

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT AND RECOMMENDATIONON CONSISTENCY DETERMINATION

Consistency Determination CD-150-96
 U.S. Fish Wildlife Service
 Staff: MPD-SF
 Filed: 12/23/96
 45th Day: 2/6/97
 60th Day: 2/21/97
 Commission Meeting: 2/7/97

FEDERAL AGENCY: **U.S. Fish and Wildlife Service**

DEVELOPMENT
 LOCATION:

Various locations, City of San Diego (Exhibits 1-4)

DEVELOPMENT
 DESCRIPTION:

Vernal Pools Stewardship Project

SUBSTANTIVE FILE
 DOCUMENTS:

1. Draft Conceptual Management Plan for the San Diego National Wildlife Refuge, U.S. Fish and Wildlife Service, November 1996.
2. Draft Environmental Assessment and Land Protection Plan for the Proposed Vernal Pools Stewardship Project, U.S. Fish and Wildlife Service, November 1996.
3. City of San Diego Vernal Pool Preservation Program, City of San Diego, adopted June 17, 1980.

EXECUTIVE SUMMARY

The U.S. Fish Wildlife Service has submitted a consistency determination for its Vernal Pools Stewardship Project in the City of San Diego. The project is intended to preserve vernal pool habitat on lands located within, or which would be added to, the San Diego National Wildlife Refuge. Methods proposed for habitat conservation include: cooperative agreements, coordinated planning, and shared resources with local, State, and Federal agencies. At this point in the Fish and Wildlife Service's planning process, the emphasis is on acquisition of sensitive vernal pool areas, through, among other means: fee title acquisition, acquisition of conservation easements, long term leases, and/or other cooperative agreements with willing sellers.

The project goals include: (1) protection and management of key vernal pool and associated habitats; (2) maintenance of biological diversity in the region; (3) preservation of open space; and (4) assisting in the implementation of the Multiple Species Conservation Program for the San Diego region. The proposal is consistent with the Coastal Act mandate to protect environmentally sensitive habitat areas and biological productivity (Sections 30240 and 30231). The proposal is also consistent with the public access and recreation policies of the Coastal Act (Sections 30210-30214), because the Fish and Wildlife Service will manage the habitat areas in a manner balancing public access and recreation needs with the need to protect sensitive wildlife resources.

STAFF SUMMARY AND RECOMMENDATION:

I. Staff Summary

A. **Project Description.** The U.S. Fish Wildlife Service proposes the establishment of a "Vernal Pools Stewardship Project" in various locations within the City of San Diego. The project purpose is to preserve vernal pool habitat on lands that are located within, or which would be added to, the San Diego National Wildlife Refuge. The vernal pools to be protected are located within the city limits of the City of San Diego. In northern San Diego these lands include Del Mar Mesa, Lopez Ridge, and the Miramar Naval Air Station; in southern San Diego they includes Otay Lakes/Sweetwater Reservoir and Otay mesa. Most of these areas are outside the coastal zone; the main area within the coastal zone is at Lopez Ridge (located east of Del Mar and the intersection of I-5 with I-805 (Exhibits 1,2 3 & 5)), thus triggering the need for this consistency determination.

To elaborate on its proposed implementation of conservation measures, the Fish and Wildlife Service has published two documents, a Draft Conceptual Management Plan for the San Diego National Wildlife Refuge, and a Draft Environmental Assessment and Land Protection Plan for the Proposed Vernal Pools Stewardship Project. Both these documents been included in the Fish and Wildlife Service's consistency determination. The Conceptual Management Plan describes the proposed approach to wildlife management within the Refuge, including discussions of conservation efforts, public uses, fire suppression and prescribed burning, enforcement, interagency coordination, and public outreach. The Draft Environmental Assessment analyzes the environmental effect of the Fish and Wildlife Service's proposals.

B. **Status of Local Coastal Program.** The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If the LCP has been certified by the Commission and incorporated into the CCMP, it can provide guidance in applying Chapter 3 policies in light of local circumstances. If the LCP has not been incorporated into the CCMP, it cannot be used to guide the Commission's decision, but it can be used as background information. The City of San Diego's LCP has been certified by the Commission and incorporated into the CCMP.

C. Federal Agency's Consistency Determination. The Fish and Wildlife Service has determined the project consistent to the maximum extent practicable with the California Coastal Management Program.

II. Staff Recommendation:

The staff recommends that the Commission adopt the following resolution:

Concurrence

The Commission hereby concurs with the consistency determination made by the U.S. Fish and Wildlife Service for the proposed project, finding that the proposed project is consistent to the maximum extent practicable with the California Coastal Management Program (CCMP).

III. Findings and Declarations. The Commission finds and declares as follows:

A. Environmentally Sensitive Habitat/Wetland Protection. The Coastal Act provides for the protection of wetlands and other environmentally sensitive habitat, as follows:

Section 30240

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas ... shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat ... areas.

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored

Section 30233

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to, [among other uses] ... (7) Restoration purposes [and] (8) Nature study ... or similar resource dependent activities.

In addition to these resource protection policies, the Coastal Act also contains a policy specifically addressing vernal pools in San Diego; Section 30607.5 provides:

Within the City of San Diego, the commission shall not impose or adopt any requirements in conflict with the provisions of the plan for the protection of vernal pools approved and adopted by the City of San Diego on June 17, 1980, following consultation with state and federal agencies, and approved and adopted by the United States Army Corps of Engineers in coordination with the United States Fish and Wildlife Service.

Clearly, the intent of the Fish and Wildlife Service in proposing this vernal pool preservation program is to implement one of the fundamental goals of the Coastal Act, which is to protect and enhance environmentally sensitive habitat. Vernal pool habitat, which the Commission considers as both wetland and environmentally sensitive habitat under the Coastal Act, has been seriously threatened by human activities. Consequently, vernal pool habitat protection has been the focus of a number of governmental preservation efforts, including not only the subject proposal, but current as well as past vernal pool and multi-species protection efforts by the City of San Diego. Vernal pools support a number of federally listed threatened and endangered species, including the San Diego mesa mint, San Diego button celery, California orcutt grass, Otay mesa mint, and Riverside fairy shrimp.

