaipe Community of Diegueño Mission Indians of the Cuyapaipe Reservation, to have three parcels of land totaling 48.7 acres (Subject Property) acquired in trust pursuant to Section 5 of the Indian Reorganization Act of 1934, 25 U.S.C. § 5108 (IRA), and federal trust land acquisition regulations, 25 C.F.R. Part 151.[2] The Application states the purpose of the proposed trust acquisition is to allow Ewiiaapaayp "to develop a Tribal office, library/community center, two new Tribal elder homes, and associated infrastructure."[3] Ewiiaapaayp is also asking the Secretary to proclaim the three parcels a Ewiiaapaayp Reservation in Viejas' ancestral territory.

The EA does not meet the requirements of the National Environmental Policy Act (NEPA). While there are several legal problems with the EA, the EA must be redone for two key reasons. First, the Ewiiaapaayp's stated purpose of the proposed action is untrue. The Tribe's goal is to develop a casino-resort on the Subject Property. Over the past 30 years, the Tribe has tried to have these and other parcels acquired in trust without acknowledging its actual purpose in its various trust applications. But its requests for gaming ordinance approvals, gaming declination letters, a liquor ordinance approval for a casino, and other efforts, have demonstrated that gaming is its ultimate objective. The Bureau of Indian Affairs (BIA) cannot take the Ewiiaapaayp's stated purpose of the acquisition at face value. Any EA for the proposed action must have a casino-resort as the proposed action. T2-2

Second, the EA improperly segments from review the Ewiiaapaayp's second fee-to-trust request for land located across the highway and service roads, which the Tribe claims it intends to use for more housing, utility access, and a health clinic. These parcels have long been part of the Ewiiaapaayp's efforts to free another parcel of land—the Southern Indian Health Clinic parcel (SIHC)—for gaming purposes. The impacts of two, concurrent, geographically proximate proposed actions must be analyzed in a single environmental document to satisfy NEPA.

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[1] BIA, *Environmental Assessment of Ewiiaapaayp Band of Kumeyaay Indians Tribal Community and Fee-to-Trust Project* (Dec. 2025)).

[2] Viejas previously submitted comments opposing the application on January 22, 2025. Comments of the Viejas Band of Kumeyaay Indians on the Notice of Non-Gaming Application (Case No. 56733) Ewiiaapaayp Band of Kumeyaay Indians' Fee-to-Trust Application Walker, Walker II, and Salerno Parcels (48.7 Acres) APNS 4040901300, 4040802600, 4040900700 (Jan. 22, 2025) (Walker Comments). Viejas detailed the history of Ewiiaapaayp's trust applications and submitted exhibits from the administrative records supporting the prior decisions for applications involving the same parcels. Viejas also submitted comments opposing the Tribe's related and improperly segmented application for the Willows parcels on April 16, 2025. Comments of the Viejas Band of Kumeyaay Indians on the Notice of Non-Gaming Application (Case No. 56740) Ewiiaapaayp Band of Kumeyaay Fee-to-Trust Application and Reservation Proclamation Requestion, Faucett Hayden-Jacobs, Beck, and Berg, APNs 4040603900, 4040610500, APN 4040610400, and 4040610600 (Apr. 16, 2025) (Willows Comments). Viejas incorporates those comments here by reference, including the full administrative records for the relevant decisions of the Department of the Interior referenced therein.

[3] *Fee-To-Trust and Reservation Proclamation Application Walker, Walker II, and Salerno Property* (Application or App.) at 1 (Jan. 26, 2024).

The following comments address these arguments in more detail, as well as other legal deficiencies with the EA. Apart from these two fundamental flaws, the EA suffers from several independent legal and analytical defects that compound one another. The EA obscures the governing NEPA framework, impermissibly narrows the range of reasonable alternatives, reaches "less than significant" findings without quantified baselines or enforceable mitigation, relies on biological-resource measures that lack specificity and clear linkage to U.S. Fish and Wildlife Service (USFWS) consultation, omits enforceable protections for tribal cultural resources important to Viejas, and fails to transparently disclose localized socioeconomic and fiscal effects, including property-tax losses and any service agreements or offsets. T2-2 cont.

When the actual purpose and interconnected actions and their consequences are properly considered, a full Environmental Impact Statement (EIS) is necessary to analyze the true impacts of the proposed actions.

II. Background

The complete factual and legal history of the Ewiiaapaayp's machinations to develop a casino in Alpine demonstrates why the EA must evaluate gaming as the purpose of the proposed fee-to-trust acquisition. Viejas has set out a detailed history in its comments opposing both the Subject Property and Willows Parcels applications, which are incorporated by reference.[4] To avoid repetition, Viejas will not recapitulate that history here. But because these efforts began three decades ago, we note that a streamlined summary of that history is set forth in the February 10, 2020, Decision of Assistant Secretary for Indian Affairs Tara Sweeney in *Viejas Band of Kumeyaay Indians v. Pac. Reg'l Dir.* (IBIA Feb. 10, 2020) (Sweeney Decision).[5] T2-3

In that decision, Assistant Secretary for Indian Affairs (ASIA) Sweeney found that, based on that three-decade history, and despite Ewiiaapaayp's long history of continued denials, gaming development on Ewiiaapaayp's Alpine parcels was reasonably foreseeable.[6] The ASIA further emphasized that, unless Ewiiaapaayp's trust application and supporting materials are clear on that question, the Department of the Interior (Department) will not be able to comply with NEPA.[7] Finally, the ASIA retained jurisdiction over any future decision regarding the subject parcels.[8]

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[4] *Supra*, note 1.

[5] Walker Comments, Ex. B.

[6] *Id.* at 8 ("My view, based on the entirety of the administrative record as it is now constituted is broader, however, and development of a casino on the Clinic Parcel does appear to be reasonably foreseeable and connected to the Band's fee-to-trust application for the Walker Parcel.").

[7] *Id.* ("Again, the Band's application and supporting materials are not entirely clear on this important question, thereby impinging upon the Department's ability to apply the fee-to-trust regulations in a meaningful way. In particular, the Department cannot conduct the environmental reviews required under § 151.1 0(h), which requires consideration of the extent to which the applicant has provided information that allows compliance with NEPA, and the other environmental regulations and policies described." (citation omitted)).

[8] *Id.* ("If the Band chooses to submit a new fee-to-trust application for the Walker Parcel it is encouraged to update the justification regarding its need for additional land, clarify the purposes for which the land will be used, and provide sufficient information to allow the Secretary to comply with the requirements of § 151.1 0(h). Only then will I

The Ewiiaapaayp has repeatedly demonstrated that it is trying to develop gaming in Alpine. Gaming development on the land remains reasonably foreseeable, particularly because of the Ewiiaapaayp's insistence on contiguity and its reservation proclamation requests. T2-3 cont.

III. EA Comments

A. The EA does not enable informed decision-making because it fails to consider the Ewiiaapaayp's historical gaming objectives.

NEPA requires that the BIA identify and analyze the true purpose of the proposed actions based on the three-decade record of the Tribe's efforts to develop casino gaming on these parcels, and to evaluate the reasonably foreseeable effects of those actions. As emphasized in *Seven County*, the "context" inquiry is not a box-checking exercise – it demands that the agency situate the action within the real-world geographic and temporal setting in which its effects will occur, rather than adopting a framework that ignores foreseeable outcomes.[9] The EA fails on these points. T2-4

First, the EA does not enable informed decision-making because it fails to disclose the Tribe's documented objective to develop a casino on these parcels. The administrative record over decades demonstrates Ewiiaapaayp's persistent efforts to develop gaming on the SIHC parcel and Subject Property. The ASIA has already recognized that gaming development on or near the SIHC/Walker areas is reasonably foreseeable, despite the Tribe's long-standing denials, such that "a responsible official of ordinary prudence" must account for it.[10] Developments since then, in particular the Tribe's loss of significant future revenues from a wind energy development lease cancelled in 2023, make the Tribe's claims that it only seeks to pursue non-revenue generating development even less credible.[11] The EA's contrary approach is therefore arbitrary.

The EA defines the proposed action as taking approximately 48.7 acres into trust and, after acquisition, developing a tribal office, library/community center, two houses, continued emergency center use of an existing house, and a conservation area along Viejas Creek.[12] It frames the purpose as strengthening sovereignty, consolidating ownership, and providing community and housing uses.[13] That framing excludes the well-documented, long-term objective of securing Alpine-area land for gaming and the Ewiiaapaayp's insistence on treatment as "contiguous" reservation land to facilitate that objective.[14] T2-5

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be able to make an informed decision on whether to exercise my discretion to take the Walker Parcel into trust. My decision is final for the Department." (citation omitted)).

[9] *Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Co.*, 605 U.S. 168, 183 (2025).

[10] Sweeney Decision at 8.

[11] Walker Application at 5.

[12] EA at 5.

[13] *Id.* at 2.

[14] As explained in our January 22, 2025, comments, none of the parcels of the Subject Property are contiguous to the Clinic Parcel under the plain language of the definition of "contiguous" in 25 C.F.R. § 151.2, and any interpretation to the contrary is arbitrary and capricious or otherwise contrary to law.

The EA therefore analyzes an artificially narrow purpose and omits foreseeable effects associated with gaming development that the agency must evaluate.

By relying on the applicant's narrow statement of purpose-and-need, the EA forecloses consideration of effects reasonably foreseeable from the trust action when viewed against the record. NEPA requires a reasoned, project-definition "line" that is grounded in context.[15] Here, the agency must explain why the Alpine gaming objective and reservation-proclamation posture do not inform the scope of analysis.

T2-5 cont.

Because NEPA requires a reasoned analysis that evaluates the application within its context, the Department should revise the purpose and need to address the record-supported objective of gaming and analyze the full spectrum of impacts associated with a casino development scenario tied to the trust decision's enabling role, including direct, indirect, and cumulative effects. Alternatively, the Department should prepare an EIS.

B. The EA unlawfully segments related actions by excluding the near-concurrent Willows Application.

The EA evaluates only the Walker, Walker II, and Salerno parcels (48.7 acres). Yet the Ewiiaapaayp submitted a nearly contemporaneous trust application and reservation proclamation request for the Willows parcels across I-8. By treating the Willows application separately, the EA fails to evaluate interdependent components of the Ewiiaapaayp Alpine strategy, which minimizes the overall scope and cumulative impacts. NEPA requires consideration of connected and closely related actions and a reasoned explanation for "where to draw the line," which is absent here.[16]

NEPA requires agencies to evaluate connected and closely related actions together where they have a common purpose and need, are geographically proximate, are proposed in close temporal sequence, or depend on each other for their justification.[17] Those conditions are present here. The Walker/Walker II/Salerno and Willows applications appear to serve a common goal, share a decisionmaker, and would foreseeably rely on overlapping infrastructure, access, and services. Their combined operations would drive the same categories of effects: traffic and circulation on I-8 and local roads, noise, light, air emissions, utility demand and water use, biological and cultural resource disturbance, socioeconomic impacts, and growth. These impacts cannot be meaningfully disaggregated without obscuring the cumulative impacts.

T2-6

The EA provides no reasoned explanation for drawing a project boundary that excludes the near-concurrent Willows filing. Without a principled line-drawing rationale, the separation functions as improper segmentation that masks the true environmental footprint and frustrates informed public review and decision making. The Department should evaluate the Walker/Walker II/Salerno and Willows applications in a single NEPA document that analyzes their combined direct, indirect, and

[15] *See* 42 U.S.C. § 4332(C).

[16] *See Seven Cnty.*, 605 U.S. at 182.

[17] *Id.*

cumulative effects and considers alternatives at the appropriate programmatic or project level. At a minimum, if the Department continues to treat the filings as separate actions, it must provide a reasoned explanation for excluding Willows as a connected action and still fully analyze aggregate effects across both proposals. If the combined impacts may be significant, or if uncertainty or controversy about those impacts remains after proper scoping and cumulative analysis, the Department should prepare an EIS. T2-6 cont.

C. The EA ambiguously identifies the applicable NEPA framework and merely references the Department's "voluntar[y]" consideration of the CEQ 2020 regulations, without specifying which rules apply and explaining how that choice affected scoping, alternatives, page limits, cumulative-effects analysis, and mitigation documentation.

The EA states BIA has complied with NEPA and Department of Interior (DOI) procedures at 43 C.F.R. Part 46 and 516 DM 1.[18] It also notes that the Council on Environmental Quality's (CEQ) NEPA regulations have been revised in recent years and states that BIA "voluntarily" considered the 2020 CEQ regulations, including the rule defining "page" for document-length purposes.[19] In addition, the EA states that subsequently revised DOI procedures, which the EA identifies as becoming effective on July 3, 2025, do not apply to ongoing reviews.[20] T2-7

As presented, the EA appears to rely on a mixture of preexisting DOI procedures and provisions that were only "voluntarily considered" from later CEQ revisions.[21] Without a clear statement of which specific regulatory framework governed each phase of the NEPA process, particularly with respect to scoping, reasonable alternatives, cumulative effects, and mitigation documentation, the governing standards for the EA are uncertain. That uncertainty is material for both public participation and legal sufficiency. Members of the public and courts must know which rules controlled the agency's analysis to meaningfully evaluate the sufficiency of the EA. To avoid confusion, the EA should identify, with specificity, the regulatory regime actually applied to each step of the process and explain the legal basis for any "voluntary" reliance on provisions from later or revised regulations.

D. The EA unreasonably limits its alternatives analysis to only the proposed project and fails to consider feasible site configuration variants or a "Trust Acquisition without Immediate Development" alternative.

The EA confines its analysis to two options: Alternative A (Proposed Project) and Alternative B (No Action). It declines to evaluate the "Alternative Location," "Development on Existing Trust Land," and "Reduced Intensity" options, primarily on feasibility and purpose-and-need grounds.[22] This binary framing materially narrows the range of alternatives under consideration and rests on threshold T2-8

[18] EA at 1.

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] *Id.* at 11–12.

determinations about feasibility and purpose that are not tested against a broader spectrum of potentially viable design or implementation choices. T2-8 cont.

The EA also omits consideration of reasonable on-site configuration variants that could meet core objectives while reducing environmental impacts. As noted in the EA, the Project Site is located within the designated critical habitat of Arroyo toad, which is federally listed as an endangered species.[23] While the EA acknowledged that Alternative A would potentially have adverse impacts on the Arroyo toad habitat, it found that the mitigation strategies outlined were sufficient to address these issues.[24] Given that the EA found there would be potential impacts to the Arroyo toad habitat, the EA should have considered a broader range of alternatives. T2-9

These could include collocating program functions to minimize the development footprint, adjusting driveway alignments to avoid or lessen effects on sensitive resources, and reducing parking supply to lower impervious area and traffic generation. In addition, the EA does not analyze a "Trust Acquisition without Immediate Development" alternative with enforceable restrictions or phased triggers for later build-out.

Given the sensitive habitat context and the project's modest program, one that appears capable of fitting within a subset of a single parcel, such options warrant evaluation as potential means to achieve the stated purpose while avoiding or substantially lessening impacts. The absence of these middle-ground alternatives leaves a gap between the "Proposed Project" and "No Action" that undermines a logically complete and proportionate alternatives analysis in light of the record. T2-10

E. The EA fails to address the enforceability of mitigation measures and project parameters.

An overarching flaw of the EA is that its conclusions regarding the insignificance of numerous impacts are inextricably bound to the assumption that various mitigation measures or project parameters are enforceable, yet it fails to consider that, in most cases, this assumption is false. The only statement the EA makes with regard to enforceability is the bare assertion that "[m]itigation is enforceable because it is (1) inherent to the project design; and/or (2) required by federal or Tribal regulations."[25] There is no further explanation or analysis of how each mitigation measure or project parameter might actually be enforced. In fact, many of the mitigation measures and project parameters are unenforceable. T2-11

While mitigation measures that might be required under federal law would indeed be enforceable, the exact nature of the mitigation that might be required in federal approvals or permits that have not been issued is uncertain.

