

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.

DATE (to be determined)
Draft date: May 2008

Montecito Ranch LLC
402 West Broadway, Suite 1320
San Diego, CA 92101

**DRAFT
Habitat Loss Permit**

APPLICATION NUMBER: HLP XX-XXX, ER 01-09-013X

ASSOCIATED PERMIT(S): Montecito Ranch; GPA 04-013, SP 01-001, R 04-22, TM 5250, P 04-045, ER 01-09-013

NAME OF APPLICANT: Montecito Ranch, LLC

DESCRIPTION/LOCATION OF LOSS:

This document presents findings required for the issuance of a Habitat Loss Permit (HLP) under the Endangered Species Act Section 4(d) rule for the California gnatcatcher (*Polioptila californica*). The action being addressed within these findings is the removal of coastal sage scrub associated with the Montecito Ranch project within the County of San Diego. The project will impact 69.31 acres of coastal sage scrub (CSS) of the total 318.93 acres present onsite as shown on the attached Habitat Loss Exhibit. An additional 2.20 acres of CSS will be impacted offsite.

The proposed project is located on 935.2 acres in unincorporated community of Ramona, San Diego County. The project site borders State Route 78 to the north and Montecito Way stems from the southern boundary. The project is approximately 1 mile northwest of the Ramona town center and 0.5 miles north of the Ramona Airport. The project location is indicated on the attached USGS map.

The proposed project would directly impact 397.04 acres onsite through the development of 417 single family residential units, park site including various equestrian

facilities, trails, road construction, and improvements. The project would also impact 26.87 acres offsite which includes offsite road improvements and development of one of the two wastewater management options. Option one would include an extension of a sewer main offsite and option two would create an onsite wastewater reclamation facility if offsite wastewater facilities are not feasible. Option two impacts an additional 24.77 acres. The impacts to coastal sage scrub are the same with either option. This draft HLP reflects option two. Overall a total of 423.91 acres would be impacted and 538.16 acres would be preserved.

The project is located within the Ramona Grassland region. The Ramona Grasslands are approximately 9,000 acres in size and considered an important ecosystem in the region, supporting raptor populations as well as two federally listed endangered species: Stephens' kangaroo rat and San Diego fairy shrimp. Non-native grassland currently covers approximately 297.14 acres in the southwestern and eastern portions of the Project site; however, 246.92 acres of the on-site non-native grassland is area that was previously impacted and mitigated under a separate action. A total of 22.61 acres of non-native grassland will be placed in biological open space. All additional impacts are required to be mitigated offsite at a 1:1 mitigation ratio.

Biological Resources were evaluated by REC Consultants Inc. Five sensitive plant species were observed onsite: peninsular spineflower (*Chorizanthe leptotheca*), delicate clarkia (*Clarkia delicata*), rush-like bristleweed (*Machaeranthera juncea*), Engelmann oak (*Quercus engelmannii*), and southern tarplant (*Centromadia parryi* ssp. *australis*). Ten sensitive wildlife species were observed onsite: California gnatcatcher (*Poliioptila californica californica*), southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*), loggerhead shrike (*Lanius ludovicianus*), red-shouldered hawk (*Buteo lineatus*), turkey vulture (*Cathartes aura*), coastal whiptail (*Aspidoscelis tigris stejnegeri*), San Diego horned lizard (*Phrynosoma coronatum blainvillei*), two-striped garter snake (*Thamnophis hammondi*), San Diego black-tailed jackrabbit (*Lepus californicus bennettii*), and San Diego desert woodrat (*Neotoma lepida* ssp. *intermedia*). No sensitive plant or animal species were observed offsite.

Focused surveys for Quino checkerspot butterfly (*Euphydryas editha quino*), Stephens' kangaroo rat (*Dipodomys stephensii*), and San Diego fairy shrimp (*Branchinecta sandiegonensis*) were conducted and resulted in negative findings. Surveys for least Bell's vireo (*Vireo bellii pusillus*) were conducted in 2002 and none were observed on or offsite. Stephens' kangaroo rat surveys were conducted in 1998, 2001 and 2007. The most recent surveys along with genetic testing performed by Dr. O'Farrell indicate that Stephens' kangaroo rat is absent from the site.

