



County of San Diego

MARK WARDLAW
DIRECTOR

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

MITIGATED NEGATIVE DECLARATION

PROJECT NAME: Warner Springs Cultural Trust Protective Fence

RECORD ID: PDS2015-STP-15-004

ENVIRONMENTAL LOG NO.: PDS2015-ER-15-04-002

**This Document is Considered Draft Until it is Adopted by the Appropriate
County of San Diego Decision-Making Body.**

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study Form
- 1. California Environmental Quality Act Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.

- 2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

BIOLOGICAL RESOURCES

1. BIO#1 BIOLOGICAL RESOURCES: [PDS, PPD]

INTENT: In order to protect sensitive biological resources, pursuant to the California Environmental Quality Act (CEQA) and the County of San Diego Resource Protection Ordinance (RPO), either a biological open space easement shall be granted within parcels APN 137-091-02-00 and/or 137-100-01-00 or habitat shall be

purchased at an offsite mitigation bank. Table 1 provides the required mitigation for either option.

TABLE 1 Existing Vegetation Communities and Proposed Mitigation			
Vegetation Type	Impact Acreage	Mitigation Ratio	Mitigation Acreage
Disturbed (11300)	0.87	None	--
Big sagebrush scrub (35210)	0.20	2:1	0.40
Northern mixed chaparral (37130)	0.15	0.5:1	0.08
Red shank chaparral (37300)	0.52	1:1	0.52
Flat-topped buckwheat (32800)	0.45	2:1	0.90
Upper Sonoran subshrub scrub (3900)	0.16	1:1	0.16
Non-native grassland (42200)	1.15	0.5:1	0.58
Southern coast live oak riparian forest (61310)	0.52	3:1	1.56
TOTAL	4.02	--	4.2

DESCRIPTION OF REQUIREMENT: One of the following two options shall be selected to mitigate for biological impacts.

A. Open Space Easement

Grant to the County of San Diego by separate document, an open space easement. 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 exception(s) to this prohibition is:

1. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the applicable fire code of the Fire Authority Having Jurisdiction and the Memorandum of Understanding dated February 26, 1997, (<http://www.sdcounty.ca.gov/PDS/docs/MemoofUnder.pdf>) between the wildlife agencies and the fire districts and any subsequent amendments thereto.
2. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of PDS.

3. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the DEH.
4. Uses, activities, and placement of structures expressly permitted by the of Director of Planning & Development Services, whose permission may be given only after following the procedures and complying with all requirements applicable to an Administrative Permit pursuant to The Zoning Ordinance of the County San Diego.

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. **MONITORING:** The *[DGS, RP]* shall prepare and approve the easement documents and send them to *[PDS, PPD]* for pre-approval. The *[PDS, PPD]* 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, PPD]* for satisfaction of the condition.

B. Offsite Habitat Purchase

The applicant shall purchase habitat credit of 4.2 acres of habitat as indicated in Table 1 as follows.

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.

DOCUMENTATION: The applicant shall purchase the off-site mitigation credits and provide the evidence to the *[PDS, PPD]* for review and approval. It is recommended that the applicant submit the mitigation proposal to the *[PDS, PPD]*, for a pre-approval. **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.

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 or the offsite habitat purchase shall be completed..

CULTURAL RESOURCES

2. CULT#1 ARCHAEOLOGICAL MONITORING: [PDS, PPD]

INTENT: In order to mitigate for potential impacts to subsurface, buried archaeological resources, an Archaeological Monitoring Program and potential Data Recovery Program shall be implemented pursuant to the California Environmental Quality Act (CEQA). **DESCRIPTION OF REQUIREMENT:** A Project Archaeologist shall be engaged to perform cultural resource monitoring and a potential data recovery program during all earth-disturbing activities. The archaeological monitoring program shall include but is not limited to the following:

- a. The Project Archaeologist shall perform the monitoring duties before, during and after construction as identified below. The contract or letter of acceptance provided to the County shall include an agreement that the archaeological monitoring will be completed, and a Memorandum of Understanding (MOU) between the Project Archaeologist and the County of San Diego shall be executed.
- b. The Project Archaeologist shall provide evidence that a Pala Native American has been contracted to perform Native American Monitoring for the project.
- c. The Project Archaeologist and Pala Native American monitor shall attend the pre-construction meeting with the contractors to explain and coordinate the requirements of the archaeological monitoring program.
- d. The Project Archaeologist and Pala Native American Monitor shall be onsite as determined necessary by the Project Archaeologist. Inspections will vary based on the rate of excavation, the materials excavated, and the presence and abundance of artifacts and features. The frequency and location of inspections will be determined by the Project Archaeologist in consultation with the Pala Native American Monitor. Monitoring of cutting of previously disturbed deposits will be determined by the Project Archaeologist in consultation with the Pala Native American Monitor.
- e. In the event that previously unidentified potentially significant cultural resources are discovered:
 1. The Project Archaeologist or the Pala Native American monitor shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources.

2. At the time of discovery, the Project Archaeologist shall contact the PDS Staff Archaeologist.
 3. The Project Archaeologist, in consultation with the PDS Staff Archaeologist and the Pala Native American Monitor, shall determine the significance of the discovered resources.
 4. Construction activities will be allowed to resume in the affected area only after the PDS Staff Archaeologist has concurred with the evaluation.
 5. Isolates and clearly non-significant deposits shall be minimally documented in the field.
 6. Should the cultural materials for isolates and non-significant deposits not be collected by the Project Archaeologist, then the Pala Native American monitor may collect the cultural material for transfer to a Tribal Curation facility or repatriation program.
 7. A Research Design and Data Recovery Program to mitigate impacts to significant cultural resources shall be prepared by the Project Archaeologist in coordination with the Pala Native American Monitor. The Research Design and Data Recovery Program shall include (1) reasonable efforts to preserve (avoidance) "unique" cultural resources or Sacred Sites; (2) the capping of identified Sacred Sites or unique cultural resources and placement of development over the cap, if avoidance is infeasible; and (3) data recovery for non-unique cultural resources.
 8. The County Archaeologist shall review and approve the Program, which shall be carried out using professional archaeological methods.
- f. If any human remains are discovered:
1. The Property Owner or their representative shall contact the County Coroner and the PDS Staff Archaeologist.
 2. Upon identification of human remains, no further disturbance shall occur in the area of the find until the County Coroner has made the necessary findings as to origin.
 3. If the remains are determined to be of Native American origin, the NAHC shall immediately contact the Most Likely Descendant (MLD).
 4. The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further development activity until consultation with the MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted.
 5. The MLD may with the permission of the landowner, or their authorized representative, inspect the site of the discovery of the Native American human remains and may recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The descendants shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.

6. Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5 shall be followed in the event that human remains are discovered.
- g. Upon conclusion of field work, if archaeological resources were encountered during the earth disturbing activities, the Project Archaeologist shall provide an Archaeological Monitoring Report stating that the monitoring activities have been completed, and that resources have been encountered. The report shall detail all cultural artifacts and deposits discovered during monitoring and the anticipated time schedule for completion of the laboratory analysis, and disposition of cultural materials.

If no cultural resources are discovered, a brief letter to that effect must be submitted stating that the earth disturbing activities have been completed. Daily Monitoring Logs must be submitted with the negative monitoring report.

DOCUMENTATION: The applicant shall provide a copy of the Archaeological Monitoring Contract or letter of acceptance and MOU to the [PDS, PPD]. **TIMING:** Prior to the approval of any plan, issuance of any permit, and prior to occupancy or use of the premises in reliance of this permit. **MONITORING:** The [PDS, PPD] shall review the contract or letter of acceptance and MOU for compliance with this condition.

3. CULT#2 CULTURAL RESOURCES REPORT – FINAL REPORT: [PDS, PPD]

INTENT: In order to ensure that the Archaeological Monitoring occurred during the earth-disturbing activities, a final report shall be prepared. **DESCRIPTION OF REQUIREMENT:** A final Archaeological Monitoring and Data Recovery Report that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program shall be prepared. The report shall include the following items:

- a. DPR Primary and Archaeological Site forms.
- b. Daily Monitoring Logs
- c. Evidence that the disposition of all cultural materials has been completed which may include but is not limited to the following:
 - (1) Prehistoric archaeological materials collected during the archaeological monitoring program shall be submitted and curated at a San Diego curation facility or a culturally affiliated Native American Tribal curation facility that meets federal standards per 36 CFR Part 79, and, therefore, would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records, including title, shall be transferred to the San Diego curation facility or culturally affiliated Native American Tribal curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that

the prehistoric archaeological materials have been received and that all fees have been paid.

or

Evidence that all prehistoric materials collected during the grading monitoring program have been repatriated to a Native American group of appropriate tribal affinity. Evidence shall be in the form of a letter from the Native American tribe to whom the cultural resources have been repatriated identifying that the archaeological materials have been received.