State law, of course, would generally not apply once the proposed site is taken into trust. To the extent tribal law is relied upon, it is subject to unilateral change by the Tribe itself and cannot be considered

[23] *Id.* at 31.

[24] *Id.* at 32–34, 68.

[25] *Id.* at 68.

an independent source of authority to enforce mitigation requirements against the Tribe. In addition, tribal sovereign immunity is a significant limitation on enforcement actions. T2-11 cont.

Even more fundamentally, it is irrelevant that certain mitigation measures are "inherent to the project design" if the project design is itself unenforceable. The EA does not explain how the Tribe would, or even could, be required by BIA to build the proposed project and only that project. In other words, the EA does not explain how if Alternative A is chosen in the Record of Decision, the Tribe would be precluded from actually developing an entirely different project once the land is in trust, namely, the casino gaming project it has long pursued. Without such an explanation, it is entirely uncertain what the actual effects of the proposed federal actions will be, and there is no way to comment on the adequacy or effectiveness of any proposed enforcement mechanism. Moreover, it is far from clear that such an enforcement mechanism even exists. It is not clear that trust acquisitions can impose title restrictions regarding permissible development, much less require a particular project design for any future development. Indeed, any attempt to do so by BIA would raise significant concerns under the federal trust responsibility to Indian tribes. T2-12

Despite these realities, the EA relies on unenforceable measures throughout its analysis. All of the protective measures and best management practices (BMPs) in Section 2.1.6 are expected to be implemented on the basis that they "have been incorporated into the design of Alternative A."[26] Thus, for example, the EA in Section 3.2.3 reasons that "Alternative A would implement BMPs identified in Section 2.1.7 [sic], which include the use of standard erosion control methods during construction and adherence to standard engineering practices and IBC standards. Thus, impacts to topography under Alternative A would be less than significant."[27] Similar statements are the basis for significance conclusions throughout the EA.[28] T2-13

The EA also relies on inapplicable laws to reach conclusions of insignificance. For example, potential impacts to cultural resources important to Viejas during future construction activities by the Tribe are declared insignificant on the basis of mitigation described in Section 4.[29] Section 4, in turn, relies on Section 106 of the National Historic Preservation Act,[30] but this statute applies by its own terms only to federal agencies, not tribes. Other examples rely on compliance with state and local law, which would not be enforceable once the land is in trust.[31]

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[26] *Id.* at 8.

[27] *Id.* at 16.

[28] *See, e.g.*, *id.* at 17 ("Alternative A would follow standard engineering practices and comply with IBC standards related to soil suitability for structures. Impacts related to soils would be less than significant."); 27 ("Operational emissions would be reduced with implementation of BMPs described in Section 2.1.6"); 29 ("With the implementation of BMPs, Alternative A would not result in a significant adverse cumulative impact associated with GHG emissions."); 62–63 (BMPs reduce risk of construction, wildfire, and other risks to insignificant).

[29] *Id.* at 40 ("With implementation of [mitigation measures in Section 4], Alternative A would not result in significant adverse impacts to unknown archaeological resources.").

[30] *Id.* at 70.

[31] *See, e.g.*, *id.* at 57 (basing significance determination on compliance with County noise standards specified in Sections 36.408 to 36.410 of the Municipal Code); 67 (compliance with San Diego County Dark Sky Ordinance).

In short, each of the EA's conclusions of insignificant impacts that rely on mitigation or project parameters are unsupported if those mitigation measures are not actually enforceable. Without some reasonable assurance of enforceability, the actual impact of the proposed action cannot be accurately predicted, analyzed, or commented on by interested parties. In addition, interested parties have had no opportunity to comment on the adequacy and effectiveness of specific proposed methods of enforcement for each mitigation measure. Conclusory statements of enforceability are insufficient. T2-14

F. A defensible EA demands quantified baselines and transparent analysis to substantiate "less than significant" findings.

The EA defines a 10-mile scope for cumulative effects but finds "less than significant" impacts without first establishing baselines or quantifying the project's increments.[32] A defensible EA requires identified baseline conditions, quantified increments for groundwater and fire flow, lighting near critical habitat, and traffic safety, and enforceable mitigation. T2-15

The EA must state baseline conditions and thresholds for each resource, then evaluate the project's increments against them. Without groundwater, ambient light, and traffic baselines, the EA's "less than significant" findings are unsupported.[33] The EA should disclose data sources, assumptions, and indicators, and demonstrate how contributions, alone and with other foreseeable actions within 10 miles, remain below thresholds.

The EA fails to adequately consider the hydrogeologic implications of the project. It concedes the existing well's capacity and quality are "unknown," yet projects ~2,400 gpd demand (a 260% increase over 670 gpd) and defers verification to pre-operation pump testing.[34] An EA cannot rest on unverified supply, quality, or fire-flow assumptions. The decision should require pump and water-quality testing, hydrogeologic modeling and testing, and analysis of supply, storage, and pressure. Additionally, the decision should require enforceable performance conditions to address any deficiencies in the completed analysis. T2-16

The EA similarly fails to address the lighting impacts on the sensitive Arroyo toad critical habitat. While the EA promises downcast, fully shielded "dark sky" lighting, effectiveness depends on verifiable limits.[35] The decision should require photometric plans, fixture specifications, mounting heights, directional controls away from the creek, and curfew/dimming schedules as enforceable conditions. T2-17

Moreover, the EA cites a Traffic Impact Study (TIS) and a new Alpine Boulevard driveway, concluding LOS C or better and LOS A/B at the driveway.[36] The decision should incorporate the TIS's key findings and mitigation, not rely on summaries or references to the appendices. The record should disclose analysis years, volumes, and methods, confirm sight distance, and adopt access control, turn T2-18

[32] *Id.* at 13, 19–21, 66–67.

[33] *Id.* at 16–17, 19–21.

[34] *Id.*at 20.

[35] *Id.* at 66–67.

[36] *Id.* at 43.

restrictions, signing/striping, and any improvements needed to maintain LOS and safety. The EA fails to meaningfully address these considerations.

A defensible EA requires disclosed baselines and modeling assumptions, quantified increments, and conversion of key design commitments into enforceable, verifiable conditions. Pre-decision verification of water supply and fire flow, transparent hydrologic/outflow criteria, binding lighting specifications with photometric controls, and incorporation of TIS-based safety and access measures are necessary to support and maintain the EA's "less than significant" conclusions. T2-18 cont.

G. Mitigation of injury to biological resources must be specific, enforceable, and linked to USFWS guidance.

The EA relies on a proposed 4.58-acre conservation area along Viejas Creek, a 2002 USFWS Biological Opinion/Memorandum of Agreement, a 2024 USFWS concurrence (may affect, not likely to adversely affect), and best management practices (*e.g.*, staging setbacks, spill prevention, silt fencing, biological monitoring, lighting controls).[37] But many of the EA's mitigation commitments remain narrative and are not converted into binding performance standards or conditions.

To ensure the decision is both effective and legally defensible, it is essential to expressly incorporate mapped conservation boundaries, minimum buffer requirements, lighting specifications, construction-staging setbacks, monitoring frequency, stop-work authority, USFWS inspection rights, funding commitments, and cross-references to the 2001 Biological Assessment and USFWS concurrence. Including these elements as enforceable operating constraints not only fulfills statutory and regulatory obligations under the Endangered Species Act (ESA) and related authorities, but also provides clarity, certainty, and accountability for all parties. T2-19

This approach is strongly supported by USFWS guidance and relevant case law, which emphasize the necessity of specificity and enforceability in environmental permitting and consultation documents, thereby ensuring that agency determinations translate into meaningful, actionable protections for sensitive resources.[38]

H. The EA should establish clear and enforceable protocols to protect tribal cultural resources.

The EA should include clear, enforceable tribal cultural resource protections. Specifically, it should require a tribal monitor designated by the Viejas Band, or a qualified archaeologist accompanied by a Viejas tribal monitor, during all initial ground disturbance and for later work in moderate to high sensitivity areas. T2-20

Before ground disturbance, the proponent, contractor, qualified archaeologist, and the Viejas tribal monitor should meet to confirm roles, communication protocols, and stop-work procedures.

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[37] *Id.* at 6.

[38] *See* U.S. Fish and Wildlife Serv., Endangered Species Consultation Handbook 4-48 (Mar. 1998); 50 C.F.R. §§ 402 *et. seq.*

Specifically, the Viejas tribal monitor should be granted stop-work authority within the active work zone upon any potential tribal cultural resource or human remains. Upon discovery, work in the vicinity should cease, equipment should be idled or relocated, and the area secured. The Viejas tribal monitor and the qualified archaeologist (if present) should assess and provide recommendations. Work should resume only after authorization under the agreed treatment protocol and consultation with the Viejas Band. If human remains or associated funerary objects are found, the project should be required to comply with applicable federal, state, and tribal laws and immediate notification to appropriate authorities and the Viejas Band. T2-20 cont.

I. The EA should provide a reasoned, transparent explanation of socioeconomic impacts by disclosing the effects of removing approximately $24,295/year in property taxes on local fire, sheriff, and school district revenues and identifying any service agreements or offsets.

The EA should articulate a clear, localized fiscal analysis of any anticipated loss of property taxes. It should identify any service agreements, impact fees, or other offsets for fire protection, sheriff/law enforcement, and public schools. This analysis should be tied to the incremental service demands associated with the project's new access improvements, water storage facilities, and emergency operations center functions, and should specify affected jurisdictions, methodology, and any residual impacts. As currently drafted, the services discussion relies primarily on qualitative capacity assertions and does not present transparent, quantitative fiscal analysis sufficient to evaluate localized impacts or mitigation commitments.[39] T2-21

IV. Conclusion

In sum, the EA does not satisfy NEPA's core requirement to inform decision making. It accepts an unduly narrow purpose-and-need, omits analysis of reasonably foreseeable casino development, and segments related, near-concurrent trust requests, obscuring the true scope and intensity of impacts. It also leaves key issues unaddressed, as set forth in these comments. The BIA should (1) revise and recirculate the EA to evaluate the full scope of reasonably foreseeable casino gaming development and the connected Willows filing in a single document with enforceable mitigation and clarified governing procedures, or (2) prepare an EIS given the record, extraordinary-circumstances indicators, and cumulative impacts at issue. Failing these steps, approval based on the current EA would be arbitrary and capricious. T2-22

[39] *Id.* at 41–42.

Attachment 2

Distribution Noticing

NOTICE OF AVAILABILITY
ENVIRONMENTAL ASSESSMENT
FOR THE EWIIAAPAAYP TRIBAL COMMUNITY
AND FEE-TO-TRUST PROJECT

Notice is hereby given that the Bureau of Indian Affairs (BIA) as lead agency has released an Environmental Assessment (EA) dated December 2025 for the Ewiiaapaayp Band of Kumeyaay Indians (Tribe) Tribal Community and Fee-to-Trust Project. The EA has been prepared pursuant to the requirements of the National Environmental Policy Act (NEPA; 42 United States Code §4321 et seq.) and assesses the environmental impacts that could result from the acquisition by the BIA of approximately 48.7 acres (Project Site) into federal trust status for the benefit of the Tribe (Proposed Action). Following acquisition of the Project Site into trust, the Tribe proposes to develop a Tribal office, library/community center, and two single-family houses, to maintain an existing re-purposed single-family residence as an emergency Tribal center, and to establish a conservation area along Viejas Creek (Proposed Project).

The Project Site is located in unincorporated San Diego County, California off Kumeyaay Highway (Interstate 8). The Project Site is comprised of three parcels (Assessor Parcel No. 4040802600; 4040901300; and 4040900700) located south of Alpine Boulevard and west of Star Valley Road and is largely undeveloped land surrounded by residences. A rural residence is present on the Project Site as well as outbuildings and associated infrastructure.

The public comment period for the EA will be open for 30 days (excluding federal holidays), beginning on December 19, 2025 and ending on January 21, 2026. Public comments will be considered by the BIA, and either a Finding of No Significant Impact will be prepared or additional environmental analysis will be conducted. After the NEPA process is complete, the BIA may issue a determination on the Proposed Action. For additional information, please contact Jacilyn Snyder, Bureau of Indian Affairs, Pacific Region, at (916) 978-6051, or by email at Jacilyn.Snyder@bia.gov. Written comments should be emailed to Jacilyn.Snyder@bia.gov or mailed to the following address by end of day January 21, 2026:

Ryan Hunter, Acting Regional Director, Bureau of Indian Affairs, Pacific Region
2800 Cottage Way
Sacramento, California 95825

The EA is available for public review online at http://www.EBKIEA.com

AFFP

159286 Notive of Availability

Affidavit of Publication

STATE OF CALIFORNIA }
COUNTY OF SAN DIEGO } SS

I am a citizen of the United States; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principle clerk of the printer of Alpine Sun, a newspaper of general circulation, published ONCE WEEKLY in the city of Alpine, County of San Diego, which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California under the date of November 12, 1959, Case Number 238120; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

December 19, 2025

That said newspaper was regularly issued and circulated on those dates.
SIGNED:

Alpine Sun

Subscribed to and sworn by me this 19th day of December 2025.

00008247 00159286

AL- PPR NEW ALPINE SUN
294 F STREET
CHULA VISTA, CA 91910

NOTICE OF AVAILABILITY
ENVIRONMENTAL ASSESSMENT
FOR THE EWIIAAPAAYP TRIBAL
COMMUNITY AND FEE-TO-TRUST PROJECT

Notice is hereby given that the Bureau of Indian Affairs (BIA) as lead agency has released an Environmental Assessment (EA) dated December 2025 for the Ewiiaapaayp Band of Kumeyaay Indians (Tribe) Tribal Community and Fee-to-Trust Project. The EA has been prepared pursuant to the requirements of the National Environmental Policy Act (NEPA; 42 United States Code §4321 et seq.) and assesses the environmental impacts that could result from the acquisition by the BIA of approximately 48.7 acres (Project Site) into federal trust status for the benefit of the Tribe (Proposed Action). Following acquisition of the Project Site into trust, the Tribe proposes to develop a Tribal office, library/community center, and two single-family houses, to maintain an existing re-purposed single-family residence as an emergency Tribal center, and to establish a conservation area along Viejas Creek (Proposed Project).

The Project Site is located in unincorporated San Diego County, California off Kumeyaay Highway (Interstate 8). The Project Site is comprised of three parcels (Assessor Parcel No. 4040802600; 4040901300; and 4040900700) located south of Alpine Boulevard and west of Star Valley Road and is largely undeveloped land surrounded by residences. A rural residence is present on the Project Site as well as outbuildings and associated infrastructure.

The public comment period for the EA will be open for 30 days (excluding federal holidays), beginning on December 19, 2025 and ending on January 21, 2026. Public comments will be considered by the BIA, and either a Finding of No Significant Impact will be prepared or additional environmental analysis will be conducted. After the NEPA process is complete, the BIA may issue a determination on the Proposed Action.