The site is within a block of high and very high value habitat with portions of developed, low, and medium quality habitat as indicated by the County Habitat Evaluation Map. The NCCP flowchart indicates the CSS habitat is "high value for long term conservation", although the project site is not within critical habitat for the California gnatcatcher (*Poliioptila californica californica*). Onsite protocol surveys were performed in 1997 and 2001 for California gnatcatcher. Twenty individual California gnatcatchers

were observed onsite. During the series of focused protocol surveys for this species completed by REC biologists in 2001, twenty (20) gnatcatchers were observed on site, and included four “family groups” (two pairs with two juveniles, one pair with three juveniles, and one pair with one juvenile) and two pairs (Figure 3.2-1 of the EIR). These results are consistent with the previous focused survey conducted by Dudek and Associates, Inc. in 1997, which located five pairs of gnatcatchers on site.

The project footprint was the subject of a hardline agreement with the Wildlife Agencies for the draft North County Multiple Species Conservation Program (MSCP). The project has minimized impacts to the core area habitat with the greatest potential for connectivity to the north, south, and west.

The project has also minimized impacts to the best quality CSS, and avoided all locations where California gnatcatcher were surveyed. The project will preserve 249.62 acres (72%) of coastal sage scrub within biological open space. In addition to dedication of onsite open space and purchase of offsite habitat, biological mitigation includes: dedication of a 100-foot wide limited building zone easement adjacent to open space and project boundaries, temporary and permanent fencing, open space signs at the open space boundary adjacent to proposed development, construction limitations to avoid take of gnatcatchers, raptors, and migratory birds, and implementation of a Resource Management Plan.

Table 1. On-Site Vegetation Communities, Impacts and Mitigation

TABLE 1 SUMMARY OF REQUIRED MITIGATION FOR ON-SITE IMPACTS ASSOCIATED WITH THE PROPOSED PROJECT (WASTEWATER MANAGEMENT OPTION 2 ONLY)									
Vegetation Community/ Habitat	Existing On Site (acres)	Project Impacts (acres)	Open Space Existing and Proposed (acres)	Mitigation Ratio	Mitigation Required (acres)	Impact Neutral (acres)	Mitigated On Site (acres)	Excess Open Space After Mitigation (acres)	Acreage Mitigated Off Site
Southern coast live oak riparian forest	10.60	0	10.60	3:1 ^a	0	9.42 ^b	0	1.18	0
Southern riparian scrub	0.30	0	0.30	3:1 ^a	0	0.30	0	0	0
Disturbed wetland	0.73	0	0.73	3:1 ^a	0	0	0	0.73	0
Dense Engelmann oak woodland	13.60	0.93 ^c	12.67	3:1	2.79	8.61 ^b	2.79	1.27	0
Open Engelmann oak woodland	18.60	0.39 ^d	18.21	3:1	1.17	4.19 ^b	1.17	12.85	0
Diegan coastal sage scrub	318.93	69.31	249.62	2:1	138.62	0.52 ^b + 106.90 ^e	138.62	3.58	0
Southern mixed chaparral	229.10	123.27	105.83	0.5:1	61.63	1.16 ^b + 4.00 ^d	61.63	39.04	0
Chamise chaparral	25.20	11.57	13.63	0.5:1	5.78	0	5.78	7.85	0
Non-native grassland	50.22	27.61	22.61	1:1 ^f	27.61	1.60 ^b + 15.08 ^e	5.93	0	21.68
Eucalyptus woodland	2.50	0.14	2.36	0:1	0	0	0	2.36	0
Developed land	18.50	13.19	5.31	0:1	0	1.25	0	4.06	0
Mitigated impacted area	246.92	150.63	96.29	0:1	0	0.27 ^b + 93.27 ^e	0	2.75	0
TOTAL	935.20	397.04	538.16	--	237.59	246.57	215.92	75.67	21.68

Source: EIR Table 3.2-7:REC 2008b

^a Includes a minimum 1:1 creation ratio.

