



County of San Diego

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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)

ADJ Holdings LLC
807 E. Mission Road
San Marcos, CA 92069

DRAFT Habitat Loss Permit

APPLICATION NUMBER: HLP XX-XXX, ER 08-08-012

ASSOCIATED PERMIT(S): STP 08-015

NAME OF APPLICANT: ADJ Holdings, LLC

DESCRIPTION/LOCATION OF LOSS:

The proposed Habitat Loss Permit will allow removal of habitat as shown on the attached Biological Resources Impacts Map for both unauthorized clearing that has occurred on the project site as well as additional clearing proposed for the project. The project site is located directly west of Interstate 15 and take access of Mesa Rock Road, as indicated on the attached USGS map.

Biological resources on the project site were evaluated in a Biological Assessment Report dated March 10, 2013 and prepared by BLUE Consulting Group. Additionally, a report entitled Analysis of California Gnatcatcher Movement through the North County Environmental Resources (NCER) Recycling Facility Project Site Memorandum dated December 8, 2017 was

prepared by Dudek. Finally, a memorandum entitled North County Environmental Resources-Vegetation Mapping and Impacts Update Memorandum dated September 4, 2019 and prepared by Dudek was submitted to the County to verify the current site conditions and biological impacts resulting from the project.

The project study area contains Diegan coastal sage scrub, flat-topped buckwheat, mafic southern mixed chaparral, coast live oak woodland, southern coast live oak riparian forest and disturbed habitat. One sensitive plant species and one sensitive wildlife species were detected during field surveys: summer holly (*Comarostaphylis diversifolia* ssp. *diversifolia*) and red-tailed hawk (*Buteo jamaicensis*). Protocol California gnatcatcher surveys were conducted in October and November 2017 and no gnatcatchers were observed.

The proposed project resulted in unauthorized impacts to 12.88 acres, as listed in Table 1 and will result in an additional 6.23 acres of impacts as a result of the implementation of the project, also listed in Table 1.

Unauthorized impacts to Diegan coastal sage scrub will be mitigated offsite at a 3:1 ratio and unauthorized impacts to mafic southern mixed chaparral will be mitigated at a 4:1 ratio through the preservation of onsite habitat within a biological open space easement. Proposed impacts to Diegan coastal sage scrub will be mitigated offsite at a 2:1 ratio, proposed impacts to mafic southern mixed chaparral will be mitigated at a 3:1 ratio through the preservation of onsite habitat within a biological open space easement and proposed impacts to coast live oak woodland and southern coast live oak riparian forest will be will be mitigated offsite at a 3:1 ratio. The previously impacted Diegan coastal sage scrub and the Diegan coastal sage scrub proposed to be impacted is considered to be of intermediate quality as determined by the criteria established under the Natural Community Conservation Planning (NCCP) Logic Flow Chart. Mitigation ratios and mitigation acreages are listed in Table 1. The proposed project is in conformance with all standards and guidelines outlined in the NCCP Process Guidelines.

Table 1. Habitat, Impacts, and Mitigation

Habitat	Unauthorized Impacts (acres)	Mitigation Ratio/ Acreage	Proposed Impacts (acres)	Mitigation Ratio/ Acreage	Total Mitigation Required (acres)
Diegan Coastal Sage Scrub	0.92	3:1/ 2.76 acres	0.15	2:1/ 0.3 acre	3.06
Flat-Topped Buckwheat	--	--	--	2:1	0
Mafic Southern Mixed Chaparral	6.48	4:1/ 25.92 acres	3.38	3:1/ 10.14 acres	36.06
Coast Live Oak Woodland	--	--	0.08	3:1/ 0.24 acre	0.24
Southern Coast Live Oak Riparian Forest	--	--	0.17	3:1/ 0.51 acre	0.51
Disturbed Habitat	5.48	N/A	2.44	N/A	0
Eucalyptus Woodland	--	N/A	0.01	N/A	0
Total	12.88		6.23		39.87

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 remaining 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 also acknowledges the previous loss of the above-described coastal sage scrub habitat that was previously cleared, graded or removed without a valid permit (see attached Habitat Loss Exhibit). However, no take authorization for incidental take of sensitive species, including the California gnatcatcher, shall be conveyed by the County of San Diego for previous clearing, grading, or removal of coastal sage scrub habitat that was accomplished without a valid permit or authorization.

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 STP 08-015. 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. BIO#1-BIOLOGICAL EASEMENT: [PDS, FEE X 2].

