T-2 SYCUAN BAND

VIA ELECTRONIC MAIL ONLY
April 16, 2018

Planning & Development Services Director Mark Wardlaw
County of San Diego
5510 Overland Avenue, Suite 310
San Diego, CA 92123

Re: Otay Ranch Village 14 and Planning Areas 16 & 19 (the “Proposed Project”)
Draft Environmental Impact Report, Leg No. PDS2016-ER-16-19-006, SCH No. 2016121042 (the “DEIR”)

Dear Director Wardlaw:

We represent the Sycuan Band of the Kumeyaay Nation (the “Sycuan Band”) in providing these preliminary comments on the DEIR. The DEIR contains close to 26,000 pages and was released for public review on March 1, 2018.

On April 10, 2018, on behalf of the Sycuan Band, I requested a 30-day extension to the County’s 45-day review period for the DEIR. I received your denial of the request on the afternoon of April 13th.

The 45-day comment period is not adequate time in which to review, analyze, and reach conclusion on 28,000 pages. In addition, during the DEIR review period, a Tribal Elder passed and the offices of the Sycuan Band were closed for more than one week. As a result, the comments presented here are preliminary and the Sycuan Band expects to enter additional comments into the official record of the proceedings for the Proposed Project should it progress through public hearings.
The Kumeyaay Nation territory extends 75 miles both north and south of the international border between the United States of America and Mexico. The territory north of the border lies where the counties of San Diego and Imperial have been superimposed by the non-Kumeyaay society. The Proposed Project is located within the Kumeyaay Nation territory. The Sycuan Band is one of 12 Kumeyaay Nation Bands existing today which are original to the Kumeyaay territory.

On April 6th the developer provided us with copies of County letters dated June 1, 2017 addressed to the Sycuan Band, inquiring whether the Sycuan Band desired AB-52 or SB-18 consultation. The Sycuan Band has searched its records and has no record of receipt of the letters. Further, neither SB18 nor AB52 replaces government-to-government consultation which has yet to begin on the Proposed Project.

The Sycuan Band received a copy of the cultural resources confidential appendices on April 11th. The appendices contain over 1,200 pages and the Sycuan Band is in the process of reviewing them. Without adequate review time, consultation, responses to the preliminary questions and comments that follow, and the additional subsurface evaluation for presence of cultural resources, the Sycuan Band cannot agree with the DEIR that the Proposed Project will not negatively impact cultural resources important to the Sycuan Band.

Without adequate time in which to review the confidential appendices, the Sycuan Band is nevertheless led to the conclusion that the appendices demonstrate significant impacts to cultural resources. A preliminary review of the two main reports in the appendices contain countless references to lithic debitage, chert, other tools, and artifacts. The appendices identify at least three milling stones or ranges. In at least three cases the reports contain wording to the effect that each site is in good condition and contains numerous artifacts that are worthy of significance testing. The confidential appendices provide facts that do not support

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1 It is also worth noting that despite our requests of County staff made as early as December 15, 2015 for copies of the Proposed Project’s submittals to the County and the County’s responses to the submittals as each were received or produced, neither the Sycuan Band nor I have been provided with the requested copies absent my periodic requests for updates on the Proposed Project. As a result of all this and the absence of receipt of notification under AB-52 and SB-18, we were surprised to learn earlier this year that the DEIR would be released for public review on March 14th.
the discussion in the DEIR and its non-confidential appendix that culminate in the conclusion that the Proposed Project would not directly and/or indirectly significantly impact cultural resources. To the contrary, the facts presented in the confidential appendices identify numerous impacts, both direct and indirect, to culturally significant resources.

Even with the facts available in the confidential appendices, not enough is known about the values of cultural resources on the Proposed Project property. The DEIR acknowledges this on Page 2 of the “Phase I Cultural Resource Inventory Report for the Proctor Valley Project” stating: “The initial survey information included our projected importance levels for all sites. None of the sites have been previously subjected to detailed archaeological investigations or significance evaluations, so our preliminary assessment is based strictly upon the observation of surface manifestations of the sites and our anticipation of the potential for associated cultural deposits.” The absence of visible cultural resources does not preclude their existence. Below-ground cultural resources may also be present without any manifestation on the surface. The Sycuan Band believes this land is highly likely to host important environmental and cultural resources. Further, the richness of the known cultural resources creates a high likelihood of human remains. Finally, the DEIR does not discuss impacts to certain plants, animals, habitats, and use areas that are also considered cultural resources by the Sycuan Band.

To ensure adequate resource protection, the Sycuan Band requests that a qualified Kumeyaay Cultural Monitor be present during any pedestrian surveys conducted by archaeologists or biologists and during all ground disturbing activities. The Sycuan Band requests that the County provide the name and contact information for the proposed Kumeyaay Monitor for the Proposed Project. In addition, the Sycuan Band requests a copy of any archeological survey reports currently on file for the area or conducted as part of the Proposed Project’s design and processing.

If development is planned in the immediate vicinity or adjacent areas of a known cultural resource(s), mitigation measures must be incorporated to reduce potential impacts. Avoidance is the preferred mitigation. When avoidance is not feasible, consideration must be given to creative and alternative strategies to avoid, minimize, or mitigate adverse effects to cultural resources. If potential impacts are not avoided, the Sycuan Band requests notice and consultation before development of the area proceeds and adverse impacts are proposed to be minimized or mitigated.
Should it be necessary to curate any archeological collections, including prehistoric and historic artifacts and associated records, the curation should occur within the traditional Kumeyaay Territory. Priority must be placed on locating curation in tribal facilities that provide professional, systematic, and accountable curatorial services on a long-term basis.

The Sycuan Band is concerned about the impacts that development of the Proposed Project would have on the natural, beautiful terrain of the Kumeyaay Nation. It is not clear from the DEIR that those impacts have been avoided wherever possible and minimized where not possible.

The Proposed Project relies heavily on the fact that Village 14 is one of 15 villages planned in 1993 as part of Otay Ranch. This reliance is misplaced. The physical environment that existed in 1993 in the region and specifically within the Otay Ranch project area no longer exists. The region and the area have been altered by development not in existence or planned in 1993. The region has also suffered through the wildfires of 1993, 2003, 2007, 2014, and 2017. The Harris fire of 2007 burned the parcels where the Proposed Project would build Village 14 and Planning Areas 16 and 19.

The development and wildfires have significantly impacted both plant and animal life. The traditional Kumeyaay were skilled hunters and innovative agriculturalists who achieved a sophisticated and scientific understanding of the plant and animal life, as well as the waters, of the Kumeyaay territory. The Sycuan Band is concerned about the further impacts of the Proposed Project on the already impacted plant and animal life, as well as on the Otay Lakes to the south of the Proposed Project.

Whereas the six previously built villages of Otay Ranch are located in the City of Chula Vista, an urbanized environment, Village 14 is located more than a quarter mile from Chula Vista. According to the DEIR, the Proposed Project would improve Proctor Valley Road, a partially paved, two-lane road, for a distance of almost three miles from the City of Chula Vista boundary, through one and one-half miles of City of San Diego Cornerstone Lands, through Village 14, and to Planning Areas 16 and 19. Wet and dry utility infrastructure would follow the same route.
The result would be leap-frog development that extends private development and public infrastructure through publicly owned lands intended for permanent conservation and lands intended to serve as protection for potable water resources critical to the continuing health of the region. For the most part, the DEIR considers the impacts of the footprint of the Proposed Project. The DEIR does not consider the impacts of the Proposed Project on adjacent lands.

The Sycuan Band values all plant and animal life on the lands of the Kumeyaay Nation and on lands beyond those. The Sycuan Band particularly values the spiritual nature of golden and bald eagles, and other birds of prey, such as the red-tailed hawk. The golden and bald eagle and other birds of prey are a significant part of the cultural past, present, and, hopefully, future. Impacts to the golden and bald eagles and other birds of prey, such as the red-tailed hawk, are of particular cultural significance to the Kumeyaay people.

The DEIR erroneously concludes that there would be no impacts to nests because the events of the past years since 1993 have destroyed the main San Miguel Mountain nest site. The conclusion ignores the impact that would result to foraging habitat for the golden eagle and other birds of prey with the development of 1,119 homes, an unidentified number of businesses, a fire station, a school, a public park, extensive trails, and extensive public infrastructure into 1,284 acres. The impact to foraging habitat would in turn adversely impact nests located within the Proposed Project’s open space areas and to nests located off-site but within foraging areas.

The DEIR also erroneously concludes that the Proposed Project will not have a significant impact on the golden eagle and other birds of prey because the Proposed Project will conserve 776.8 acres of land within the Otay Ranch Resource Management Plan Preserve. This conservation meets the requirement of the 1993 planning documents that require that 1.188 acres of land be preserved for each one acre of land developed. The conservation of 776.8 acres of land goes no further than is required in existing planning documents, yet the conservation is deemed adequate for mitigation of the Proposed Project’s impacts to the eagle and other birds of prey. The DEIR does not adequately consider the data provided in the U.S. Department of the Interior U.S. Geological Survey published in February 2016, enclosed with this letter. This letter is being transmitted electronically in five parts to accommodate the size of the enclosure.
Director Mark Wardlaw  
April 16, 2018  
Page 6  

According to the DEIR, the configuration of the Proposed Project is such that development of Planning Areas 16 and 19 require improvements to 0.75 miles of Proctor Valley Road from Village 14 to the two planning areas, and additional improvements to Proctor Valley Road beyond the two planning areas to State Route 94. The elimination of development in Planning Areas 16 and 19 would save 278 acres of high biological land from direct impacts and preserve continuity and contiguity of with State-owned lands already protected from development. The elimination of development in Planning Areas 16 and 19 would also avoid the significant impacts of grading and improving an extension of Proctor Valley Road beyond Village 14 to connect with State Route 94.

Although elimination of development in Planning Areas 16 and 19 would not avoid all impacts of the Proposed Project on sensitive biological resources such as the eagle, or on cultural resources, the elimination of that development would lessen those impacts. According to the DEIR, preservation of the high biological value land in these planning areas would preserve existing continuity and contiguity with well over 12,000 acres of already conserved open space. Without being able to support the Proposed Project at this time, the Sycuan Band expresses strong support for elimination of development in Planning Areas 16 and 19 and elimination of the extension of Proctor Valley Road beyond Village 14 to connect to State Route 94.

Thank you in advance for fully considering and addressing the preliminary comments and concerns of the Sycuan Band.

Sincerely,

Cynthia L. Eldred, Esq.  
THE LAW OFFICE OF CYNTHIA L. ELDRED, APC  
Enclosure  

cc: (via electronic mail only)  
Sycuan Band of the Kumeyaay Nation  
Mr. Mark Slovick  
Mr. Gregory Mattson  
Mr. Rob Cameron  
Mr. Chris Wahl
Biotelemetry Data for Golden Eagles \textit{(Aquila chrysaetos)} Captured in Coastal Southern California, November 2014–February 2016

Data Series 994

U.S. Department of the Interior
U.S. Geological Survey
Biotelemetry Data for Golden Eagles (*Aquila chrysaetos*)
Captured in Coastal Southern California,
November 2014–February 2016

By Jeff A. Tracey, Melanie C. Madden, Jeremy B. Sebes, Peter H. Bloom, Todd E. Katzner, and Robert N. Fisher

Prepared for San Diego Association of Governments (SANDAG), California Department of Fish and Wildlife, Bureau of Land Management, and U.S. Fish and Wildlife Service

Data Series 994

U.S. Department of the Interior
U.S. Geological Survey
Contents

Abstract........................................................................................................................................... 1
Introduction........................................................................................................................................ 1
Methods............................................................................................................................................ 1
Biotelemetry....................................................................................................................................... 1
Data Filtering ................................................................................................................................... 2
Biotelemetry Data for Captured Golden Eagles................................................................................. 2
Acknowledgments............................................................................................................................... 32
References Cited................................................................................................................................. 32

Figures

1. Map showing golden eagle trapping locations, southern California ......................................... 4
2. Map showing location data for eagle G0EA-SD-F001 captured at Boulder Oaks, San Diego County, California, November 22, 2014 ................................................................. 5
3. Map showing location data for eagle G0EA-SD-F002 captured at Cedar Canyon, San Diego County, California, November 26, 2014 ........................................................................ 6
4. Map showing location data for eagle G0EA-SD-F003 captured at Cedar Canyon, San Diego County, California, December 5, 2014 .......................................................... 7
5. Map showing location data for eagle G0EA-SD-F004 captured at Marron Valley, San Diego County, California, December 27, 2014 ................................................................. 8
6. Map showing location data for eagle G0EA-SD-F005 captured at O'Neal Canyon, San Diego, California, January 3, 2015 ................................................................. 9
7. Map showing location data for eagle G0EA-SD-F006 captured at Santa Ysabel, San Diego County, California, February 2, 2015 ................................................................. 10
8. Map showing location data for eagle G0EA-SD-F007 captured at Long Potrero, San Diego County, California, February 23, 2015 ................................................................. 11
9. Map showing location data for eagle G0EA-SD-F008 captured at Pamo Valley, San Diego County, California, March 14, 2015 ................................................................. 12
10. Map showing location data for eagle G0EA-SD-F009 captured at Rancho Jamul Ecological Reserve, San Diego County, California, November 23, 2015 ......................... 13
11. Map showing location data for eagle G0EA-RV-F010 captured at Santa Rosa Plateau, Riverside County, California, December 12, 2015 ......................................................... 14
12. Map showing location data for eagle G0EA-SD-F011 captured at Proctor Valley, San Diego County, California, December 20, 2015 ................................................................. 15
13. Map showing location data for eagle G0EA-SD-F013 captured at Gregory Mountain, San Diego County, California, February 11, 2016 ........................................ 16
14. Map showing location data for eagle G0EA-OC-F014 captured at Fremont Canyon, Orange County, California, February 12, 2016 ....................................................... 17
15. Map showing location data for eagle G0EA-OC-F015 captured at Fremont Canyon, Orange County, California, February 12, 2016 ....................................................... 18
16. Map showing location data for eagle G0EA-SD-M001 captured at Cedar Canyon, San Diego County, California, December 5, 2014 ................................................................. 19
Figures—Continued

17. Map showing location data for eagle G0EA-SD-M002 captured at Marron Valley, San Diego County, California, January 8, 2015 ................................................................. 20
18. Map showing location data for eagle G0EA-SD-M003 captured at Rancho Canada, San Diego County, California, February 3, 2015 ................................................................. 21
19. Map showing location data for eagle G0EA-SD-M004 captured at Barrett Lake, San Diego County, California, February 7, 2015 ................................................................. 22
20. Map showing location data for eagle G0EA-SD-M005 captured at Long Potrero, San Diego County, California, February 23, 2015 ................................................................. 23
21. Map showing location data for eagle G0EA-SD-M006 captured at Barrett Lake, San Diego County, California, December 1, 2015 ................................................................. 24
22. Map showing location data for eagle G0EA-SD-M007 captured at Long Valley, San Diego County, California, December 9, 2015 ................................................................. 25
23. Map showing location data for eagle G0EA-RV-M008 captured at Santa Rosa Plateau, Riverside County, California, December 11, 2015 ......................................................... 26
24. Map showing location data for eagle G0EA-SD-M009 captured at Proctor Valley, San Diego County, California, December 13, 2015 ................................................................. 27
25. Map showing location data for eagle G0EA-SD-M010 captured at Proctor Valley, San Diego County, California, December 17, 2015 ................................................................. 28
26. Map showing location data for eagle G0EA-SD-M011 captured at Barrett Lake, San Diego County, California, December 21, 2015 ................................................................. 29
27. Map showing location data for eagle G0EA-OC-M012 captured at Brush Canyon, Orange County, California, December 27, 2015 ................................................................. 30
28. Map showing location data for all eagles since time of capture, southern California ................................................................................................................................. 31

Tables

1. Summary of golden eagles captured in southern California, November 2014–February 2016 ................................................................. 3

Conversion Factors

<table>
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<tr>
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<td>meter per second (m/s)</td>
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Biotelemetry Data for Golden Eagles (*Aquila chrysaetos*)
Captured in Coastal Southern California, November 2014–February 2016

By Jeff A. Tracey¹, Melanie C. Madden¹, Jeremy B. Sebes¹, Peter H. Bloom², Todd E. Katzner¹, and Robert N. Fisher²

Abstract

The status of golden eagles (*Aquila chrysaetos*) in coastal southern California is unclear. To address this knowledge gap, the U.S. Geological Survey (USGS) in collaboration with local, State, and other Federal agencies began a multi-year survey and tracking program of golden eagles to address questions regarding habitat use, movement behavior, nest occupancy, genetic population structure, and human impacts on eagles. Golden eagle trapping and tracking efforts began in October 2014 and continued until early March 2015. During the first trapping season that focused on San Diego County, we captured 13 golden eagles (8 females and 5 males). During the second trapping season that began in November 2015, we focused on trapping sites in San Diego, Orange, and western Riverside Counties. By February 23, 2016, we captured an additional 14 golden eagles (7 females and 7 males). In this report, biotelemetry data were collected between November 22, 2014, and February 23, 2016. The location data for eagles ranged as far north as San Luis Obispo, California, and as far south as La Paz, Baja California, Mexico.

Methods

Biotelemetry

Since October 2014, we have been trapping eagles at targeted sites across San Diego County, California. We began the second season of eagle trapping in November 2015, and included trapping sites in San Diego, Orange, and western Riverside Counties.

Once captured, each eagle was given an eagle ID for this study, a USGS Bird Banding Laboratory leg band (if it did not already have one), and a GPS transmitter that sends data over the mobile phone network (a GPS-GSM transmitter, Durastan, 1972, Kenward, 1985; Lanzone and others, 2012). The eagle ID consists of a four-letter code for the species, a two-letter code for the county of capture, and an “F” or “M” followed by a numeral (with up to two leading zeros) to indicate the sex and capture order of the individual. For example, the first female eagle captured in San Diego County was given an eagle ID of GOEA-SD-F001. We use the county code OC for Orange County and RV for Riverside County.

¹U.S. Geological Survey.
²Bloom Biological, Inc.
Standard morphological measurements and samples taken were from each captured eagle. Measurements included (1) weight, (2) wingspan, (3) hallux and culmen, and (4) characteristics of the primary and secondary flight feathers. Samples included (1) blood samples for genetic and lead testing, (2) swabs of the eyes, mouth and cloaca for chlamydia testing by University of California, Davis, and (3) 2–4 feathers for lead, stable isotope, and genetic testing. For the health of the eagle, rapid processing and release took precedence over collecting measurements and samples. Thus, in some cases we did not collect weight measurements or take blood samples for field lead testing in favor of properly attaching the GPS-GSM unit and releasing the eagle in a timely manner. When time permitted, eagles were tested in the field for lead toxicity using a LeadCare® II testing unit. If lead testing results were greater than 60 µg/dL, we planned to deliver the eagle to Scott Wedly DVM (Orange County Bird of Prey Center, Serrano Animal & Bird Hospital) for therapy. All samples were collected under Dr. Peter Bloom’s scientific collecting permit (Bloom Biological, Inc.) and delivered to the appropriate parties (University of California, Davis Wildlife Health Center, Todd Katzer of USGS, and Andrew DeWoody of Purdue University; each of whom is permitted to receive samples). No samples were retained in California by USGS. Sex was determined based on body size, weight, and measurements of the hallux and culmen and will be confirmed genetically. Age was estimated based on molt patterns (Bloom and Clark, 2001).

Each captured eagle was fitted with a Cellular Tracking Technologies (CTT™) CTT™-107a GPS-GSM telemetry unit (Dunstan, 1972; Kenward, 1985; Lanzone and others, 2012). The units were attached to the eagles using 11 mm natural tubular Teflon™ tape fed through the attachment holes on the GPS-GSM unit and around the wings to form a “backpack.” The Teflon™ ribbon is non-abrasive and the standard method for attaching telemetry units to eagles. If the eagle had other markings or telemetry devices, other than a USGS Banding Laboratory (BBBL) leg band, we were directed by the BBBL to remove them.

Data Filtering

Once data were downloaded from CTT™ servers, the data were formatted (for example, formatting dates and converting text strings with latitude and longitude data into numerical values) and merged with data from prior downloads when needed. We applied two filters to the records to eliminate potentially erroneous locations prior to merging the new data with prior data.

To pass the first filter, six conditions had to be satisfied:
1. Location had to be at least 2D,
2. Horizontal dilution of precision (HDOP) had to be less than or equal to 5,
3. Vertical dilution of precision (VDOP), if available, had to be less than or equal to 5,
4. Longitudes values had to be available and be on the interval [−180, 180] degrees,
5. Latitude values had to be available and be on the interval [−90, 90] degrees, and
6. Fixes had to be at least 25 seconds apart (based on discussion with engineers at CTT™).

The second filter depends on distance metrics. To pass the second filter, two conditions had to be satisfied:
1. Location had to be within UTM zones 10, 11, or 12, and
2. Rate of displacement had to be realistic (≤ 89.4 m/s horizontal or ≤ 20.0 m/s vertical).

Biotelemetry Data for Captured Golden Eagles

As of February 23, 2016, we captured 27 golden eagles at 16 trapping locations (table 1, fig. 1). Currently, we have 15 eagles with active transmitters, 5 eagles with transmitters of unknown status, 3 eagles with inactive transmitters, and 4 eagles known to have died. An active transmitter is one from which we have received a download within the past 10 days. A transmitter with unknown status is one from which we have received data 11 to 60 days ago, an inactive transmitter is one from which we have not received a download in more than 60 days, and a mortality indicates that we have recovered the eagle’s remains. Location data for 26 of the 27 captured golden eagles with transmitters are shown in figures 2–27. The transmitter attached to golden eagle O0EA-OC-F012 malfunctioned and no data were received. Thus, there is not a location map for this golden eagle.

A view of the location data over the entire extent of the area used by the golden eagles is shown in figure 28. Note that a lack of eagle data for a particular area does not necessarily imply that it is not used by eagles we are not tracking.
Table 1. Summary of golden eagles captured in southern California, November 2014–February 2016.

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<th>Eagle ID</th>
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<td>Brush Canyon</td>
<td>M</td>
<td>FY</td>
<td>Active</td>
</tr>
</tbody>
</table>

1The transmitter attached to golden eagle GOEA-OC-F012 malfunctioned and no data were received. Thus, there is not a location map for this eagle.
Biotelemetry Data for Golden Eagles Captured in Coastal Southern California, November 2014–February 2016

Figure 1. Golden eagle trapping locations, southern California.
Figure 2. Location data for eagle G0EA-SD-F001 captured at Boulder Oaks, San Diego County, California, November 22, 2014.
Figure 3. Location data for eagle GOEA-SD-F002 captured at Cedar Canyon, San Diego County, California, November 28, 2014.
Figure 4. Location data for eagle GOEA-SD-F003 captured at Cedar Canyon, San Diego County, California, December 5, 2014.
Figure 5. Location data for eagle GOEA-SO-F004 captured at Marron Valley, San Diego County, California, December 27, 2014.
Figure 6. Location data for eagle G0EA-SD-F005 captured at O’Neal Canyon, San Diego, California, January 3, 2015.
Figure 7. Location data for eagle G0EA-SD-F006 captured at Santa Ysabel, San Diego County, California, February 2, 2015.
Figure 8. Location data for eagle G0EA-SD-F007 captured at Long Potrero, San Diego County, California, February 23, 2015.
Figure 9. Location data for eagle GOEA-SD-F08 captured at Pamo Valley, San Diego County, California, March 14, 2015.
Figure 10. Location data for eagle G0EA-SD-F006 captured at Rancho Jamul Ecological Reserve, San Diego County, California, November 23, 2015.
Figure 11. Location data for eagle GOEA-RV-F010 captured at Santa Rosa Plateau, Riverside County, California, December 12, 2015.
Figure 12. Location data for eagle GD03-SD-F011 captured at Proctor Valley, San Diego County, California, December 20, 2015.
Figure 13. Location data for eagle GOEA-SD-F013 captured at Gregory Mountain, San Diego County, California, February 11, 2016.
Biotelemetry Data for Captured Golden Eagles

Figure 14. Location data for eagle GOEA-OC-F014 captured at Fremont Canyon, Orange County, California, February 12, 2016.
Figure 15. Location data for eagle GOEA-OC-F015 captured at Fremont Canyon, Orange County, California, February 12, 2016.
Figure 16. Location data for eagle GOEA-SD-M801 captured at Cedar Canyon, San Diego County, California, December 5, 2014.
Figure 17. Location data for eagle G0EA-S0-M002 captured at Marron Valley, San Diego County, California, January 8, 2015.
Figure 18. Location data for eagle GOEA-SD-M803 captured at Rancho Canada, San Diego County, California, February 3, 2015.
Figure 19. Location data for eagle G0EA-SD-M004 captured at Barrett Lake, San Diego County, California, February 7, 2015.
Figure 29. Location data for eagle GOEA SD-M065 captured at Potrero, San Diego County, California, February 23, 2015.
Figure 21. Location data for eagle GOEA-SD-M006 captured at Barrett Lake, San Diego County, California, December 1, 2015.
Figure 22. Location data for eagle G0EA-SD-M007 captured at Long Valley, San Diego County, California, December 9, 2015.
Figure 23. Location data for eagle GOEA-RV-M008 captured at Santa Rosa Plateau, Riverside County, California, December 11, 2015.
Figure 24. Location data for eagle GOEA-SO-M069 captured at Proctor Valley, San Diego County, California, December 13, 2015.
**Figure 25.** Location data for eagle G0EA-SD-M010 captured at Proctor Valley, San Diego County, California, December 17, 2015.
Figure 26. Location data for eagle GOEA-SD-M911 captured at Barrett Lake, San Diego County, California, December 21, 2015.
Figure 27. Location data for eagle GDEA-OC-M012 captured at Brush Canyon, Orange County, California, December 27, 2015.
Figure 28. Location data for all eagles since time of capture, southern California.
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