



# County of San Diego

**MARK WARDLAW**  
DIRECTOR  
PHONE (858) 694-2962  
FAX (858) 694-2555

PLANNING & DEVELOPMENT SERVICES  
5510 OVERLAND AVENUE, SUITE 310, SAN DIEGO, CA 92123  
www.sdcounty.ca.gov/pds

**DARREN GRETLER**  
ASSISTANT DIRECTOR  
PHONE (858) 694-2962  
FAX (858) 694-2555

**PLEASE NOTE THAT A FORMAL APPLICATION FOR A HABITAT LOSS PERMIT HAS NOT BEEN FILED AT THIS TIME. THE FOLLOWING IS A DRAFT FORM OF DECISION FOR A HABITAT LOSS PERMIT SHOWING THE FORMAT AND POSSIBLE CONDITIONS FOR A FUTURE HABITAT LOSS PERMIT. BECAUSE A FORMAL APPLICATION HAS NOT BEEN FILED, CERTAIN DATES, FINDINGS AND OTHER INFORMATION IS ABSENT FROM THE DRAFT FORM OF DECISION, THIS INFORMATION WILL BE INCLUDED IN THE FINAL FORM OF DECISION.**

October 30, 2015

Patrick Brown  
NLP Granger A82, LLC  
17901 Von Karman Avenue, Suite 1050  
Irvine, CA 92614

## **DRAFT DECISION OF THE DIRECTOR Habitat Loss Permit**

APPLICATION NUMBER: HLP XX-XXX, PDS2015-ER-15-02-006

ASSOCIATED PERMIT(S): PDS2015-MUP-15-019

NAME OF APPLICANT: NLP Granger A82, LLC

### DESCRIPTION/LOCATION OF LOSS:

This document presents findings required for the issuance of a Habitat Loss Permit under the Endangered Species Act Section 4(d) rule for the California gnatcatcher (*Poliioptila californica*). The proposed Habitat Loss Permit will allow removal of 10.25 acres of coastal sage scrub and 0.87 acres of flat-topped buckwheat scrub habitat, as shown on the attached Habitat Loss Exhibit dated October 29, 2015.

The proposed Granger Solar project is a major use permit for a solar energy generating facility, located at the northeast corner of the intersection of Mesa Crest Road and Avenida Annalie in the Valley Center Community Planning area of unincorporated San Diego County (Assessor's

Parcel Number 129-162-07). The MUP Project area comprises 27.1 acres of a larger 40.1-acre property.

The proposed Habitat Loss Permit will allow the removal of coastal sage scrub and flat-topped buckwheat scrub habitat associated with Granger Solar project. A Biological Resources Letter Report was prepared for the project by Michael Baker International, dated October 2015. The report identified nine vegetation communities within the project survey area: southern mixed chaparral; coastal sage scrub; coast live oak woodland; flat-topped buckwheat scrub; native grassland; non-native grassland; extensive agriculture; disturbed/ornamental; and developed. The project would result in the loss of the following habitats: 5.91 acres of southern mixed chaparral, to be mitigated at a ratio of 0.5:1 (2.96 acres); 10.25 acres of coastal sage scrub, to be mitigated at a ratio of 1:1 (10.25 acres); 0.05 acre of coast live oak woodland disturbed, to be mitigated at a ratio of 3:1 (0.15 acre); 0.87 acre of flat-topped buckwheat scrub, to be mitigated at a ratio of 1:1 (0.87 acre); 8.38 acres of non-native grassland, to be mitigated at a ratio of 0.5:1 (4.19 acres); and 0.56 acre of extensive agriculture (fallow), to be mitigated at a ratio of 0.5:1 (0.28 acre). A soft-bottomed drainage swale is adjacent to the southern end of the eastern boundary of the 40.1-acre property. No riparian/riverine habitat and aquatic resources were found within the MUP Project area.