The Fish and Wildlife Service's proposal is directed towards conserving over 8,223 acres of vernal pool resources in the region. Of this, 2,232 acres are actual vernal pools, 1,592 acres are coastal scrub habitat, 1,224 acres are chaparral, and 1,161 acres are grassland. Most of the land (5,196 acres) is publicly owned, with 3,027 acres in private ownership (Exhibits 3-4).

The Fish and Wildlife Service's plan to protect these resources contains as its project goals:

1. Protection and management of key vernal pool and associated habitats;
2. Maintenance of biological diversity in the region;
3. Preservation of open space; and
4. Assisting in the implementation of the Multiple Species Conservation Program for the San Diego region.

Exhibit 6 (excerpted from the Draft Environmental Assessment/Land Protection Plan) explains the plan in greater detail, including a summary of the planning and acquisition process, the Fish and Wildlife Service's "Willing Seller" policy, the habitat protection methods anticipated, and habitat protection priorities. These measures are all directed at achieving the Fish and Wildlife Service's goal "... to protect wildlife resources of national importance while providing opportunities for the public to appreciate and enjoy the natural heritage of the region." The Fish and Wildlife Service elaborates that the plan would:

- a. Aid in the recovery of Federally listed endangered and threatened species and avoid the listing of additional species as endangered or threatened by providing a diverse base of protected and managed wildlife habitats.
- b. Coordinate and promote partnerships with Federal, Tribal, State of California, County of San Diego, City of Chula Vista, City of San Diego agencies; local universities and colleges; landowners; community groups; and nongovernmental conservation agencies in support of the Multiple Species Conservation Program preserve.
- c. Provide opportunities for compatible wildlife-dependent recreational activities on Refuge lands to foster public awareness and appreciation of the unique natural heritage of the San Diego region.

For the first phase of the Fish and Wildlife Service's plan, the predominant habitat conservation mechanisms center around cooperative agreements with private landowners and public agencies, coordinated planning, and shared resources with local, State, and Federal agencies, combined with land interest acquisitions. With respect to this last mechanism, several types of acquisitions are proposed, including: outright fee title acquisition, acquisition of conservation easements, long term leases, and other mechanisms such as "cooperative agreements with willing public agencies/willing landowners through purchase, donation, transfer, exchange, or written agreement."

Further discussion of the Fish and Wildlife Service's conservation approach can be found in the Conceptual Management Plan, which describes wildlife management within the San Diego National Wildlife Refuge. This plan discusses a variety of conservation efforts, balances public uses with habitat needs, and explains such applicable issues as fire suppression and prescribed burning, enforcement, interagency coordination, and public outreach.

The primary emphasis at this point in the Fish and Wildlife Service's process is establishment of the Vernal Pool Stewardship Project, and inclusion of additional lands within the the San Diego National Wildlife Refuge. Once the program is more fully established, the Fish and Wildlife Service will undertake (or upgrade) specific management plans for the various sub-units of the Refuge. Accordingly, the Fish and Wildlife Service states:

Lands acquired by the Service for the Vernal Pools Unit would be managed as part of the National Wildlife Refuge System... Specific refuge management activities may be subject to separate review under the National Environmental Policy Act and other environmental regulations and would include opportunities for public input. Management activities would include monitoring the status and recovery of endangered, threatened, and sensitive species; controlling nonnative species; restoring native habitats; and developing and providing wildlife-oriented interpretive and educational opportunities. The draft Conceptual Management Plan for the San Diego National Wildlife Refuge contains a general description of the proposed management program. A comprehensive management plan would be developed at a later date to provide detailed management guidance.

Because this is essentially a phased approach (a scenario contemplated in the federal consistency regulations at 15 CFR Section 930.37(c)), the Fish and Wildlife Service has agreed to continue to coordinate with the Commission regarding future habitat protection measures that may be implemented on these lands, for the purpose of determining whether any future consistency review would be needed.

Most of the areas the Fish and Wildlife Service proposes to preserve are located outside the coastal zone. However one area, Lopez Ridge (Exhibit 5), is within the coastal zone. Of the parcels proposed within the Lopez Ridge area, several are already publicly owned (2a, 4b and 4c). The remaining three parcels (66, 66a and 70) would be acquired under the proposed action, through fee title acquisition, acquisition of conservation easements, long term leases, or other mutually agreed upon measure with a willing seller.

The Commission finds that acquisition of sensitive habitat areas at Lopez Ridge for habitat preservation purposes would be consistent with the Coastal Act mandate to protect environmentally sensitive habitat areas. The remaining acquisitions proposed are outside the coastal zone and would not adversely affect the coastal zone. Rather, they would benefit the coastal zone by maintaining regionwide biological diversity, thereby reducing environmental stresses on those vernal pool habitats that do remain in the coastal zone. The Commission finds that the proposal is consistent with the Coastal Act mandate, contained in Sections 30240 and 30231, to protect, and where feasible, restore, wetlands and other environmentally sensitive habitat areas. The Commission also notes that, while no specific restoration projects are proposed at this time, vernal pool restoration would be among the allowable uses contained in Sections 30240 and 30233 of the Coastal Act, which allow resource dependent uses and nature protection in environmentally sensitive habitat areas, including wetlands. The Commission concludes that the proposal is consistent with Sections 30240 and 30231, and 30233 of the Coastal Act.

The Commission further notes that in concurring with this consistency determination, it is not taking any action in conflict with the provisions of the City of San Diego's June 17, 1980, plan for the protection of vernal pools. That plan is not in active use, and in any event the goals and implementation measures proposed by the Fish and Wildlife Service are compatible with the goals and objectives of that plan.

B. Public Access and Recreation. Sections 30210-30214 of the Coastal Act provide for the maximization of public access and recreation opportunities, taking into account, among other things, the need to manage public access in a manner protecting sensitive wildlife resources. Section 30210 provides:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30214 provides:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Attempting to balance habitat preservation with public and access and recreation needs, the Fish and Wildlife Service states:

All public uses, such as public use of trails for observing wildlife, must be compatible with the purposes of the national wildlife refuge. Compatibility use determinations require an analysis of the availability of Service funding and staff to oversee the activity pursuant to the Refuge Recreation Act. If the proposed use is found compatible, the use may be authorized by the Refuge Manager if management funds are available and other laws and regulations are satisfied. Compatibility determinations ensure that the natural resources are protected while providing for uses on the refuges that are consistent with wildlife management.