- (2) Historic materials shall be curated at a San Diego curation facility, as identified above, and shall not be curated at a Tribal curation facility or repatriated. The collections and associated records, including title, shall be transferred to the San Diego curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that the historic materials have been received and that all fees have been paid.

- d. If no cultural resources are discovered, a Negative Monitoring Report must be submitted stating that the grading monitoring activities have been completed. Grading Monitoring Logs must be submitted with the negative monitoring report.

DOCUMENTATION: The applicant's archaeologist shall prepare the final report and submit it to the [PDS, PPD] for approval. Once approved, a final copy of the report shall be submitted to the South Coastal Information Center (SCIC) and any culturally affiliated Tribe who requests a copy. **TIMING:** Prior to any occupancy or use of the premises in reliance of this permit, the final report shall be prepared. **MONITORING:** The [PDS, PPD] shall review the final report for compliance this condition and the report format guidelines.

PALEONTOLOGICAL RESOURCES

4. PALEO#-1 PALEONTOLOGICAL MONITORING: [PDS, PPD]

INTENT: In order to comply with the Mitigation Monitoring and Reporting Program pursuant to PDS2015-STP-15-004, a Paleontological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** This project site has high levels of sensitive Paleontological resources and will excavate less than 2,500 cubic yards, as such paleontological monitoring by the either the construction contractor or archaeological monitor is required. All construction activities are subject to the [County of San Diego Grading Ordinance Section 87.430](#), if any significant resources (Fossils) are encountered during construction activities. The Paleontological Monitoring Program shall include the following:

- a. The contractor or archaeological monitor is responsible to monitor for paleontological resources during all grading activities. If any fossils are found greater than 12 inches in any dimension, stop all grading activities and contact PDS before continuing grading operations.

- b. If any paleontological resources are discovered and salvaged, the monitoring, recovery, and subsequent work determined necessary shall be completed by or under the supervision of a Qualified Paleontologist pursuant to the [San Diego County Guidelines for Determining Significance for Paleontological Resources](#).

TIMING: The required actions shall occur throughout the duration of the construction. **MONITORING:** The [PDS, PPD] shall make sure that the contractor or archaeological monitor is on-site performing the Monitoring duties of this condition.

5. PALEO#GR-2 PALEONTOLOGICAL MONITORING – FINAL REPORT: [PDS, PPD]

INTENT: In order to comply with the adopted Mitigation Monitoring and Reporting Program (MMRP) pursuant to PDS2015-STP-15-004, a Paleontological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** One of the following letters shall be performed upon completion of the grading activities that require monitoring:

- a. If no paleontological resources were discovered, submit a “No Fossils Found” letter from the grading contractor to PDS stating that the monitoring has been completed and that no fossils were discovered, and including the names and signatures from the fossil monitors. The letter shall be in the format of Attachment E of the [County of San Diego Guidelines for Determining Significance for Paleontological Resources](#).
- b. If paleontological resources were encountered during grading, a letter shall be prepared stating that the field grading monitoring activities have been completed, and that resources have been encountered. The letter shall detail the anticipated time schedule for completion of the curation phase of the monitoring.

DOCUMENTATION: The applicant shall submit the letter report to PDS for review and approval. **TIMING:** Upon completion of all grading activities, and prior to Rough Grading Final Inspection ([Grading Ordinance SEC 87.421.a.2](#)), the letter report shall be completed. **MONITORING:** PDS shall review the final negative letter report or field monitoring memo for compliance with the project MMRP.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

None

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

on _____

DAVE SIBBET, Planning Manager
Project Planning Division

DS:db