#### DECISION:

The Director of Planning & Development Services has approved your application for a HABITAT LOSS PERMIT. This Habitat Loss Permit approval does not become final until both the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) concur with the Director's approval, by the either of the following:

1. Concurrence implied by allowing a 30-day period, initiated by their receipt of this decision, to lapse without presenting written notification to the County that the decision is inconsistent with the Southern California Coastal Sage Scrub (CSS) Natural Community Conservation Planning (NCCP) Process Guidelines (CDFW, November 1993) or any approved subregional mitigation guidelines; or
2. Granting concurrence through written notification to the County prior to the conclusion of the 30-day period, initiated by their receipt of this decision, that the project is consistent with the Southern California CSS NCCP Process Guidelines or any approved subregional mitigation guidelines.

Pending the issuance of an associated Grading Permit, Clearing Permit or Improvement Plan from the County of San Diego, this Habitat Loss Permit allows for the loss of the above-described coastal sage scrub habitat (see attached Habitat Loss Exhibit) and incidental take of the California gnatcatcher for a period of one calendar year commencing the day concurrence is given by both the USFWS and CDFW. If the loss of habitat, as authorized by this Habitat Loss Permit, has not occurred within this one-year period, this Habitat Loss Permit and the authorization for the loss of coastal sage scrub habitat expires.

**This Habitat Loss Permit cannot be relied upon for the clearing, grading or removal of any vegetation until a valid Grading Permit, Clearing Permit or Improvement Plan has been issued from the County of San Diego authorizing such vegetation removal. Furthermore, use and reliance upon this Habitat Loss Permit cannot occur until all of**

the requirements as specified within the “Conditions of Approval” section of this permit have been satisfied.

CONDITIONS OF APPROVAL:

The following conditions are being placed on PDS2015-MUP-15-019. For the final Habitat Loss Permit, the list of conditions will be modified to require satisfaction of all conditions prior to use and reliance on the HLP.

A. Prior to use and reliance on this Habitat Loss Permit, the following conditions shall be met:

1. Obtain approval from the County of San Diego of a Grading Permit, Clearing Permit, or Improvement Plan that authorizes the clearing and/or grading of the area addressed by this Habitat Loss Permit.

2. **BIO#1–OFFSITE MITIGATION [PDS, FEE X2]**

**INTENT:** In order to mitigate for the impacts to oak woodland habitat, which is a sensitive biological resource pursuant to CEQA, offsite mitigation shall be acquired.

**DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of **0.15 acre** of coast live oak woodland, located within a County-approved mitigation bank in North County, as indicated below.

- a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish & Wildlife. The following evidence of purchase shall include the following information to be provided by the mitigation bank:

1. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
2. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
3. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
4. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.

- b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount and type of land located in North County as indicated below:

1. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [PDS].
2. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.

3. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.
4. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
5. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land). Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

**DOCUMENTATION:** The applicant shall purchase the offsite mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval.

**TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the mitigation shall occur. **MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an application for an RMP, and [PDS, PPD] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

3. **BIO#2–OFFSITE MITIGATION [PDS, FEE X2]**

**INTENT:** In order to mitigate for the impacts to southern mixed chaparral, which is a sensitive biological resource pursuant to CEQA, offsite mitigation shall be acquired.

**DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of **2.96 acres** of southern mixed chaparral, located within a County-approved mitigation bank within North County, as indicated below.

- a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish & Wildlife. The following evidence of purchase shall include the following information to be provided by the mitigation bank:
  5. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
  6. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.

7. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
  8. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.
- b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount and type of land located in North County as indicated below:
6. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [PDS].
  7. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.
  8. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.
  9. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
  10. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land). Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

**DOCUMENTATION:** The applicant shall purchase the offsite mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval.

**TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the mitigation shall occur. **MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an application for an RMP, and [PDS, PPD] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

4. **BIO#3—OFFSITE MITIGATION [PDS, FEE X2]**

**INTENT:** In order to mitigate for the impacts to coastal sage scrub, which is a sensitive biological resource pursuant to CEQA, offsite mitigation shall be acquired.

**DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of **10.25 acres** of coastal sage scrub, located within a County-approved mitigation bank within North County, as indicated below.