Prior to acquiring lands for a national wildlife refuge, the Service is also required to identify those existing wildlife-dependent recreational activities on lands to be acquired that will be allowed to continue on an interim basis pending completion of comprehensive management planning. Wildlife-dependent recreational activities are defined as hunting, fishing, wildlife observation and photography, and environmental educational and interpretation. Lands within the proposed Vernal Pools Unit support wildlife-dependent recreational activities such as upland game bird hunting and wildlife photography and observation.

Upon completion of the San Diego Refuge planning process and prior to acquiring any lands from willing sellers, the Service would prepare interim preacquisition compatibility determinations for wildlife-dependent recreational activities that would be allowed to continue until comprehensive Refuge planning was completed. The interim compatibility determinations for wildlife-dependent recreational activities are meant to temporarily bridge the time period between the acquisition of land for a new wildlife refuge and official opening of Refuge lands to public use. The continuation of wildlife dependent recreational activities would also require the determination of the Service's authority to regulate the use, availability of funds and staff to oversee the activity, and an analysis of any environmental impacts pursuant to the National Environmental Policy Act.

The Commission finds that the approach proposed by the Fish and Wildlife Service is consistent with the Coastal Act policy directives to manage sensitive habitat in a manner maximizing access and recreation opportunities, taking into account habitat needs. Furthermore, as was discussed above in the habitat section of this report, the Fish and Wildlife Service has agreed to continue to coordinate with the Commission regarding future implementation measures proposed for these lands, such as visitor serving facilities or recreation improvements. The submitted proposal would not reduce any existing access and recreation opportunities in the coastal zone. The Commission concludes that the proposal is consistent with the applicable public access and recreation policies (Sections 30210-30214) of the Coastal Act.

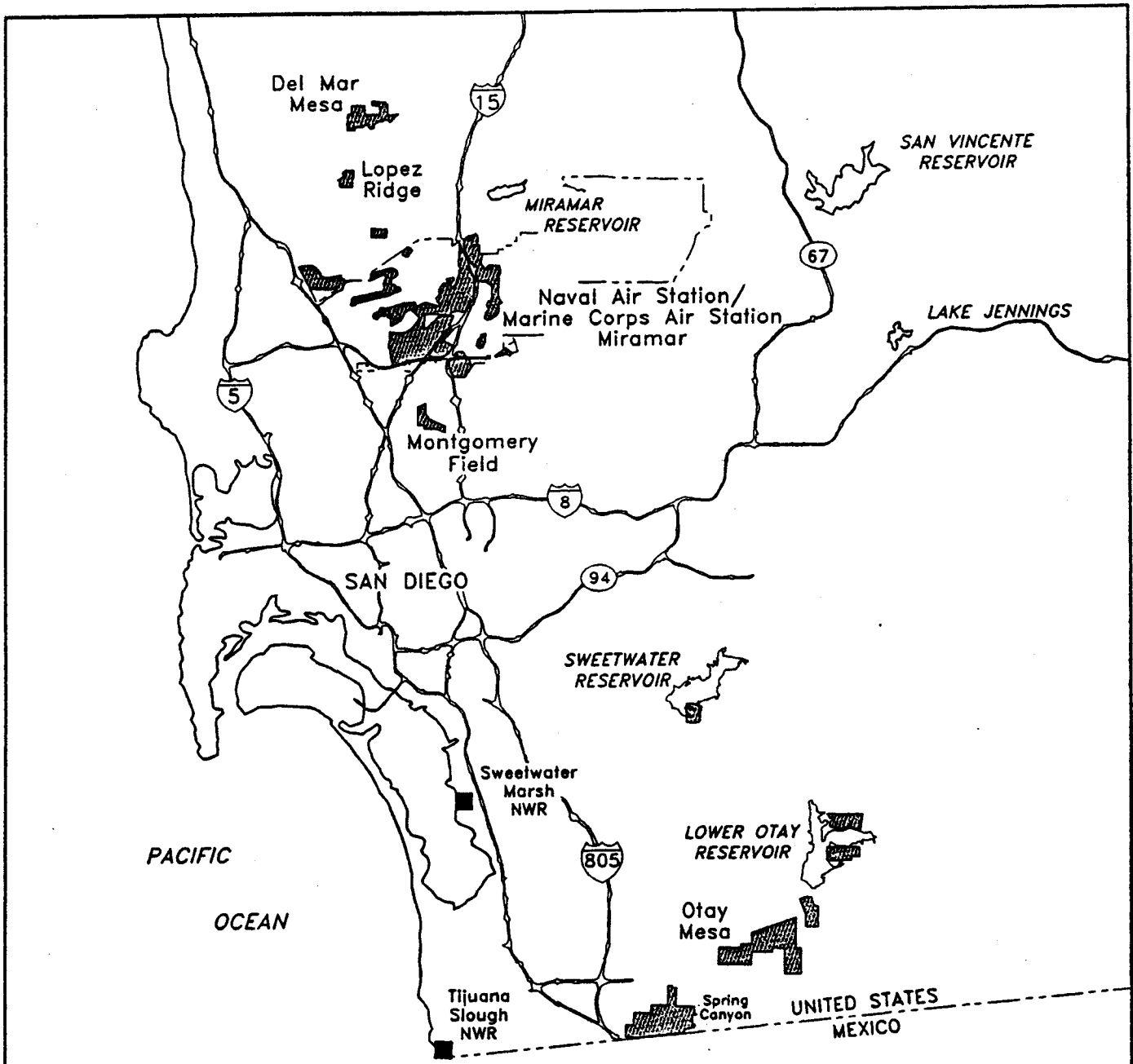


Figure 1. PROPOSED VERNAL POOLS STEWARDSHIP PROJECT
SAN DIEGO NATIONAL WILDLIFE REFUGE



VERNAL POOL COMPLEXES

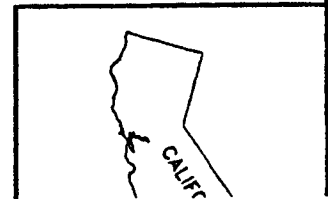
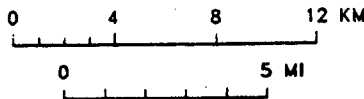
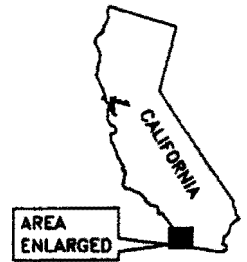