For additional information, please contact Jacilyn Snyder, Bureau of Indian Affairs, Pacific Region, at (916) 978-6051, or by email at Jacilyn.Snyder@bia.gov. Written comments should be emailed to Jacilyn.Snyder@bia.gov or mailed to the following address by end of day January 21, 2026:

Ryan Hunter, Acting Regional Director, Bureau of Indian Affairs, Pacific Region
2800 Cottage Way
Sacramento, California 95825

The EA is available for public review online at http://www.EBKIEA.com

Alpine Sun 12/19/2025-159286

AFFP

159286 Notive of Availability

Affidavit of Publication

STATE OF CALIFORNIA }
COUNTY OF SAN DIEGO } SS

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Ryan Hunter, Acting Regional Director, Bureau of Indian Affairs, Pacific Region
2800 Cottage Way
Sacramento, California 95825

The EA is available for public review online at http://www.EBKIEA.com
Alpine Sun 12/19/2025-159286

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

SCH # 2025120953

Project Title: Ewiiaapaayp Tribal Community and Fee-to-Trust Project

Lead Agency: Bureau of Indian Affairs — Contact Person: Jennifer Hayden, Environmental Protection Specialist

Mailing Address: 2800 Cottage Way — Phone: 916-936-6220

City: Sacramento CA — Zip: 95825 — County: Sacramento County

Project Location: County: San Diego County — City/Nearest Community: Alpine

Cross Streets: Alpine Blvd/I-8 and Viejas Creek Trail — Zip Code: 91901

Longitude/Latitude (degrees, minutes and seconds): 32 ° 49 ′ 55.09 ″ N / 116 ° 43 ′ 32.76 ″ W Total Acres: 48.7

Assessor's Parcel No.: 4040802600, 4040901300, 4040900700 — Section: 25 — Twp.: 15S — Range: 2E — Base: San Bernadino Princip

Within 2 Miles: State Hwy #: — Waterways:

Airports: — Railways: — Schools:

Document Type:

CEQA: ☐ NOP ☐ Draft EIR — NEPA: ☐ NOI — Other: ☐ Joint Document
☐ Early Cons ☐ Supplement/Subsequent EIR ☐ EA ☐ Final Document
☐ Neg Dec (Prior SCH No.) ☐ Draft EIS ☐ Other:
☐ Mit Neg Dec Other: ☒ FONSI

Local Action Type:

☐ General Plan Update ☐ Specific Plan ☐ Rezone ☐ Annexation
☐ General Plan Amendment ☐ Master Plan ☐ Prezone ☐ Redevelopment
☐ General Plan Element ☐ Planned Unit Development ☐ Use Permit ☐ Coastal Permit
☐ Community Plan ☐ Site Plan ☐ Land Division (Subdivision, etc.) ☒ Other: Tribal Development

Development Type:

☒ Residential: Units 2 Acres 0.03
☒ Office: Sq.ft. 1440 Acres 0.03 Employees
☐ Commercial: Sq.ft. Acres Employees
☐ Industrial: Sq.ft. Acres Employees
☒ Educational: Library/Community Center, 1440 sf
☐ Recreational:
☐ Water Facilities: Type MGD

☐ Transportation: Type
☐ Mining: Mineral
☐ Power: Type MW
☐ Waste Treatment: Type MGD
☐ Hazardous Waste: Type
☐ Other:

Project Issues Discussed in Document:

☒ Aesthetic/Visual ☒ Fiscal ☒ Recreation/Parks ☒ Vegetation
☒ Agricultural Land ☒ Flood Plain/Flooding ☒ Schools/Universities ☒ Water Quality
☒ Air Quality ☒ Forest Land/Fire Hazard ☒ Septic Systems ☒ Water Supply/Groundwater
☒ Archeological/Historical ☒ Geologic/Seismic ☐ Sewer Capacity ☒ Wetland/Riparian
☒ Biological Resources ☒ Minerals ☒ Soil Erosion/Compaction/Grading ☒ Growth Inducement
☐ Coastal Zone ☒ Noise ☒ Solid Waste ☒ Land Use
☒ Drainage/Absorption ☒ Population/Housing Balance ☒ Toxic/Hazardous ☒ Cumulative Effects
☒ Economic/Jobs ☒ Public Services/Facilities ☒ Traffic/Circulation ☐ Other:

Present Land Use/Zoning/General Plan Designation:

Zoning: Limited Agricultural Use Regulations. Designation: Village Residential. Land Use: Single family residence, undeveloped.

Project Description: *(please use a separate page if necessary)*

The Proposed Project consists of acquisition of the Project Site into federal trust status for the benefit of the Tribe and the subsequent development by the Tribe of a permanent Tribal administrative office facility, a library community center, two houses, and associated infrastructure, as well as the operation of an existing re-purposed single-family residence as an emergency Tribal center, and the establishment of a conservation area along Viejas Creek.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with and "**X**".
If you have already sent your document to the agency please denote that with an "**S**".

X	Air Resources Board	X	Office of Historic Preservation
	Boating & Waterways, Department of		Office of Public School Construction
	California Emergency Management Agency		Parks & Recreation, Department of
X	California Highway Patrol		Pesticide Regulation, Department of
X	Caltrans District # 11		Public Utilities Commission
	Caltrans Division of Aeronautics	X	Regional WQCB # 9
	Caltrans Planning		Resources Agency
	Central Valley Flood Protection Board		Resources Recycling and Recovery, Department of
	Coachella Valley Mtns. Conservancy		S.F. Bay Conservation & Development Comm.
	Coastal Commission		San Gabriel & Lower L.A. Rivers & Mtns. Conservancy
	Colorado River Board		San Joaquin River Conservancy
	Conservation, Department of		Santa Monica Mtns. Conservancy
	Corrections, Department of		State Lands Commission
	Delta Protection Commission		SWRCB: Clean Water Grants
	Education, Department of	X	SWRCB: Water Quality
	Energy Commission		SWRCB: Water Rights
X	Fish & Game Region # 5		Tahoe Regional Planning Agency
	Food & Agriculture, Department of		Toxic Substances Control, Department of
X	Forestry and Fire Protection, Department of		Water Resources, Department of
	General Services, Department of		
	Health Services, Department of		Other:
	Housing & Community Development		Other:
X	Native American Heritage Commission		

Local Public Review Period (to be filled in by lead agency)

Starting Date December 19, 2025 Ending Date January 21, 2026

Lead Agency (Complete if applicable):

Consulting Firm: Acorn Environmental
Address: 5170 Golden Foothill Parkway
City/State/Zip: El Dorado Hills, CA 95762
Contact: Kaitlan Alonzo
Phone: 916-235-8224

Applicant: Ewiiaapaayp Band of Kumeyaay Indians
Address: 4054 Willows Road
City/State/Zip: Alpine, CA 91901
Phone: 619-445-6315

Signature of Lead Agency Representative: Kaitlan Alonzo Digitally signed by Kaitlan Alonzo Date: 2025.11.25 13:49:09 -08'00' **Date:** 11/25/25

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

Attachment 2

Final EA Errata

Final Environmental Assessment Errata
Ewiiaapaayp Tribal Community and Fee-to-Trust Project

1.0 INTRODUCTION

The Bureau of Indian Affairs (BIA), as federal lead agency, directed the preparation of an Environmental Assessment (EA) to assess the potential environmental impacts associated with the proposed trust acquisition of approximately 48.7 acres of fee land owned by the Ewiiaapaayp Band of Kumeyaay Indians (Tribe) within unincorporated San Diego County, California (Project Site) and the subsequent development of housing and Tribal community facilities (Proposed Action). A Notice of Availability for the EA was provided to agencies, organizations, and interested parties announcing a comment period of 30 days (excluding federal holidays) starting December 19, 2025 and ending January 21, 2026. Consistent with the requirements of the National Environmental Policy Act (NEPA), the BIA has reviewed and analyzed the environmental consequences associated with the Proposed Action and has determined that a Finding of No Significant Impact (FONSI) is appropriate. Responses to substantive comments received on the EA are provided in Attachment 1 of the FONSI. Minor changes have been made to the December 2025 EA since the comment period to reflect the conclusion of Section 106 consultation between the BIA and the State Historic Preservation Officer in accordance with the National Historic Preservation Act (NHPA). These revisions are presented as errata sheets to the December 2025 EA with changes shown in underline/strikeout format. The clarifications and additional details do not substantively alter the analysis or conclusions of the December 2025 EA and therefore do not warrant recirculation of the Final EA for additional public review.

2.0 CHANGES TO THE DRAFT EA

Page 8, Table 2.1 1: Protective Measures and Best Management Practices

Table 2.1-1: Protective Measures and Best Management Practices

Resource Area	Protective Measures and Best Management Practices
Air Quality	The following ~~dust suppression~~ measures will be implemented during construction: ▪ Exposed construction surfaces will be watered daily as needed. These areas include, but are not limited to soil piles, graded areas, unpaved parking areas, staging areas, and access roads. ▪ At least two feet of free board space will be covered/maintained on haul trucks transporting soil, sand, or other loose material on the site. Any haul trucks that would be traveling along freeways or major roadways will be covered. ▪ Wet power vacuum street sweepers will be used to remove any visible track out mud or dirt onto adjacent public roads at least once a day. Dry powered sweeping will be prohibited. ▪ Vehicle speeds on unpaved roads will be limited to 15 miles per hour. ▪ Paving of roadways, driveways, sidewalks, and parking lots will be completed as soon as possible. Building pads will be laid as soon as possible after grading unless seeding or soil binders are used.

Resource Area	Protective Measures and Best Management Practices
	▪ Idling time will be minimized by shutting equipment off when not in use or by reducing the time of idling to five minutes. Clear signage that posts this requirement for workers will be provided at the entrances to the site. ▪ Construction equipment will be maintained in proper working condition according to manufacturer's specifications. The equipment will be checked by a certified mechanic and determined to be running in proper condition before it is operated. ▪ <u>To the extent feasible, Tier 4 engines will be utilized for trucks, excavators, and graders during construction.</u> The Tribe will reduce emissions of critical air pollutants (CAPs) and greenhouse gases (GHGs) during operation through the following actions: ▪ Electrical vehicle charging infrastructure will be included at the paved surface parking lots associated with the Tribal office and library/community center. ▪ Energy efficient lighting and appliances will be used, which would reduce energy usage, thus reducing indirect CAP and GHG emissions. ▪ Water consumption will be reduced through low-flow appliances, drought resistant landscaping, and the incorporation of "Save Water" signs near water faucets. ▪ Recycling bins will be installed throughout the office and community facilities for glass, cans, and paper products. Trash and recycling receptacles will be placed strategically outside to encourage recycling.

Last Paragraph of Page 38/First Paragraph of Page 39

The Walker parcel is disturbed by roads, utilities, and buildings. Site P-37-024245 (milling features and artifacts) and P-37-040581 (Jackass Mail Trail) were recorded within the Walker parcel in 2002 and 2023, respectively (Appendix G). The San Antonio to San Diego Mail Line, a portion of which crosses the Project Site (P-37-040581 - Jackass Mail Trail), seems to have made use of existing trails. <u>Available historical documentation does not provide a physical description of the trail itself, and it likely has shifted during its use.</u>

The most recent survey relocated site P-37-024245 within the Walker Parcel and confirmed that it is unchanged (discussed above under the Walker 2 parcel). ~~Available historical documentation does not provide a physical description of the trail itself, and it likely has shifted during its use.~~ <u>Additionally,</u> ~~T~~the location of site P-37-040581 ~~w~~<u>h</u>as only ever <u>been</u> recorded based on historic maps, not surveys, and could not be verified as actually historically crossing the Project Site. However, an approximately 6-foot-wide road maintained and used regularly as a vehicle access drive was observed in the approximate location of Jackass Mail Trail. It is unclear if the access drive opportunistically followed Jackass Mail Trail or if its location is coincidental and the historical alignment occurred elsewhere on the Project Site or entirely off the Project Site. Even if it is assumed that Jackass Mail Trail did cross the Project Site and does follow the present-day access drive, this segment was found to lack integrity of design, workmanship, setting, feeling, and association. <u>To be conservative, P-37-040581 is being treated as eligible for listing on the NRHP for the purposes of the Section 106 consultation.</u> ~~Thus, it was determined this portion of Jackass Mail Trail is not a contributing element to the potential NRHP eligibility of the overall site and does not meet any of the eligibility criteria at 36 CFR 60.4 for inclusion on the NRHP (Appendix G). The most recent survey did not identify a new site but did locate an isolated mano (recorded on appropriate site record forms), which is not eligible for the NRHP.~~

First Paragraph of Page 40

Several sites have been identified within the Project Site, however, as described in Section 3.6.2, with the exception of P-37-040581 (Jackass Mail Trail, none possess the values that would make them eligible for listing on the NRHP. While P-37-040581 is conservatively assumed to potentially be eligible for listing on the NRHP, this feature is located within the designated conservation area for the Arroyo toad (refer to Confidential **Exhibit A**), and thus would not be impacted by Alternative A. Therefore, no historic properties would be impacted as a result of Alternative A.

The BIA has conducted consultation with the State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act. On January 22, 2026, the SHPO acknowledged that the BIA appropriately addressed the issues raised in the SHPO's prior correspondence, including clarification of the eligibility determinations for identified cultural resources and the treatment of P-37-040581 (Jackass Mail Trail). The SHPO also acknowledged the BIA's decision to treat the Jackass Mail Trail as eligible for the purposes of this undertaking only, consistent with the SHPO's recommendation, and to avoid the identified segment of Jackass Mail Trail within the Project Site. Pursuant to 36 CFR § 800.5(b), the SHPO did not object to the BIA's finding of No Adverse Effects (**Exhibit B**).

~~t~~Therefore, no historic properties would be impacted as a result of Alternative A.

Page 70, Mitigation Measure Table

Mitigation Measures

Resource Area	Proposed Mitigation
Cultural Resources	▪ A Tribal Monitor or qualified archaeologist shall be present during initial ground disturbance to monitor for potential inadvertent discoveries during construction. ▪ In the event of any inadvertent discovery of prehistoric or historic archaeological resources during construction-related earth-moving activities, BIA Regional Archeologist will be immediately notified and finds shall be subject to Section 106 of the National Historic Preservation Act as amended (36 CFR Part 800). Specifically, procedures for post-review discoveries without prior planning pursuant to 36 CFR § 800.13 shall be followed. o All work within 50 feet of the find shall be halted until a professional archaeologist meeting the Secretary of the Interior's qualifications (36 CFR Part 61), or paleontologist if the find is of a paleontological nature, can assess the significance of the find in consultation with the BIA and other appropriate agencies. o If any find is determined to be significant by the Tribal Monitor or archaeologist or paleontologist, a BIA representative shall meet with the Tribe and Tribal Monitor or archaeologist or paleontologist to determine the appropriate course of action, including the development of a Treatment Plan and implementation of appropriate avoidance measures or other mitigation. o As requested, the Viejas Band of Kumeyaay Indians will be notified of the find. ▪ If human remains are discovered during ground-disturbing activities both the Tribe and BIA Regional Archeologist shall be contacted immediately. Notifications shall occur consistent with the requirements of the Native American Graves Protection and Repatriation Act and its implementing regulations, as applicable and revised. No further disturbance shall occur until the BIA and Tribal representatives have made the necessary findings as to the origin and disposition. If the remains are determined to be of Native American origin, the BIA and Tribe shall resolve which party will assume primary management authority for the discovery. Work may resume once appropriate measures have been taken and the party with primary management authority has provided written certification to the person responsible for the

Resource Area	Proposed Mitigation
	activity with the date on which activity may resume around the discovery and any appropriate conditions. ▪ Construction and development activities will avoid P-37-040581, which is located entirely within the designated conservation area for the Arroyo toad.

