

Memorandum of Agreement
Santa Ysabel East Ranch Land Acquisition
and
Fulfillment of Responsibilities under the
National Environmental Policy Act

This Memorandum of Agreement (MOA) is among the Federal Highway Administration (FHWA), California Department of Transportation (Department), and San Diego County Department of Parks and Recreation (County), regarding fulfillment of Section 106 responsibilities pursuant to the *Santa Ysabel East Ranch* acquisition.

The Nature Conservancy (TNC), in coordination with the Wildlife Conservation Board, acquired approximately 3500 acres of land in the Santa Ysabel region of San Diego County. Roughly half, 1500 acres, were acquired through the use of Transportation Enhancement Activity (TEA) funding provided for by Transportation Equity Act (TEA-21) legislation, as administered by FHWA. TNC transferred title to the land to the County on December 31, 2001.

The *Santa Ysabel East* acquisition was primarily for open space preservation; however, cattle grazing is planned for portions of the property, and some existing access roads may be used for County maintenance vehicles and for public hiking. These activities may have the potential to affect sensitive cultural resources.

Cultural resources inventory efforts to date have concentrated on potential roads/hiking trails, and those cultural resources that might be located closest to these points of public access.

This MOA addresses future impacts to the property that might be implemented by the County, outlining the roles and responsibilities of FHWA, the Department, and the County regarding their Section 106 obligations in accordance with the National Historic Preservation Act of 1966, as amended. Only the existing roads/trails, as outlined on the attached Area of Potential Effects (APE) map, may be used by County personnel and the public.

All existing cultural resources within the APE shall be protected through the establishment of Environmentally Sensitive Areas (ESAs) that will be monitored in accordance with an ESA Action Plan, attached, and incorporated herein by reference.

No ground disturbing activities are to be allowed on the lands acquired with federal funds until additional cultural resource evaluations have been completed in accordance with the provisions outlined in this MOA. Because the APE represents lands acquired with federal funding, the County's obligations under 36CFR§800 shall remain in perpetuity.

Appendix G

STIPULATIONS

1. Upon approval of this MOA by all signatory parties, the County's Section 106 responsibilities shall be considered complete until such time that any of the following occurs:
 - a. County transfers APE lands to another land management agency.
 - b. County proposes an undertaking within the APE in the area of a known cultural resource, as documented in the Historic Property Survey Report and Cultural Resources Inventory and Management Plan, attached, and incorporated herein by reference.
 - c. County proposes an undertaking within the APE, but outside the areas documented in Stipulation 1.b. above.
2. In the event that Stipulation 1.a. occurs, this MOA shall be considered null and void. The Section 106 consultation process will be reopened. The County, Department, FHWA, State Historic Preservation Officer (SHPO), and land-acquiring agency will develop a new MOA outlining how those cultural resources within the APE will be managed into perpetuity.
3. In the event that Stipulation 1.b. occurs, County shall do everything it its power to avoid, minimize, and only as a last resort, mitigate for potential adverse effects to cultural resources within the APE. Potential impacts to known cultural resources will be documented and treated in accordance with the *Programmatic Agreement Among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California Department of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the Administration of the Federal-Aid Highway Program in California* [Section 106 P.A.], which became effective January 1, 2004, is attached, and incorporated herein by reference.
 - a. Upon proposal by County of any undertaking within the APE, County shall consult with the Department on its responsibilities under Section 106, and how those responsibilities shall be fulfilled. Department District 11 Heritage Resources Coordinator (HRC) will act on behalf of the Department to ensure that County's obligations are completed in as professional and efficient manner as possible.
4. In the event that Stipulation 1.c. occurs, County shall immediately conduct a cultural resources inventory of the affected lands to determine whether cultural resources are present, and whether they can be avoided by the proposed undertaking.
 - a. Upon the results of this inventory effort, County shall consult with the Department in accordance with Stipulation 3.a.