EXHIBIT NO. 1
APPLICATION NO.
CD-150-96

LEGEND

 PROPOSED VERNAL POOLS STEWARDSHIP PROJECT



Location Map

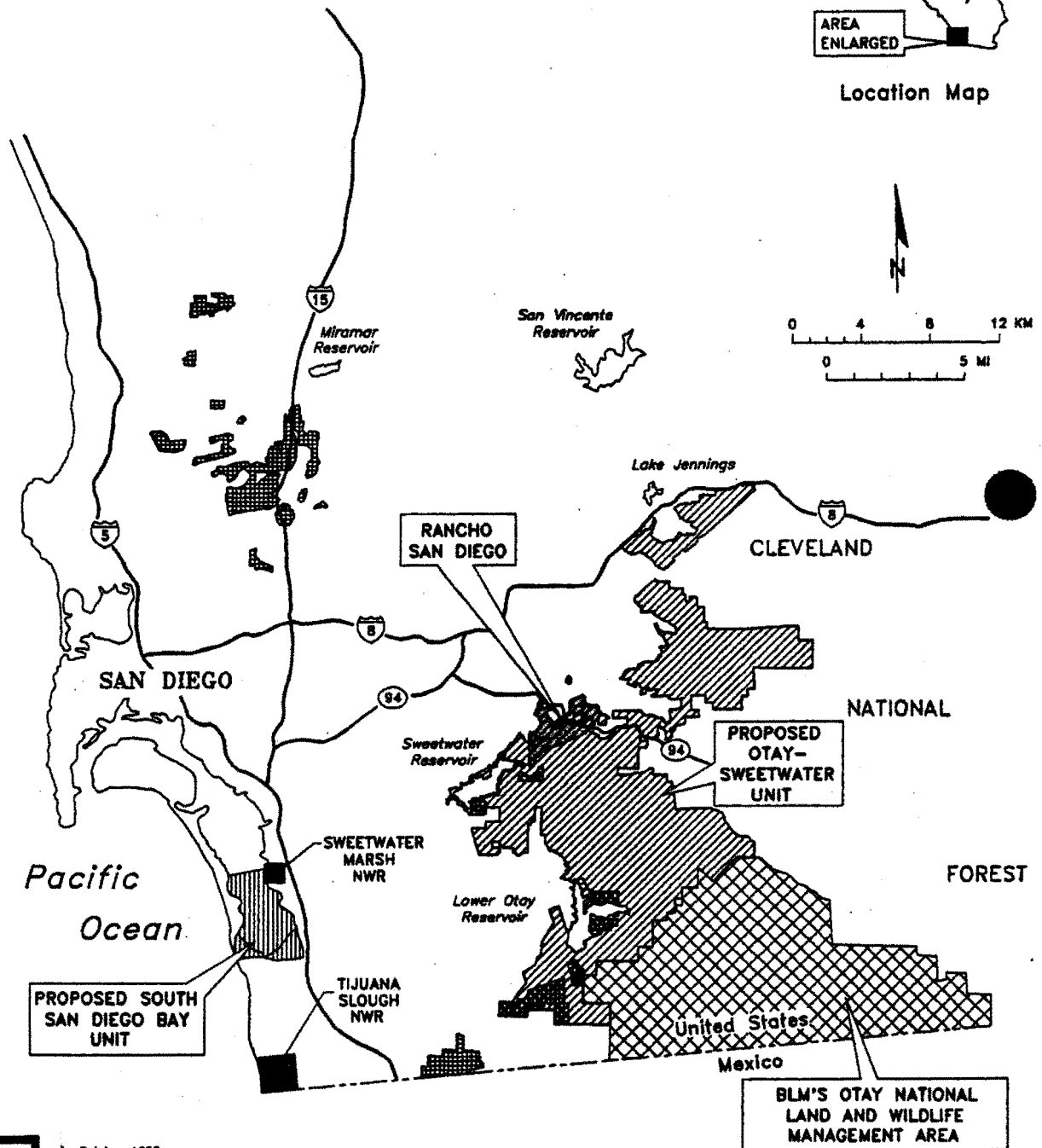


EXHIBIT NO. 2

APPLICATION NO.

CD-150-96

October 1988

Figure 1-1.

Proposed Vernal Pools Stewardship Project and Refuge Units San Diego National Wildlife Refuge