INTENT: In order to protect sensitive biological resources and mitigate for impacts to 9.86 acres of mafic southern mixed chaparral, a biological open space easement shall be granted. **DESCRIPTION OF REQUIREMENT:** Grant to the County of San Diego, an open space easement, as shown on the Approved Site Plan dated October 15, 2018. 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 only exceptions to this prohibition are:

- a. 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 applicable fire code of the Fire Authority Having Jurisdiction and the Memorandum of Understanding dated February 26, 1997, (<http://www.sdcountry.ca.gov/PDS/docs/MemoofUnder.pdf>) between the wildlife agencies and the fire districts and any subsequent amendments thereto.
- b. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of PDS, DPW or DPR.

DOCUMENTATION: The applicant shall prepare the draft plats and legal descriptions of the easements, then submit them for preparation and recordation with the [DGS, RP], and pay all applicable fees associated with preparation of the documents. **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 easements shall be recorded. **MONITORING:** The [DGS, RP] shall prepare and approve the easement documents and send them to [PDS, PCC] for pre approval. The [PDS, PCC] shall pre-approve the language and estimated location of the easements before they are released to the applicant for signature and subsequent recordation. Upon Recordation of the easements [DGS, RP] shall forward a copy of the recorded documents to [PDS, PCC] [DPR, TC] for satisfaction of the condition.

2. BIO#2-LBZ EASEMENT: [PDS, FEEX 2]

INTENT: In order to protect sensitive biological resources protected in a biological open space easement from vegetation management requirements, introduction of exotic pest plants, and increased light and noise, pursuant to CEQA, an enhanced Limited Building Zone Easement shall be granted. **DESCRIPTION OF REQUIREMENT:** Grant to the County of San Diego a Limited Building Zone Easement as shown on the Approved Site Plan dated October 15, 2018. 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 prohibit the construction or placement of any structure designed or

intended for occupancy by humans or animals. The only exceptions to this prohibition are:

- a. Structures designed or intended for occupancy by humans or animals located no less than 100 feet from the nearest biological open space easement boundary, provided that the structures meet the minimum Fire-Resistive Construction Requirements as defined by the Fire Protection Authority (FPA) having jurisdiction over the property and that FPA has approved in writing a reduction in the vegetation clearing/fuel modification requirements so that they will not be required within any portion of the biological open space easement.
- b. Decking, fences, and similar facilities.

DOCUMENTATION: The applicant shall prepare the draft plats and legal descriptions of the easements, then submit them for preparation and recordation with the *[DGS, RP]*, and pay all applicable fees associated with preparation of the documents. **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 easements shall be recorded. **MONITORING:** The *[DGS, RP]* shall prepare and approve the easement documents and send them to *[PDS, PCC]* for pre-approval. The *[PDS, PCC]* shall pre-approve the language and estimated location of the easements before they are released to the applicant for signature and subsequent recordation. Upon recordation of the easements *[DGS, RP]* shall forward a copy of the recorded documents to *[PDS, PCC]* for satisfaction of the condition.

3. BIO#3-OPEN SPACE SIGNAGE AND FENCING: [PDS, FEE].

INTENT: In order to protect the proposed open space easement from entry, informational signs and fences/barriers shall be installed. **DESCRIPTION OF REQUIREMENT:** Open space signs shall be placed at the biological open space easement boundary (on fencing where required). Fencing shall be installed along the western open space boundary where not adjacent to open space. Fencing shall match the fencing of the existing off-site open space, to the satisfaction of the PDS Director. Large boulders or concrete barriers shall be installed to block access wherever existing dirt roads/trails enter the open space. 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. At each of the barricaded 'old' entry points and every 200 feet at the line between the off-site graded pad and the OS, signs will be placed. The sign must state the following:

**Sensitive Environmental Resources
Area Restricted by Easement**

Entry without express written permission from the
County of San Diego is prohibited

To report a violation or for information about restrictions and exceptions

Contact the County of San Diego

Department of Planning and Development Services

Reference: STP-08-015; ER-08-08-012

DOCUMENTATION: The applicant shall install the signs, fences and barriers as indicated above and provide site photos and a statement from a California Registered Engineer, or licensed surveyor that the open space signs, fences and barriers have been installed at the boundary of the open space easement. **TIMING:** Prior to the

approval of any plan and issuance of any permit, the open space signs, fences and barriers shall be installed. **MONITORING:** The [PDS, PCC] shall review the photos and statement for compliance with this condition.