- a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish & Wildlife. The following evidence of purchase shall include the following information to be provided by the mitigation bank:
  9. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
  10. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
  11. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
  12. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.
- b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount and type of land located in North County as indicated below:
  11. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [PDS].
  12. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.
  13. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.
  14. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
  15. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land). Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat,

and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

**DOCUMENTATION:** The applicant shall purchase the offsite mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval.

**TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the mitigation shall occur.

**MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an application for an RMP, and [PDS, PPD] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

5. **BIO#4–OFFSITE MITIGATION [PDS, FEE X2]**

**INTENT:** In order to mitigate for the impacts to flat-topped buckwheat scrub, which is a sensitive biological resource pursuant to CEQA, offsite mitigation shall be acquired.

**DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of **0.87 acre** of flat-topped buckwheat scrub, located within a County-approved mitigation bank within North County as indicated below.

a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish & Wildlife. The following evidence of purchase shall include the following information to be provided by the mitigation bank:

13. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
14. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
15. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
16. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.

b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount and type of land located in North County as indicated below:

16. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [PDS].
17. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and

Content Requirements to the satisfaction of the Director of PDS. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.

18. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.
19. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
20. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land). Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

**DOCUMENTATION:** The applicant shall purchase the offsite mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval.

**TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the mitigation shall occur.

**MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an application for an RMP, and [PDS, PPD] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

#### 6. **BIO#5-OFFSITE MITIGATION [PDS, FEE X2]**

**INTENT:** In order to mitigate for the impacts to non-native grassland and extensive agriculture, which is a sensitive biological resource pursuant to CEQA, offsite mitigation shall be acquired. **DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of **4.19 acres** of non-native grassland and **0.28 acre** of extensive agriculture, located within a County-approved mitigation bank within North County as indicated below.

- a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish & Wildlife. The following evidence of purchase shall include the following information to be provided by the mitigation bank:

17. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.

18. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
  19. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
  20. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.
- b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation habitat of the same amount and type of land located in North County as indicated below:
21. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [PDS].
  22. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.
  23. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.
  24. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
  25. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land). Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

**DOCUMENTATION:** The applicant shall purchase the offsite mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval.

**TIMING:** Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit, the mitigation shall occur. **MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an

application for an RMP, and [PDS, PPD] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

B. Prior to use and reliance on this permit the following conditions shall be placed on the face of all future grading permits or improvement plans:

1. **BIO#1–BIOLOGICAL MONITORING [PDS, FEE X3]**

**INTENT:** In order to prevent inadvertent disturbance to areas outside the limits of grading, all grading, clearing, grubbing, trenching, and construction activities shall be monitored by a biological monitor. **DESCRIPTION OF REQUIREMENT:** A County approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities to ensure that there are no impacts outside of the approved limits of grading and disturbance areas. The Project Biologist shall also perform the following duties before construction to comply with the conditions of this Grading Plan:

1. Supervise and verify placement of temporary fencing of open space easements. The placement of such fencing shall be approved by the [PDS, PCC].
2. The Biologist shall attend the preconstruction meetings and other meetings to discuss construction requirements. Such meeting shall include the [PDS, PCC].

**DOCUMENTATION:** The Biological Monitor shall prepare written documentation that certifies that the temporary fencing has been installed and that all construction staff has been trained on the site sensitive biological resources that are to be avoided. **TIMING:** Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances this condition shall be completed. **MONITORING:** The [DPW, PDC] shall invite the [PDS, PCC] to the preconstruction conference to coordinate the Biological Monitoring requirements of this condition. The [PDS, PCC] shall attend the preconstruction conference and verify the installation of the temporary fencing and approve the training documentation prepared by the biologist.

2. **BIO#2–TEMPORARY FENCING [PDS, FEE]**

**INTENT:** In order to prevent inadvertent disturbance to sensitive habitat, temporary construction fencing shall be installed. **DESCRIPTION OF REQUIREMENT:** Prior to the commencement of any grading and/or clearing in association with this grading plan, temporary orange construction fencing shall be placed to protect from inadvertent disturbance of all open space easements that do not allow grading, brushing or clearing. Temporary fencing is also required in all locations of the project where proposed grading or clearing is within 100 feet of an open space easement boundary. The placement of such fencing shall be approved by the PDS, Permit Compliance Section. Upon approval, the fencing shall remain in place until the conclusion of grading activities after which the fencing shall be removed. **DOCUMENTATION:** The applicant shall provide evidence that the fencing has been installed and have a California licensed surveyor certify that the fencing is located on the boundary of the open space easement(s). The applicant shall submit photos of the fencing along with the certification letter to the [PDS, PCC] for approval. **TIMING:** Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances the fencing shall be installed, and shall remain for the duration of the grading and clearing. **MONITORING:** The [PDS, PCC] shall either attend the preconstruction conference and approve the installation of the temporary fencing, or review the certification and pictures provided by the applicant.”