Proposed Vernal Pools Stewardship Project North Area

San Diego National Wildlife Refuge

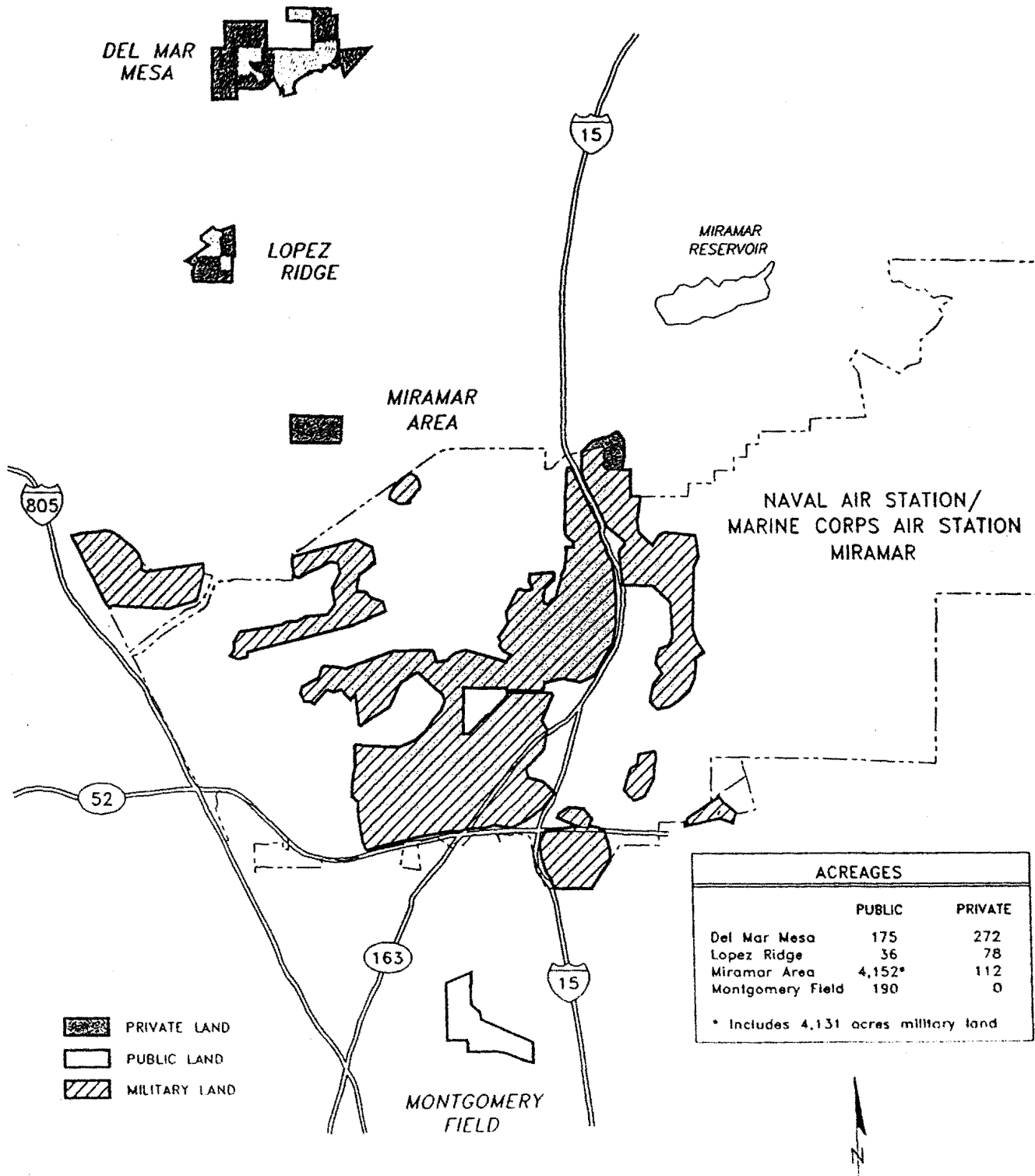


Figure 2

Vernal Pools Stewardship Project alternatives:
Alternative A includes public and private lands.
Alternative B includes only private lands.

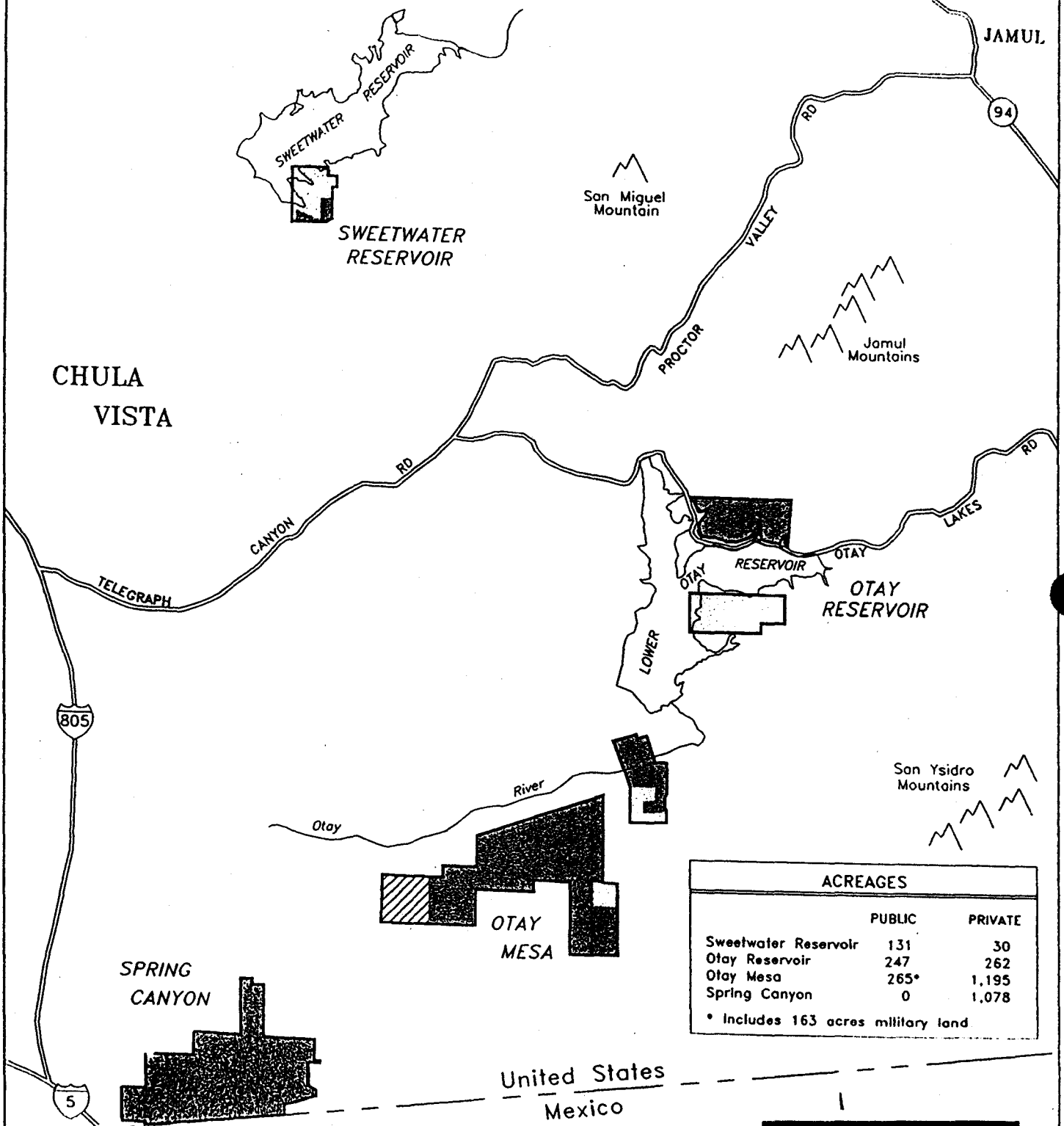
EXHIBIT NO. 3

APPLICATION NO.