^b This amount is not available for use as mitigation because it is considered an RPO wetland or wetland buffer.

^c Includes impacts to 0.14 acre of oak root zone.

^d Includes impacts to 0.11 acre of oak root zone.

^e This amount is not available for use as mitigation because it is already within open space.

^f The 1:1 ratio accounts for a 0.5:1 mitigation ratio for impacts to non-native grassland habitat and an additional 0.5:1 mitigation ratio for impacts associated with the loss of raptor foraging lands in the Ramona Grasslands area.

Table 2. Off-Site Vegetation Communities, Impacts and Mitigation

Table 2 SUMMARY OF REQUIRED MITIGATION FOR OFF-SITE IMPACTS					
Vegetation Community/Habitat	Existing/ Impacted Acreage	Mitigation Ratio	Mitigation Required	On site Mitigation	Offsite Mitigation
Riparian woodland	0.24	3:1	0.72	0	0.72
Diegan coastal sage scrub	2.20	2:1	4.40	3.58	0.82
Non-native grassland	5.00	1:1	5.00	0	5.00
Eucalyptus	1.64	0:1	0	0	0
Agriculture/pasture land	2.10	1:1	2.10	0	2.10
Disturbed habitat	3.89	0:1	0	0	0
Developed land	11.80	0:1	0	0	0
(1) TOTAL	26.87	--	12.22	3.58	8.64

Source: EIR Table 3.2-8:REC 2008b

DECISION:

The Director of Planning and Land Use 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 Game (CDFG) concur with the Director's approval, by 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 (CDFG, 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 CDFG. 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 shall be complied with before a Final Map is approved by the Board of Supervisors and filed with the County Recorder of San Diego County (and, where specifically, indicated, shall also be complied with prior to issuance of grading or other permits as specified):

- A. Prior to approval of grading and/or improvement plans for applicable units of phases, and prior to approval of the Final Map, the applicant shall, grant to the County of San Diego and the California Department of Fish and Game by separate document, an open space easement, or grant to the California Department of Fish and Game a conservation easement, as shown on the Figure 3.2-11 of the Draft Environmental Impact Report on file with the Department of Planning and Land Use as Environmental Review Number 01-09-013. This easement is for the protection of biological resources and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. Granting of this open space authorizes the County and its agents to periodically access the land to perform management and monitoring activities for the purposes of species and habitat conservation.

The sole exceptions to this prohibition are:

1. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the Uniform Fire Code and the Memorandum of Understanding dated February 26, 1997, between the wildlife agencies and the fire districts and any subsequent amendments thereto.

2. Activities conducted pursuant to a Revegetation, Restoration, or Habitat/Resource Management Plan approved by the Director of Planning and Land Use.
 3. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the Department of Environmental Health of the County of San Diego.
- B. Grant to the County of San Diego Limited Building Zone Easements as shown on Figure 3.2-8 in the Draft Environmental Impact Report on file with the Department of Planning and Land Use as Environmental Review Number 01-09-013. The purpose of this easement is to limit the need to clear or modify vegetation for fire protection purposes within the adjacent biological open space easement and prohibits the construction or placement of any structure designed or intended for occupancy by humans or animals. The only exceptions to this prohibition are:
1. Decking, fences, and similar facilities.
 2. Sheds, gazebos, and detached garages, less than 250 square feet in total floor area, that are designed, constructed and placed so that they do not require clearing or fuel modification within the biological open space easement, beyond the clearing/fuel modification required for the primary structures on the property.
- C. Prior to the approval of any plans, issuance of any permit, and approval of any final map(s), provide evidence to the satisfaction of the Director of Planning and Land that 0.82 acres of coastal sage scrub habitat credit has been secured in a mitigation bank approved by the California Department of Fish & Game, located with in the Central Foothills region. 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.

-OR-

Provide for the conservation and habitat management of a minimum of 0.82 acres of coastal sage scrub habitat located in the Central Foothills ecoregion. A Resource Management Plan (RMP) must be submitted and approved by the Director of the Department of Planning and Land Use. The plan shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Requirement Guidelines. An open space easement over the acquired habitat must be dedicated to the County of San Diego prior to or immediately following the approval of the RMP. Alternatively, proof that a federal, state or local government agency with the primary mission of resource management has taken fee title to the land will be accepted in lieu of an easement.

- D. Prior to the approval of any plans, issuance of any permit, and approval of any final map(s), provide evidence to the satisfaction of the Director of Planning and Land that 26.68 acres of non native grassland habitat credit has been secured in a mitigation bank approved by the California Department of Fish & Game, located with in the Ramona Grassland region. 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.

-OR-

Provide for the conservation and habitat management of a minimum of 26.68 acres of non native grassland habitat located in the Ramona Grassland region. A Resource Management Plan (RMP) must be submitted and approved by the Director of the Department of Planning and Land Use. The plan shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Requirement Guidelines. An open space easement over the acquired habitat must be dedicated to the County of San Diego prior to or immediately following the approval of the RMP. Alternatively, proof that a federal, state or local

government agency with the primary mission of resource management has taken fee title to the land will be accepted in lieu of an easement.

- E. Prior to the conclusion of grading activities and Final Grading Release, provide evidence to the satisfaction of the Director of Planning and Land Use that the permanent fences or walls, and open space signs have been placed along the biological open space boundary as shown on Figure 3.2-10 and 11 in the Draft Environmental Impact Report on file with the Department of Planning and Land Use as Environmental Review Number 01-09-013.

1. The fence or wall shall be a minimum of four feet (4') high and consist of split rail. Any change in construction materials and fence or wall design shall be approved by the Department of Planning and Land Use prior to installation.
2. Evidence shall be site photos and a statement from a California Registered Engineer, or licensed surveyor that the permanent walls or fences, and open space signs have been installed.
3. The signs must be corrosion resistant, a minimum of 6" x 9" in size, on posts not less than three (3) feet in height from the ground surface, and must state the following:

"Sensitive Environmental Resources"
Entry Beyond this Point is Prohibited
by Easement
Information:

Contact County of San Diego, Department of Planning and Land
Use
Ref: 01-09-013"

- F. 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 temporary fencing shall be removed after the conclusion of such activity."
- G. Cause to be placed on grading and/ or improvement plans and on the Final Map, the following: "Restrict all brushing, clearing and/or grading such that none will be allowed within 300 feet of Diegan coastal sage scrub habitat during the breeding season of California gnatcatcher, 300 feet of occupied Coastal cactus wren habitat during the breeding season,

and 300 feet of ground-nesting raptor habitat during the breeding season. Breeding seasons are defined as: California gnatcatcher - February 15 through August 31; coast cactus wren - February 15 through August 15; raptors - February 15 through July 15. The Director of Planning and Land Use may waive this condition through written concurrence from the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG), that no California gnatcatchers, Coastal cactus wren, or nesting raptors are present in the vicinity of the brushing, clearing or grading.”

- H. Prior to approval of grading and/or improvement plans, and prior to approval of the Final Map, provide evidence to the satisfaction of the Director of Planning and Land Use that the following “Agency Permits” have been obtained:
1. Provide the Director of Planning and Land Use with a copy of a Clean Water Act, Section 401/404 permit issued by the California Regional Water Quality Control Board and the U.S. Army Corps of Engineers for all project related disturbances of waters of the U.S. and/or associated wetlands or provide evidence satisfactory to the Director of Planning and Land Use that such permit is not required.
 2. Provide the Director of Planning and Land Use with a copy of a Streambed Alteration Agreement issued by the California Department of Fish and Game for all project related disturbances of any streambed or provide evidence satisfactory to the Director of Planning and Land Use that such an agreement is not required.
- I. Prior to approval of grading or improvement plans, and prior to approval of the Final Map, the applicant shall submit to and receive approval from the Director of the Department of Planning and Land Use, a Resource Management Plan (RMP). The RMP shall be for the perpetual management of the projects open space as shown on Figure 3.2-9 in the Draft Environmental Impact Report on file with the Department of Planning and Land Use as Environmental Review Number 01-09-013. The RMP shall be consistent with the conceptual RMP on file with the Department of Planning and Land Use as Environmental Review Number 01-09-013. The plan shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Requirement Guidelines.
- J. Provide to the satisfaction of the Director of Planning and Land Use evidence of a contract with a County approved biologist to perform biological monitoring during all grading and clearing activities. The contract shall include the following:

1. The biologist shall supervise and verify placement of temporary fencing of open space easements.
2. Supervise and monitor grading activities to ensure against damage to biological resources that are intended to be protected and preserved. If there are disturbances, the monitor must report them immediately to DPLU Permit Compliance Coordinator.
3. When all grading activities have been completed, the biologist shall prepare and submit a final letter report substantiating his/her supervision of the grading activities and substantiating that grading did not impact additional areas of Diegan coastal sage scrub or other sensitive biological resources. The report shall include but not be limited to the following items:
 - a. Photos of the temporary fencing that was installed during the grading.
 - b. Monitoring logs showing the date and time that the monitor was on site.
 - c. Photos of the site after the grading and clearing activities.
4. The Biological monitor shall perform the following duties:
 - a. Prepare a California gnatcatcher-monitoring program to the satisfaction of DPLU and the Wildlife Agencies;
 - b. Perform weekly inspection of fencing and erosion control measures (daily during rain events) in the vicinity of proposed preservation areas and report deficiencies immediately to the DPW Construction Inspector;
 - c. Periodically monitor the work area for excessive dust generation in compliance with the County grading ordinance and report deficiencies immediately to the DPW Construction Inspector;
 - d. Conduct training for contractors and construction personnel, including the purpose for resource protection, a description of the gnatcatcher and its habitat, and the conservation measures that should be implemented during project construction;
 - e. Monitor construction lighting periodically to ensure lighting is the lowest illumination possible allowed for safety, selectively placed, shielded, and directed away from preserved habitat;
 - f. Monitor equipment maintenance, staging, and fuel dispensing areas to ensure there is no runoff to Waters of the US;
 - g. Stop or divert all work when deficiencies require remediation and notify DPW Construction Inspector within 24 hours; (8) produce periodic (monthly during grading) and final reports and submit to the Wildlife Agencies and the DPLU (final report will release bond);

- h. Confer with the Wildlife Agencies and DPLU Permit Compliance Coordinator within 24 hours any time protected habitat or gnatcatchers are being affected by construction;
 - i. Attend preconstruction meetings and other meetings as necessary.
 - j. Prepare and submit to the satisfaction of the Wildlife Agencies and DPLU monthly monitoring reports as indicated above.
- K. Cause to be placed on the face of the grading and improvement plans the following, "The biological monitor shall be on-site daily during clearing and grading in or adjacent to sensitive habitat, and weekly after clearing and grading have been completed to check that all measures are adequately and fully implemented."

ENVIRONMENTAL FINDINGS:

A. CEQA Findings

TO BE PROVIDED

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 (CDFG, November 1993):

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

The proposed project will impact a total of 71.51 acres of coastal sage scrub. The portions of the coastal sage scrub on-site that support twenty individual California gnatcatchers will be preserved. Approved coastal sage scrub losses as of May 30, 2008 and including this approval, for the entire unincorporated County, outside the boundaries of the Multiple Species Conservation Program (MSCP), are:

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:	1113.98 acres
Net loss due to this project:	71.51 acres
Total cumulative loss:	1185.49 acres
Remaining loss under five percent guideline:	1767.81 acres

Therefore, habitat loss due to this project will not exceed the five percent guideline.

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

The project site is located in the eastern corner of a large habitat area within the Ramona Grasslands. This regionally important ecosystem has high value for long-term conservation based on the Evaluation Logic Flowchart within the Southern California Coastal Sage Scrub NCCP Conservation Guidelines. The majority of the area is also mapped as high and very high value on the County Habitat Evaluation Model. Many sensitive species as discussed above use the site for nesting and/or foraging. There are several minor drainage features that traverse the site in generally a north-south direction in the northern and southwest portion of the property. These features may support some wildlife movement, though it would not be considered an important wildlife corridor. Nonetheless, the drainages will not be significantly disrupted and all will be placed within open space.

The project will not preclude connectivity between areas of high habitat values because the development will be clustered in the eastern portion of the site abutting existing rural residential development. Although the project will directly impact 69.31 acres (22%) of the coastal sage scrub onsite, the project will preserve the remaining 249.62 acres of coastal sage scrub in perpetuity. The onsite preserve is within two large blocks of habitat in the southern and northern portions of the site that are connected to adjacent undeveloped land. The proposed mitigation exceeds the mitigation requirements outlined in the NCCP planning process. Enhancement and resource management of the open space will ensure the preserve area remains viable and supports sensitive species. This will also contribute to the future preservation of the Ramona Grasslands.

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

The loss of 69.31 acres of CSS onsite and 2.20 acres offsite will not preclude or prevent the preparation of a subregional NCCP because the project will consolidate proposed development and disturbances in the eastern portion of the site abutting existing rural residential development. A total of 249.62 acres (78%) of CSS will remain undisturbed and protected within an open space easement. The proposed project would maintain the site's habitat function and values and would preserve the highest value habitat onsite.

Onsite dedication of open space will conserve a total of 538.16 acres (57%) of the site. This includes several diverse habitats consisting of chaparral, oak woodland, non-native grassland, oak riparian forest, and coastal sage scrub.

To minimize indirect impacts, fencing and signage will be implemented to separate the open space from the development. The project footprint was the subject of a hardline agreement with the Wildlife Agencies for the draft North County Multiple Species Conservation Program (MSCP). The onsite preserve area will greatly benefit any future subregional NCCP planning effort. Therefore, the finding that the habitat loss will not preclude or prevent the preparation of the subregional NCCP can be made for the project.

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.

The Montecito project has undergone several major design changes in order to minimize impacts to coastal sage scrub to the maximum extent feasible. Up to 71.51 acres of coastal sage scrub on and offsite will be impacted by the project. The impacts will be mitigated at a 2:1 ratio. The final proposed project incorporates a specific plan approach in order to reduce sprawl and maximize the surface area of the proposed open space. Besides the minimized project design and the large-block preserve design, the project proposes measures to ensure that indirect impacts are minimized and that the preserve system will have long-term viability. The following mitigation measures have been incorporated into the project:

- Dedication of a Limited Building Zone easement in order to prevent construction of buildings that would require fire-clearing within the open space.
- Implementation of a long-term Resource Management Plan to ensure that the open space lots are maintained properly.
- Placement of restrictive signs between the access road and open space boundaries.
- Placement of temporary fencing during grading/clearing under the supervision of a biological monitor.
- Placement of permanent walls and fencing between development areas and open space.
- Implementation of grading and clearing during non-breeding season months for California gnatcatcher and raptor species.
- Biological monitoring during grading, clearing and construction.

The project will also be required to obtain the necessary state and federal permits for work conducted within a wetland and/or non-wetland waters of the US. At that time, additional mitigation measures, or alternative but equal measures, may be required in accordance with state and federal guidelines. With all of the design elements and mitigation measures incorporated into the Montecito project, it has been found that the area proposed for habitat loss has been minimized and 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.

There will be potential impacts to listed species due to this project. There were twenty individual California gnatcatchers observed on this property. Although up to 71.51 acres of California gnatcatcher habitat will be directly impacted by the project, it is not expected to affect the species' survival and recovery in this area because the project proposes to preserve 249.62 acres of coastal sage scrub habitat within biological open space. The open space has been designed to include the locations where gnatcatchers were previously observed. The project will also create contiguous large blocks of open space within the southern and northeast portion of the site that maintain connectivity with adjacent undeveloped lands. To ensure no impacts will take place, no clearing or grading of CSS habitats will be permitted during the breeding season of the California gnatcatcher, unless the County and wildlife agencies concur that gnatcatchers are not present in the vicinity of the brushing, clearing or grading.

Five sensitive plant species and ten sensitive animal species were observed on and offsite: peninsular spineflower, delicate clarkia, rush-like bristleweed, Engelmann oak, southern tarplant, California gnatcatcher, southern California rufous-crowned sparrow, loggerhead shrike, red-shouldered hawk, turkey vulture, coastal whiptail, San Diego horned lizard, two-striped garter snake, San Diego black-tailed jackrabbit, and San Diego desert woodrat. After the implementation of the project, populations of these species would be reduced onsite, however these species are relatively widespread in southern California. The project would not appreciably reduce these species populations given the proposed habitat preservation and management of a 538.16 acre onsite biological open space.

The majority of impacts to sensitive habitats will be mitigated through onsite mitigation. All onsite open space is proposed to be included in the hardline preserve for the draft North County Multiple Species Conservation Program (MSCP). The only habitats that will require offsite mitigation are CSS and non-native grassland. The project will be conditioned to obtain offsite mitigation within the Ramona grassland region. The proposed open space will total 538.16 acres (57%) of the project site. This preserved area will likely continue to support other sensitive species, and contribute to their survival and recovery. Through these mitigation measures, the proposed project will not appreciably reduce the likelihood of the survival and recovery of listed species.

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

The project will require grading plans and improvement plans for road improvements and site preparation for rural residential development. The proposed road improvements, stream crossings, and drainage improvements will

require a streambed alteration permit from the CDFG and wetland permit(s) the U.S. Army Corps of Engineers. The issuance of a Habitat Loss Permit by the County of San Diego, with the concurrence of CDFG and USFWS 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 on the project site. Construction and/or land use modification will not commence until all appropriate permits have been issued. The project has been found to conform 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? **Yes.**
4. Is the land close to high value district. **Yes.**
5. Is the land located in a corridor between higher value districts. **No.**
6. Does the land support high density of target species? **Yes.**

Based on the NCCP Logic Flow Chart, the quality of habitat supported on the project is defined as being "**High to Intermediate 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:

A, B, C, D, E, F, G, H, I, K

- Ongoing Mitigation

Compliance with the following conditions is assured because County staff will monitor the on-going requirements and, if necessary, pursue the remedies specified in the project permit, the security agreement, or the mitigation monitoring agreement:

J

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.

NOTIFICATION TO APPLICANT: The County of San Diego hereby notifies the applicant that State law (A.B. 3158) effective January 1, 1991, requires certain projects to pay fees for purposes of funding the California Department of Fish and Game. If you made this payment at the time of public review of the environmental document pursuant to Administrative Code Section 362, Article XX, effective August 27, 1992, you have met this obligation. If the fee has not been paid, to comply with State law, the applicant should remit to the County Department of Planning and Land Use, within two (2) working days of the effective date of this approval (the “effective date” being the end of the appeal period, if applicable), a certified check payable to “County Clerk” in the amount of \$1,275 for a project with a Negative Declaration, or \$875 for a project with an Environmental Impact Report. These fees include an authorized County administrative fee of \$25. The fees may be waived for projects that are found by the Department of Planning and Land Use and the California Department of Fish and Game to have a de minimis impact on fish and wildlife resources. Failure to remit the required fee in full within the time specified above will result in County notification to the State that a fee was required but not paid, and could result in State imposed penalties and recovery under the provisions of the Revenue and Taxation Code. In addition, Section 21089(b) of the Public Resources Code, and Section 711.4(c) of the Fish and Game Code, provide that no project shall be operative, vested, or final until the required filing fee is paid.

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, Department of Planning and Land Use, 5201 Ruffin Road, Suite B, San Diego, California 92123.

The foregoing decision was approved by the Director of Planning and Land Use on date of decision. A copy of this decision, and the documentation supporting the decision, is on file in the Department of Planning and Land Use offices at 5201 Ruffin Road, Suite B, San Diego, California.

DEPARTMENT OF PLANNING AND LAND USE
J. ERIC GIBSON, DIRECTOR

BY:

Jason Giffen, Chief
Regulatory Planning Division

Attachments

Habitat Loss Exhibit dated
USGS Map
Draft Environmental Impact Report.
Biology Technical Report

cc: To be provided at issuance of Habitat Loss Permit