3. **BIO#3-RESOURCE AVOIDANCE [PDS, FEE X2]**

**INTENT:** In order to avoid impacts to nesting raptors and migratory birds, which are sensitive biological resources pursuant to CEQA, the Migratory Bird Treaty Act, and California Fish and Game Code, breeding season avoidance shall be implemented on all plans. **DESCRIPTION OF REQUIREMENT:** There shall be no brushing, clearing and/or grading such that none will be allowed between January 15 and August 31. The Director of PDS [PDS, PCC] may waive this condition, through written concurrence from the US Fish and Wildlife Service and the California Department of Fish and Wildlife, provided that no nesting or breeding birds are present in the vicinity or within 300 feet of the brushing, clearing or grading, based on a pre-construction survey conducted by a County-approved biologist within 10 days prior to the proposed start of grading. **DOCUMENTATION:** The applicant shall provide a letter of agreement with this condition; alternatively, the applicant may submit a written request for waiver of this condition. No grading shall occur until concurrence is received from the County and the Wildlife Agencies. **TIMING:** Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies. Additional conditions such as biological monitoring or sound walls may apply if a waiver is granted. **MONITORING:** The [DPW, PDCI] shall not allow any grading during the specified dates, unless a concurrence from the [PDS, PCC] is received. The [PDS, PCC] shall review the concurrence letter.

ENVIRONMENTAL FINDINGS:

- A. CEQA Findings: **TO BE PROVIDED IN FINAL HLP**
- B. FINDINGS MADE IN SUPPORT OF THE ISSUANCE OF THE HABITAT LOSS PERMIT:

The following findings are made based upon all of the documents contained in the record for this project, and pursuant to Section 86.104 of County of San Diego Ordinance No. 8365 (N.S.) and Section 4.2.g of the CSS NCCP Process Guidelines (CDFW, November 1993):

Finding 1.a: The habitat loss does not exceed the five percent guideline.

The proposed project will impact 10.25 acres of coastal sage scrub, 0.87 acre of flat-topped buckwheat scrub, and zero pairs of California gnatcatcher (*Poliioptia californica*). Approved coastal sage scrub losses as of the date of October 30, 2015 and including this approval, for the entire unincorporated County, outside the boundaries of the Multiple Species Conservation Program (MSCP), are presented in the following table:

Unincorporated Area Coastal Sage Scrub Cumulative Losses	
Total loss allowed under five percent guideline:	2953.30 acres
Cumulative loss of Coastal sage scrub to date:	1205.38 acres
Net loss due to this project:	11.12 acres
Total cumulative loss:	1216.50 acres
Remaining loss under five percent guideline:	1736.80 acres

Finding 1.b: The habitat loss will not preclude connectivity between areas of high habitat values.

The project site does not have direct connectivity to adjacent lands of higher quality habitats, since the site is surrounded by roads and residential and agricultural uses. The Project site does not support habitats that could facilitate wildlife movements for large mammals on a regional scale. Due to these obstructions to wildlife movements around the site and the lack of surrounding blocks of natural areas, no core areas of habitat suitable for use by resident populations of wildlife, as either wildlife corridors or parts of a larger regional linkage, exist on or adjacent to the site. Further, the draft North County MSCP Subarea Plan does not recognize or designate any locally or regionally important wildlife corridors or linkages on or in the immediate vicinity of the site. Therefore, the habitat loss will not preclude connectivity between areas of high habitat values.

Finding 1.c: The habitat loss will not preclude or prevent the preparation of the subregional NCCP.

The project site is located outside of hardline conservation areas and pre-approved mitigation areas (PAMA) under the draft North County Plan. The project site is surrounded by existing rural residential and agricultural uses to the north, south, and west, as well as rural vacant and agricultural land to the east. The proposed project and associated loss of 10.25 acres of coastal sage scrub and 0.87 acre of flat-topped buckwheat scrub will not preclude or prevent the preparation of a subregional NCCP because the project site is not strategically located for preservation, nor as it does not constitute a wildlife corridor or core area.