CD-150-96

Proposed Vernal Pools Stewardship Area South Area

San Diego National Wildlife Refuge



ACREAGES		
	PUBLIC	PRIVATE
Sweetwater Reservoir	131	30
Otay Reservoir	247	262
Otay Mesa	265*	1,195
Spring Canyon	0	1,078

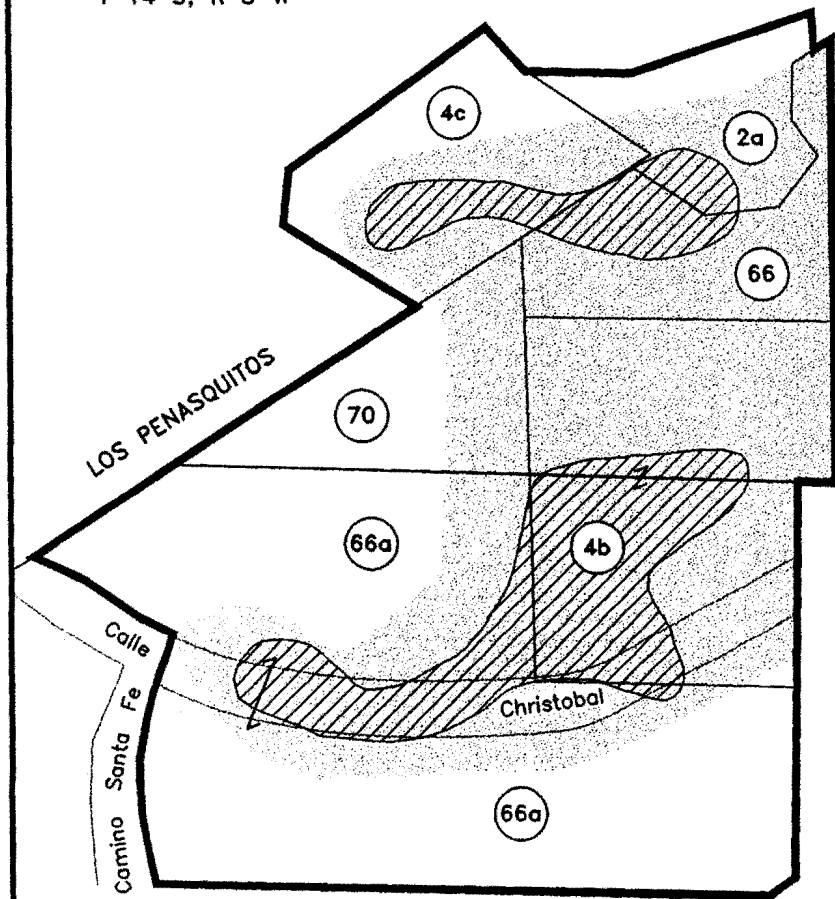
* Includes 163 acres military land

PRIVATE LAND
 MILITARY LAND
 PUBLIC LAND

Figure 3
Vernal Pools Stewardship Area alternatives:
Alternative A includes public and private lands.
Alternative B includes only private lands.

EXHIBIT NO. 4
APPLICATION NO.
CD-150-96

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LOPEZ RIDGE AREA

LEGEND

- Proposed stewardship Project Boundary
- Parcel Boundary
- Vernal Pool Complex
- Core Resource Area
- Tract ID #

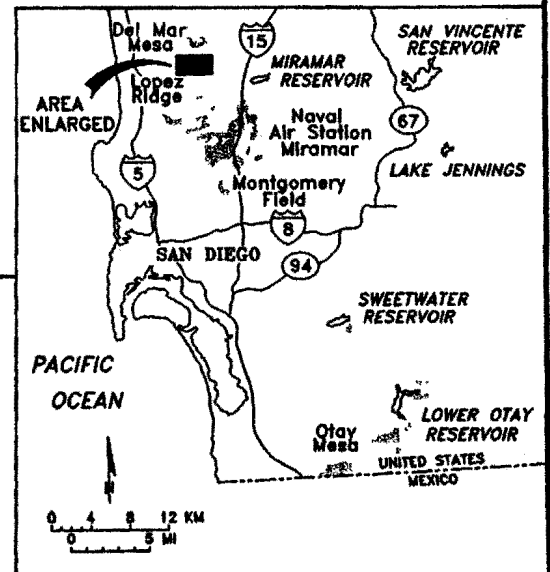
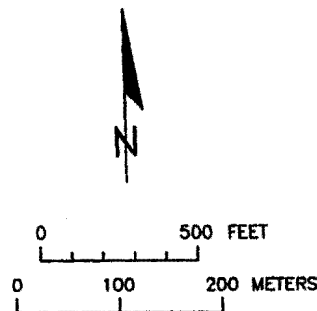


Figure 4. LOPEZ RIDGE TRACT MAP
PROPOSED VERNAL POOLS STEWARDSHIP PROJECT
SAN DIEGO NATIONAL WILDLIFE REFUGE

EXHIBIT NO. 5
APPLICATION NO. CD-150-96
Lopez Ridge

Threats to and Status of the Resource to be Protected

The destruction of vernal pool habitat in this region is caused primarily through housing and commercial development and highway construction; additional impacts are incurred by off-road vehicles, agricultural development, and illegal dumping. San Diego County is one of the fastest growing counties in the nation and housing is expected to keep pace with this growth. The resulting habitat fragmentation further deteriorates the viability of the remaining vernal pool habitat.

