

# **Agua Caliente Band of Cahuilla Indians/Bureau of Land Management Land Exchange**

Minor Amendment to the Coachella Valley Multiple Species Habitat Conservation Plan

November 2023

## **Purpose and Need of the Minor Amendment**

The Coachella Valley Multiple Species Habitat Conservation Plan (CVMSHCP or Plan), as administered by the Coachella Valley Conservation Commission (CVCC), establishes as a core component of its strategy the creation of a Reserve System<sup>1</sup> consisting of lands conserved in perpetuity within twenty-one designated Conservation Areas. These Conservation Areas have been delineated to maximize the preservation of habitat for the twenty-seven plant and animal species (Covered Species) and twenty-seven natural communities covered by the Plan, as well as the maintenance of the Essential Ecological Processes and Biological Corridors that allow those species and natural communities to persist. One such Conservation Area, the Santa Rosa and San Jacinto Mountains Conservation Area (SRSJM), encompasses the desert slopes and mountainous terrain of the Santa Rosa and San Jacinto Mountains along the southwestern boundary of the Coachella Valley, and which provides important habitat for the Peninsular bighorn sheep and other Covered Species.

The Santa Rosa and San Jacinto Mountains serve as the ancestral homeland of the present-day Agua Caliente Band of Cahuilla Indians (ACBCI or Tribe). Although the United States government set aside tribal reservation lands for the ACBCI as early as 1876, the history of American expansion westward resulted in these reservation lands taking on a checkerboard formation, with tribal lands interspersed with non-tribal lands. In general, the lands set aside for the ACBCI include all even sections of townships and ranges 4 south and 4 east, 4 south and 5 east, and 5 south and 4 east, San Bernardino Base and Meridian. This checkerboard arrangement can cause major challenges in accessing important cultural sites and complicates the Tribe's land management and public administrative responsibilities. As such, the Tribe has spent considerable resources acquiring some of the interspersed non-tribal parcels with the intention of eventually absorbing those lands into their reservation.

As a sovereign entity, the Tribe is not subject to the state and federal permits that undergird the CVMSHCP; development on reservation lands is not subject to the Conservation Objectives or required measures of the Plan. When the Conservation Areas were delineated, they excluded reservation lands, resulting in a checkerboard assemblage mirroring the ACBCI reservation. However, not all land held by the Tribe has been absorbed into the reservation, which is an administrative process conducted by the Bureau of Indian Affairs (BIA). These lands, held in fee by the ACBCI but not yet folded into the reservation, are considered unconserved by the CVMSHCP for the purposes of identifying Conservation Objectives, and therefore do accrue to Permittees' acres of authorized disturbance and remaining acres to be conserved.

In recognition of the ecological and cultural importance of the Santa Rosa and San Jacinto Mountains, the United States Congress dedicated them as a National Monument in 2000. The

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<sup>1</sup> Capitalized terms not otherwise defined here have the same meaning as found in the CVMSHCP.

Santa Rosa and San Jacinto Mountains National Monument (Monument), jointly managed by the United States Forest Service (USFS) and Bureau of Land Management (BLM), shares significant overlap with both the SRSJM and ACBCI reservation, although management actions prescribed by the Monument designation are only authorized on lands held by USFS or BLM. Lands held by the BLM within the Monument are considered as existing conservation by the CVMSHCP for the purposes of describing Conservation Objectives for the SRSJM, and therefore do not accrue to acres of authorized disturbance or remaining acres to be conserved.

Due to the undevelopable nature of the terrain throughout the Monument, most of the land that hasn't been granted to the ACBCI as part of their reservation remains under federal ownership and is subject to the same checkerboard formation and associated management challenges as the Tribal lands. To address this difficulty, the Monument's enabling legislation allowed for land exchanges between the BLM and ACBCI to consolidate ownership and improve management of their respective lands. Lands transferred to the BLM under such a mechanism would be managed according to the approved management plan for the Monument.