4. **BIO#4-BIOLOGICAL MONITORING: [PDS, FEE X2]. INTENT:** In order to prevent inadvertent disturbance to sensitive habitats, jurisdictional waters, and special-status species, clearing and grading located within 100 feet of the biological open space easements shall be monitored by a biologist. **DESCRIPTION OF REQUIREMENT:** A County approved biologist "Project Biologist" shall be contracted to perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities. The following shall be completed:

- a. The Biologist shall perform the monitoring duties before, during and after construction pursuant to the most current version of the County of San Diego Biological Report Format and Requirement Guidelines and this permit. The contract provided to the county shall include an agreement that this will be completed, and a Memorandum of Understanding (MOU) between the biological consulting company and the County of San Diego shall be executed. The contract shall include a cost estimate for the monitoring work and reporting.
- b. The cost of the monitoring shall be added to the grading bonds that will be posted with the Department of Public Works, or bond separately with the Department of Planning & Development Services.

DOCUMENTATION: The applicant shall provide a copy of the biological monitoring contract, cost estimate, and MOU to the [PDS, PCC]. Additionally, the cost amount of the monitoring work shall be added to the grading bond cost estimate. **TIMING:** Prior to the approval of any plan or issuance of any permit, the requirement shall be completed. **MONITORING:** The [PDS, PCC] shall review the contract, MOU and cost estimate or separate bonds for compliance with this condition. The cost estimate should be forwarded to [DPW, Project Manager], for inclusion in the grading bond cost estimate, and grading bonds. The [DPW, PC] shall add the cost of the monitoring to the grading bond costs.

5. **BIO#5-TEMPORARY FENCING: [PDS, FEE].**

INTENT: In order to prevent inadvertent disturbance to all on-site biological open space, temporary construction fencing shall be installed. **DESCRIPTION OF REQUIREMENT:** Prior to the commencement of any grading and or clearing in association with the 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:

- a. 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.
- b. 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.

6. **BIO#6-OFF-SITE COAST LIVE OAK WOODLAND MITIGATION: [PDS, PCC] [BP, GP, CP, UO] [DPR, GPM] [PDS,FEE X2] INTENT:** In order to mitigate for the impacts to 0.08 acre of coast live oak woodland, which is a sensitive biological resource pursuant to the [Resource Protection Ordinance \(RPO\)](#) and CEQA, off-site mitigation shall be acquired. **DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of 0.24 acre of coast live oak woodland habitat, located in northern San Diego 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 creation, restoration/enhancement, and conservation of habitat of the same amount and type of land located in northern San Diego 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) and Revegetation/ Enhancement Plan 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 off-site 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. If an RMP and Revegetation Plan is going to be submitted in-lieu of purchasing credits, then the RMP and Revegetation Plan shall be prepared and applications shall be submitted to the [PDS, ZONING]. **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, REG] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

7. **BIO#7-OFF-SITE SOUTHERN COAST LIVE OAK RIPARIAN FOREST MITIGATION:** [PDS, PCC] [BP, GP, CP, UO] [DPR, GPM] [PDS,FEE X2] **INTENT:** In order to mitigate for the impacts to 0.17 acre of southern coast live oak riparian forest, which is a sensitive biological resource pursuant to the [Resource Protection Ordinance \(RPO\)](#) and CEQA, off-site mitigation shall be acquired. **DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of 0.51 acre of southern coast live oak riparian forest habitat, located in northern San Diego 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 creation, restoration/enhancement, and conservation of habitat of the same amount and type of located in northern San Diego 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) and Revegetation/ Enhancement Plan 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 off-site 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. If an RMP and Revegetation Plan is going to be submitted in-lieu of purchasing credits, then the RMP and Revegetation Plan shall be prepared and applications shall be submitted to the [PDS, ZONING]. **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, REG] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

8. **BIO#8-OFF-SITE COASTAL SAGE SCRUB MITIGATION: [PDS, PCC] [BP, GP, CP, UO] [DPR, GPM] [PDS,FEE X2] INTENT:** In order to mitigate for the impacts to 1.07 acre of coastal sage scrub, which is a sensitive biological resource pursuant to the [Resource Protection Ordinance \(RPO\)](#), HLP Ordinance, and CEQA, off-site mitigation shall be acquired. **DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of 3.06 acres of coastal sage scrub habitat, located in northern San Diego 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 of habitat of the same amount and type of land located in northern San Diego 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 off-site 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. If an RMP is going to be submitted in-lieu of purchasing credits, then the RMP shall be prepared and application shall be submitted to the [PDS, ZONING]. **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, REG] [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:

DURING CONSTRUCTION: *The following actions shall occur throughout the duration of the grading construction.*

