



# 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)

Ocean Breeze Ranch LLC  
1550 South Coast Highway, Ste. 201  
Laguna Beach, CA 92651

## **DRAFT Habitat Loss Permit**

APPLICATION NUMBER: HLP XX-XXX

ASSOCIATED PERMIT(S): Ocean Breeze Ranch; PDS2016-TM-5615; PDS2016-MUP-16-012; PDS2016-MUP-013; PDS2016-STP-16-032; PDS2016-ER-16-02-006)

NAME OF APPLICANT: Ocean Breeze Ranch LLC

### DESCRIPTION/LOCATION OF LOSS:

The Project site consists of 1,402.52 acres located at 5820 West Lilac Road, within the Bonsall and Fallbrook Community Plan areas, within unincorporated San Diego County (APNs 124-150-28, 124-150-34, 124-150-35, 125-080-21, 125-131-48, 125-131-49, 125-131-54, 126-060-78, 127-191-20, 127-230-59, 127-271-01, and 127-271-02). The proposed Ocean Breeze Ranch (Project) includes two components, a planned residential development (PRD) and a private equestrian facility. The residential development would include 396 residential lots divided into three planning areas (PA1, PA2, and PA3). The PRD would also include parks, roads and landscaped areas. The equestrian facility consists primarily of previously constructed buildings and structures; additional

improvements are also proposed. The project would also preserve 833.85 acres of the Project site as biological open space.

The proposed Project is for a Habitat Loss Permit and will impact 32.5 acres of Diegan coastal sage scrub (CSS) as shown on the attached Habitat Loss Exhibit (Figure 1). The Project would impact one location where breeding gnatcatchers were detected, in the southwestern portion of the site.

**DECISION:**

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

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

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

**This Habitat Loss Permit cannot be relied upon for the clearing, grading or removal of any vegetation until a valid Grading Permit, Clearing Permit or Improvement Plan has been issued from the County of San Diego authorizing such vegetation removal. Furthermore, use and reliance upon this Habitat Loss Permit cannot occur until all of the requirements as specified within the "Conditions of Approval" section of this permit have been satisfied.**

CONDITIONS OF APPROVAL:

**The following conditions are being placed on the Tentative Map (PDS2016-TM-5615). 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.**

**BIO-1a** Mitigation for impacts to coastal California gnatcatcher habitat (32.5 acres of Diegan coastal sage scrub and 1.4 acres of flat-topped buckwheat scrub) shall occur at a 3:1 ratio through the on-site preservation of 101.7 acres of Diegan coastal sage scrub within a biological open space easement.

The preferred approach to site development would be for no grubbing or clearing of vegetation to occur within 500 feet of occupied Diegan coastal sage scrub or flat-topped buckwheat scrub during the breeding season of the coastal California gnatcatcher (February 15 – August 31). All grading permits, improvement plans, and the final map shall state the same. If clearing or grubbing must occur during the gnatcatcher breeding season within 500 feet of suitable coastal California gnatcatcher breeding habitat, a pre-construction survey shall be conducted to determine whether gnatcatchers occur within the impact area(s). The pre-construction survey shall consist of three site visits with each site visit occurring at least seven days apart, and the third visit occurring no more than three days prior to the start of construction. To avoid take under the federal ESA, impacts to occupied habitat shall be avoided. If there are no gnatcatchers nesting (includes nest building or other breeding/nesting behavior) within that area, grading and clearing shall be allowed to proceed upon receipt of concurrence from County and the Wildlife Agencies. If, however, any gnatcatchers are observed, but no nesting or breeding behaviors are noted, two additional surveys for breeding/nesting behaviors shall be conducted a minimum of three days apart. If any gnatcatchers are observed nesting or displaying breeding/nesting behavior during the pre-construction survey or additional surveys within the area, construction shall be postponed within 300 ft of any location at which gnatcatchers have been observed until all nesting (or breeding/nesting behavior) has ceased or until after August 31. (See BIO-5 for mitigation for indirect noise effects.)

Impacts to gnatcatcher would require take authorization either through either through a Section 7 consultation with the USFWS and/or an HLP from the County. A Section 7 consultation is anticipated given the federal nexus between impacts to waters of the U.S. and impacts to gnatcatcher-occupied habitat and USFWS critical habitat for this species. However, if the action area for the USACE does not include all impacts to gnatcatcher habitat, an HLP also may be required.

**BIO-1b:** Mitigation for impacts to 0.19 acre of potential foraging habitat for least Bell's vireo (southern willow scrub, mule fat scrub, and tamarisk scrub) shall occur at a 3:1 ratio through one or a combination of the following: on- and/or off-site establishment, re-establishment, rehabilitation, and/or enhancement of 0.57 acre of riparian habitat; and/or off-site purchase of riparian habitat mitigation credits at an approved mitigation bank, such as the San Luis Rey Mitigation Bank, or other location deemed acceptable by the County and Regulatory Agencies. The establishment/creation component must be at least 1:1 while the remaining 2:1 can be restoration and enhancement.

The preferred approach to site development would be for no grubbing or clearing of vegetation to occur within riparian habitat during the breeding season of the least Bell's vireo (March 15 through September 15). All grading permits, improvement plans, and the final map shall state the same. If clearing or grubbing must occur during the least Bell's vireo breeding season, a pre-construction survey shall be conducted to determine whether vireos occur within the impact area(s). The pre-construction survey shall consist of three site visits (at least three days apart) with the final site visit occurring the day prior to the start of construction. To avoid take under the federal and California ESAs, impacts to occupied habitat shall be avoided. If there are no vireos nesting (includes nest building or other breeding/nesting behavior) within that area, grading and clearing shall be allowed to proceed upon receipt of concurrence from County and the Wildlife Agencies. If, however, any vireos are observed, but no nesting or breeding behaviors are noted, two additional surveys for breeding/nesting behaviors shall be conducted a minimum of three days apart. If any vireos are observed nesting or displaying breeding/nesting behavior during the pre-construction survey or additional surveys within that area, construction shall be postponed within 300 ft of any location at which vireos have been observed until all nesting (or breeding/nesting behavior) has ceased or until after September 15. (See BIO-5 for mitigation for indirect noise effects.)

Impacts to least Bell's vireo would require take authorization either through a Section 7 consultation or a Section 10(a) HCP from the USFWS. A Section 7 consultation is anticipated given the federal nexus between impacts to waters of the U.S. and impacts to potential vireo habitat.

**BIO-1c:** Pre-construction surveys for Stephens' kangaroo rat will be conducted in suitable habitat within the project impact area by a qualified biologist. Surveyors would search for signs of kangaroo rat presence, and if observed, a trapping survey would be conducted to capture individuals and identify them to species. Results of the surveys will be submitted to the Wildlife Agencies and County PDS. In the event of a positive survey, the project proponent will coordinate with the Wildlife Agencies and County PDS to determine next steps.

**BIO-2:** The preferred approach to site development would be for no grubbing or clearing of vegetation to occur during the general avian breeding season (January 15 to July 15 for raptors and February 15 to August 31 for general nesting birds). All grading permits, improvement plans, and the final map shall state the same. If grubbing or clearing must occur during the general avian breeding season within 300 feet of general nesting habitat or 500 feet of nesting raptor habitat, a pre-construction survey shall be conducted by a qualified biologist no more than three days prior to the commencement of the activities to determine if active bird nests are present in the affected areas, with results submitted to the County and Wildlife Agencies. If there are no nesting birds (includes nest building or other breeding/ nesting behavior) within this area, clearing and grubbing shall be allowed to proceed. Furthermore, if construction activities are to resume in an area where they have not occurred for a period of seven or more days during the breeding season, an updated survey for avian nesting will be conducted, with results submitted to the County and Wildlife Agencies. If active nests or nesting birds are observed within the area, the biologist shall submit the nesting bird survey results and proposed nest buffers to the County and Wildlife agencies. The biologist shall then flag buffers around the active nests and construction activities shall avoid active nest buffers until nesting behavior has ceased, nests have failed, or young have fledged, with results sent to the County and Wildlife Agencies.

**BIO-3a:** Temporary toad exclusionary fencing (silt fencing) will be installed along the northern limits of Planning Area 2 and Planning Area 3 (or as determined by the USFWS during Section 7 consultation for CWA Section 404 permitting) prior to initiation of clearing or grading activities in these areas. Translocation surveys would be conducted by a qualified biologist to relocate arroyo toad (if present) with approval from USFWS and western spadefoot individuals from within the impact area to suitable areas of biological open space on the project site or north of the project site along the San Luis Rey River.

If arroyo toad is found on site, impacts to this species would require take authorization either through a Section 7 consultation or a Section 10(a) HCP from the USFWS. A Section 7 consultation is anticipated given the federal nexus between impacts to waters of the U.S. and impacts to critical habitat for this species.

**BIO-3b:** Following completion of construction activities within Planning Area 2 and Planning Area 3, and concurrent with the removal of temporary fencing associated with each of these planning areas, permanent toad exclusionary fencing will be installed along the northern limits of Planning Area 2 and portions of Planning Area 3, or as determined by the USFWS during Section 7 consultation for CWA Section 404 permitting.

If arroyo toad is found on site, impacts to this species would require take authorization either through a Section 7 consultation or a Section 10(a) HCP from the USFWS. A Section 7 consultation is anticipated given the federal nexus between impacts to waters of the U.S. and impacts to critical habitat for this species.

- BIO-3c:** The project will conserve suitable foraging and aestivation habitat for arroyo toad and western spadefoot along the northern project boundary and along the eastern riparian corridor within biological open space, with direct connections to offsite habitat along the San Luis Rey River. In addition, a limited use easement will be placed over pastures in the equestrian facility, such that these areas would remain undeveloped and could be used by foraging and aestivating toads, although this habitat is not expected to be frequently utilized by these species.
- BIO-3d:** The project shall not impede flows from the eastern riparian corridor leading offsite to the Caltrans mitigation parcel. In conjunction with the improvements to Dulin Road, hydrologic connectivity under the road at the eastern riparian corridor shall be maintained by construction of box culverts sized to adequately convey flow volumes, as determined through civil engineering design.
- BIO-3e:** Concurrent with or prior to the initiation of project construction, areas adjacent to the eastern riparian corridor that are currently in row crops will be planted/seeded with coastal sage scrub species, with the goal of improving the habitat quality of the wetland buffer, reducing the potential for sedimentation in the creek, and providing higher quality upland foraging habitat for toads. The acreage, configuration, and implementation methodology is described in the Conceptual Upland Restoration Plan (HELIX 2019). This proposed habitat enhancement is not required as habitat mitigation and does not require posting of a bond, however, monitoring and maintenance will be incorporated into the restoration effort.
- BIO-4a:** Mitigation for impacts to 37.6 acres of non-native grassland shall occur at a 0.5:1 ratio through the on-site preservation of 18.8 acres of non-native grassland within a biological open space easement. The mitigation shall be provided prior to the issuance of a grading permit.
- BIO-4b:** Mitigation for impacts to 58.5 acres of pasture shall occur at a 0.5:1 ratio through the on-site preservation of 29.3 acres of grassland habitat and/or other like-functioning habitat (e.g., fallow orchard) within a biological open space easement. The mitigation shall be provided prior to the issuance of a grading permit.

- BIO-5:** If operation of construction equipment occurs within 500 feet of suitable habitat during the breeding seasons for the coastal California gnatcatcher (February 15 to August 31), nesting raptors (January 15 to July 15), or least Bell's vireo (March 15 to September 15), pre-construction survey(s) shall be conducted by a qualified biologist, as applicable, to determine whether these species occur within the areas potentially impacted by noise, with the final survey occurring within 3 days of the proposed start of construction and results submitted to the County and Wildlife Agencies. If it is determined at the completion of pre-construction surveys that active nests belonging to these sensitive species are absent from the potential impact area, construction shall be allowed to proceed. If pre-construction surveys determine the presence of active nests belonging to these sensitive species, then construction shall: (1) be postponed until a qualified biologist determines the nest(s) is no longer active or until after the respective breeding season; or (2) not occur until a temporary noise barrier or berm is constructed at the edge of the development footprint and/or around the piece of equipment to ensure that noise levels are reduced to below 60 dBA or ambient, whichever is greater, and the type(s) and location(s) of noise barrier(s) will be provided to the County and Wildlife Agencies along with noise measurements demonstrating compliance with required noise level reductions. Decibel output will be confirmed by a County-approved noise specialist and intermittent monitoring by a qualified biologist to ensure that conditions have not changed will be required. If pre-construction surveys identify coastal California gnatcatcher, nesting raptors, or least Bell's vireo, blasting will be restricted to the non-breeding season for the identified birds (September 1 to February 14 for coastal California gnatcatcher; July 16 to January 14 for nesting raptors; and September 16 to March 14 for least Bell's vireo) or be completed using wholly chemical means. All grading permits, improvement plans, and the final map shall state the same.
- BIO-6a:** Mitigation for impacts to 0.01 acre of southern willow scrub, 0.17 acre of mule fat scrub, and less than 0.01 acre of tamarisk scrub shall occur at a 3:1 ratio with at least 1:1 creation as specified in BIO-1b, above. Mitigation shall occur through one or a combination of the following: on- and/or off-site establishment, re-establishment, rehabilitation, and/or enhancement of 0.57 acre of riparian habitat; and/or off-site purchase of riparian habitat mitigation credits at an approved mitigation bank, such as the San Luis Rey Mitigation Bank, or other location deemed acceptable by the County and Regulatory Agencies. The establishment/creation component must be at least 1:1 while the remaining 2:1 can be restoration and enhancement. Any mitigation completed through purchase of mitigation credits shall be provided prior to the issuance of a grading permit. Any applicant-initiated mitigation must be implemented prior to or concurrent with associated project impacts.

- BIO-6b:** Mitigation for impacts to 0.4 acre of coast live oak woodland and 2.2 acres of oak root protection zone (consisting of 0.2 acre of Diegan coastal sage scrub, 0.9 acre of non-native grassland, 0.1 acre of pasture, 0.4 acre of disturbed habitat, and 0.6 acre of developed land [Figure 14c]) shall occur at a 3:1 ratio through on-site preservation of a minimum of 7.8 acres of coast live oak woodland within a biological open space easement. The mitigation shall be provided prior to the issuance of a grading permit.
- BIO-6c:** Mitigation for 32.5 acres of impacts to Diegan coastal sage scrub and 1.4 acres of impacts to flat-topped buckwheat scrub shall occur at a 3:1 ratio through the on-site preservation of 101.7 acres of Diegan coastal sage scrub within a biological open space easement. The mitigation shall be provided prior to the issuance of a grading permit.
- BIO-6d:** Mitigation for 37.6 acres of impacts to non-native grassland shall occur through the on-site preservation of 18.8 acres of non-native grassland within a biological open space easement, as described in Measure BIO-4a. The mitigation shall be provided prior to the issuance of a grading permit.
- BIO-7a:** Impacts to 0.20 acre of USACE jurisdictional non-wetland waters of the U.S. shall be mitigated at a minimum 1:1 ratio through one or a combination of the following: on- and/or off-site establishment, re-establishment, rehabilitation, and/or enhancement of 0.20 acre waters of the U.S.; and/or off-site purchase of waters of the U.S. credits at an approved mitigation bank, such as the San Luis Rey Mitigation Bank, or other location deemed acceptable by the USACE. Any mitigation completed through purchase of mitigation credits shall be provided prior to the issuance of a grading permit. Any applicant-initiated mitigation must be implemented prior to or concurrent with impacts to waters of the U.S. Impacts to waters of the U.S. would require issuance of a Section 404 CWA permit from the USACE prior to impacts.
- BIO-7b:** Impacts to 0.01 acre of CDFW jurisdictional southern willow scrub, 0.17 acre of CDFW jurisdictional mule fat scrub, and less than 0.01 acre of CDFW jurisdictional tamarisk scrub will be mitigated at a 3:1 ratio as described in BIO-1b and 6a above, totaling 0.57 acre of riparian habitat mitigation. Impacts to 0.21 acre of CDFW streambed will be mitigated at a minimum 1:1 ratio through one or a combination of the following: on- and/or off-site establishment, re-establishment, rehabilitation, and/or enhancement of 0.21 acre riparian and/or stream habitat; and/or off-site purchase of riparian and/or stream credits at an approved mitigation bank, such as the San Luis Rey Mitigation Bank, or other location deemed acceptable by the CDFW. Combined mitigation for CDFW riparian habitat and streambed totals 0.78 acre. Any mitigation completed through purchase of mitigation credits shall be provided prior to the issuance of a grading permit. Any applicant-initiated mitigation must be implemented prior to or



concurrent with impacts to CDFW habitat. Impacts to CDFW jurisdictional habitat would require issuance of a CFG Section 1602 Streambed Authorization Agreement from the CDFW prior to impacts.

- BIO-7c:** Impacts to 0.19 acre of RPO wetland (0.01 acre of southern willow scrub, 0.17 acre of mule fat scrub, and less than 0.01 acre of tamarisk scrub) will be mitigated at a 3:1 ratio with at least 1:1 creation, for a total mitigation requirement of 0.57 acre for County RPO wetlands. Impacts to southern willow scrub, mule fat scrub, and tamarisk scrub will be mitigated as described in BIO-1b and BIO-6a, above. Any mitigation completed through purchase of mitigation credits shall be provided prior to the issuance of a grading permit. Any applicant-initiated mitigation must be implemented prior to or concurrent with impacts to RPO wetlands.
- BIO-8a:** The project requires preparation of a Resource Management Plan (RMP) for on-site biological open space to be approved by the County. The RMP will provide direction for the permanent preservation and management of the on-site biological open space in accordance with County regulations.
- BIO-8b:** The project will incorporate a 100-ft wide limited building zone easement extending outward from the edge of the biological open space easement.
- BIO-9a:** The project requires preparation of a wetland revegetation plan for impacts to wetland habitat and jurisdictional waters to be approved by the County (wetland impacts only) and USACE, CDFW, and RWQCB (impacts to waters of the U.S. and CDFW wetlands). Approval of the plan by the USACE, CDFW, and RWQCB will be a condition of the associated wetland permits for the project.
- BIO-9b:** The project requires preparation of an upland revegetation plan for impacts to sensitive upland habitat be approved by the County and Wildlife Agencies (USWFS and CDFW). Although the project has sufficient upland preservation onsite to meet the required habitat mitigation ratios for impacts to sensitive uplands (coast live oak woodland, Diegan coastal sage scrub, flat-topped buckwheat scrub, and non-native grassland) and raptor foraging habitat (non-native grassland and pasture), the project proponent has agreed to implement upland restoration and enhancement efforts above and beyond the habitat preservation requirement.
- BIO-10a:** To help ensure errant impacts to sensitive vegetation communities outside of the impact footprint are avoided during construction, environmental fencing (including silt fencing where determined necessary by the SWPPP), would be installed at the edges of the impact limits prior to initiation of grading. All construction staging shall occur within the approved limits of construction.

**BIO-10b:** A qualified biologist will monitor the installation of environmental fencing wherever it would abut sensitive vegetation communities, jurisdictional waters or wetlands, or biological open space. The biologist also will conduct a pre-construction environmental training session for construction personnel to inform them of the sensitive biological resources on site and avoidance measures to remain in compliance with project approvals. The biologist also will monitor vegetation clearing, grubbing, and grading activities on a regular basis to help ensure compliance with project approvals.

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 Project would impact 32.5 acres of coastal sage scrub and one location where breeding gnatcatchers were detected, in the southwestern portion of the site. Approved coastal sage scrub losses as of the date of July 31, 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:	1655.88 acres
Net loss due to this project:	32.5 acres
Total cumulative loss:	1688.38 acres
Remaining loss under five percent guideline:	1,264.92 acres

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

The Project site occurs mostly within lands identified as Pre-Approved Mitigation Area (PAMA) under the Draft MSCP North County Plan. The site is part of a core

wildlife area of 500 acres of wildlife habitat or more and has been known to support viable populations of coastal California gnatcatcher in addition to multiple other wildlife species.

Undeveloped areas within the Project site are concentrated in the eastern and southwestern portions of the site, consisting of hills primarily supporting native scrub communities. Diegan coastal sage scrub is the dominant vegetation community on site. Surrounding land uses include the San Luis Rey River to the north, with SR 76 and rural residential development occurring to the north side of the river, I-15 and rural residential development to the east, and rural residential development to the south and west. In addition, a California Department of Transportation (Caltrans) mitigation site is located along the northern property boundary, extending to the San Luis Rey River.

CSS covers 509.2 acres (includes disturbed CSS) on the Project site. This habitat occurs in large swaths in the eastern and southern portions of the site. Disturbed coastal sage scrub on site occurs as narrow bands of habitat along the slopes of three incised drainages within lands used for row crops.

Gnatcatcher pairs were observed in four locations in the southwestern portion of the site during the 2015 protocol survey, though not all pairs were detected during each of the three surveys. Two fledglings also were observed in one location in the southwestern hills during the 2015 survey. A pair of gnatcatchers also was observed in the eastern hills in early July 2016, and two separate sightings of single male individuals were noted in the eastern hills in March 2017. Gnatcatchers in the region could use other scrub-vegetated portions of the site and immediate vicinity for foraging, dispersal, and migration activities. It is noted that nearly all sage scrub on site burned in the 2017 Lilac Fire, thus rendering most of the habitat unsuitable for gnatcatcher occupation until the vegetation sufficiently recovers.

On the Project site, the eastern hills provide a large block of natural habitat that connects to grassland just north of the site, and then further north to the San Luis Rey River. The eastern hills consist primarily of CCS, with lesser coverage by oak woodland and mixed chaparral; these habitats burned in May 2014 and December 2017. Native habitat is anticipated to regenerate and wildlife use is expected to increase as the habitat recovers from the fires.

The eastern hills connect to a range of hills that extends westward across the southern portion of the Project site, connecting to riparian habitat along the river at the site's western tip. Habitat on these hills comprises a mosaic of large stands of coastal sage scrub interspersed with expanses of orchard, fallow orchard, and row crops. These hills provide opportunities for east-west wildlife movement across the site, as well as connectivity to important resources associated with the San Luis Rey River.

In the Project vicinity, the San Luis Rey River functions to allow wildlife movement in the local area. The presence of SR 76 along the northern side of the river, together with the preponderance of small, privately-owned parcels north of SR 76, greatly limits connectivity to the north. Connectivity to the south of the Project site is also limited by fragmentation resulting from residential and semi-rural development and roads. Thus, the greatest opportunity for wildlife movement in the Project vicinity occurs in an east-west direction along the San Luis Rey River and associated undeveloped floodplain areas directly north of the site, rather than in the fragmented and developed lands further north and south of the river.

Most of the Project development would be within areas that have been altered by decades of agricultural and equestrian uses; however, the Project would impact 32.5 acres of CSS. This habitat loss represents approximately 6.4% of the CSS on the Project site. The majority of impacted CSS is occupied by coastal California gnatcatcher, based on 2015 survey results. The Project would impact one location where breeding gnatcatchers were detected, in the southwestern portion of the site. The impacted habitat is considered intermediate quality habitat based on the NCCP flowchart, but due to the high concentration of gnatcatchers would be mitigated at a 3:1 ratio.

The Project would conserve a total of 832.7 acres as biological open space. This acreage is in excess of the acreage required to mitigate the Project's impacts. The proposed biological open space includes 467.8 acres of CSS, including 149 acres in the western half of the Project site where the majority of gnatcatcher detections have occurred to date. Gnatcatcher use of the eastern hills is expected to increase as the habitat continues to recover from the 2014 and 2017 wild fires, as one pair was already been detected in the area in 2015 and this portion of the site is in close proximity to numerous records of gnatcatcher east of the site along the I-15 corridor.

The proposed biological open space would also maintain adequate habitat connectivity for gnatcatcher with off-site lands to the east, north, and west of the site, as well as sufficient habitat on site to continue to support breeding, foraging, dispersal, and migration activities for the species. Additionally, proposed restoration activities would increase the amount of sage scrub on site, providing additional habitat for gnatcatcher.

The Project has been designed to provide a wide corridor of biological open space extending from the large block of habitat comprising the eastern hills to the western portion of the site and connecting with off-site conserved habitat along the river. The proposed development has been designed to allow for continued gnatcatcher connectivity across the site, and to off-site habitat along the San Luis Rey River and to the east of the site along I-15.

Biological open space at the western end of the site connects to off-site conserved lands associated with the San Luis Rey River along an approximately 1,400 linear-ft distance. At the eastern end of the site, biological open space connects to

undeveloped lands west of I-15 along an approximately 1,700-linear ft distance, and to undeveloped lands on the north side of Dulin Road over an approximately 3,200-linear ft distance. This wide swath of on-site biological open space ranges in width from over 900 ft to approximately 3,000 ft and contains over three linear miles of biological open space in an east-west direction across the site. The eastern 2.5 miles of biological open space are uninterrupted, while the western 0.5 mile is interrupted by proposed development and associated access roads. The Project development is not expected to substantially interfere with the linkage, as lines-of-sight are maintained across the roads. The on-site portions of the linkage are most important for avian species such as coastal California gnatcatcher. The Project development and associated access roads traversing portions of the biological open space would not substantially interfere with their ability to disperse across the site, or to off-site areas, as adequate connectivity is maintained.

Although the Project would impact areas used by coastal California gnatcatcher for foraging and breeding, the Project would not impede wildlife access to on-site areas necessary for reproduction, as sufficient habitat to support these species would be conserved on site, and connections to off-site lands also would be maintained. Existing CSS and other sage scrub habitats would be largely conserved on site, thus continuing to contribute to live-in and dispersal habitat for coastal California gnatcatcher. The Project would also allow for the continued viability of the core wildlife area by conserving the majority of existing habitat in biological open space and supporting connectivity across the site and to offsite lands along the San Luis Rey River as well as to undeveloped lands along the I-15 corridor. Therefore, the Project would not preclude connectivity between areas of high habitat values.

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

The Project would occur within areas identified as PAMA under the Draft North County MSCP; however, Project implementation would not preclude or prevent finalizing and adoption of this Plan. The majority of project development is concentrated in existing agricultural and equestrian-use areas and large areas of the site, including most of the native habitat areas, would be conserved in biological open space.

The Project would result in preservation of 832.7 acres of biological open space, the majority of which occurs within draft PAMA. This acreage is in excess of the acreage required to mitigate the Project's impacts.

The Project's conservation design is consistent with targets for the region. The Project would conserve a wide corridor of biological open space extending from the large block of habitat comprising the eastern hills to the western portion of the site. The Project would maintain wildlife access from off-site conserved lands along the San Luis Rey River to the eastern hills and western tip of the site. The biological open space would also allow for continued gnatcatcher connectivity across the

site, and to off-site habitat along the San Luis Rey River and to the east of the site along I-15. The onsite biological open space would contribute 467.8 acres of coastal sage scrub, as well as other vegetation community types. This contribution would expand regional live-in habitat placed in preservation.

An analysis was completed for Project impacts on coast live oak woodland, coastal sage scrub (including coastal sage-chaparral scrub), and non-native grassland compared to those reported for the region, including data related to proposed PAMA designations and conservation targets identified in the 2009 public review Draft MSCP North County. This analysis is included in the Biological Resources Technical Report for the Project (see Tables 8 and 9). The analysis demonstrates that project impacts on coast live oak woodland, Diegan coastal sage scrub, and non-native grassland are extremely small compared to the amount of existing regional habitat reported within the Draft North County MSCP area, including the total expected and targeted for conservation within PAMA.

One of the key targets for the Draft MSCP North County Plan and preserve assemblage for PAMA is the gnatcatcher. The Project site supports Diegan coastal sage scrub within PAMA and the California Gnatcatcher Habitat Evaluation Model ranks portions of the eastern hills and southwestern hills on site as having high and very high value for this species. Gnatcatchers have been confirmed nesting in the southwestern portion of the site and a pair was also observed in the eastern hills in July 2016, in addition to two separate sightings of single male individuals in the eastern hills in March 2017. The Project would conserve gnatcatcher habitat and dispersal routes from the eastern hills across the site to the southwestern corner. Alternative dispersal routes also occur along the San Luis Rey River to the north of the site and connect to on-site biological open space at the eastern and western ends of the site.

The Project has been designed to assist in implementing the proposed PAMA and contribute to long-term habitat value for plants and wildlife in the region. The configuration of the proposed biological open space results in conservation of a large block of preserved land that contributes substantially to the viability of the MSCP North County Preserve by providing large areas of live-in habitat and dispersal habitat for key species of concern (e.g., coastal California gnatcatcher).

Furthermore, the Project supports the conservation goals and objectives for the Lower San Luis Rey River Linkage by minimizing impacts to sage scrub; providing for conservation of potential foraging and aestivation habitat for arroyo toad and western spadefoot; maintaining and restoring riparian habitat near the San Luis Rey River; incorporating long-term management of biological open space, which will include directives for management of invasive species; and maintaining connectivity for wildlife movement between the project site, San Luis River, and hills offsite to the east near I-15. Thus, the Project would not preclude or prevent the successful preparation and implementation of the North County MSCP.

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 Project would impact 32.5 acres of CSS habitat, out of 509.2 acres of the Project site. Section 4.3 of the NCCP Guidelines (CDFW 1993a) states, in part: "Project design must be consistent with the Conservation Guidelines and with any guidelines adopted by the subregion and concurred with by the CDFG and USFWS and must, to the maximum extent practicable, minimize habitat loss." Impacts are allowable according to the Southern California Coastal Sage Scrub NCCP Conservation Guidelines (CDFW 1993b) when the site's potential value for conservation is considered.

Based solely on the NCCP Logic Flow Chart, the quality of habitat supported by the Project site is defined as being "Intermediate Value." However, because the 32.5-acre area that would be impacted is occupied habitat and due to the concentration of gnatcatchers on the Project site, the habitat is considered high quality and would be mitigated at the higher ratio.

Mitigation for impacts to 32.5 acres of CSS shall occur at a 3:1 ratio through on-site preservation. The 97.5 acres of CSS required for mitigation will be preserved within a biological open space easement. In addition, the Project would also place an additional 370.3 acres of CSS within a biological open space easement. Thus the Project would preserve a total of 467.8 acres of CSS on-site as biological open space.

Therefore, with consideration of the on-site required mitigation and additional excess contribution of CSS to the region, the 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.

Two listed species have been observed within the Project site: coastal California gnatcatcher and least Bell's vireo. Impacts and mitigation for these two species are discussed below.

Gnatcatcher pairs were observed in four locations in the southwestern portion of the site during the 2015 protocol survey, a pair of gnatcatchers also was observed in the eastern hills in 2016, and two separate observations of single male individuals were noted in the eastern hills in 2017. The project would impact one location where breeding coastal California gnatcatchers were detected.

The project would conserve 467.8 acres of coastal sage scrub in biological open space, including 149.0 acres in the western half of the site where the majority of

gnatcatcher detections have occurred to date. Gnatcatcher use of the eastern hills is expected to increase as the habitat continues to recover from the 2014 and 2017 wildfires. Proposed biological open space would maintain adequate habitat connectivity for gnatcatcher with off-site lands to the east, north, and west of the site, as well as sufficient habitat on site to continue to support breeding, foraging, dispersal, and migration activities for the species. Additionally, proposed restoration activities would increase the amount of sage scrub on site, providing additional habitat for gnatcatcher. Edge effects on gnatcatcher as a result of project development would be addressed through a variety of mitigation measures and project design features.

Thus the project would not reduce the likelihood of survival and recovery of gnatcatcher as a result of the following mitigation and design features: designing the biological open space to conserve large, connected areas of sage scrub; maintaining connectivity to offsite dispersal habitat along the San Luis Rey River; restoration and enhancement of sage scrub on site; implementation of avoidance and minimization measures during construction; mitigation and project design features to address edge effects; and long-term monitoring and management to be conducted for biological open space under a project-specific RMP to be approved by the County.

There is also a potential for impacts to least Bell's vireo if they should move onto the site for nesting. However, a breeding territory was not documented on site during focused surveys conducted in 2015 and 2016, and the site would not be expected to support a significant population of vireos, as this species is known to occupy the San Luis Rey River north of the site, which supports higher quality, much more extensive habitat for the species. Further, the Project would increase the amount of riparian habitat on site through restoration. Therefore, the project would not reduce the likelihood of survival or recovery for least Bell's vireo.

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

The Project will require grading plans and improvement plans from the County, as well as 401/404 and 1600 permits for impacts to USACE, RWQCB, and CDFW jurisdictional areas. 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. No state or federal permits other than those mentioned above are identified as being required at this time. Construction and/or land use modification will not commence until all appropriate permits have been issued. The project has been found to be in conformance with Section 86.104 of the San Diego County Code. As such, the anticipated loss will be incidental to "otherwise lawful activities".



## NCCP FLOWCHART

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

Based solely on the NCCP Logic Flow Chart process, the Project site is defined as "Intermediate Value" because it is not located within the most dense subregion. However, the Project site features large blocks of CSS, provides a linkage, and features a high concentration of gnatcatchers. For these reasons, the Project site is considered to feature "High Value" CSS and mitigation shall be provided at a 3:1 ratio.

**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:

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-1a through BIO-10b

**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.

**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 ITSHABITAT 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 subject property contains habitat which may be used for nesting by migratory birds. Any grading, brushing or clearing conducted during the migratory bird breeding season, February 1 – August 31, has a potential to impact nesting or breeding birds in violation of the Migratory Bird Treaty Act. The applicant may submit evidence that nesting or breeding migratory birds will not be affected by the grading, brushing or clearing to these agencies: California Department of Fish and Wildlife, 3883 Ruffin Rd., San Diego, CA 92123, (858) 467- 4201, <http://www.dfg.ca.gov/>; and United States Fish and Wildlife Service, 6010 Hidden Valley Rd, Carlsbad, CA 92011-4219, (760) 431-9440, <http://www.fws.gov/>.

**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

Attachments

Figure 1: Habitat Loss Permit Exhibit

cc: To be provided at issuance of Habitat Loss Permit

email cc:

Bronwyn Brown, Planning Manager, Project Planning, Planning & Development Services  
Darin Neufeld, Chief, Project Planning, Planning & Development Services  
Bonsall Community Sponsor Group  
Fallbrook Community Planning Group