In 2019, the BLM and ACBCI finalized an agreement twenty years in the making that would transfer approximately 2,560 acres of land held by the BLM to the ACBCI and approximately 1,470 acres of land held by the ACBCI to the BLM to consolidate land ownership for each agency (Figure 1). The lands transferred to the Tribe were formally added by the BIA to the ACBCI reservation in 2023 through congressional action to be managed for conservation and cultural purposes. Once absorbed into the reservation, lands formerly considered as part of the SRSJM must be discounted from the take authorizations and conservation requirements dictated by the Plan, and the appropriate tables adjusted accordingly.

## **Provisions for the Minor Amendment**

Section 6.12.3 of the CVMSHCP describes the process for issuing Minor Amendments, and details those Minor Amendments that can be adopted without Wildlife Agency concurrence. The general procedure for issuing a Minor Amendment requires a notice be sent to any affected Permittee that describes the purpose and need for the amendment; an analysis of the amendment's impacts to Covered Species; and an assessment demonstrating that the proposed amendment (1) is not significantly different from, and is biologically equivalent to, the original terms of the Plan, (2) substantially conforms to the original terms of the Plan, and (3) will not significantly reduce the ability to acquire the required conservation lands. The adjustment necessitated by the land exchanges is explicitly called out as a Minor Amendment not requiring Wildlife Agency concurrence in this section.

The anticipated land exchange is also discussed in section 4.2.1.1, where it is noted that, between 1996 and 2003, the Tribe acquired approximately 3,800 acres outside of the reservation boundaries and within the SRSJM, and that some or all of those 3,800 acres would be subject to a land exchange with the BLM. This section describes the Minor Amendment as necessary to "adjust land ownership and conservation acreages in this Conservation Area," regardless of the final acreage transferred to the BLM.

It should be noted that, between 2004 and 2015, the ACBCI acquired and transferred an additional 2,776 acres into its reservation outside the parameters of the land exchange with the BLM. Because the Minor Amendment as contemplated by the CVMSHCP is explicit in referencing the land exchange as the mechanism by which to reassess land ownership and conservation

acreages, these additional acres have not been included in the analysis contained herein. CVCC anticipates coordinating with the Tribe to identify lands targeted for future inclusion into the reservation and conducting a holistic assessment on the ramifications of that inclusion on the Conservation Objectives for the SRSJM.

## **Proposed Actions of the Minor Amendment**

The completed land exchange spans the jurisdictions of two Permittees to the CVMSHCP: land transferred from the ACBCI to the BLM is within the boundaries of the City of Palm Springs (City), while land transferred from the BLM to the ACBCI is within the County of Riverside (County). As such, the tables identifying Conservation and Take Authorization for Santa Rosa and San Jacinto Mountains Conservation Area – Table 4-111a for the County and Table 4-111f for the City – are proposed to be revised<sup>2</sup>. In revising the tables, it can be useful to conceptualize the conservation acreage as being derived by the following formula:

$$\begin{aligned} & \textit{Total Acres in Conservation Area – Existing Conservation Lands} \\ & = \textit{Acres of Disturbance Authorized + Remaining Acres to be Conserved} \end{aligned}$$

where the right side of the equation represents the unconserved private land in a Conservation Area subject to CVCC oversight and Permittee obligations.

Within the County, the lands transferred to the Tribe were originally counted towards both the total acres in the Conservation Area, as well as existing conservation lands due to their status as BLM lands within the Monument (i.e., they factored only into the left side of the above equation). In being absorbed into the reservation, it is necessary to adjust both those acreages downward. Since the levels of authorized disturbance and remaining conservation are predicated on the unconserved land and not existing conservation, which was never available to the County for disturbance or conservation to begin with, this downward adjustment does not have any impact on the Conservation Objectives for the County (Table 1).

In the case of the City, the lands transferred to the BLM were originally counted towards the total acres in the Conservation Area, and, because they were privately held by the Tribe, were also considered unconserved and factored into the acres of disturbance authorized and remaining acres to be conserved (i.e., they were applied to both sides of the equation above). In being transferred to BLM's ownership, these lands are no longer available to the City for either disturbance or conservation, and are effectively reclassified from unconserved to existing conservation. Therefore, while the total acres in the Conservation Area do not change, the acreage of existing conservation lands needs to be adjusted upwards, and levels of disturbance and remaining conservation required adjusted downwards (Table 2). Many of the private, unconserved land also falls into a Special Provision Area (SPAs), including areas designated for the Habitat Evaluation and Acquisition Negotiation Strategy process. These SPAs have specific take authorization levels within the City's greater authorized disturbance levels, and also need to be adjusted.