Proposed Action

The U.S. Fish and Wildlife Service is proposing the Vernal Pools Stewardship Project to conserve outstanding vernal pool resources in the San Diego region by using a wide variety of habitat protection methods. Two action alternatives were evaluated in the draft *Environmental Assessment for the Proposed Vernal Pools Stewardship Project*. Alternative A, the preferred alternative, includes approximately 3,327 hectares (8,223 acres) of vernal pool habitat and adjacent buffer. Of this total, approximately 1,225 hectares (3,027 acres) are private lands and approximately 2,102 hectares (5,196 acres) are public lands. Alternative B includes only the private lands.

Although approval of the project boundary would allow the Service to negotiate with willing participants throughout the entire 8,223-acre area, not all of the lands in the proposed project boundary would become a part of the Vernal Pools Unit of the San Diego National Wildlife Refuge. As funds become available, private lands would be purchased from willing sellers. Some lands within the project boundary may be developed and no longer be suitable for refuge purposes. Some lands may be purchased and managed by public and non-profit organizations. Some lands may be transferred to the Service or managed as part of the refuge through cooperative agreements. However, some public lands, such as those at NAS/MCAS Miramar, would continue to be owned and managed by the respective agencies.

Identification and Selection of Lands to be Included Within the Proposed Vernal Pools Stewardship Project

The major, remaining vernal pool areas in San Diego County were selected for inclusion into the proposed Vernal Pools Stewardship Project. Buffer lands and habitat linkages were included. Land ownership patterns were also considered in defining the boundary of the proposed Vernal Pools Stewardship Project. Wherever possible, the boundaries follow parcel lines to minimize splitting lots and to minimize uneconomic remnants, even though only a portion might contain native plant and wildlife habitat of interest to the Service. This would add flexibility when working with the landowners to determine what lands would actually become a part of the project. Access to refuge

EXHIBIT NO. 6
APPLICATION NO.
CD-150-96

lands will also need to be acquired. In some cases, access rights crossing lands outside of the project boundary may also be purchased from willing sellers. Adjustments to the boundary could be made with the approval of the landowner.

Some vernal pools located on eastern Otay Mesa and Sweetwater and Otay reservoirs could be included in the Otay-Sweetwater Unit for management purposes if contiguous blocks of habitat in that refuge unit are acquired.

Summary of Planning and Land Acquisition Processes

The Service's planning process includes the following steps:

- Preliminary agency planning
- Concept plan issued
- Public involvement activities (such as planning workshops)
- Draft environmental assessment and other planning documents released
- Public review period
- Final environmental assessment released
- Notice of decision (whether or not to establish refuge)

The Service prepared and distributed to landowners, elected officials, agencies, and interested public the Concept Plan for the San Diego National Wildlife Refuge in August 1995 and Planning Updates in October 1995, March 1996, and November 1996. The Service also held open house meetings in Jamul, Imperial Beach, and San Diego in October 1995 to solicit comments from the public. The draft Environmental Assessment for the Proposed Vernal Pools Stewardship Project is included with this draft Land Protection Plan for public review and comment.

The Regional Director of the U.S. Fish and Wildlife Service approves the designation of the project boundary upon completion of the planning and environmental coordination process. This process includes compliance with NEPA (National Environmental Policy Act), the Endangered Species Act, and other federal regulations and executive orders. The Regional Director reviews the NEPA and other compliance documents and decides what course of action the Fish and Wildlife Service will take. When the decision is made and final approval for the proposal is given, the proposal can be implemented as described in the land protection plan and environmental assessment, and discussions with willing participants can commence.

Approval of a project boundary does not grant the Fish and Wildlife Service jurisdiction or control over lands within the boundary, and it does not automatically make lands within the project boundary part of the National Wildlife Refuge System. Lands do not become part of the National Wildlife Refuge System until they are purchased by the

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Service or are placed under an agreement that provides for management as part of the refuge system.

No new or additional zoning laws would be imposed by the Service within the approved project boundary. Any landowner within an approved project boundary retains all existing rights, privileges, and responsibilities of private-land ownership as determined by local, city, or county jurisdictions. Again, lands remain under the control of the owner until management rights of the property has been transferred to or has been purchased by the Service.

The Service land protection policy is to acquire land only when other protective means are not appropriate, available, or effective. When lands are to be acquired, the minimum interest necessary to reach management objectives is acquired or retained. When the Service acquires land, it acquires fee title (control of all property rights) only if control of lesser property interests, such as easements or leases, will not achieve objectives or would create problems for the landowners.

The Fish and Wildlife Service is looking at the long-term protection of this area. Acquisition of private lands would be phased in over time as funds become available and willing participants come forward. The acquisition and habitat protection program is expected to take several years. Initial acquisition efforts would focus primarily on protecting larger blocks of land having the highest biological values. Lands with and without development potential could be acquired by the Service. It is expected that some lands would never become part of the refuge. For example, some lands will be developed and will no longer be suitable for refuge purposes; some lands will be acquired and managed by public agencies and nonprofit organizations; and some owners will choose not to sell or enter into refuge-related agreements with the Service.

Willing Seller Policy

Service policy is to acquire lands only from willing participants under general authorities such as the Fish and Wildlife Act of 1956, the Endangered Species Act, the Migratory Bird Conservation Act, and the Refuge Recreation Act. Landowners within the project boundary who do not wish to sell their property or any other interest in their property are under no obligation to enter into negotiations or to sell to the Service.

The Service, like other federal agencies, has been given the power of eminent domain, which allows the use of condemnation to acquire lands and other interest in lands for the public good. This power, however, is seldom used and is not expected to be used in this project. The Service usually acquires land from willing participants and is not often compelled to buy specific habitats within a rigid time frame.

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In all cases the Service is required by law to offer 100 percent of fair-market value for lands to be purchased as determined by an approved appraisal that meets professional standards and federal requirements.

Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act, landowners who sell their property to the Service are eligible for certain benefits and payments which include:

1. Reimbursement of reasonable moving and related expenses or certain substitute payments.
2. Replacement housing payments under certain conditions.
3. Relocation assistance services to help locate replacement housing/farm/or business.
4. Reimbursement of certain necessary and reasonable expenses incurred in selling real property to the Federal Government.