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Environmentally Sensitive Area (ESA) Action Plan: Tasks and Responsible Parties

Task	Responsible Party*	Task Completed (date and initial)
1. County Parks' Consulting Archaeologist will ensure that County Parks' Cultural Resources Specialist has field reviewed the cultural resources located within the Santa Ysabel East (SYE) TEA acquisition parcel.	County Parks' Consulting Archaeologist, County Parks' Cultural Resources Specialist	8/18/04 Lynne Newell Christenson
2. County Parks' Consulting Archaeologist will provide County Parks' Cultural Resources Specialist with sufficient mapping to delineate adequately the cultural resource ESAs and their protective buffers.	County Parks' Consulting Archaeologist, County Parks' Cultural Resources Specialist	8/18/04 Lynne Newell Christenson
3. This ESA Action Plan will remain in effect as part of the permanent record for the San Diego County Parks' SYE TEA Acquisition and be a part of the parks' history file.	County Parks' Project Manager for Santa Ysabel East Acquisition, County Parks' Cultural Resources Specialist	8/30/05 Mike McFedries
4. No ground disturbance will take place within the SYE TEA Acquisition within the known limits of a cultural resource ESA without reopening the Section 106 consultation process, which will involve County Parks and California Department of Transportation District 11 (Department), but may also involve the Federal Highway Administration (FHWA), the State Historic Preservation Officer (SHPO), and appropriate Native American groups; coordination will be managed by Department's Heritage Resource Coordinator.	County Parks' Project Manager for Santa Ysabel East Acquisition, County Parks' Cultural Resources Specialist, Department's Heritage Resource Coordinator	Ongoing Mike McFedries
5. No ground disturbance will take place within an area that has not been surveyed for cultural resources, as documented in the attached technical studies; depending upon the survey results and the nature of the undertaking, new ESAs may need to be created, or in the event of negative findings, documentation will be produced in accordance with the Department's statewide Section 106 Programmatic Agreement (PA); if cultural resources cannot be avoided the Section 106 will be reopened.	County Parks' Project Manager for Santa Ysabel East Acquisition, County Parks' Cultural Resources Specialist, Department's Heritage Resource Coordinator	Ongoing Mike McFedries

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Task	Responsible Party*	Task Completed (date and initial)
6. County Parks will make a good-faith effort to maintain the cultural resources within SYE TEA Acquisition in perpetuity; including rerouting of trails away from known cultural resource ESAs, preventing cattle from grazing within ESAs, and monitoring cultural resources annually to determine the effectiveness of this ESA Action Plan; County Parks will submit an annual report to the Department documenting the results of the annual monitoring program.	County Parks' Project Manager for Santa Ysabel East Acquisition, County Parks' Cultural Resources Specialist	Ongoing Mike McFedries and Lynne Newell Christenson
7. The importance of ESAs will be discussed with park personnel so they are aware of them and the need to avoid any ground disturbances within them; sensitivity training may be needed, as well as identifying applicable local and federal regulations that protect archaeological sites against disturbance or removal of artifacts.	County Parks' Project Manager for Santa Ysabel East Acquisition, County Parks' Cultural Resources Specialist	Ongoing Mike McFedries and Lynne Newell Christenson
8. County Parks' Cultural Resources Specialist will notify the Department within two (2) business days of any ESA breach and consult immediately to determine how the breach will be addressed; County Parks' Cultural Resources Specialist will also consult with the appropriate Native American groups.	County Parks' Cultural Resources Specialist	Ongoing Lynne Newell Christenson

***Responsible Parties as of December 10, 2004:**

Title	Contact	Contact numbers
County Parks' Consulting Archaeologist	Susan M. Hector	619/501-6005, office 619/871-6005, cell
County Parks' Cultural Resources Specialist	Lynne Newell Christenson	619/472-2734, office 619/306-9504, cell
County Parks' Park Project Manager for Santa Ysabel East Acquisition	Mike McFedries	858/694/3429, office 619/981/6537, cell
Department's Heritage Resource Coordinator	Martin D. Rosen	858/616-6615, office 619/997-6751, cell