Page 72, Agencies and Organizations Consulted Table

Agencies and Organizations Consulted

Agencies and Organizations Consulted	Summary of Consultation and Coordination
State	
California Department of Parks and Recreation Office of Historic Preservation	The BIA conducted consultation with the State Historic Preservation Officer pursuant to Section 106 of the National Historic Preservation Act. Pursuant to 36 CFR § 800.5(b), the SHPO did not object to the BIA's finding of No Adverse Effects (**Exhibit B**).

Exhibit A

Jackass Mail Trail Route (Confidential)

Exhibit B

NHPA Section 106 Consultation Correspondence

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

IN REPLY REFER TO:
4303-P5 Ewiiaapaayp 3 Parcels FTT_SHPO

Ms. Julianne Polanco
State Historic Preservation Officer
Office of Historic Preservation
1725 23rd Street, Suite 100
Sacramento, CA 95816

Dear Ms. Polanco,

The Bureau of Indian Affairs (BIA), Pacific Regional Office, is proposing to approve the conveyance of approximately 50 acres of land from fee simple to federal trust status for the Ewiiaapaayp Band of Kumeyaay Indians (Tribe). The purpose of this action is to bring three properties into Federal trust status for the development of Tribal government facilities and housing (undertaking). Because this proposed undertaking has the potential to affect historic properties, its implementation, pursuant to 25 CFR 151 (Land Acquisitions) is contingent in part on the BIA meeting its obligations under Section 106 of the National Historic Preservation Act (NHPA), as amended.

The Area of Potential Effect (APE) includes three parcels south of Interstate Highway 8 near the community of Alpine in San Diego County, California. The parcels are located in Section 25 of Township 15 South, Range 2 East, San Bernardino Base and Meridian of the Viejas, California 7.5-minute USGS Quadrangle (Enclosure 1). The Walker and Salerno parcels are undeveloped, and the Walker II parcel contains two existing buildings. There are existing dirt roads or trails through the Walker II and Salerno parcels. The Tribe proposes to construct a Tribal Office in the eastern part of the Walker property (APN#404-080-26-00), use an existing house as an Emergency Center on the Walker II property (APN#404-090-13-00), and build a Library and Community Center and two single family homes on the Salerno parcel (APN#404-090-07-00). The Emergency Center building will be used as is without any renovations. Utilities would also be installed, with excavations not anticipated to extend more than 8 feet below current ground surface. An access road is proposed to extend from the south side of Alpine Boulevard into the Salerno parcel, continuing along the north/northwestern boundary into the Walker II property and finally to the location of the Tribal Office on the Walker parcel. A road extending to the east/southeast from the access road would provide vehicle access to the Emergency Center, Library/Community Center and homes. Parking areas would be developed adjacent to the Tribal Office building and the Library/Community Center. Approximately 4.58 acres of land in the northwest portion of the Walker parcel, along and near Viejas Creek, would be maintained as a conservation area for Arroyo Toad Habitat (Enclosure 2).

Ten previous cultural resources surveys have overlapped with the APE. Recently the Walker II and Salerno parcels were surveyed by Analytic Environmental Services (AES) in 2017 and 2018. Natural Investigations surveyed the Walker parcel in 2023. The report produced by Natural Investigations that describes the results of all three surveys supports this consultation. In addition, Natural Investigations conducted an assessment of buildings and structures on the property in 2025, the results of which are presented in an addendum to the cultural resources report. In 2001 Moony & Associates conducted subsurface testing of a portion of a site on the Walker parcel and a portion of the same site on the Walker II parcel. Ten cultural resources and four isolates have been identified within the APE by these studies. The existing house to be used as an Emergency Center is first depicted on aerial imagery dated to 1985 and therefore was not evaluated.

Four sites had previously been identified on the Salerno parcel but were not relocated in the 2017 survey. These included P-37-024186, a milling slick; P-37-024187, three flakes; P-37-024188, two flakes and a mano fragment; and P-37-024189, three flakes. No new sites were identified during the 2017 survey of the Salerno parcel. Site P-37-024245, milling features and an associated artifact scatter, was relocated on the Walker II parcel during the 2018 survey and on the Walker parcel in 2023. Site P-37-030232, a single milling slick on an outcrop with a few associated lithics, was previously identified within the Walker II parcel. The outcrop was relocated by Natural Investigations during their 2025 fieldwork but neither the slick nor the lithics could be found. A six foot wide roadway was identified in the Walker Parcel that approximates the mapped alignment of site P-37-040581, the Jackass Mail Trail. During the 2023 survey no new sites were identified in the Walker II parcel, and an isolated mano was found in the Walker parcel. Natural Investigations additionally documented a barn, two historic era dirt tracks or roads, and four isolated finds during the 2025 fieldwork.

Sites P-37-024186, P-37-024187, P-37-024188, and P-024189 could not be relocated, and therefore are not eligible for the National Register of Historic Places (National Register). Site P-37-024245 was documented in 2001 and 2002 to extend along the northwest portion of the Walker II parcel and in the east-northeast corner of the Walker parcel. The site appears to extend to the north outside of the APE and was beyond the APE of an early 2000s project. Subsurface excavations documented extensive disturbance from discing conducted to manage fire threat, ploughing for animal fodder cultivation, and likely also rodents. Artifacts were found to about 50 cm below surface, but historic and modern items were mixed with prehistoric artifacts throughout the top 50 cm of deposit. In addition, a cement pipe used for irrigation was found in one shovel test pit at 55 cm below surface, and an informant indicated that other cement and metal pipes for that purpose were present in other parts of the parcels. In a Section 106 consultation in 2002 for a health clinic proposed on the Walker parcel with an access road proposed across the northwestern portion of the Walker II parcel, the State Historic Preservation Officer (SHPO) agreed that the portion of the site within the APE was not eligible for the National Register (BIA010925A). Subsequent field work has not identified any items that would change that assessment.

The outcrop recorded as site P-37-030232 was relocated by Natural Investigations in 2025, but the milling slick and the associated debitage could not be found. No evidence of subsurface deposits was observed. The site was also not relocated by AES during a 2018 survey. Based on

this information site P-37-030232 does not contain important information about the past, nor does it meet any of the elements of National Register criteria A, B or C, and therefore is not eligible for the National Register.

Site P-37-040581, referred to as Jackass Mail Trail, was initially identified from historical maps. An alignment observed by Natural Investigations along Viejas Creek was correlated with the historical trail, although additional work is needed to determine if it is the original alignment. The segment within the APE was assessed as lacking integrity of design, workmanship, setting, feeling, and association and therefore not contributing to the overall eligibility of the longer trail, if it still exists outside the APE.

The barn located on the Walker II part of the APE, assigned site number NIC-2025-Walker-01 by Natural Investigations, is first visible on aerial imagery dated to 1954. The barn is a Monitor style barn with a wooden frame and sheet metal that has been modified by additions including a shed, a lean-to, and an overhang. The barn is not associated with significant events or persons in history, and it does not embody distinctive characteristics of a type or period, or high artistic value. Additional documentation beyond the site record is unlikely to yield important information about the past. Therefore, the barn is not eligible for the National Register.

The two track dirt road designated NIC-2025-Walkder-02 by Natural Investigations is depicted on the 1961 Viejas Mountain 7.5 minute United States Geological Survey topographic map. The road is still maintained and actively used. Site NIC-2025-Walker-03 is a dirt road that has been partially paved and is still in use as a driveway. It is visible in aerial imagery from 1964. Neither road is associated with significant events or persons, and they do not embody distinctive characteristics of a type or period; dirt roads are a ubiquitous feature type in rural areas across North America. Both roads are unlikely to yield important information about the past. Therefore, these sites are not eligible for the National Register.

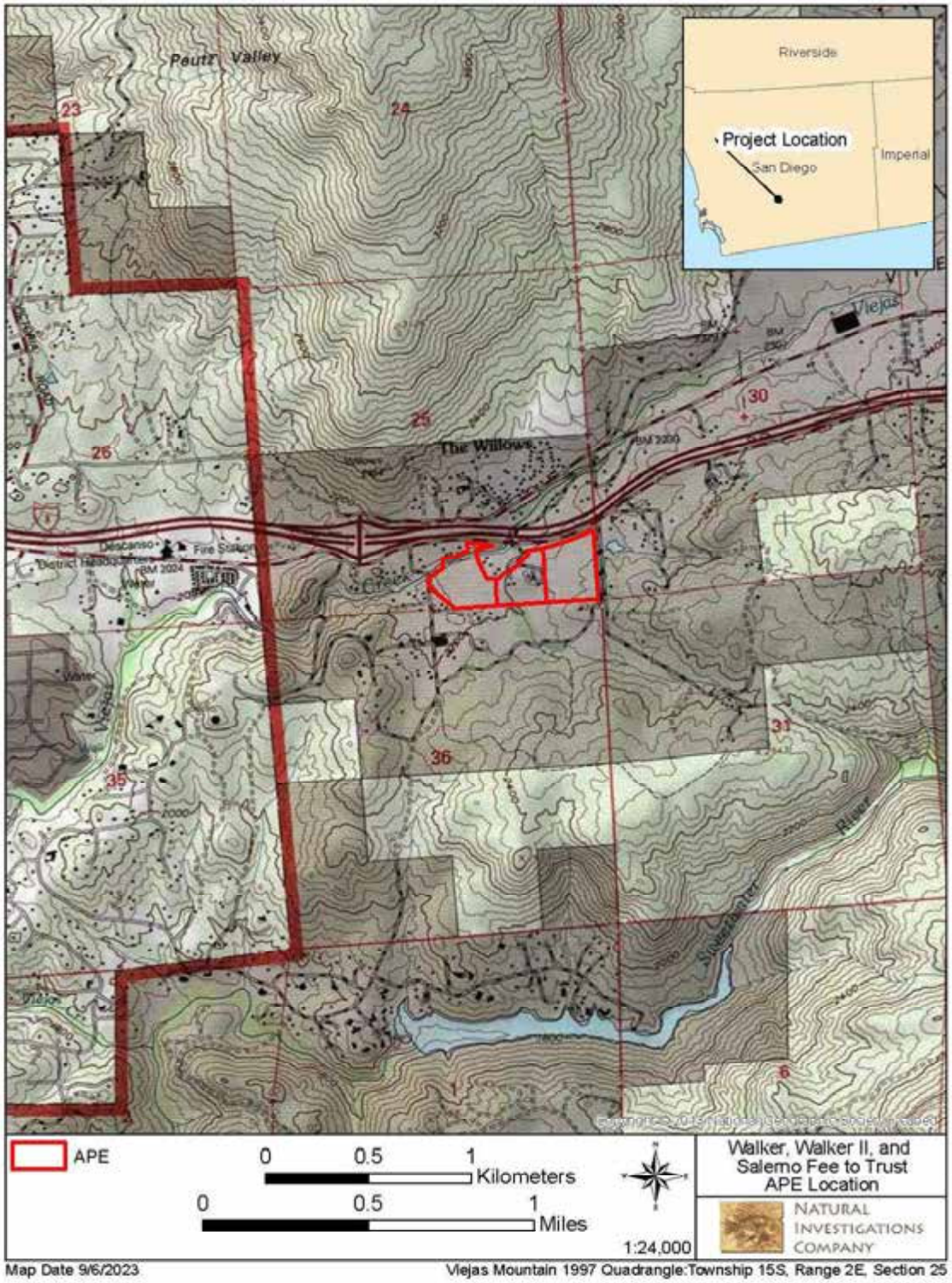
Based on the assessment above, the BIA has reached a finding of **No Historic Properties Affected** concerning this Federal undertaking. Your agreement with our definition of the Project APE, eligibility determinations and finding of effects shall suffice as evidence that the BIA has met its Section 106 compliance obligations in this matter pursuant to 36 CFR 800.4(d)(1). If you require additional information, please contact Regional Archeologists, Julie Taomia at (916) 413-5628.

Sincerely,

Acting Regional Director

Enclosures

Cc: Robert Pinto, Sr., Chairman



Map Date 9/6/2023

Viejas Mountain 1997 Quadrangle:Township 15S, Range 2E, Section 25

Enclosure 1



Source: Maxar Imagery (Feb. 2022)

Enclosure 2

PROPOSED SITE PLAN

State of California • Natural Resources Agency
Gavin Newsom, *Governor*

DEPARTMENT OF PARKS AND RECREATION
OFFICE OF HISTORIC PRESERVATION
Armando Quintero, *Director*

Julianne Polanco, State Historic Preservation Officer
1725 23rd Street, Suite 100, Sacramento, CA 95816-7100
Telephone: (916) 445-7000 FAX: (916) 445-7053
calshpo.ohp@parks.ca.gov www.ohp.parks.ca.gov

September 18, 2025

In reply refer to: BIA_2025_0827_001

VIA ELECTRONIC MAIL

Mr. Ryan Hunter
Acting Regional Director
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

RE: Section 106 Review – Ewiiaapaayp Fee-to-Trust Project, Walker, Walker II, and Salerno Parcels, San Diego County, California

Dear Mr. Hunter:

The California State Historic Preservation Officer (SHPO) has received your August 27, 2025 letter requesting review and comment under Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. § 306108), and its implementing regulations at 36 CFR Part 800. The Bureau of Indian Affairs (BIA) is requesting SHPO's concurrence on its determinations of eligibility and comment on its finding of *no historic properties affected* for the above-referenced undertaking.

Description of the Undertaking
The BIA proposes to approve the conveyance of approximately 50 acres of land in three parcels (Walker, Walker II, and Salerno) from fee simple to federal trust status for the Ewiiaapaayp Band of Kumeyaay Indians. The Tribe intends to construct a Tribal Office, Library/Community Center, two single-family homes, and related infrastructure. An existing house on the Walker II parcel will be used as an Emergency Center without renovation. Utilities and access roads are included in the undertaking, with excavation depths anticipated to extend up to eight feet below ground surface. Approximately 4.58 acres of the Walker parcel will be set aside as an Arroyo Toad conservation area.

Area of Potential Effects (APE)
The BIA has identified the APE consists of three parcels totaling 50 acres south of Interstate 8 near the community of Alpine in San Diego County, depicted on the USGS Viejas 7.5-minute quadrangle, Township 15 South, Range 2 East, Section 25. The vertical APE is approximately eight feet below ground surface to account for utilities installation.

Identification Effort
Efforts to identify historic properties that might be affected by the undertaking included a record search at the South Coastal Information Center (SCIC), multiple pedestrian surveys by a

professional archaeologist, record search of the Native American Heritage Commission's (NAHC) Sacred Lands File, and Native American outreach.

The BIA's identification efforts resulted in identifying ten cultural resources within the APE:

1) P-37-024186 – Bedrock milling slick (Salerno Parcel)
2) P-37-024187 – Sparse lithic scatter of three flakes (Salerno parcel)
3) P-37-024188 – Sparse lithic scatter of two flakes and a mano fragment (Salerno parcel)
4) P-37-024189 – Sparse lithic scatter of three flakes (Salerno parcel)
5) P-37-024245 / CA-SDI-16082 – Bedrock milling feature with associated lithic scatter (Walker/Walker II parcels). Subsurface testing in 2001-2002 recovered manos, shell, faunal bone, debitage, charcoal, and ceramics, but deposits were disturbed by modern dumping, plowing and irrigation intrusions.
6) P-37-030232 – Outcrop with a milling slick and three flakes (Walker II parcel)
7) P-37-040581 (Jackass Mail Trail) – A historic overland mail route identified from historic maps, observed as a six-foot-wide roadway along Viejas Creek (Walker parcel)
8) NIC-2025-Walker-01 – Monitor-style barn (ca.1954) with later additions (Walker II parcel).
9) NIC-2025-Walker-02 – Two-track dirt road with culvert, depicted on 1961 USGS map (Walker II parcel).
10) NIC-2025-Walker-03 – Dirt road/driveway, partially paved, visible on 1964 aerials (Walker II parcel).