Habitat Protection Methods

A variety of habitat protection methods can be used to conserve the outstanding vernal pool resources in the San Diego region. These methods range from the acquisition of land by the Service for the Vernal Pools Unit of the San Diego Refuge to protection under the Sikes Act through interagency cooperative agreements with the Department of Defense. The proposed Vernal Pools Stewardship Project, by coordinating with landowners, local jurisdiction, government agencies, and Department of Defense to protect native habitats for rare species, would provide a long-needed counterbalance to the rapid urban growth of the San Diego.

The term "conservation" is defined to include a wide variety of habitat protection methods. On lands owned and managed by public agencies, cooperative agreements and coordinated planning/management efforts, including shared resources could be used to conserve vernal pool resources. "Conservation" also includes acquisition of land or interests therein by the Service for the proposed Vernal Pools Unit of the San Diego National Wildlife Refuge. The Service could acquire fee title, conservation easements, long-term leases, and/or cooperative agreements with willing public agencies/willing landowners through purchase, donation, transfer, exchange, or written agreement.

Habitat protection methods that could be used by the Service to include lands within the proposed Vernal Pools Stewardship Project are described below. The actual

method selected for any individual parcel will depend upon the needs and desires of the landowner(s) and what is mutually agreed to by the Service. If a mutual agreement cannot be reached, the landowner(s) would retain full use, control, and responsibility for the property.

Leases and Cooperative Agreements. Potentially, the Service could protect and manage vernal pool habitat through leases and cooperative agreements. Management control could be obtained by entering into long-term renewable leases or cooperative agreements with the landowners. Cooperative agreements could include the transfer of funds for shared management activities. Cooperative agreements can be used on both public and private lands. An overlay national wildlife refuge can be established through a cooperative agreement on existing Federal lands. The host agency retains primary jurisdiction and the refuge purpose is superimposed as a secondary interest in the property. Lands under a cooperative agreement do not necessarily need to be included in the national wildlife refuge system. For leases and cooperative agreements, property taxes would remain the responsibility of the landowner.

Conservation Easements. Conservation easements provide the Service the opportunity to manage lands for their wildlife habitat values. Such management would preclude uses inconsistent with the Service's management objectives. Only land uses having minimal or no conflicts with management objectives would be reserved by the landowner. In effect, the landowner transfers certain development and management rights to the Service for management purposes as specified in the easement. Property taxes would remain the responsibility of the landowner.

Easements would likely be useful when 1) most, but not all, of a private landowner's uses are compatible with the Service's management objectives and 2) the current owner desires to retain ownership of the land and to continue compatible uses under the terms mutually agreed to in the easement.

Land uses normally restricted under the terms of a conservation easement include, but are not limited to:

- Development rights (agricultural, residential, and others)
- Alteration of the area's natural topography
- Uses adversely affecting the area's flora and fauna
- Private hunting and fishing leases
- Public access rights
- Alteration of the natural water regime

Fee-Title Acquisition. A fee-title interest is normally acquired when 1) the land's fish and wildlife resources require permanent protection not otherwise assured, 2) the land is needed for public use development, 3) a pending land use could adversely impact

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the area's resources, or 4) it is the most practical and economical way to assemble small tracts into a manageable unit. In some cases, fee-title acquisition with use reservations are negotiated.

Fee-title acquisition normally conveys all ownership rights, including mineral and water rights if any, to the Federal Government and provides the best assurance of permanent resource protection. A fee-title interest can be acquired by purchase, donation, exchange, or transfer.

Land acquisition from willing participants would be pursued under the authority of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a-742j), as amended; Endangered Species Act of 1973 (16 U.S.C. 1531-1543), as amended; Migratory Bird Conservation Act of 1929 (16 U.S.C. 715-715d, 715e, 715f-715r), as amended; and Refuge Recreation Act of 1962 (16 U.S.C. 460k-460-k-4), as amended. Federal funds to purchase these lands would be primarily through annual appropriations by Congress from the Land and Water Conservation Fund and would occur over time.

Other Habitat Protection Methods

Lands that were dedicated, acquired, managed, and/or restored by developers as mitigation for urban developments may be donated to the Service (with management funding) as additions to the Vernal Pools Unit. The combination of dedication, purchase, management of private lands by developers to satisfy mitigation requirements; cooperative agreements with public agencies; and the independent acquisition by the Service of lands within the Vernal Pools Stewardship Project would yield a larger and more coordinated preserve system. The Service would consider the use of any or all habitat protection methods when, or as, they become available.

Land Protection Priorities Within the Proposed Vernal Pools Stewardship Project

Private lands within the project boundary have been prioritized for protection or acquisition into one of three categories (high, medium, and low). All vernal pool habitat is important and these categories indicate relative priorities. The following criteria were used to evaluate each tract of land. This evaluation is subjective and the three factors are not additive.

- Reserve design based on 1) occurrence within the proposed project boundary; 2) the size of the existing habitat within which the vernal pool complex exists; and 3) proposed land use and adjacent land uses (existing or proposed preserve, proposed natural open space, agriculture, or development).

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- Biological value based on 1) the quality of vernal pool habitat (number, abundance, and density of vernal pools and sensitive species, vernal pool plant species diversity; 2) watershed and mesa top habitat values; and 3) long-term conservation potential based on habitat patch size and quality.
- Risk/threat based on 1) risk of commercial or residential development or agricultural use within or adjacent to the vernal pools; 2) land ownership (Federal, State, local, or private); 3) level of existing protection (preserve, designated open space, mitigation site, none); 4) accessibility (degree of isolation from disturbance with high meaning highly accessible); and 5) current and ongoing level of disturbance including but not limited to vehicle damage, grazing, and dumping.

Land Protection Plan Tables and Maps

Table 1 includes public lands within the proposed Vernal Pools Stewardship Project. No acquisition priorities were assigned to public lands, because no money would be spent to acquire these lands. Cooperative agreements could be implemented to manage the public lands. Tables 2 includes private lands within the proposed Vernal Pools Stewardship Project and indicates priorities for acquisition or protection (high, medium, or low) listed by tract number. Table 3 includes the same private lands listed alphabetically by owner. Tract numbers were assigned by the Fish and Wildlife Service and are shown on figures 3 through 10.

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