1. **BIO#GP1-BIOLOGICAL MONITORING: [PDS, FEE X3].**

INTENT: In order to prevent inadvertent disturbance to sensitive habitats, clearing and grading located within or adjacent to sensitive habitats shall be monitored by a biologist. **DESCRIPTION OF REQUIREMENT:** The biologist shall supervise and monitor grading activities to ensure against damage to biological resources that are intended to be protected and preserved. The biologist and/or employed biological professionals shall be on site during clearing activities that are in or within 100 feet of native biological habitat or within 100 feet of biological open space easements during clearing and grading activities. If there are disturbances, the biologist must report them immediately to the [PDS PCC]. Additionally, the biologist shall perform the duties specified in the most current version of the County of San Diego Biological Report Format and Requirement Guidelines. **DOCUMENTATION:** The biologist shall prepare and submit to the satisfaction the [PDS, PCC] monitoring reports, which indicate that the monitoring has occurred as indicated above. **TIMING:** The above actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDC] shall assure that the biologist is on-site performing the monitoring duties of this condition during all applicable grading activities as determined by the biologist. The [DPW, PDC] shall contact the [PDS, PCC] if the biologist or applicant fails to comply with this condition. The [PDS, PCC] shall review and approve the monitoring reports for compliance with this condition.

FINAL GRADING RELEASE: *Prior to any occupancy, final grading release, or use of the premises in reliance of this permit.*

2. **BIO#GP2-OPEN SPACE SIGNAGE: [PDS, FEE].**

INTENT: In order to protect the proposed open space easement from entry, informational signs shall be installed. **DESCRIPTION OF REQUIREMENT:** Open space signs shall be placed at the biological open space easement boundary (on posts where required). 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. In addition, signs approximately 200 feet apart along right-of-ways at the boundary between the development and the biological open space easement. The sign must state the following:

Sensitive Environmental Resources

Area Restricted by Easement

Entry without express written permission from the
County of San Diego is prohibited

To report a violation or for information about restrictions and exceptions

Contact the County of San Diego

Department of Planning and Development Services

Reference: STP-08-015; ER-08-08-012

DOCUMENTATION: The applicant shall install the signs as indicated above and provide site photos and a statement from a California Registered Engineer, or licensed surveyor that the open space signs have been installed at the boundary of the open space easement. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the open space signs shall be installed. **MONITORING:** The [PDS, PCC] shall review the photos and statement for compliance with this condition.

3. BIO#GP3-BIOLOGICAL MONITORING: [PDS, FEE X2].

INTENT: In order to ensure that the biological monitoring occurred during the grading phase of the project, a final Biological Monitoring Report shall be prepared.

DESCRIPTION OF REQUIREMENT: The biologist shall prepare final biological monitoring report. The report shall substantiate the supervision of the grading activities, and state that grading or construction activities did not impact any additional areas of sensitive habitats, jurisdictional waters, special-status plant and wildlife species, or any other sensitive biological resources. The report shall conform to the County of San Diego Report Format Guidelines for Biological Resources, and include the following items:

- a. Photos of the temporary fencing that was installed during the trenching, grading, or clearing activities.
- b. Monitoring logs showing the date, time, and persons, (biologist and/or employed qualified biologists) present on site.
- c. Photos of the site after the grading and clearing activities.
- d. Daily verification of the following compliance measures:
 1. Best Management Practices for erosion control;
 2. Noise barriers will be installed if needed to avoid impacts to sensitive species.
 3. Hours of construction will comply with applicable ordinances and avoid noise impacts to sensitive species.

4. Construction activities shall take place only inside the designated construction area;
 5. Grading materials shall be stored either inside the fenced construction area or in an area approved by the project biologist;
 6. A storm drain system and detention basins shall be constructed to restrict excess water flow from proposed roads and structures. Filter devices shall be installed at the appropriate points to ensure that run-off is cleansed before reaching the basins. All water-catchment features shall be located above graded and natural slopes;
- e. Nighttime lighting shall be shielded and directed away from riparian and upland habitat adjacent to the development.

DOCUMENTATION: The biologist(s) shall prepare the final report and submit it to the [PDS, PCC] for review and approval. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the final report shall be approved. **MONITORING:** The [PDS, PCC] shall review the final report for compliance this condition and the report format guidelines. Upon approval of the report, [PDS, PCC] shall inform [DPW, LDR] and [DPW, PDCI], that the requirement is complete and the bond amount can be relinquished. If the monitoring was bonded separately, then [PDS, PCC] shall inform [PDS, FISCAL] to release the bond back to the applicant.