Determination of Eligibility (DOE)
The following resources were documented within the APE. Based on the results of past and recent investigations, the BIA reached the following determinations of eligibility:

P-37-024186, P-37-024187, P-37-024188, and P-37-024189 (Salerno parcel)
These four resources were originally recorded as small, sparse prehistoric loci, consisting of milling slicks or limited flake scatters. During the 2017 AES survey, none of these sites could be relocated. In the absence of observable cultural materials or intact features, the BIA concluded that these resources no longer retain integrity and are *not eligible* for listing in the National Register of Historic Places (NRHP) under any criteria.

P-37-024245 (CA-SDI-16082, Walker and Walker II parcels)
This site was first recorded in 2001 as a complex of bedrock milling features with associated artifact scatter. Subsurface testing conducted in 2001–2002 by Mooney & Associates identified manos, faunal remains, marine shell, charcoal, ceramic sherds, and lithic debitage. However, the testing also revealed that the deposits had been extensively disturbed by disking, plowing, and irrigation pipe installation. Later updates in 2018 and 2025 confirmed that the site continues to lack integrity due to these disturbances. The BIA therefore reaffirmed that P-37-024245 is *not eligible* for listing in the NRHP under any criteria.

P-37-030232 (Walker II parcel)
This resource was recorded in 2008 as a milling slick on a large outcrop with a small amount of associated lithic debitage. Subsequent surveys in 2018 and 2025 relocated the outcrop itself but

were unable to confirm the presence of the milling slick or lithics. With no remaining observable features and no evidence of subsurface deposits, the site was determined to lack the integrity necessary to convey significance. The BIA determined that P-37-030232 is not eligible for listing in the NRHP under any criteria.

P-37-040581 / Jackass Mail Trail (Walker parcel)
This linear feature was identified from historic maps as part of the Jackass Mail Trail, a mid-19th-century overland mail route. A six-foot-wide roadway paralleling Viejas Creek was observed during the 2023 survey and tentatively correlated with the mapped alignment. However, the consultant found that this segment lacks integrity of design, workmanship, setting, feeling, and association. The BIA determined that the portion of the trail within the APE is *not eligible* for listing in the NRHP under any criteria, although no determination was made for the larger trail system outside the APE.

NIC-2025-Walker-01 (Walker II parcel)
A Monitor-style barn, first visible in 1954 aerial imagery, was documented in 2025. The barn has been substantially altered with additions and overhangs. It is not associated with significant events or persons and does not embody distinctive characteristics of a type or period. The BIA determined that the barn is *not eligible* for listing in the NRHP under any criteria.

NIC-2025-Walker-02 and NIC-2025-Walker-03 (Walker II parcel)
Two dirt road alignments were also documented in 2025. One two-track road with a culvert is depicted on the 1961 USGS quadrangle, while the other road, partially paved and in use as a driveway, is visible on 1964 aerials. Both are typical rural features, lack significance, and do not contribute important information to history. The BIA determined both roads are *not eligible* for listing in the NRHP under any criteria.

Isolates
Several isolated artifacts were documented across the APE, including flakes, an unfinished projectile point, and a mano. The BIA determined that these isolates do not meet the criteria for listing in the NRHP.

Finding of Effect
Based on the absence of eligible historic properties being present within the APE, the BIA has reached a finding of *no historic properties affected* for the undertaking.

SHPO Comments

1) **Previous Documentation Needed**
   The SHPO requests that the BIA provide copies of all previous documentation associated with the cultural resources in the APE. While the updated 2025 site forms are appreciated, the consultation record is incomplete without the original DPR 523 site records for all previously recorded resources, as well as any earlier cultural resources reports not appended to the current submission. In particular, the SHPO requests:

   a. The Mooney & Associates (2001–2002) testing report and associated site records for P-37-024245 (CA-SDI-16082).
   b. The original site records for the Salerno parcel resources (P-37-024186 through -024189).

c. The original site record and supporting documentation for the Jackass Mail Trail (P-37-040581), including any mapping or historic context statements used to establish the alignment.

For the Jackass Mail Trail in particular, the documentation provided does not present a sufficiently developed historic context to support a dismissal of eligibility. Additional background on the role of the trail in regional transportation and settlement history should be included if BIA wishes to pursue a formal DOE of *not eligible*.

2) **Treatment of Resources Within the Conservation Area**
The SHPO notes that certain resources, including the Jackass Mail Trail (P-37-040581), fall within the conservation area along Viejas Creek and do not appear to be subject to direct effects, as project activities are focused on the Walker II parcel. In such cases, it may be more efficient for the BIA to treat these resources as eligible for the purposes of Section 106 consultation rather than pursuing formal determinations of ineligibility. This approach would avoid prematurely dismissing the potential significance of these resources while still supporting a finding of *no adverse effects*, given the absence of project-related impacts**.**

3) **Existing House on Walker II Parcel**
The description of the undertaking notes that an existing house on the Walker II parcel will be repurposed as an Emergency Center without renovation. However, this structure was not included in the identification or DOE discussions. The SHPO requests clarification regarding this building, including its construction date and the rationale for its exclusion from evaluation. If the structure is of modern age and not considered a historic property, please provide confirmation for the record.

Pending receipt and review of the requested prior documentation (original DPR 523 records and earlier reports identified above), the SHPO defers concurrence on the BIA's determinations of eligibility and comment on the finding of effect.

If you require further information, please contact Jeffrey Delsescaux at (916) 894-5498 or Jeffrey.Delsescaux@parks.ca.gov.

Sincerely,



Julianne Polanco
State Historic Preservation Officer

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

IN REPLY REFER TO:
4303-P5 Ewiiaapaayp 3 Parcels FTT_SHPO

Ms. Julianne Polanco
State Historic Preservation Officer
Office of Historic Preservation
1725 23rd Street, Suite 100
Sacramento, CA 95816

Dear Ms. Polanco,

The Bureau of Indian Affairs (BIA), Pacific Regional Office, is continuing consultation under Section 106 of the National Historic Preservation Act (NHPA) for the conveyance of approximately 50 acres of land from fee simple to federal trust status for the Ewiiaapaayp Band of Kumeyaay Indians (Tribe). The Section 106 review includes consideration of the proposed development of Tribal government facilities and housing (undertaking). You requested additional information and documentation to assess the determinations of eligibility and finding of effect made by BIA for the undertaking. This letter conveys the requested information.

The following documentation was requested (reference BIA_2025_0827_001):

1. The Mooney & Associates (2001-2002) testing report and associated site records for P-37-024245 (CA-SDI-16082).
2. The original site records for the Salerno parcel resources (P-37-024186 through -02189).
3. The original site record and supporting documentation for the Jackass Mail Trail (P-37-040581), including any mapping or historic context statements used to establish the alignment.
4. Clarification regarding the age of the existing house on the Walker II parcel that will be repurposed as an Emergency Center without renovation.

The requested documentation will be provided concurrently with submittal of this letter to your office through a file sharing server to protect sensitive information contained in the documents as well as to facilitate transmission of large files. To ensure a complete record for consultation on this undertaking, the following are included in the submission.

1. Case, Robert P., Carol Serr, & Kristen Walker. 2001. *Phase I/II Cultural Resources Survey, Test, and Evaluation for the Health Services Project Ewiiaapaayp Band of Kumeyaay Indians Alpine, San Diego County, California*. Volumes I and II. Report on file at BIA Pacific Region.

Case, Robert P., & Kristen Walker. 2002. *Extended Phase II Test and Evaluation for the Health Services Project Ewiiaapaayp Band of Kumeyaay Indians Alpine, San Diego County, California*. Volumes I and II. Report on file at BIA Pacific Region.

P-37-024245 (CA-SDI-16082): The original site record is contained in Case *et al.* 2001 Volume II Appendix E. An update produced after additional site testing is contained in Case & Walker 2002 Volume II Appendix C. A comprehensive site record including both the 2001 original and the 2002 update is also provided in a file named SDI-16082.

2. Salerno parcel resources: Files containing original records and earlier updates are provided for P-37-024186, -024187, -024188, and -024189.
3. Jackass Mail Trail P-37-040581: The original site record is provided, with supporting documentation. Also provided is an excerpt of a 2006 California State Parks publication on the Carrizo Creek Stage Station, which discusses the San Antonio to San Diego Mail Line, of which this resource is thought to be a part.
4. Regarding the existing house to be repurposed as an Emergency Center without renovation, additional aerial photographs from 1979, 1985 and 1990 are provided, showing that the existing house was not present in 1979 but present in 1985 and 1990. Also provided is a posting from Zillow that identifies the construction date for the house as 1982. This information confirms that the house is less than 50 years old and explains why it was not documented in the process of identifying historic properties on the parcel.

The Mooney & Associates reports were used in drafting the letter initiating Section 106 consultation to reach the determination of eligibility and finding of effects for site CA-SDI-16082. The site was found to be significantly disturbed and therefore not eligible for the National Register of Historic Places (NRHP). The site files for the resources in the Salerno parcel do not contain any new information to change the original determinations of eligibility for sites P-37-024186, -024187, -024188 and -024189. All sites consisted of isolated finds. BIA maintains the determination that these resources are not eligible for the NRHP,

The material provided for site P-37-040581, while expansive, does not resolve the question of eligibility for the NRHP. The documentation accompanying the 2023 site record obtained from the South Coastal Information Center includes a paper presented by a retired Cleveland National Forest Historian to the 30th Annual convention of the Congress of History of San Diego in 1995, several published history articles, and two newspaper articles. In addition, an article produced in 2006 by the Department of Parks and Recreation was located that addresses early mail service to California. The following paragraphs draw on this material for a summary of the context for the Jackass Trail.

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The Jackass Trail, assigned primary number P-37-040581, is potentially significant as a historic property associated with establishing mail delivery to California in the middle of the 19th century. Between 1847 and 1854 mail was carried overland to California by military couriers and was sporadic depending on the military's needs. From 1854 to 1857 a mail service was established between San Diego and Fort Yuma that followed existing trails from Green Valley in the Cuyamaca Mountains down an old Indian and Fages trail in Oriflamme Canyon to intersect with the emigrant road between El Puerto and present-day Box Canyon. In 1856 Congress authorized a Pacific Mail contract for overland mail transport with the 1856 postal bill. The

contract was awarded to John Butterfield, a New York transportation magnate who organized and became president of the Overland Mail Company which began operating a stage line between Tipton, MO, and San Francisco, CA on September 16, 1858. The postal bill also included a provision that permitted the postmaster general to immediately open a transcontinental mail line between San Antonio and San Diego. This latter contract was awarded to James E. Birch, who had campaigned for the overland mail line. The first dispatch of Birch's line, the San Antonio to San Diego Mail Line, left San Antonio on July 9, 1857, following a southerly route. Site P-37-040581 is thought to be a portion of the route followed by the San Antonio to San Diego Mail Line, which was nicknamed the Jackass Trail by a newspaper publisher in San Francisco. The line was the first overland mail route to the Pacific Coast and operated until 1861. It followed a route approximating the Southern Emigrant Trail, or Gila Trail, from San Antonio, Texas, to San Diego, California. There appear to have been at least two alternate routes used between Vallecito and San Diego, one through Warner's Ranch (Warner Springs), and the other across the Cuyamaca Mountains similar to the route taken to Fort Yuma between 1854 and 1857. The trail identified as a segment of P-37-040581 within the APE for the land conveyance addressed in this consultation was along the latter route. The historical documentation does not discuss physical characteristics of the trail(s) followed in detail but indicates that existing trails were followed rather than constructing new trails. Legislation was passed in December 1856 authorizing construction of a military road from El Paso to Fort Yuma as well as military posts required to protect that portion of the route, indicating purposeful construction for the conveyance of mail within that segment. There is also an account of the general superintendent of the line taking San Diego officials to view segments of the trail between Alpine and the Cuyamaca Mountains for possible improvement to reduce the transit time, but no indication if those improvements were made. One account noted that the actual route was modified several times but provides no details. Once the Overland Mail Line began operation in 1858 some of the San Antonio to San Diego Mail Line routes were duplicative. The segment of the San Antonio to San Diego Mail Line between El Paso and Fort Yuma was cut in December 1858 and subsequently serviced only by the Overland Mail Line. In 1860 service of the Fort Yuma to San Diego stretch was also eliminated. The Butterfield Overland Mail Line service was suspended in March 1861 and the San Antonio to San Diego Mail was reorganized as the Overland Mail Corporation with a new contract with the US Postal Service to service the entire distance from Missouri to the Pacific Coast. However, obstacles including the advent of the Civil War resulted in the company shutting down on August 2, 1861.

The physical route of the San Antonio to San Diego Mail Line has not been field verified, the route of the trail was identified based on historic maps at the time the primary number was assigned. The accuracy of these maps and the accuracy of correlation with modern maps is uncertain. A site record was compiled in 2023 for a segment of the route in the vicinity of Descanso in Section 24, Township 15 South Range 3 East, San Bernardino Base Meridian (SBBM) about 5 to 6 miles east-northeast of the APE. The western end of this local segment of the trail between the vicinity of Lake Cuyamaca and Alpine was described as at approximately the modern intersection of Alpine Boulevard and East Victoria Drive west of the APE. The route is described as approximately following the modern routes of Old Highway 80 and CA-79. This route passes through the vicinity of the APE but there is a dearth of evidence to confidently identify the documented trail within the APE as a segment of the route used by the mail line. The most confidently identifiable places associated with the San Antonio to San Diego Mail Line are

the way stations that were set up to provide food, water and rest for both animals and humans. One way station, the Williams Ranch, was located northeast of the APE in what is now the Viejas Indian Reservation. No defining physical characteristics of the trail used by the mail line are described in the available historical documents and the site record did not describe identifying characteristics. The site record for P-37-040681 in the vicinity of Descanso noted that where the route derived from historical maps overlapped with the survey area for a San Diego Gas & Electric circuit, no evidence of the trail was physically identified. At this time there is insufficient information to conclude that the trail identified in the APE, in the North ½ of the Southwest ¼ of the Southeast ¼ of Section 25, Township 15 South, Range 2 East, SBBM along the south side of Viejas Creek is a part of the route taken by the San Antonio to San Diego Mail Line between 1857 and 1861. The trail segment that was photographed is a common dirt road of a type that is ubiquitous in rural agricultural areas. The conclusion drawn from this assessment is that there is insufficient evidence to identify this feature as a historic property eligible for the NRHP.

After examining the additional information, BIA maintains that there are no historic properties in the APE. Based on the assessment above, the BIA has reached a finding of **No Historic Properties Affected** concerning this Federal undertaking. Your agreement with our definition of the Project APE, eligibility determinations and finding of effects shall suffice as evidence that the BIA has met its Section 106 compliance obligations in this matter pursuant to 36 CFR 800.4(d)(1). If you require additional information, please contact Regional Archeologists, Julie Taomia at (916) 413-5628.