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<sup>2</sup> Additional tables indicating baseline conditions for the SRSJM are not proposed for amendment, as they depict the conditions present during the planning process starting in 1996.

### *Equivalency to the Original Terms of the CVMSHCP*

Minor Amendments must demonstrate that the proposed changes do not differ significantly from the original terms of the CVMSHCP, and that any changes are biologically equivalent to the baseline conditions. Significance and equivalence in the context of the Plan has traditionally been measured by change in acreage for any given Conservation Objective, but formal thresholds have not been defined. To demonstrate equivalency, the above equation can be rearranged such that it identifies the proportion of a Conservation Area that will be conserved through Reserve System assembly:

$$\begin{aligned} & \textit{Total Acres in Conservation Area} - \textit{Acres of Disturbance Authorized} \\ & = \textit{Existing Conservation Lands} + \textit{Remaining Acres to be Conserved} \end{aligned}$$

where the right side of the equation represents the total acreage of habitat for a Covered Species set aside for meeting CVMSHCP Conservation Objectives. A Minor Amendment can be considered equivalent if the proportion of Reserve System acres to total acres in a Conservation Area is the same before and after the Amendment.

In the County, lands being removed from the SRSJM will reduce total habitat acreage for six Conservation Objectives (Table 3), ranging from a one-percent reduction in Other Conserved Habitat for desert tortoise to a seventeen-percent reduction in acres of southern sycamore-alder riparian woodland. These reductions become more pronounced when viewed in the context of existing conservation lands identified in the Plan. While certain of these reductions could be considered significant, it is important to note that the reductions remain equivalent to the original terms of the CVMSHCP. An equal number of acres are being removed from both the total acres in the SRSJM and the existing conservation lands, while the acres of disturbance authorized and remaining acres to be conserved remain unchanged. Hence, the proportion of Reserve System lands to total acres in the SRSJM remains the same.

It bears noting that, even though the reduction in habitat acreage covered by the Plan could be considered significant, these lands have been congressionally added to the ACBCI reservation and are no longer under the authority of the CVMSHCP or CVCC. Under these circumstances, the question of significance is moot.

The land exchange affects the City in a slightly different manner and requires a different approach to demonstrate lack of significance and equivalency. In this case, the addition of land to the Monument results in increases in the total conserved lands for two Conservation Objectives (Table 4) while reducing the acres available to the City for disturbance and conservation. Although the reduction in land available to the City to meet its conservation obligations is potentially significant, this reduction is offset by a tantamount increase in dedicated conservation land. However, the addition of acres to existing conservation requires a reduction in both acres of disturbance authorized and remaining acres to be conserved. In order to maintain equivalency, acres must be removed from both categories rather than, e.g., reducing only acres of disturbance allowed in favor of a larger absolute Reserve System acreage.

To determine the revised acres of disturbance authorized and remaining conservation acres, their respective proportions to the total unconserved land available prior to the land exchange was calculated, and then applied to the revised unconserved acreage after the exchange. The same approach was applied to determine the relative acreage allocations to each SPA. This ensured that the revised acreage totals are equivalent to the original terms of the CVMSHCP.

### *Conformance to the Original Terms of the CVMSHCP*

Minor Amendments must substantially conform to the terms of the CVMSHCP as originally adopted. The 2019 land exchange and 2023 addition of former BLM lands into the ACBCI reservation was anticipated by the CVMSHCP during the planning process, which called for revisions to the relevant Conservation and Take Authorization tables for the SRSJM upon the exchange's completion. The actual acreage transfer is less than originally conceived, so does not exceed the provisions of the CVMSHCP as adopted. The methodology utilized to adjust the acreages was based upon the methods applied to the original CSMHCP tables, and maintain equivalency with those original calculations, as demonstrated above. Beyond requiring revisions to the Permittees' respective Conservation Objectives, no other terms are proposed for modification in this Amendment.