4. **BIO#GP4-RESOURCE AVOIDANCE (COASTAL SAGE SCRUB): [PDS, PCC] [DPW, PDCI] PDS, FEE X2]. INTENT:** In order to avoid impacts to nesting coastal California gnatcatchers or other sensitive species under CEQA, brushing and clearing of coastal sage scrub (CSS), chaparral, or willow scrub, or within 300 feet of those habitats shall not occur during the breeding season (February 15 to August 31). **DESCRIPTION OF REQUIREMENT:** There shall be no brushing, clearing and/or grading during the breeding season of the coastal California gnatcatcher. The Director of Planning & Development Services [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 gnatcatchers or other sensitive species are present in the vicinity of the brushing, clearing or grading based on a survey done within 7 days of the habitat clearing. **DOCUMENTATION:** The applicant shall provide a letter of agreement with this condition, or the applicant shall provide a letter report of the preconstruction survey. **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. **MONITORING:** The [DPW, PDCI] shall not allow any grading of the site during the specified dates, unless a concurrence from the [PDS, PCC] is received. The [PDS, PCC] shall review the concurrence letter.

5. **BIO#GP5-RESOURCE AVOIDANCE (RAPTOR NESTING HABITAT): [PDS, FEE X2]. INTENT:** In order to avoid impacts to nesting raptors, which are a sensitive biological resource pursuant to CEQA, brushing and clearing within 500 feet of trees suitable for nesting shall not occur during the breeding season unless a pre-construction survey verifies there are no active nests. **DESCRIPTION OF REQUIREMENT:** There shall be no brushing, clearing and/or grading allowed within 500 feet of raptor nesting habitat during the breeding season. The breeding season is defined as occurring between January 15 and July 15. The Director of Planning & Development Services [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 raptors are present in the vicinity of the brushing, clearing or grading based on a survey done within 7 days of the habitat clearing. **DOCUMENTATION:** The applicant shall provide a letter report of the preconstruction survey with the locations of raptor nests or a letter of agreement with this condition. **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. **MONITORING:** The [DPW, PDCI] shall not allow any grading in or within 500 feet of any trees 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

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 1.07 acres of coastal sage scrub and zero pairs of California gnatcatcher (*Poliioptia californica*). Approved coastal sage scrub losses as of the date of September 12, 2019 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:	1,655.88 acres
Net loss due to this project:	1.07 acres
Total cumulative loss:	1,656.95 acres
Remaining loss under five percent guideline:	1,296.35 acres

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

The County habitat evaluation model ranks the site as predominantly low and moderate value with areas of high value in the central and northern portions of the site. The

closest very high value habitat land is located to the east across Interstate 15. While the project resulted in unauthorized impacts (0.92 acre) and proposes additional impacts (0.15 acre) to CSS, and while a portion of the site is located in critical habitat for the gnatcatcher, the site is unoccupied by gnatcatcher and is dominated by mafic southern mixed chaparral. Gnatcatcher occurrences are recorded within approximately 0.25 mile to the southeast of the project site and suitable gnatcatcher habitat, likely of higher quality than on site, exists immediately to the north (and on the east side of Interstate 15) of these known gnatcatcher occurrences. Because this archipelago (or stepping-stone) corridor of suitable gnatcatcher habitat is primarily on the east side of Interstate 15 in this area, it is probable that gnatcatcher would move through this region on the east side of Interstate 15. For these reasons, permanent impacts to 1.07 acres of moderate quality Diegan coastal sage scrub as a result of the proposed project 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 majority of the CSS habitat on-site is not identified for conservation, as a draft Pre-Approved Mitigation Area (PAMA) land in the draft North County Multiple Species Conservation Program (MSCP). Implementation of the proposed project will not adversely affect the ongoing MSCP planning process. While the project resulted in unauthorized impacts (0.92 acre) and proposes additional impacts (0.15 acre) to Diegan coastal sage scrub, and while a portion of the site is located in critical habitat for the gnatcatcher, the site is unoccupied by gnatcatcher and is dominated by mafic southern mixed chaparral. Gnatcatcher occurrences are recorded within approximately 0.25 mile to the southeast of the project site and suitable gnatcatcher habitat, likely of higher quality than on site, exists immediately to the north (and on the east side of Interstate 15) of these known gnatcatcher occurrences. Because this archipelago (or stepping-stone) corridor of suitable gnatcatcher habitat is primarily on the east side of Interstate 15 in this area, it is probable that gnatcatcher would move through this region on the east side of Interstate 15. It also appears that this corridor follows more gentle topography to the east of the project site. For these reasons, permanent impacts to 1.07 acres of moderate quality Diegan coastal sage scrub as a result of the proposed project is not expected to affect gnatcatcher movement through this portion of the Interstate 15 corridor. All of the biological open space being provided within the project is within draft PAMA, and as such, provides a valuable contribution to the regional biological preserve that is currently being planned. Therefore, the habitat loss will not preclude the development of a regional preserve system.

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.