Sincerely,

Acting Regional Director

Cc: Robert Pinto, Sr., Chairman

State of California • Natural Resources Agency
Gavin Newsom, *Governor*

DEPARTMENT OF PARKS AND RECREATION
OFFICE OF HISTORIC PRESERVATION
Armando Quintero, *Director*

Julianne Polanco, State Historic Preservation Officer
1725 23rd Street, Suite 100, Sacramento, CA 95816-7100
Telephone: (916) 445-7000 FAX: (916) 445-7053
calshpo.ohp@parks.ca.gov www.ohp.parks.ca.gov

December 15, 2025

In reply refer to: BIA_2025_0827_001

VIA ELECTRONIC MAIL

Mr. Ryan Hunter
Acting Regional Director
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

RE: Section 106 Review – Ewiiaapaayp Fee-to-Trust Project, Walker, Walker II, and Salerno Parcels, San Diego County, California

Dear Mr. Hunter:

The California State Historic Preservation Officer (SHPO) has reviewed the additional documentation transmitted on November 14, 2025 in response to SHPO's September 18, 2025 letter, including original DPR 523 site records, prior survey reports, subsurface testing documentation prepared by Mooney & Associates (2001–2002), historic aerial imagery, and supplemental materials related to the Jackass Mail Trail (P-37-040581).

Based on review of these materials submitted by the Bureau of Indian Affairs (BIA), the SHPO offers the following comments pursuant to Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) and its implementing regulations at 36 CFR Part 800.

Determinations of Eligibility

Salerno Parcel Sites (P-37-024186 through P-37-024189)

1) P-37-024186 – Bedrock milling slick (Salerno Parcel)
2) P-37-024187 – Sparse lithic scatter of three flakes (Salerno parcel)
3) P-37-024188 – Sparse lithic scatter of two flakes and a mano fragment (Salerno parcel)
4) P-37-024189 – Sparse lithic scatter of three flakes (Salerno parcel)

The original site records confirm that these resources consist of very small, low-density prehistoric loci, including sparse lithic scatters and isolated milling features. The sites lack formal features, diagnostic artifacts, or stratified deposits, and none were relocated during subsequent surveys.

Based on the available information, SHPO concurs that these resources do not appear to be significant under Criterion A (association with broad patterns of history), Criterion B (association with significant persons), or Criterion C (distinctive characteristics or construction). Additionally, given their limited

content, disturbance, and lack of demonstrated research potential, the sites do not appear to meet Criterion D. SHPO concurs that P-37-024186 through P-37-024189 are not eligible for listing in the National Register of Historic Places (NRHP).

Pursuant to 36 CFR § 800.4(c), the SHPO concurs that these resources are not eligible for listing in the National Register of Historic Places under any criteria.

P-37-024245 / CA-SDI-16082 (Walker / Walker II Parcels)

5) P-37-024245 / CA-SDI-16082 – Bedrock milling feature with associated lithic scatter (Walker/Walker II parcels). Subsurface testing in 2001-2002 recovered manos, shell, faunal bone, debitage, charcoal, and ceramics, but deposits were disturbed by modern dumping, plowing, and irrigation intrusions.

CA-SDI-16082 was originally recorded as a complex of bedrock milling features with associated artifact scatter. Subsurface testing conducted by Mooney & Associates (2001–2002), including shovel test pits and a controlled test unit, identified cultural materials within deposits that were determined to be extensively disturbed by historic and modern land-use activities such as plowing, grading, dumping, and irrigation infrastructure.

The documentation adequately evaluates the site under Criterion D, demonstrating that the tested portion of the site lacks integrity and does not retain the ability to yield important information. There is no evidence supporting eligibility under Criteria A, B, or C. SHPO concurs with the BIA's determination that the evaluated portion of CA-SDI-16082 is not eligible for listing in the NRHP.

Pursuant to 36 CFR § 800.4(c), the SHPO concurs that this resource is not eligible for listing in the National Register of Historic Places under any criteria.

P-37-030232 (Walker II Parcel)

6) P-37-030232 – Outcrop with a milling slick and three flakes (Walker II parcel)

This resource was originally recorded as a milling slick on a bedrock outcrop with a very limited associated lithic scatter. Subsequent surveys relocated the outcrop but were unable to confirm the presence of the milling slick or associated artifacts. No subsurface deposits were identified.
Based on the absence of observable features or deposits, SHPO concurs that P-37-030232 is not associated with significant events or persons (Criteria A or B), does not embody distinctive construction characteristics (Criterion C), and lacks integrity and research potential under Criterion D. SHPO concurs that this resource is not eligible for listing in the NRHP.

Pursuant to 36 CFR § 800.4(c), the SHPO concurs that this resource is not eligible for listing in the National Register of Historic Places under any criteria.

Historic-Era Built Resources (NIC-2025-Walker-01, -02, and -03)

7) NIC-2025-Walker-01 – Monitor-style barn (ca. 1954) with later additions (Walker II parcel).
8) NIC-2025-Walker-02 – Two-track dirt road with culvert, depicted on 1961 USGS map (Walker II parcel).

9) NIC-2025-Walker-03 – Dirt road/driveway, partially paved, visible on 1964 aerials (Walker II parcel).

The monitor-style barn (NIC-2025-Walker-01) and associated road features (NIC-2025-Walker-02 and -03) were evaluated as historic-era built resources. These features are common examples of rural agricultural and access infrastructure, have been altered over time, and are not associated with significant historic events or persons (Criteria A or B). They do not embody distinctive characteristics of a type or method of construction (Criterion C) and do not possess information potential (Criterion D). SHPO concurs that these resources are not eligible for listing in the NRHP.

Pursuant to 36 CFR § 800.4(c), the SHPO concurs that these resources are not eligible for listing in the National Register of Historic Places under any criteria.

Jackass Mail Trail (P-37-040581)

10) P-37-040581 (Jackass Mail Trail) – A historic overland mail route identified from historic maps, observed as a six-foot-wide roadway along Viejas Creek (Walker parcel)

The SHPO has reviewed the additional documentation provided for the Jackass Mail Trail, including historic mapping, narrative discussion, and field observations. While this material expands the record, the SHPO finds that the documentation continues to focus on a discrete segment of the trail within the APE, rather than evaluating the resource within an appropriate historic context.

As a historic overland transportation route, the Jackass Mail Trail has clear potential significance under Criterion A, given its association with regional transportation, communication networks, and 19th-century settlement patterns. However, the documentation does not adequately develop this context, nor does it assess the resource as a linear system. Segment-level integrity observations alone are insufficient to support a determination of ineligibility for a linear historic resource of this type.

Accordingly, the SHPO cannot concur with a determination of ineligibility for the Jackass Mail Trail based on the current documentation. The SHPO recommends that the BIA treat the Jackass Mail Trail as eligible for the purposes of Section 106 consultation, thereby avoiding precedent-setting segmentation of a linear historic resource in the absence of a comprehensive context-based evaluation. This is possible since there is only a small segment within the APE and the undertaking is not anticipated to affect that segment within the APE.

Pursuant to 36 CFR § 800.4(c), based on the material provided, the SHPO does not concur that this resource is not eligible for listing in the National Register of Historic Places.

Finding of Effect
Based on the absence of eligible historic properties being present within the APE, the BIA has reached a finding of *No Historic Properties Affected* for the undertaking.

The SHPO notes that the Jackass Mail Trail (P-37-040581) is potentially associated with significant mid-19th-century overland mail transportation to California and may be significant under NRHP Criterion A as part of a broader linear transportation system. However, the SHPO acknowledges that the documentation provided does not conclusively identify the physical feature observed within the APE as a verified segment of the San Antonio to San Diego Mail Line, and that the precise route of the trail has not been field verified.

Given that the feature lies within a designated conservation area and will not be subject to ground disturbance or other project-related effects, the SHPO is not opposed to the BIA's finding that the undertaking will not adversely affect historic properties. To avoid setting a precedent for segment-level dismissal of linear historic resources, the SHPO recommends that, for the purposes of Section 106 consultation, the Jackass Mail Trail be treated as eligible and avoided, which would support a finding of *No Adverse Effect* pursuant to 36 CFR §800.5(b).

Provided that the identified trail alignment continues to be avoided and remains outside the area of project disturbance, the SHPO would not object to proceeding on this basis.

If you require further information, please contact Jeffrey Delsescaux at (916) 894-5498 or Jeffrey.Delsescaux@parks.ca.gov.

Sincerely,



Julianne Polanco
State Historic Preservation Officer

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

IN REPLY REFER TO:
4303-P5 Ewiiaapaayp 3 Parcels FTT_SHPO

Ms. Julianne Polanco
State Historic Preservation Officer
Office of Historic Preservation
1725 23rd Street, Suite 100
Sacramento, CA 95816

Dear Ms. Polanco,

The Bureau of Indian Affairs (BIA), Pacific Regional Office, is continuing consultation under Section 106 of the National Historic Preservation Act (NHPA) for the conveyance of approximately 50 acres of land from fee simple to federal trust status for the Ewiiaapaayp Band of Kumeyaay Indians (Tribe). The Section 106 review includes consideration of the proposed development of Tribal government facilities and housing (undertaking).

In your letter of December 15, 2025, you concurred that the following resources did not appear to be significant under Criterion A (association with broad patterns of history), Criterion B (association with significant persons), Criterion C (distinctive characteristics or construction), and given their limited content, disturbance and lack of demonstrated research potential also do not meet Criterion D (contain significant information about the past):

- P-37-024186 – Bedrock milling slick (Salerno Parcel)
- P-37-024187 – Sparse lithic scatter of three flakes (Salorno Parcel)
- P-37-024188 – Sparse lithic scatter of two flakes and a mano fragment (Salerno Parcel)
- P-37-024189 – Sparse lithic scatter of three flakes (Salerno Parcel).

The California State Historic Preservation Officer (SHPO) therefore concurs pursuant to 36 CFR § 800.4(c) that these resources are not eligible for listing on the National Register of Historic Places (NRHP). Based on subsurface testing that documented significant disturbance the SHPO further concurs that P-37-024245/CA-SDI-16082 in the Walker and Walker II parcels lacks integrity and does not meet any of the eligibility criteria listed above and therefore is not eligible for listing on the NRHP. The SHPO also concurs that P-37-03023 in the Walker II Parcel does not retain integrity, does not meet any of the criteria listed above and is not eligible for listing on the NRHP. The SHPO also concurs that historic-era resources NIC-2025-Walker-01, -02 and -03 are common examples of resource types, have been altered over time, do not meet the criteria listed above and therefore are not eligible for the NRHP.

The SHPO found that the documentation submitted regarding the Jackass Mail Trail (P-37-040581) does not address the integrity of the complete linear resource, and therefore the significance of the segment identified within the Walker Parcel cannot be assessed. Therefore, the SHPO cannot concur that P-37-040581 is not eligible for the NRHP. The segment identified as a portion of the Jackass Mail Trail is within the portion of the Walker parcel that will be a conservation area for Arroyo Toad. Following the recommendation of the SHPO, BIA will treat P-37-040581 as eligible for the NRHP. No development is planned within the conservation area.

Based on the foregoing discussion, and avoidance of P-37-040581, the BIA has reached a finding of **No Adverse Effects** to historic properties concerning this Federal undertaking. Your agreement with the finding of effects shall suffice as evidence that the BIA has met its Section 106 compliance obligations in this matter pursuant to 36 CFR 800.5(b). If you require additional information, please contact Regional Archeologists, Julie Taomia at (916) 413-5628.

Sincerely,

Acting Regional Director

Cc: Robert Pinto, Sr., Chairman

State of California • Natural Resources Agency
Gavin Newsom, *Governor*

DEPARTMENT OF PARKS AND RECREATION
OFFICE OF HISTORIC PRESERVATION
Armando Quintero, *Director*

Julianne Polanco, State Historic Preservation Officer
1725 23rd Street, Suite 100, Sacramento, CA 95816-7100
Telephone: (916) 445-7000 FAX: (916) 445-7053
calshpo.ohp@parks.ca.gov www.ohp.parks.ca.gov

January 22, 2026

In reply refer to: BIA_2025_0827_001

VIA ELECTRONIC MAIL

Mr. Ryan Hunter
Acting Regional Director
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

RE: Section 106 Review – Ewiiaapaayp Fee-to-Trust Project, Walker, Walker II, and Salerno Parcels, San Diego County, California

Dear Mr. Hunter:

The California State Historic Preservation Officer (SHPO) has reviewed the Bureau of Indian Affairs' (BIA) correspondence regarding the conveyance of approximately 50 acres of land into federal trust for the Ewiiaapaayp Band of Kumeyaay Indians and the associated undertaking, including the proposed development of Tribal government facilities and housing.

As summarized in SHPO's December 15, 2025 letter, the SHPO concurs with the determinations that sites P-37-024186 through P-37-024189, P-37-024245/CA-SDI-16082, P-37-030232, and historic-era resources NIC-2025-Walker-01, -02, and -03 are *not eligible* for listing in the National Register of Historic Places pursuant to 36 CFR § 800.4(c).

Based on review of the information provided, the SHPO acknowledges that the BIA has appropriately addressed the issues raised in SHPO's prior correspondence, including clarification of the eligibility determinations for identified cultural resources and the treatment of the Jackass Mail Trail (P-37-040581).

The SHPO acknowledges the BIA's decision to treat the Jackass Mail Trail as eligible for the purposes of this undertaking only, consistent with SHPO's recommendation, and to avoid the identified segment through placement within a designated conservation area.

Pursuant to 36 CFR § 800.5(b), **the SHPO does not object** to the BIA's finding of *No Adverse Effects* has no further comments at this time. This is provided with the understanding that the avoidance measures described will be maintained.

Be advised that under certain circumstances, such as unanticipated discovery or a change in project description, your agency may have additional future responsibilities for this undertaking under 36 CFR Part 800. If you require further information, please contact Associate State Archaeologist Jeffrey Delsescaux at (916) 894-5498 or Jeffrey.Delsescaux@parks.ca.gov.

Sincerely,



Julianne Polanco
State Historic Preservation Officer

Attachment 3

Mitigation Monitoring and Compliance Plan

Mitigation Monitoring and Compliance Plan
Ewiiaapaayp Tribal Community and Fee-to-Trust Project

The purpose of this Mitigation Monitoring and Compliance Plan (MMCP) is to guide compliance and implementation of mitigation measures associated with the Ewiiaapaayp Tribal Community and Fee-to-Trust Project (Project). The mitigation measures listed in **Table 1** were identified within the Environmental Assessment (EA) dated December 2025 and the Mitigated Finding of No Significant Impact (FONSI). This MMCP includes descriptions of the following:

- The mitigation measures identified within the EA;
- The parties responsible for monitoring and implementing the mitigation measures;
- The anticipated timeframe for implementing and completing the mitigation measures; and
- Compliance standards and entities responsible for the enforcement of the mitigation measures.

Mitigation measures detailed in **Table 1** were included in Section 4 of the EA and will be implemented to reduce potentially significant impacts associated with biological resources, cultural resources, and noise. The Tribe will be the primary agency responsible for funding, monitoring, and/or implementing the mitigation measures. Implementation of the mitigation measures will occur prior to beginning construction-related activities (pre-construction), during construction, or during operation. The Tribe will exercise governmental jurisdiction over the Project Site once acquired into trust and will have the authority to enforce the mitigation measures. Per Section 4 of the EA, mitigation is enforceable because it is (1) inherent to the project design; and/or (2) required by federal or tribal regulations. The Tribe has certified a resolution that the Tribe adopts and agrees to enforce, fund, and implement the mitigation measures and BMPS and will incorporate such measures into the specifications of design documents and construction contracts as appropriate. This resolution is included as Attachment 4 of the FONSI.