Finding 1.d: The habitat loss has been minimized and mitigated to the maximum extent practicable in accordance with Section 4.3 of the NCCP Process Guidelines.

Approximately 27.1 acres of a larger 40.1-acre property is proposed to be developed with a solar energy generating facility. The size of the site does not allow for on-site preservation; therefore, habitat loss could not be further minimized onsite. The impacts to 10.25 acres of coastal sage scrub and 0.87 acre of flat-topped buckwheat scrub will be mitigated off-site within a County-approved mitigation bank within North San Diego County at a 1:1 ratio. By providing 10.25 acres of coastal sage scrub and 0.87 acre of flat-topped buckwheat scrub with superior habitat connectivity and assured maintenance in perpetuity, the habitat loss will be mitigated to the maximum extent practicable.

Finding 2 The habitat loss will not appreciably reduce the likelihood of survival and recovery of listed species in the wild.

Suitable habitat for California gnatcatchers exists within the project site; however protocol surveys conducted for the project did not detect this species onsite. No State or federally listed species, County List C or D plant species, or County Group II animal species were observed within the project study area. The site has the potential to support ground- and tree-nesting sensitive raptor species; however, the proposed project mitigation, including the purchase of habitat credits and/or the purchase, conservation, and/or habitat management of land supporting 2.96 acres of southern

mixed chaparral, 10.25 acres of coastal sage scrub, 0.15 acre of coast live oak woodland, 0.87 acre of flat-topped buckwheat scrub, 4.19 acres of non-native grassland, and 0.28 acre of extensive agriculture, would mitigate potential impacts to sensitive raptors. Purchase of offsite mitigation will provide suitable habitat for raptors and other sensitive species. Therefore, the habitat loss will not appreciably reduce the likelihood of survival and recovery of listed species in the wild.

Finding 3: The habitat loss is incidental to otherwise lawful activities.

The project will require landscape plans, a major use permit, and grading permit from the County of San Diego. The issuance of a Habitat Loss Permit by the County of San Diego, with the concurrence of the Department of Fish and Wildlife and U.S. Fish and Wildlife Service and approval by the County of San Diego of a Grading Permit, Clearing Permit, or Improvement Plan is required prior to the clearing of any coastal sage scrub or flat-topped buckwheat scrub supported on the project site. No state or federal permits are identified as being required at this time. Construction and/or land use modification will not commence until all appropriate permits have been issued. The project has been found to be in conformance with Section 86.104 of the San Diego County Code. As such, the anticipated loss will be incidental to “otherwise lawful activities”.

#### NCCP FLOWCHART

1. Is natural vegetation present? **Yes.**
2. Is Coastal sage scrub present? **Yes.**
3. Is Coastal sage scrub the most dense in the subregion? **No.**
4. Is the land close to high value district. **No.**
5. Is the land located in a corridor between higher value districts. **No.**
6. Does the land support high density of target species? **No.**

Based on the NCCP Logic Flow Chart, the quality of habitat supported on the Mountain Health and Community Services project is defined as being “Low Value.”

#### MITIGATION MONITORING AND REPORTING PROGRAM:

The following shall be the Mitigation Monitoring or Reporting Program for this Habitat Loss Permit:

Public Resources Code Section 21081.6 requires the County to adopt a mitigation reporting or monitoring program for any project that is approved on the basis of a mitigated Negative Declaration or an Environmental Impact Report for which findings are required under Section 21081(a)(1). The program must be adopted for the changes to a project which the County has adopted, or made a condition of project approval, in order to mitigate or avoid significant effects on the environment. The program must be designed to ensure compliance during project implementation.

The mitigation monitoring program is comprised of all the environmental mitigation measures adopted for the project. The full requirements of the program (such as what is being

monitored, method and frequency, who is responsible, and required time frames) are found within the individual project conditions. These conditions are referenced below by category under the mechanism which will be used to ensure compliance during project implementation.

- Subsequent Project Permits

Compliance with the following conditions is assured because specified subsequent permits or approvals required for this project will not be approved until the conditions have been satisfied:

A1, A2, A3, A4, A5, A6

- Enforcement

Compliance with the following conditions is assured because complaints of non-compliance may be provided by the public to the County which may then investigate the status of compliance and pursue enforcement:

B1, B2, B3

**NOTICE:** The issuance of this permit by the County of San Diego does not authorize the applicant for said permit to violate any federal, state, or county laws, ordinances, regulations, or policies, including but not limited to, the federal Endangered Species Act and any amendments thereto.

**JUDICIAL REVIEW TIME LIMITATIONS:** The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure Section 1094.6, which has been made applicable in the County of San Diego by San Diego County Code Section 11.120. Any petition or other paper seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision becomes final; however, if within 10 days after the decision becomes final a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the party, or the party's attorney of record. A written request for the preparation of the record of the proceedings shall be filed with the Director, Planning & Development Services, 5510 Overland Avenue, Suite 110, San Diego, California 92123.

The foregoing decision was approved by the Director of Planning & Development Services on date of decision. A copy of this decision, and the documentation supporting the decision, is on file in the Planning & Development Services office at 5510 Overland Avenue, Suite 110, San Diego, California.

PLANNING & DEVELOPMENT SERVICES  
MARK WARDLAW, DIRECTOR

BY:

CARA LACEY, Chief  
Project Planning Division

Attachments

Habitat Loss Exhibit dated October 29, 2015  
Draft North County MSCP Map

email cc:

Thomas McGill, Principal Biologist, Michael Baker International, Inc.

Steve Wragg, Project Manager, Michael Baker International, Inc.

Patrick Brown, BayWa R.E.

Benjamin Mills, Project Manager, Project Planning, Planning & Development Services