A total of 1.07 acres of Diegan coastal sage scrub habitat will be impacted by the project. The habitat is considered of “intermediate” value, pursuant to the NCCP Logic Flow Chart. In the late 1960’s and early 1970’s California Department of Transportation (Caltrans) initiated and completed the construction of the Interstate 15 utilizing a portion of the property as a borrow pit. In addition to the borrow pit impacts, numerous roads were graded throughout the property enabling the Caltrans trucks access to the borrow pits. The proposed project is focused in the areas previously utilized as borrow pits

which has minimized the project impacts and focused the impacts in the areas of lower quality habitat. Besides the minimized project footprint and the large block of onsite preserve, the project proposes measures to ensure that indirect impacts are minimized and that the preserve system will have long-term viability. As such, the loss of Diegan coastal sage scrub will be mitigated to the maximum extent practicable for intermediate value habitat in accordance with Section 4.3 the NCCP Process Guidelines. The following mitigation measures have been incorporated into the project:

- Dedication of approximately 44 acres of onsite biological open space.
- Dedication of a limited building zone easement in order to prevent construction of buildings that would require fire-clearing within the open space.
- Placement of open space fencing and signage.
- Placement of temporary fencing during grading/clearing under the supervision of a biological monitor.
- Implementation of grading and clearing restrictions during non-breeding season months for California gnatcatcher and raptor species.
- Biological monitoring during grading, clearing and construction.
- Purchase of offsite mitigation for Diegan coastal sage scrub, coast live oak woodland and southern coast live oak riparian forest.

The above design elements and mitigation measures incorporated into the project demonstrate that the habitat loss has been minimized and mitigated to the maximum extent practicable in accordance with Section 4.3 of the NCCP Process Guidelines.

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

The habitat loss will not appreciably reduce the likelihood of survival and recovery of listed species in the wild because no listed species were observed onsite. Special-status species observed onsite include summer holly (*Comarostaphylis diversifolia* ssp. *diversifolia*) and red-tailed hawk (*Buteo jamaicensis*). Protocol California gnatcatcher surveys were conducted in October and November 2017 and no gnatcatchers were observed. Approximately 44 acres onsite will be preserved in biological open space and contains good quality habitat that is contiguous to adjacent habitat to the west. The project will also be required to purchase offsite mitigation which will ensure habitat for the observed species is protected in perpetuity. With the dedication of biological open space and purchase of offsite mitigation, the habitat loss will not appreciably reduce the likelihood of survival and recovery of listed species.

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

The project will require the approval of a Grading Permit. 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 supported on the project site (0.15 acre). 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”.

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 also required to permit the loss of coastal sage scrub habitat (0.92 acre) that was previously cleared, graded or removed without a valid permit and to allow for conformance with Sections 86.102 and 86.104 of the San Diego County Code. Issuance of, and concurrence with, a Habitat Loss Permit is also required to authorize further clearing of any coastal sage scrub supported on the project site. Construction and/or further land use modification will not commence until all appropriate permits have been issued. 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. **Yes.**
5. Is the land located in a corridor between higher value districts. **Yes.**
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 project site is defined as being “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:

BIO#1 through BIO#8 and BIO#GP1 through BIO#GP5

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: Because your project has an effect on native biological resources, State law requires the payment (or proof of prior payment) of a \$2,354.75 (2019 fees) fee to the California Department of Fish and Wildlife for their review of the Mitigated Negative Declaration (Fish and Wildlife Code §711.4) and a \$50 administrative fee to the County (\$2,404.75 total). To comply with State law, the applicant must file the NOD and remit applicable fees within five (5) working days of the date of the project approval. Payment or sufficient proof of prior payment to the County Clerk is required at the time of filing. Payment may be made with cash or by check/money order made payable to the "San Diego Recorder/Clerk". American Express, Discover, MasterCard, and Visa Debit card payments are also accepted at County Administration Center with a \$2.50 surcharge per transaction, and must be submitted to the Clerk at the time of filing the NOD.

NOTICE: This subject property is known to contain Coastal sage scrub plant community. Such plant community is habitat for the coastal California gnatcatcher. The Federal government recently listed the gnatcatcher as a threatened species under the Federal Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.). THE LISTING MAY RESULT IN AN APPLICANT'S INABILITY TO PROCEED WITH HIS/HER PROJECT WITHOUT A PERMIT FROM THE FEDERAL GOVERNMENT IF THE SPECIES OR ITS HABITAT ARE PRESENT ON THE PROJECT SITE. It is advisable to contact the United States Fish and Wildlife Service to determine the applicability of the prohibitions under the Act to each applicant's property.