### *Ability to Acquire Additional Conservation Lands*

Minor Amendments must not significantly reduce the ability to acquire remaining conservation lands. Where lands have been removed from the SRSJM and added to the ACBCI reservation, the pool of unconserved lands available to the County to meet its conservation obligations remains unchanged. Where lands have been added to the Monument (but were already part of the SRSJM), the pool of unconserved lands available to the City to meet its conservation obligations has been reduced in favor of placing those lands under the Monument's conservation protections. While the total acreage available to the City has been reduced, their ability to acquire the remaining lands is unchanged. Insofar as lands held by the Tribe are unlikely candidates for inclusion into the CVMSHCP's Reserve System<sup>3</sup>, the revised Conservation and Take Authorization table for the City is arguably a more accurate representation of the true acreage available to either develop or conserve.

## **Conclusions**

A land exchange between the BLM and ACBCI transferring 2,560 acres to the Tribe and 1,470 acres to the BLM was completed in 2019. The land transferred to the Tribe was formally incorporated into their reservation by congressional action in 2023, triggering a Minor Amendment to the CVMSHCP. The Minor Amendment revises the Conservation and Take Authorizations for the SRSJM for the County of Riverside and City of Palm Springs to reflect assorted adjustments in total acres within the Conservation Area, existing conservation land, and unconserved land available to meet Permittee obligations. Specifically, the County's obligations will not change as a result of the Minor Amendment, while the acres of authorized disturbance and the remaining acres to be conserved available to the City have been reduced. These changes have been found by the CVCC to be equivalent to the original terms of the CVMSHCP, to conform to the original terms of the CVMSHCP, and to not significantly reduce the ability to acquire additional conservation lands. This Minor Amendment does not require Wildlife Agency concurrence to be adopted.

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<sup>3</sup> The CVMSHCP allows for conservation of Tribal lands within its Reserve System, however any such conservation would accrue to Complementary Conservation for the purposes of obligation tracking. Moreover, most lands held by the Tribe are slated for inclusion into their reservation.

## Tables and Figures

Table 1: Current and revised Conservation and Take Authorization for Santa Rosa and San Jacinto Mountains Conservation Area - County of Riverside (CVMSHCP Table 4-111a). Red text indicates a decrease in acreage compared to current conditions.

Conservation Objective	Current Conditions					Revised Conditions			
	Total Acres in Conservation Area	Existing Conservation Lands	Acres of Disturbance Authorized	Remaining Acres to be Conserved	Acres Exchanged to ACBCI	Revised Total Acres in Conservation Area	Revised Existing Conservation Lands	Revised Acres of Disturbance Authorized	Revised Remaining Acres to be Conserved
Conserve Essential Habitat for Peninsular bighorn sheep - Recovery Zone 1	24,840	16,758	830	7,252	-1,575	23,265	15,183	830	7,252
Conserve Essential Habitat for Peninsular bighorn sheep - Recovery Zone 2	14,558	9,642	647	4,269	0	14,558	9,642	647	4,269
Conserve Essential Habitat for Peninsular bighorn sheep - Recovery Zone 3	50,972	44,930	683	5,359	0	50,972	44,930	683	5,359
Conserve Essential Habitat for Peninsular bighorn sheep - Recovery Zone 4	34,597	32,014	258	2,325	0	34,597	32,014	258	2,325
Conserve Other Cons. Habitat for gray vireo	58,985	50,174	881	7,930	-219	58,766	49,955	881	7,930
Conserve known locations for triple-ribbed milkvetch	< 1	0	< 1	< 1		0	0	< 1	< 1
Conserve Other Cons. Habitat for Le Conte's thrasher	9,123	2,704	911	5,508	0	9,123	2,704	911	5,508
Conserve Other Cons. Habitat for desert tortoise	86,875	60,069	2,950	23,856	-866	86,009	59,203	2,950	23,856
Conserve southern arroyo willow riparian forest	16	1	2	15	0	16	1	2	15
Conserve southern sycamore-alder riparian woodland	518	401	12	117	-87	431	314	12	117
Conserve desert dry wash woodland	3,566	2,024	298	1,244	0	3,566	2,024	298	1,244
Conserve desert fan palm oasis woodland	716	267	45	404	-42	674	225	45	404
Conserve semi-desert chaparral	16,869	14,543	233	2,093	0	16,869	14,543	233	2,093
Conserve redshank chaparral	12,514	9,987	253	2,274	-219	12,295	9,768	253	2,274
Conserve peninsular juniper woodland and scrub	29,547	26,230	418	2,899	0	29,547	26,230	418	2,899

Table 2: Current and revised Conservation and Take Authorization for Santa Rosa and San Jacinto Mountains Conservation Area - City of Palm Springs (CVMSHCP Table 4-111f). Red text indicates a decrease in acreage compared to current conditions, yellow text indicates a neutral change, and green text indicates an increase.

Conservation Objective	Current Conditions					Revised Conditions					
	Total Acres in Conservation Area	Existing Conservation Lands	Acres of Disturbance Authorized	Remaining Acres to be Conserved	Acres Exchanged to BLM	Revised Total Acres in Conservation Area	Revised Existing Conservation Lands	Revised Acres of Disturbance Authorized	Revised Acres of Disturbance Authorized (HANS)	Revised Acres of Disturbance Authorized (other SPA)	Revised Remaining Acres to be Conserved
Conserve Other Cons. Habitat for Le Conte's thrasher	793	130	103	560	0	793	130	103	62	41	560
Conserve Other Cons. Habitat for desert tortoise	22,571	12,398	1,317	8,856	1,469	22,571	13,867	1,127	657	470	7,577
Conserve Essential Habitat for Peninsular bighorn sheep – Recovery Zone 1	9,195	6,458	226	2,511	0	9,195	6,458	226	129	97	2,511
Conserve Essential Habitat for Peninsular bighorn sheep – Recovery Zone 2	18,426	12,860	866	4,700	1,469	18,426	14,329	637	266	371	3,459
Conserve Other Cons. Habitat for gray vireo	8,416	4,102	431	3,883	0	8,416	4,102	431	0	0	3,883
Conserve southern arroyo willow riparian forest	16	16	0	0	0	16	16	0	NA	NA	0
Conserve Sonoran cottonwood-willow riparian forest	58	0	0	58	0	58	0	0	0	0	58
Conserve southern sycamore-alder riparian woodland	30	6	2	24	0	30	6	2	NA	NA	24
Conserve desert dry wash woodland	40	0	4	36	0	40	0	4	0	0	36
Conserve desert fan palm oasis woodland	218	133	9	76	0	218	133	9	0	0	76
Conserve semi-desert chaparral	733	111	51	571	0	733	111	51	0	0	571
Conserve peninsular juniper woodland and scrub	7,682	4,152	353	3,177	0	7,682	4,152	353	0	0	3,177

Table 3: Normalized difference in impacted Conservation Objectives for the County of Riverside.

Conservation Objective	% Change in Total Acres	% Change in Existing Conservation Land	Proportional Change in Reserve System Acres
Conserve Essential Habitat for Peninsular bighorn sheep - Recovery Zone 1	-6.3%	-9.4%	0
Conserve Other Cons. Habitat for gray vireo	-0.4%	-0.4%	0
Conserve Other Cons. Habitat for desert tortoise	-1.0%	-1.4%	0
Conserve southern sycamore-alder riparian woodland	-16.8%	-21.6%	0
Conserve desert fan palm oasis woodland	-5.9%	-15.8%	0
Conserve redshank chaparral	-1.8%	-2.2%	0

Table 4: Normalized difference in impacted Conservation Objectives for the City of Palm Springs.

Conservation Objective	% Change in Existing Conservation Land	% Change in Unconserved Land	Proportional Change in Acres of Disturbance Authorized	Proportional Change in Acres to be Conserved
Conserve Other Cons. Habitat for desert tortoise	11.9%	-14.4%	0	0
Conserve Essential Habitat for Peninsular bighorn sheep – Recovery Zone 2	11.4%	-26.4%	0	0



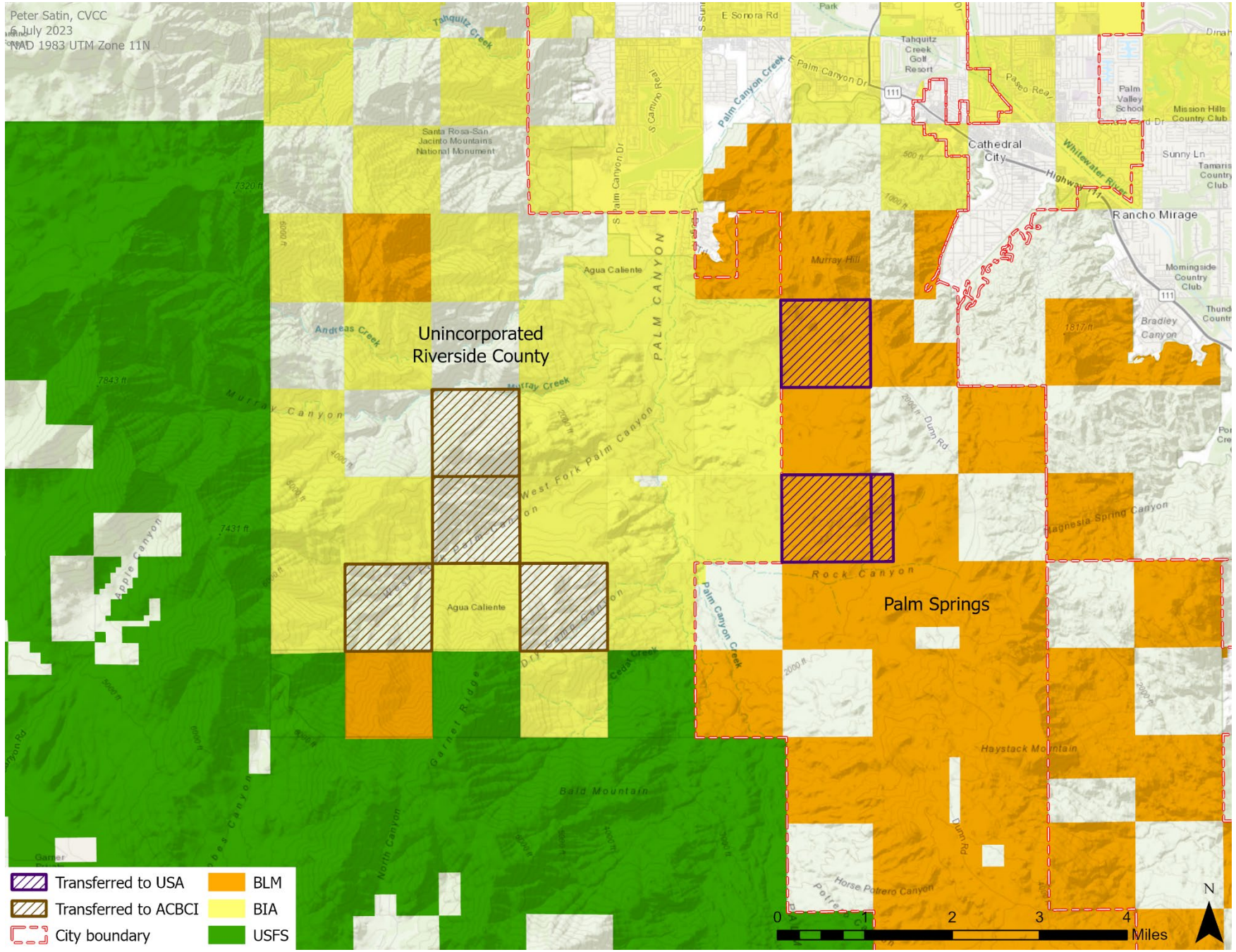


Figure 1: Land exchanged between BLM and ACBCI. Note that lands transferred to ACBCI in 2019 remained privately owned by the Tribe until added to the reservation by the BIA in early 2023, as reflected in the pictured land status.