Mindy Fogg, Planning Manager, Project Planning, Planning & Development Services

Valley Center Community Planning Group

**Impact Table**

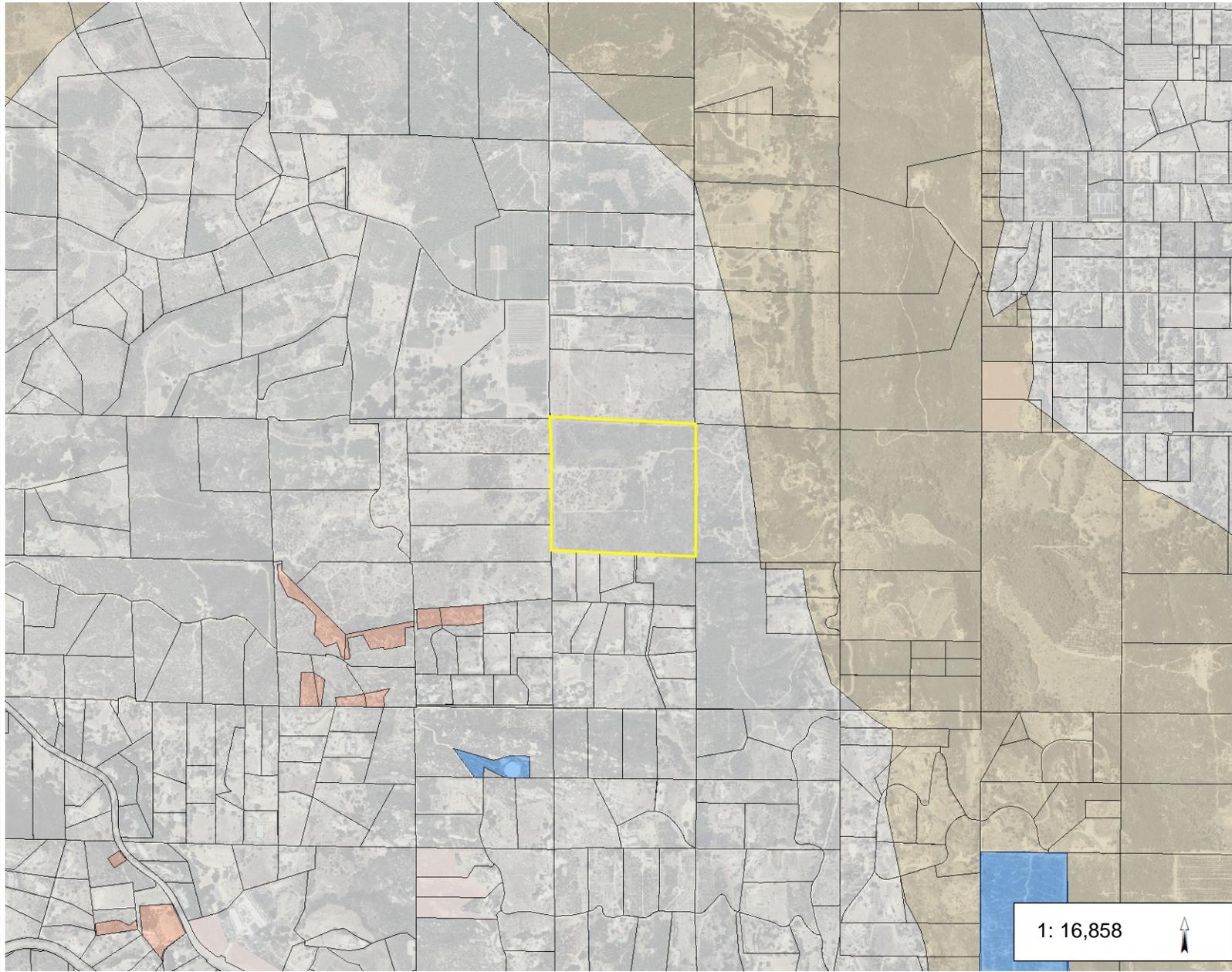
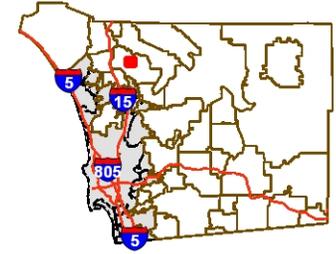
OR - Ornamental (0.03 Acres)
<b>FBS - Flat-topped Buckwheat Scrub (0.87 Acres)</b>
CLOW-D - Coast Live Oak Woodland Disturbed (0.05 Acres)
<b>CSS - Coastal Sage Scrub (8.11 Acres)</b>
<b>CSS-D - Coastal Sage Scrub Disturbed (2.13 Acres)</b>
DEV - Developed (0.12 Acres)
DIST - Disturbed (0.31 Acres)
NNG - Non-native Grassland (8.38 Acres)
Agriculture - Fallow (0.56 Acres)
SMC - Southern Mixed Chaparral (5.91 Acres)

**Legend**

Impact Area (See Impact Table)	
Property Boundary	
<b>All Vegetation Within 100' Buffer</b>	
OR - Ornamental (0.03 Acres)	
CLOW - Coast Live Oak Woodland (0.63 Acres)	
CLOW-D - Coast Live Oak Woodland Disturbed (0.52 Acres)	
DEV - Developed (3.87 Acres)	
DIST - Disturbed (2.39 Acres)	
NG - Native Grassland (0.10 Acres)	
NNG - Non-native Grassland (8.38 Acres)	
Agriculture - Active (0.36 Acres)	
Agriculture - Fallow (3.74 Acres)	
SMC - Southern Mixed Chaparral (15.64 Acres)	
SMC-RO - Southern Mixed Chaparral with Rock Outcrops (1.42 Acres)	
QuEn - Quercus Engelmannii (2 Trees)	
QuAg - Quercus Agrifolia (150 Trees)	
<b>FBS - Flat-topped Buckwheat Scrub (1.34 Acres)</b>	
<b>CSS - Coastal Sage Scrub (11.58 Acres)</b>	
<b>CSS-D - Coastal Sage Scrub Disturbed (2.38 Acres)</b>	
2	Number of Oak Trees



# Draft North County MSCP Map



## Legend

- Parcels
- NCMSCP Designations (Draft)**
  - Preserve Areas
  - Pre-Approved Mitigation Area (PAM)
  - Outside Pre-Approved Mitigation Area
  - Pre-negotiated (Hardlined) Take Area
  - Special Districts
  - Tribal Lands/Out of Plan
  - US Forest Service
  - Biological Open Space Easement

1: 16,858



## Notes