NOTICE: The subject property contains wetlands, a lake, a stream, and/or waters of the U.S. which may be subject to regulation by State and/or federal agencies, including, but not limited to, the Regional Water Quality Control Board, U.S. Army Corps of Engineers and the California Department of Fish and Wildlife. It is the applicant's responsibility to consult with each agency to determine if a permit, agreement or other approval is required and to obtain all necessary permits, agreements or approvals before commencing any activity which could impact the wetlands, lake, stream, and/or waters of the U.S. on the subject property. The agency contact information is provided below.

U.S. Army Corps of Engineers: 6010 Hidden Valley Rd, Suite 105, Carlsbad, CA 92011-4219; (858) 674-5386; <http://www.usace.army.mil/>

Regional Water Quality Control Board: 9174 Sky Park Court, Suite 100, San Diego, CA 92123-4340; (858) 467-2952; <http://www.waterboards.ca.gov/sandiego/>

California Department of Fish and Wildlife: 3883 Ruffin Rd., San Diego, CA 92123; (858) 467-4201; <http://www.dfg.ca.gov/>

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 TO BE DETERMINED. 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:

DARIN NEUFELD, Chief
Project Planning Division

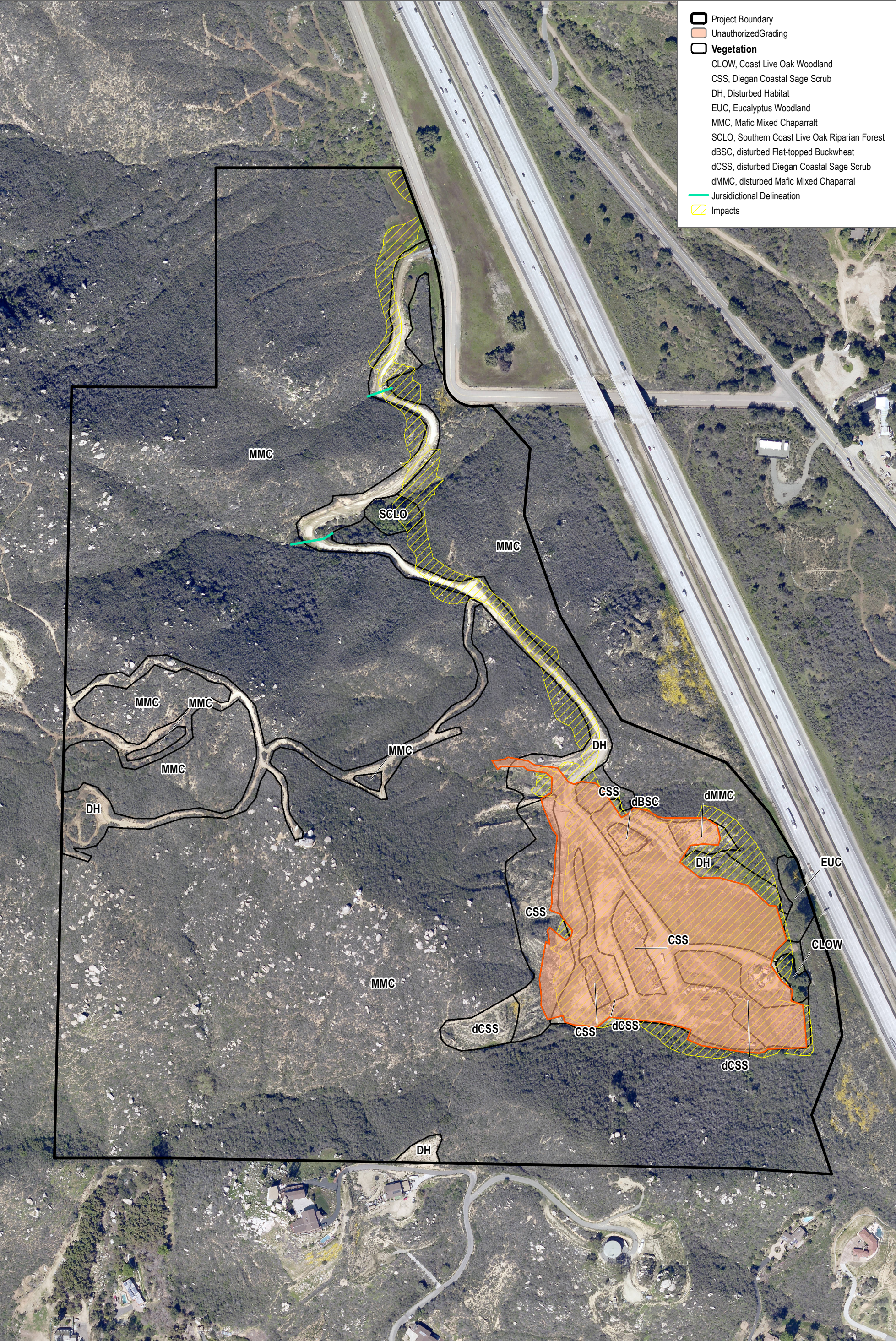
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Attachments