Table 1: Mitigation Monitoring and Compliance

Mitigation Measure	Party Responsible for Monitoring and/or Implementation	Timing of Implementation	Compliance Standards and Enforcement
Biological Resources			
General Conservation Measure			
▪ To ensure avoidance and minimization measures from the USFWS consultation process are implemented, all activities conducted for construction and clearing will be monitored by a USFWS-approved biologist (Biologist). The Biologist will be familiar with the habitats, plants, and wildlife of the project area, and will maintain communications with project personnel to ensure that issues related to biological resources are appropriately and lawfully managed. The BIA will submit the Biologist's name, address, telephone number, and work schedule on the project to the USFWS for review and approval prior to initiating project impacts. The contract of the Biologist will allow direct communication with the USFWS at any time regarding the proposed project. The Biologist will be provided with a copy of this consultation.	Tribe	Pre-Construction and Construction Phases	**Compliance Standard:** Federal Endangered Species Act **Enforcement Entity**: U.S. Fish and Wildlife Service/Tribe
Arroyo Toad, Western Spadefoot, and Southwestern Pond Turtle			
▪ A 4.58-acre conservation area, which includes no less than a 100-foot buffer from the edge of Viejas Creek and its associated riparian habitat, shall be maintained on the Walker parcel. No construction or ground-disturbing activities shall occur within the conservation area. ▪ Construction activities shall take place to the extent feasible from approximately December 1 through June 30 (depending on seasonal rains) during the spadefoot breeding season when the species is typically more active and closer to breeding habitat. ▪ The Biologist shall conduct a worker awareness training session for construction workers. The training shall identify the characteristics and habitat of the arroyo toad, spadefoot, and pond turtle, and the importance of halting work and contacting the Biologist if the species are observed within the Project Area during ground disturbance. ▪ A preconstruction survey for federally listed species shall be conducted immediately prior to installation of silt fencing to ensure the absence of federally listed species from the project area before exclusionary silt fencing is installed. ▪ Silt fencing shall be placed around areas of disturbance after the preconstruction survey and prior to earthmoving activities. Silt fencing shall not be installed until it is confirmed by the Biologist that federally listed species are absent from the project area. This will require that the preconstruction survey and silt fence installation are conducted during the western spadefoot breeding season (December 1 through June 30). ▪ The Biologist shall be present for initial ground clearing activities and shall halt work if a federally listed species is observed. The animal shall be allowed to leave on its own and the Biologist shall maintain a halt to work until determining that recommencing work would not endanger the animal. ▪ If federally listed species are identified during monitoring, the Biologist shall submit a final report to the USFWS within 30 days following construction that documents the location and number of individuals observed as well as disposition (outside of project area, no action necessary; inside of project area, halt work enacted). Should a federally listed species be observed in the project area, and should the Biologist determine that relocation is necessary or that take is possible, construction activities shall halt and formal consultation with USFWS shall occur. Construction shall not continue until formal consultation with USFWS is concluded and any additional measures are put in place. ▪ Construction staging areas shall be designated and sited as far from surface waters as possible. ▪ Potential indirect effects to downstream water quality will be mitigated through a redundant storm water management system that aggressively filters runoff from the site. ▪ Selected landscaping will be chosen with the intent to minimize the need for herbicides and pesticides and when commercially reasonable, will include locally derived native species.	Tribe	Pre-Construction and Construction Phases	**Compliance Standard:** Federal Endangered Species Act **Enforcement Entity**: U.S. Fish and Wildlife Service/Tribe

Mitigation Measure	Party Responsible for Monitoring and/or Implementation	Timing of Implementation	Compliance Standards and Enforcement
▪ Security lighting will utilize low illumination lighting directed towards both the building(s) and the ground to be reasonably consistent with the dark sky requirements of the County of San Diego and the protection of the Arroyo toad. ▪ Parking lot lighting will utilize a low illumination motion activated sensor system that, consistent with the security needs will be directed away from the creekside boundary, consistent with the dark sky requirements of San Diego and the protection of the arroyo toad. ▪ Employees shall strictly limit their activities and vehicles to the Proposed project area(s), staging areas, and routes of travel. ▪ Equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities shall occur in designated areas. These designated areas shall be located in such a manner as to prevent any runoff from entering waters of the United States, including wetlands, and shall be located within exclusionary fencing (silt fencing described above) to prevent access to the area by Arroyo toads. ▪ Sediment/grease traps shall be maintained pursuant to manufacturers' recommendations, or at a minimum cleaned and maintained at least once a year prior to the onset of winter rains. ▪ The USFWS would be given the right to access and inspect the Project Site for compliance with mitigation during the creation/revegetation and construction phases. ▪ Preservation and management of the 4.58-acre conservation area shall be included in the Tribe's Integrated Natural Resource Management Plan for the Reservation. The Plan shall include a funding mechanism to maintain the 4.58 acres in a natural state. This may include funding for trash removal, signage, and fencing if necessary. ▪ The Arroyo Toad Ordinance (02-14) authorized the Tribe to enter into an MOA with the USFWS specifically related to the health clinic project that was never constructed. As the existing MOA may require modifications, the Tribe shall consult with USFWS and, if necessary, shall enter into a new or amended MOA to provide for the management of the conservation area and the legal means to ensure adequate preservation of the conservation area.			
Nesting Migratory Birds/Raptors			
▪ If construction activities occur during the general nesting season (February 15 to September 1), a preconstruction nest survey shall be conducted by a qualified biologist within 500 feet of proposed construction areas within 5 days of initiating ground disturbance. ▪ If active nests are identified, the qualified biologist shall determine a suitable avoidance buffer based on the needs of the species observed. Avoidance measures may include establishment of a buffer zone using construction fencing or the postponement of vegetation removal until after the nesting season, or until after a qualified biologist has determined the young have fledged. Avoidance buffers may vary in size depending on habitat characteristics, project-related activities, and disturbance levels. ▪ Should work activity cease for 14 days or more during the nesting season, surveys shall be repeated to ensure birds and raptors have not established nests during inactivity.	Tribe	Pre-Construction Phase and Construction Phase	**Compliance Standard:** Migratory Bird Treaty Act **Enforcement Entity**: U.S. Fish and Wildlife Service/Tribe
Cultural Resources			
▪ A Tribal Monitor or qualified archaeologist shall be present during initial ground disturbance to monitor for potential inadvertent discoveries during construction. ▪ In the event of any inadvertent discovery of prehistoric or historic archaeological resources during construction-related earth-moving activities, BIA Regional Archeologist will be immediately notified and finds shall be subject to Section 106 of the National Historic Preservation Act as amended (36 CFR Part 800). Specifically, procedures for post-review discoveries without prior planning pursuant to 36 CFR § 800.13 shall be followed. o All work within 50 feet of the find shall be halted until a professional archaeologist meeting the Secretary of the Interior's qualifications (36 CFR Part 61), or paleontologist if the find is of a paleontological nature, can assess the significance of the find in consultation with the BIA and other appropriate agencies.	Tribe	Construction Phase	**Compliance Standards:** National Historic Preservation Act, Archaeological Resources Protection Act, Native American Graves Protection and Repatriation Act **Enforcement Entity:** BIA/Tribe

Mitigation Measure	Party Responsible for Monitoring and/or Implementation	Timing of Implementation	Compliance Standards and Enforcement
○ If any find is determined to be significant by the Tribal Monitor or archaeologist or paleontologist, a BIA representative shall meet with the Tribe and Tribal Monitor or archaeologist or paleontologist to determine the appropriate course of action, including the development of a Treatment Plan and implementation of appropriate avoidance measures or other mitigation. ○ As requested, the Viejas Band of Kumeyaay Indians will be notified of the find. ▪ If human remains are discovered during ground-disturbing activities both the Tribe and BIA Regional Archeologist shall be contacted immediately. Notifications shall occur consistent with the requirements of the Native American Graves Protection and Repatriation Act and its implementing regulations, as applicable and revised. No further disturbance shall occur until the BIA and Tribal representatives have made the necessary findings as to the origin and disposition. If the remains are determined to be of Native American origin, the BIA and Tribe shall resolve which party will assume primary management authority for the discovery. Work may resume once appropriate measures have been taken and the party with primary management authority has provided written certification to the person responsible for the activity with the date on which activity may resume around the discovery and any appropriate conditions. ▪ Construction and development activities will avoid P-37-040581, which is located entirely within the designated conservation area for the Arroyo toad.			
Noise			
▪ During construction, loud stationary construction equipment shall be located as far away from residential receptor areas as feasible. To the extent feasible, existing barrier features (structures) shall be used to block sound transmission between noise sources and noise sensitive land uses. ▪ Construction equipment and machinery that produce reduced noise levels shall be utilized to the extent feasible. ▪ The Tribe shall monitor construction noise and will designate a disturbance coordinator (such as an employee of the general contractor or the project manager for the Tribe), post the coordinator's contact telephone number conspicuously around the Project Site, and provide the number to nearby sensitive receptors. The disturbance coordinator shall receive all public complaints, be responsible for determining the cause of the complaints, and implement any feasible measures to alleviate the problem.	Tribe	Construction Phase	**Compliance Standards:** Federal Highway Administration Noise Abatement Criteria, San Diego Municipal Code Section 36.404 **Enforcement Entity:** Tribe

Attachment 4

Tribal Resolution Committing to Mitigation Implementation

Ewiiaapaayp Tribal Office

Ewiiaapaayp Band of Kumeyaay Indians

Ewiiaapaayp Indian Reservation
4054 Willows Road
Alpine, CA 91901
TEL: (619) 368-4382
FAX: (619) 445-9126
E-mail: ceo@ebki-nsn.gov

TRIBAL RESOLUTION
EWIIAAPAAP BAND OF KUMEYAAY INDIANS
RESOLUTION NO. 26-03

A RESOLUTION COMMITTING TO BEST MANAGEMENT PRACTICES (BMPs) AND MITIGATION MEASURES FOR THE EWIIAAPAAYP BAND OF KUMEYAAY INDIANS' ALPINE SOUTH FEE-TO-TRUST PROJECT AS OUTLINED IN THE BUREAU OF INDIAN AFFAIRS ENVIRONMENTAL ASSESSMENT

SUBJECT: EBKI General Council commitment to Best Management Practices (BMPs) and mitigation measures for the EBKI Alpine South FTT Project pursuant to the BIA EA.

WHEREAS, the Ewiiaapaayp Band of Kumeyaay Indians ("EBKI" or "Tribe") is a federally recognized Tribe and Ewiiaapaayp Indian Reservation reserved from original Indian lands as the Big Ewiiaapaayp section of 5,460.13 acres and the Little Ewiiaapaayp section of 10.02 acres, and Tribal lands including Tribe owned fee lands, recognized by the Department of the Interior, Bureau of Indian Affairs, *Indian Entities Recognized by and Eligible to Receive Services From the United States Bureau of Indian Affairs,* 86 Fed. Reg. 7554 (Jan. 29, 2021), and listed pursuant to 25 U.S.C. 479a-1 (Title 1 of Pub. L. 103-454, Nov. 2, 1994, 108 Stat. 4791), hereinafter referred to as the "Tribe"; and

WHEREAS, the EBKI's elected officials duly installed are its Chairman, Vice Chairman and Treasurer/Secretary pursuant to Article IV § 1 of the Tribe's Constitution and its Tribal Code Government Code Title 100 § 100.02.1., and authorized by the General Council to govern the Tribe as its Executive Council pursuant to Title 100 § 100.02.3.; and

WHEREAS, the Constitution of the EBKI provides that the General Council has the power (i) to exercise the powers of self-government and self-determination; (ii) to exercise jurisdiction extending to lands now and hereafter comprising the Ewiiaapaayp Indian Reservation, (iii) to manage, lease, contract or otherwise deal with Tribal assets and community resources of the Tribe; (iv) to propose amendments to the EBKI's Constitution; and (v) to exercise other powers as provided in the EBKI's Constitution; and

WHEREAS, the EBKI did on September 28, 1973, adopt a Constitution and Bylaws which was approved by the Commissioner of Indian Affairs, ratified by Act of Congress, and by tribal law, which was amended by the Tribe in a duly authorized election on August 5, 2002 and approved pursuant to authority delegated to the Secretary of the Interior on September 6, 2002, the sovereign authority of the Tribe over the matter described herein is delegated to the EBKI General Council, acting by law; and

WHEREAS, the EBKI did on May 20, 2005 adopt and enact a Tribal Code, including Title 100 Tribal Government Ordinance wherein Title 100 § 100.02.2., authorizes the Chairman, Vice Chairman, Secretary, or the EBKI's delegee, as signatories on behalf of the EBKI; and

WHEREAS, pursuant to Article VI, Section 1 (b), the General Council is authorized to manage, lease, contract or otherwise deal with assets of EBKI; and

WHEREAS, the jurisdiction of EBKI extends to all those lands held in trust, or hereinafter acquired in trust by the United States of America for EBKI or any member thereof, whether within or without the boundaries of the Reservation; and

WHEREAS, the Bureau of Indian Affairs (BIA) has undertaken a comprehensive environmental review in accordance with the National Environmental Policy Act (NEPA) to assess the environmental effects of the Tribal Community and Fee-To-Trust Project (the "Proposed Action") that would be developed on approximately 48.7 acres (Project Site) contiguous to lands proclaimed as part of the reservation for EBKI located in San Diego County, and more particularly described as San Diego County assessor's parcel numbers (APNs) 404-080-26-00 (16.7 acres), 404-090-13-00 (13.3 acres), and 404-090-07-00 (18.7 acres); and

WHEREAS, upon being placed into trust, EBKI proposes to develop the Project Site with a Tribal office, library/community center, and two single-family houses, to maintain an existing re-purposed single-family residence as an emergency Tribal center, and to establish a conservation area along Viejas Creek (Proposed Project); and

WHEREAS, the Proposed Action was analyzed within an Environmental Assessment (EA) published on December 19, 2025, that was prepared in accordance with NEPA; and

WHEREAS, the EA was circulated for a 30-day (excluding federal holidays) agency and public review period from December 19, 2025 to January 21, 2026; and

WHEREAS, based on the analysis contained in the EA and public and agency review and consultation, with inclusion of BMPs contained in Section 2.1.6 of the EA and implementation of mitigation measures contained in Section 4 of the EA, the Proposed Action will not result in significant adverse effects on the quality of the human environment; and

WHEREAS, the BMPs and mitigation measures that will be implemented and overseen by EBKI to address potential environmental effects of the Proposed Action as described in the EA are identified in Attachment 1 to this Resolution; and

WHEREAS, EBKI recognizes the importance of the BMPs and mitigation measures to ensure the Proposed Action avoids significant environmental impacts, and is committed to undertaking and enforcing these measures as outlined in Attachment l.

NOW, THEREFORE LET IT BE RESOLVED THAT, EBKI hereby adopts and agrees to enforce, fund and implement the BMPs and mitigation measures included in Attachment 1 and will incorporate such measures into the specifications of design documents and construction contracts as appropriate.

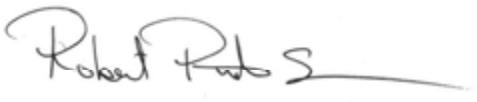
BE IT FURTHER RESOLVED, that the EBKI authorizes its Chairman Robert Pinto Sr, Chief Executive Officer (CEO) Mr. Will Micklin, and Chief Financial Officer (CFO) Ms. Linda Fong, to take all such actions as necessary to implement and give effect to this resolution.

CERTIFICATION

I, the undersigned, as Chairman of the Ewiiaapaayp Band of Kumeyaay Indians, do hereby certify that the General Council is composed of seven (7) members of which five (5) are voting members and of which four (4) were present, constituting a quorum at a Special Meeting thereof; duly and regularly called, noticed, convened and held this 6th day of March, 2026; and that this Resolution was duly adopted by a vote of four (4) in favor, zero (0) opposed, and zero (0) abstaining, and that said Resolution has not been rescinded, amended or modified in any way.

Dated this 6th day of March, 2026.

ATTEST:



_____ March, 2026

Robert Pinto Sr., Tribal Chairman Date

ATTEST:



_____ March, 2026

Harlan Pinto Jr., Tribal Secretary Date

ATTACHMENT 1
BMPS AND MITIGATION MEASURES THAT WILL BE IMPLEMENTED AND OVERSEEN BY EBKI TO ADDRESS POTENTIAL ENVIRONMENTAL EFFECTS OF THE PROPOSED ACTION AS DESCRIBED IN THE EA

Best Management Practices and Design Features

Protective measures and best management practices (BMPs), including regulatory requirements and voluntary measures that would be implemented by the Tribe, have been incorporated into the design of Alternative A. Where applicable, these measures will be incorporated into any design or construction contracts to eliminate or substantially reduce environmental consequences from Alternative A. These measures are listed in **Table 1.**

Table 1: Protective Measures and Best Management Practices

Resource Area	Protective Measures and Best Management Practices
Land Resources	▪ Erosion control measures will be implemented during construction as described further under the Water Resources BMPs. ▪ Standard engineering practices and IBC standards will be used, including adherence to geotechnical standards ensuring soil suitability for structures and septic systems.
Water Resources	The Tribe will apply for coverage under and comply with the NPDES General Construction Permit from the U.S. Environmental Protection Agency (USEPA), for construction site runoff during the construction phase in compliance with the CWA. A Stormwater Pollution Prevention Plan (SWPPP) will be prepared, implemented, and maintained throughout the construction phase of the development, consistent with the General Construction Permit requirements. The SWPPP prepared for the Project Site would include, but would not be limited to, the following BMPs to minimize storm water effects to water quality during construction. ▪ Construction activities will be scheduled to minimize land disturbance during peak runoff periods. ▪ Temporary erosion control measures (such as silt fences, fiber rolls, staked straw bales, temporary re-vegetation, erosion control blankets, and/or sediment traps) will be employed for disturbed areas. ▪ Grading activities will be limited to the area required for construction. ▪ Disturbed areas will be paved or re-vegetated following construction activities. ▪ A spill prevention and countermeasure plan will be developed that identifies proper storage, collection, and disposal measures for potential pollutants (such as fuel, fertilizers, pesticides, etc.) used on site. Petroleum products will be stored, handled, used, and disposed of properly in accordance with provisions of the CWA (33 USC § 1251 to 1387). ▪ Construction materials, including topsoil and chemicals, will be stored, covered, and isolated to prevent runoff losses and contamination of surface and groundwater. ▪ Fuel and vehicle maintenance areas will be designed to control runoff. ▪ Sanitary facilities will be provided for construction workers. ▪ Landscaping will consist of native, drought tolerant plant and tree species.
Biological Resources	▪ Native vegetation will be retained where possible. ▪ To prevent the introduction of invasive plant species, vehicles and equipment that have been used on sites outside of the project area will be cleaned prior to entering the Project Site. When applicable, weed-free dirt, mulch, gravel, and other materials will be used.
Air Quality	The following measures will be implemented during construction: ▪ To the extent feasible, Tier 4 engines will be utilized for trucks, excavators, and graders during construction.

Resource Area	Protective Measures and Best Management Practices
	▪ Exposed construction surfaces will be watered daily as needed. These areas include, but are not limited to soil piles, graded areas, unpaved parking areas, staging areas, and access roads. ▪ At least two feet of free board space will be covered/maintained on haul trucks transporting soil, sand, or other loose material on the site. Any haul trucks that would be traveling along freeways or major roadways will be covered. ▪ Wet power vacuum street sweepers will be used to remove any visible track out mud or dirt onto adjacent public roads at least once a day. Dry powered sweeping will be prohibited. ▪ Vehicle speeds on unpaved roads will be limited to 15 miles per hour. ▪ Paving of roadways, driveways, sidewalks, and parking lots will be completed as soon as possible. Building pads will be laid as soon as possible after grading unless seeding or soil binders are used. ▪ Idling time will be minimized by shutting equipment off when not in use or by reducing the time of idling to five minutes. Clear signage that posts this requirement for workers will be provided at the entrances to the site. ▪ Construction equipment will be maintained in proper working condition according to manufacturer's specifications. The equipment will be checked by a certified mechanic and determined to be running in proper condition before it is operated. The Tribe will reduce emissions of critical air pollutants (CAPs) and greenhouse gases (GHGs) during operation through the following actions: ▪ Electrical vehicle charging infrastructure will be included at the paved surface parking lots associated with the Tribal office and library/community center. ▪ Energy efficient lighting and appliances will be used, which would reduce energy usage, thus reducing indirect CAP and GHG emissions. ▪ Water consumption will be reduced through low-flow appliances, drought resistant landscaping, and the incorporation of "Save Water" signs near water faucets. ▪ Recycling bins will be installed throughout the office and community facilities for glass, cans, and paper products. Trash and recycling receptacles will be placed strategically outside to encourage recycling.
Public Services and Utilities	▪ The construction site will be cleaned daily of trash and debris to the maximum extent practicable.
Noise	The following BMPs will be implemented during construction: ▪ Powered equipment will comply with applicable federal regulations and all such equipment will be fitted with adequate mufflers according to the manufacturer's specifications to minimize construction noise effects. ▪ Exterior construction activities generating noise will be limited to daytime hours between 7 am and 7 pm Monday through Saturday to the greatest extent feasible, with the exception of federal holidays, when no work will occur.
Hazardous Materials	During construction, personnel shall adhere to the following BMPs to reduce potential incidents with hazardous materials and fire ignition: ▪ BMPs for the safe filling and servicing of construction equipment and vehicle to reduce the potential hazardous material releases: ▪ Catch pans shall be placed under equipment to catch potential spills during servicing. ▪ Refueling shall be conducted only with approved pumps, hoses, and nozzles. ▪ Vehicle engines shall be shut down during refueling. ▪ No smoking, open flames, or welding shall be allowed in refueling or service areas. ▪ Refueling shall be performed away from bodies of water to prevent contamination of water in the event of a leak or spill.

Resource Area	Protective Measures and Best Management Practices
	▪ Service trucks shall be provided with fire extinguishers and spill containment equipment, such as absorbents. ▪ Should a spill contaminate soil, the soil shall be put into containers and disposed of in accordance with local, state, and federal regulations. ▪ All containers used to store hazardous materials shall be inspected at least once per week for signs of leaks or potential failure. BMPs designed to reduce the potential for igniting a fire during construction: ▪ Construction equipment will contain spark arrestors, as provided by the manufacturer. ▪ Staging areas, welding areas, or areas slated for development using spark-producing equipment will be cleared of dried vegetation or other material that could serve as fire fuel. ▪ No smoking, open flames, or welding will be allowed in refueling or service areas. ▪ Service trucks will be provided with fire extinguishers.
Visual Resources	The following BMPs shall be implemented to reduce visual impacts during operations, such as from lighting and glare: ▪ Exterior lighting shall be downcast, shielded, and limited to the extent needed for public safety. ▪ Project lighting sources will be consistent with the County's "Lighting Pollution" ordinance, County of San Diego Ordinance 51.201 et. Seq., also known as the "Dark Sky Ordinance ▪ Landscaping will be consistent with existing surroundings to the extent feasible. ▪ Glass used in building façades shall be anti-reflective or treated with an anti-reflective coating to minimize glare

Mitigation Measures

Mitigation measures to be implemented during construction and operation of Alternative A are summarized in **Table 2**. Mitigation is enforceable because it is (1) inherent to the project design; and/or (2) required by federal or Tribal regulations.

Table 2: Mitigation Measures

Resource Area	Proposed Mitigation
Biological Resources	**General Conservation Measure** To ensure avoidance and minimization measures from the USFWS consultation process are implemented, all activities conducted for construction and clearing will be monitored by a USFWS-approved biologist (Biologist). The Biologist will be familiar with the habitats, plants, and wildlife of the project area, and will maintain communications with project personnel to ensure that issues related to biological resources are appropriately and lawfully managed. The BIA will submit the Biologist's name, address, telephone number, and work schedule on the project to the USFWS for review and approval prior to initiating project impacts. The contract of the Biologist will allow direct communication with the USFWS at any time regarding the proposed project. The Biologist will be provided with a copy of this consultation. **Arroyo Toad, Western Spadefoot, and Southwestern Pond Turtle** ▪ A 4.58-acre conservation area, which includes no less than a 100-foot buffer from the edge of Viejas Creek and its associated riparian habitat, shall be maintained on the Walker parcel. No construction or ground-disturbing activities shall occur within the conservation area. ▪ Construction activities shall take place to the extent feasible from approximately December 1 through June 30 (depending on seasonal rains) during the spadefoot breeding season when the species is typically more active and closer to breeding habitat. ▪ The Biologist shall conduct a worker awareness training session for construction workers.

Resource Area	Proposed Mitigation
	The training shall identify the characteristics and habitat of the arroyo toad, spadefoot, and pond turtle, and the importance of halting work and contacting the Biologist if the species are observed within the Project Area during ground disturbance. ▪ A preconstruction survey for federally listed species shall be conducted immediately prior to installation of silt fencing to ensure the absence of federally listed species from the project area before exclusionary silt fencing is installed. ▪ Silt fencing shall be placed around areas of disturbance after the preconstruction survey and prior to earthmoving activities. Silt fencing shall not be installed until it is confirmed by the Biologist that federally listed species are absent from the project area. This will require that the preconstruction survey and silt fence installation are conducted during the western spadefoot breeding season (December 1 through June 30). ▪ The Biologist shall be present for initial ground clearing activities and shall halt work if a federally listed species is observed. The animal shall be allowed to leave on its own and the Biologist shall maintain a halt to work until determining that recommencing work would not endanger the animal. ▪ If federally listed species are identified during monitoring, the Biologist shall submit a final report to the USFWS within 30 days following construction that documents the location and number of individuals observed as well as disposition (outside of project area, no action necessary; inside of project area, halt work enacted). Should a federally listed species be observed in the project area, and should the Biologist determine that relocation is necessary or that take is possible, construction activities shall halt and formal consultation with USFWS shall occur. Construction shall not continue until formal consultation with USFWS is concluded and any additional measures are put in place. ▪ Construction staging areas shall be designated and sited as far from surface waters as possible. ▪ Potential indirect effects to downstream water quality will be mitigated through a redundant storm water management system that aggressively filters runoff from the site. ▪ Selected landscaping will be chosen with the intent to minimize the need for herbicides and pesticides and when commercially reasonable, will include locally derived native species. ▪ Security lighting will utilize low illumination lighting directed towards both the building(s) and the ground to be reasonably consistent with the dark sky requirements of the County of San Diego and the protection of the Arroyo toad. ▪ Parking lot lighting will utilize a low illumination motion activated sensor system that, consistent with the security needs will be directed away from the creekside boundary, consistent with the dark sky requirements of San Diego and the protection of the arroyo toad. ▪ Employees shall strictly limit their activities and vehicles to the Proposed project area(s), staging areas, and routes of travel. ▪ Equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities shall occur in designated areas. These designated areas shall be located in such a manner as to prevent any runoff from entering waters of the United States, including wetlands, and shall be located within exclusionary fencing (silt fencing described above) to prevent access to the area by Arroyo toads. ▪ Sediment/grease traps shall be maintained pursuant to manufacturers' recommendations, or at a minimum cleaned and maintained at least once a year prior to the onset of winter rains. ▪ The USFWS would be given the right to access and inspect the Project Site for compliance with mitigation during the creation/revegetation and construction phases. ▪ Preservation and management of the 4.58-acre conservation area shall be included in the Tribe's Integrated Natural Resource Management Plan for the Reservation. The Plan shall include a funding mechanism to maintain the 4.58 acres in a natural state. This may include funding for trash removal, signage, and fencing if necessary. ▪ The Arroyo Toad Ordinance (02-14) authorized the Tribe to enter into an MOA with the USFWS specifically related to the health clinic project that was never constructed. As the existing MOA may require modifications, the Tribe shall consult with USFWS and, if necessary, shall enter into a new or amended MOA to provide for the management of the conservation area and the legal means to ensure adequate preservation of the conservation area.

Resource Area	Proposed Mitigation
	Nesting Migratory Birds/Raptors ▪ If construction activities occur during the general nesting season (February 15 to September 1), a preconstruction nest survey shall be conducted by a qualified biologist within 500 feet of proposed construction areas within 5 days of initiating ground disturbance. ▪ If active nests are identified, the qualified biologist shall determine a suitable avoidance buffer based on the needs of the species observed. Avoidance measures may include establishment of a buffer zone using construction fencing or the postponement of vegetation removal until after the nesting season, or until after a qualified biologist has determined the young have fledged. Avoidance buffers may vary in size depending on habitat characteristics, project-related activities, and disturbance levels. ▪ Should work activity cease for 14 days or more during the nesting season, surveys shall be repeated to ensure birds and raptors have not established nests during inactivity.
Cultural Resources	▪ A Tribal Monitor or qualified archaeologist shall be present during initial ground disturbance to monitor for potential inadvertent discoveries during construction. ▪ In the event of any inadvertent discovery of prehistoric or historic archaeological resources during construction-related earth-moving activities, BIA Regional Archeologist will be immediately notified and finds shall be subject to Section 106 of the National Historic Preservation Act as amended (36 CFR Part 800). Specifically, procedures for post-review discoveries without prior planning pursuant to 36 CFR § 800.13 shall be followed. o All work within 50 feet of the find shall be halted until a professional archaeologist meeting the Secretary of the Interior's qualifications (36 CFR Part 61), or paleontologist if the find is of a paleontological nature, can assess the significance of the find in consultation with the BIA and other appropriate agencies. o If any find is determined to be significant by the Tribal Monitor or archaeologist or paleontologist, a BIA representative shall meet with the Tribe and Tribal Monitor or archaeologist or paleontologist to determine the appropriate course of action, including the development of a Treatment Plan and implementation of appropriate avoidance measures or other mitigation. o As requested, the Viejas Band of Kumeyaay Indians will be notified of the find. ▪ If human remains are discovered during ground-disturbing activities both the Tribe and BIA Regional Archeologist shall be contacted immediately. Notifications shall occur consistent with the requirements of the Native American Graves Protection and Repatriation Act and its implementing regulations, as applicable and revised. No further disturbance shall occur until the BIA and Tribal representatives have made the necessary findings as to the origin and disposition. If the remains are determined to be of Native American origin, the BIA and Tribe shall resolve which party will assume primary management authority for the discovery. Work may resume once appropriate measures have been taken and the party with primary management authority has provided written certification to the person responsible for the activity with the date on which activity may resume around the discovery and any appropriate conditions. ▪ Construction and development activities will avoid P-37-040581, which is located entirely within the designated conservation area for the Arroyo toad.
Noise	▪ During construction, loud stationary construction equipment shall be located as far away from residential receptor areas as feasible. To the extent feasible, existing barrier features (structures) shall be used to block sound transmission between noise sources and noise sensitive land uses. ▪ Construction equipment and machinery that produce reduced noise levels shall be utilized to the extent feasible. ▪ The Tribe shall monitor construction noise and will designate a disturbance coordinator (such as an employee of the general contractor or the project manager for the Tribe), post the coordinator's contact telephone number conspicuously around the Project Site, and provide the number to nearby sensitive receptors. The disturbance coordinator shall receive all public complaints, be responsible for determining the cause of the complaints, and implement any feasible measures to alleviate the problem.