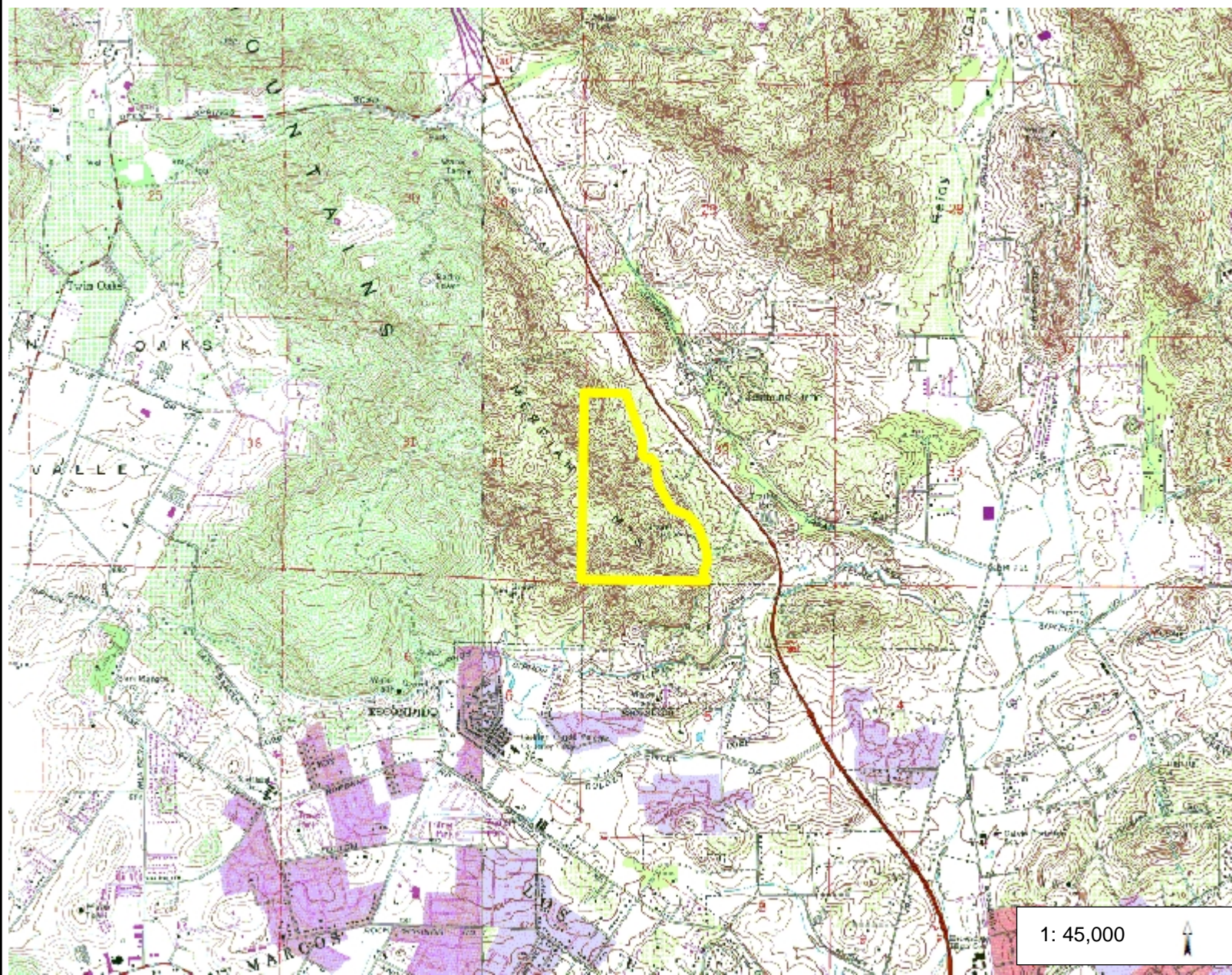
Biological Resources Impacts Map
USGS Map
North County Environmental Resources-Vegetation Mapping and Impacts Update
Memorandum dated September 4, 2019

Analysis of California Gnatcatcher Movement through the North County Environmental
Resources (NCER) Recycling Facility Project Site Memorandum dated
December 8, 2017
Biological Assessment Report dated March 10, 2013

cc: To be provided at issuance of Habitat Loss Permit



SOURCE: SANGIS 2017



Legend

County Boundary

Notes

1.4 0 0.71 1.4 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
Planning and Development Services

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION