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May 14, 2020

VIA EMAIL

Chelsea Oakes
Land Use/Environmental Planning Manager
5510 Overland Avenue, Suite 310
San Diego, CA 92123
MSCP@sdcounty.ca.gov

Re: North County Multiple Species Conservation Plan

Dear Ms. Oakes:

We represent Golden Door Properties, LLC (or “Golden Door Farms”), a hospitality and agricultural business located within the unincorporated County and adjacent to the proposed North County Multiple Species Conservation Plan (“NC MSCP”) area. Golden Door Farms is committed to environmental stewardship and sustainability. It uses sustainable and bio-intensive agricultural practices, including cultivation of avocado groves and fresh vegetable gardens as well as citrus and olive trees, operates a farm stand in the Twin Oaks Valley community. We therefore support Option 5, provided it is implemented correctly and consistent with the goals set out in the Natural Community Conservation Planning Act.

Adjacent to Golden Door Farms’ property, the Newland Real Estate Group, LLC (“Newland”) proposed a 2,135 residential unit project, which also included a substantial amount of commercial development, some public facilities, and equestrian facilities (collectively, the “Newland Project”) resulting in a new resident population of 6,000 residents, larger than the City of Del Mar. While we are still waiting for the Secretary of State’s certification, as of March 16, 2020, a resounding 58.2 percent (by a margin of over 130,000 “NO” votes) of San Diego citizens voted to overturn the Board of Supervisors’ approval of the Newland Project:



(Source: San Diego County Registrar of Voters.) Accordingly, the County cannot move forward with the Newland Project.

Therefore, we ask the County to refrain from allowing the Newland Project (or a project with a similar footprint) from being included as a hardline in the NC MSCP as it had in the 2017 draft NC MSCP. Golden Door Farms believes in the value of habitat-level planning to ensure species conservation. As multiple agency biologists have stated on-the-record and in internal emails, including a hardline for the Newland Project is directly contrary to that goal. Rather, similar to the defeat of the Merriam Mountains Project, located in the same location in generally the same configuration as the defeated Newland Project, the County should hold to its policy to return the area to Pre-approved Mitigation Area (“PAMA”) in the draft NC MSCP. (See Attachment C, Wildlife and Habitat Conservation Coalition Letter, p. 2 [citing January 23, 2014 MSCP meeting notes].)

The revived NC MSCP should not repeat the 2017 draft NC MSCP’s mistakes, highlighted in the attached compendium of documents outlining the backroom dealing that sought to inappropriately include the unapproved Newland Project as a “hardline” in the draft plan. **Attachment A** is a Voice of San Diego article from June 9, 2017 outlining the County’s prior attempt to include the Newland Project in the draft NC MSCP. **Attachment B** is the 2017 draft NC MSCP. **Attachment C** is a letter from the Wildlife and Habitat Conservation Coalition from April 24, 2017, outlining the County’s inappropriate inclusion of Newland Sierra in a list of already approved projects. **Attachment D** is a memorandum from Newland to the United States Fish & Wildlife Service, including emails detailing Newland’s attempts to be included as a hardline within the draft NC MSCP. **Attachment E** is a May 17, 2017 letter from the Golden Door to the Board of Supervisors asking the Board to investigate the backroom dealing that caused Newland to be the only unapproved project included in the draft NC MSCP. **Attachment F** is a response from Director Wardlaw to Golden Door Farms. **Attachment G** is a study from April 18, 2017 providing an overview of the Newland Project site’s importance to wildlife connectivity. Given that the voters have recently overturned the Board of Supervisors’ approval of the Newland Project, there is no rational basis for the County to grant the unapproved Project similar treatment in this iteration of the NC MSCP.

Golden Door Farms appreciates the opportunity to be involved in the NC MSCP process and will provide additional comments regarding the County’s proposal. Golden Door Farms firmly believes in the many environmental and economic benefits that the NC MSCP can provide and therefore supports Option 5, but only if implemented correctly and in good faith. Accordingly, the Golden Door requests that the County pursue Option 5 or other to-be-identified options that include a NC MSCP aimed at best preserving North County’s vital interconnected habitat and reject any option that either abdicates the County’s responsibility to prepare a NC MSCP or otherwise compromises the goals of the Natural Community Conservation Planning Act.

Best regards,

/s/Samantha Seikkula

Samantha Seikkula

LATHAM & WATKINS LLP

Attachments

cc: Kathy Van Ness, Golden Door Farms
Nikki Buffa, Latham & Watkins

- Voice of San Diego - <https://www.voiceofsandiego.org> -

Environmentalists Say Conservation Plan Is Being Used to Give One Development a Leg Up

Posted By *Ry Rivard* On June 9, 2017 @ 7:00 am

For several decades, county officials, developers and environmentalists have been working on a plan to preserve habit across 290,000 acres of mostly rural North County while still allowing construction of new homes and businesses.

But as the long-delayed plan nears the finish line, environmentalists worry it's being used to give a leg up to an unapproved and controversial housing development.

The developer Newland Communities wants to build a 2,100-unit housing development, called Newland Sierra, along Interstate 15 near San Marcos. Before it's built, Newland's project must be approved by either the County Board of Supervisors or voters.

It does not yet have such approval. That's why environmentalists are wondering why the project appears along with a half dozen already approved projects in a March draft ^[1] of the county's Multi-Species Conservation Plan for the North County. The plan is supposed to save wildlife and habitat while also allowing for development.

In late April, a group of 16 San Diego environmental groups wrote a letter to Supervisor Dianne Jacob arguing that county staff is trying to help Newland by lumping it in with approved projects.

The plan draws lines around where developers can and can't build projects in North County to preserve certain areas for wildlife and habitat. It wouldn't determine what can be built in specific areas, but it could determine areas where nothing can be built.

Newland's land is now included in the region's developable area, along with already approved projects.

Doing so gives Newland predictability and likely saves the company money by limiting the amount of habitat preservation it needs to do. Those are substantial benefits, and they're being offered to a private project that the county government has not yet approved.

“By putting it into the draft plan, it stacks the deck in favor of the developer, without a public interest reason for doing so,” said Dan Silver, the head of the Endangered Habitats League and one of the environmentalists who signed the letter. Silver is also on the steering committee that is working to shape the final conservation plan for North County.

The environmentalists, calling themselves the Wildlife and Habitat Conservation Coalition [2], pointed out that not only is the project not approved but there’s reason to doubt it will be: In 2010, the board voted to kill a similar project proposed for the same site, known as Miriam Mountains.

Newland faces two regulatory obstacles. First is getting the Board of Supervisors to approve the development, though the board is generally friendly to developers and San Diego is in the middle of a housing crisis. Second is complying with environmental regulations.

Developers looking for approvals of projects that don’t fit within the county’s existing growth plans must find ways to mitigate the impact of their development on the natural world.

In Newland’s case, the development is atop a rural mountain that is home to a pair of gnatcatchers, an endangered bird. A rush to save the gnatcatcher helped spawn the last quarter-century of land-use planning in San Diego County. There’s a landmark species conservation plan already in place around the city of San Diego. The North County plan is expected to be approved in 2021, though it’s been in the works for decades. Eventually, there will be a third plan for East County.

Newland has come to an impasse with the federal Department of Fish and Wildlife about how to mitigate the effects of the 2,135 units, 81,000 square feet of commercial space and school it wants to build.

Newland already plans to leave 1,209 acres of its 1,985 acres as undeveloped open space meant for wildlife. It’s also recently bought a piece of land in Ramona to preserve as an offset to the land it will develop — but the Department of Fish and Wildlife was pushing the developer to buy and preserve another piece of property as an additional offset. Newland balked.

In a letter last November [3] to the agency’s regional director, Rita Brandin, Newland’s senior vice president, said the demands would make the entire project “financially infeasible.”

Being included in the North County conservation plan before the project is approved, though, may reduce the financial burden.

Silver believes Newland and the county, by including the project in its draft plan, are trying to back the Department of Fish and Wildlife and the state Department of Fish and Wildlife into a corner.

The inclusion will create a veneer that the project is approved, and that presumption will carry the day.

“There would be political pressure on them to put away their red pencil,” he said.

Newland has a well-financed foe, the Golden Door resort, which is right across the road from the proposed development. The Golden Door offers high-end serenity to well-heeled clients that it fears Newland will destroy during noisy construction and then once people and their cars move into the new homes.

In a May 17 letter ^[4], Golden Door’s attorney asked the county to investigate “backroom dealing” that caused Newland to be the only unapproved project included in the draft conservation plan.

“Newland may have involved in [sic] County Planning Staff in its actions, placing staff in a position where they appear to be the developers’ advocates rather than neutral land use specialists processing projects for the public’s benefit,” attorneys wrote.

On June 5, the county government’s director of planning and development services, Mark Wardlaw, replied ^[5]. He said that when the county releases a more formal draft later this year, it will explain “why certain projects were included.” He also said that the county “is not an advocate for or against the project.”

All the documents will eventually be published for the public to review and comment on, which is one reason Newland and others take umbrage with the allegation that county staff are working behind closed doors.

The significance of being included in the draft is debatable, as are the motives of those who are objecting to the draft.

Golden Door, for instance, has thrown up a variety of roadblocks ^[6] trying to halt or at very least cut the size of the Newland Sierra project.

Brandin, the Newland official, also wonders why the Golden Door and other environmentalists are seizing on one project when the conservation plan itself is a bigger deal.

"I would challenge the authenticity of fighting a project in the context of the 290,000 acres," she said.

The implication of that challenge is that critics just want to stop the project to stop the project, not necessarily to save the environment.

The Golden Door, however, paid for a study^[7] that said the area Newland wants to develop is critical for wildlife movement. In the coming weeks, Newland is expected to release its own environmental review of the project, which could likely come to a different conclusion.

Jim Whalen, a member of the conservation plan's steering committee, said he is not sure why the Golden Door, Silver and other environmentalists are up in arms unless they're just anti-development.

To Whalen, all the draft conservation plan does is draw a line where Newland Sierra can and cannot build.

"There is no connection whatsoever between the land use and entitlement process and the MSCP plan, because it's only the footprint, it doesn't talk about what goes into the footprint — you could have one unit or 1,000 units," he said, referring to the Multi-Species Conservation Plan.

Whalen and Rikki Schroeder, a land planning consultant who has worked on some aspects of the Newland project, were both involved in the earlier city of San Diego conservation plan. They said other unapproved projects have been placed in the plans and some of those were never ultimately approved. Instead, the developers of what remain empty lots got stuck with land use restrictions that were hard to change.

Schroeder, a biologist, said she has a favorite stream that is important to her, but that doesn't mean it's important to everybody else. She said that was an analogy for the fight over the Newland site.

"Any natural piece of land in this county seems to be something to be claimed as incredibly important — it's not all incredibly important," she said.

Article printed from Voice of San Diego: <https://www.voiceofsandiego.org>

URL to article: <https://www.voiceofsandiego.org/topics/land-use/environmentalists-say-conservation-plan-is-being-used-to-give-a-development-a-leg-up/>

URLs in this post:

[1] a March draft: <https://www.documentcloud.org/documents/3860687-02-SteeringCommittee2-Presentation.html>

[2] calling themselves the Wildlife and Habitat Conservation Coalition:
<https://www.documentcloud.org/documents/3860691-Letter-WHCCCoalition-Re-Newland-BOS-042417.html>

[3] a letter last November: <https://www.documentcloud.org/documents/3860689-Golden-Door-Newland-Sierra-NC-MSCP-Letter.html#document/p6/a356744>

[4] a May 17 letter: <https://www.documentcloud.org/documents/3860690-Golden-Door-Ltr-to-BOS-Regarding-Newland-and-NC.html>

[5] Mark Wardlaw, replied: <https://www.documentcloud.org/documents/3860692-PDS-Response-to-Latham-amp-Watkins-Letter-RE.html>

[6] has thrown up a variety of roadblocks: <https://www.voiceofsandiego.org/topics/land-use/oasis-for-the-wealthy-golden-door-fights-housing-project-that-just-wont-die/>

[7] a study: <https://www.documentcloud.org/documents/3860689-Golden-Door-Newland-Sierra-NC-MSCP-Letter.html#document/p92/a356745>

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Multiple Species Conservation Program



NORTH COUNTY PLAN



Steering Committee Meeting #2

March 6, 2017

Agenda



- Meeting Notes
- Data Sources and Methodology for Preserve Design
- Steering Committee Discussion
- Preliminary Overview of Species
 - Covered Species
 - Watch List Species
 - No Longer Covered or Watch List Species
- Closing Comments

Agenda



- Meeting Notes
- Data Sources and Methodology for Preserve Design
- Steering Committee Discussion
- Preliminary Overview of Species
 - Covered Species
 - Watch List Species
 - No Longer Covered or Watch List
- Closing Comments

Meeting Purpose and Objectives



Objectives for Meeting #2 and #3:

1. Review data sources for preserve design
2. Review methodology used to assemble preserve
3. Discuss relationship of preserve and covered species
4. Discuss covered species list
5. Discuss watch list
6. Seek input and feedback from Steering Committee

Preserve Assembly and Design



Questions for Steering Committee

- Any comments regarding the Pre-Approved Mitigation Area (PAMA) and how it was designed?
- Any comments regarding how the Preserve will be assembled?

Preserve Assembly and Design



Overview:

- Plan Area
 - ~345,000 acres that includes lands subject and not subject to County's land use authority.
- Permit Area
 - Land within the Plan Area that is subject to the County's land use authority and the requirements of the North County Plan (~84% of Plan Area or ~290,000 acres)
- North County Preserve
 - Includes existing (baseline) and future conserved lands
 - Assembled within a pre-approved mitigation area (PAMA)

ORANGE
COUNTY

RIVERSIDE COUNTY

SAN DIEGO COUNTY

Marine Corps Base
Camp Pendleton

Plan Area:
345,000 Acres

79

76

Oceanside

Vista

San Marcos

Escondido

Carlsbad

Encinitas

Solana
Beach

Del Mar

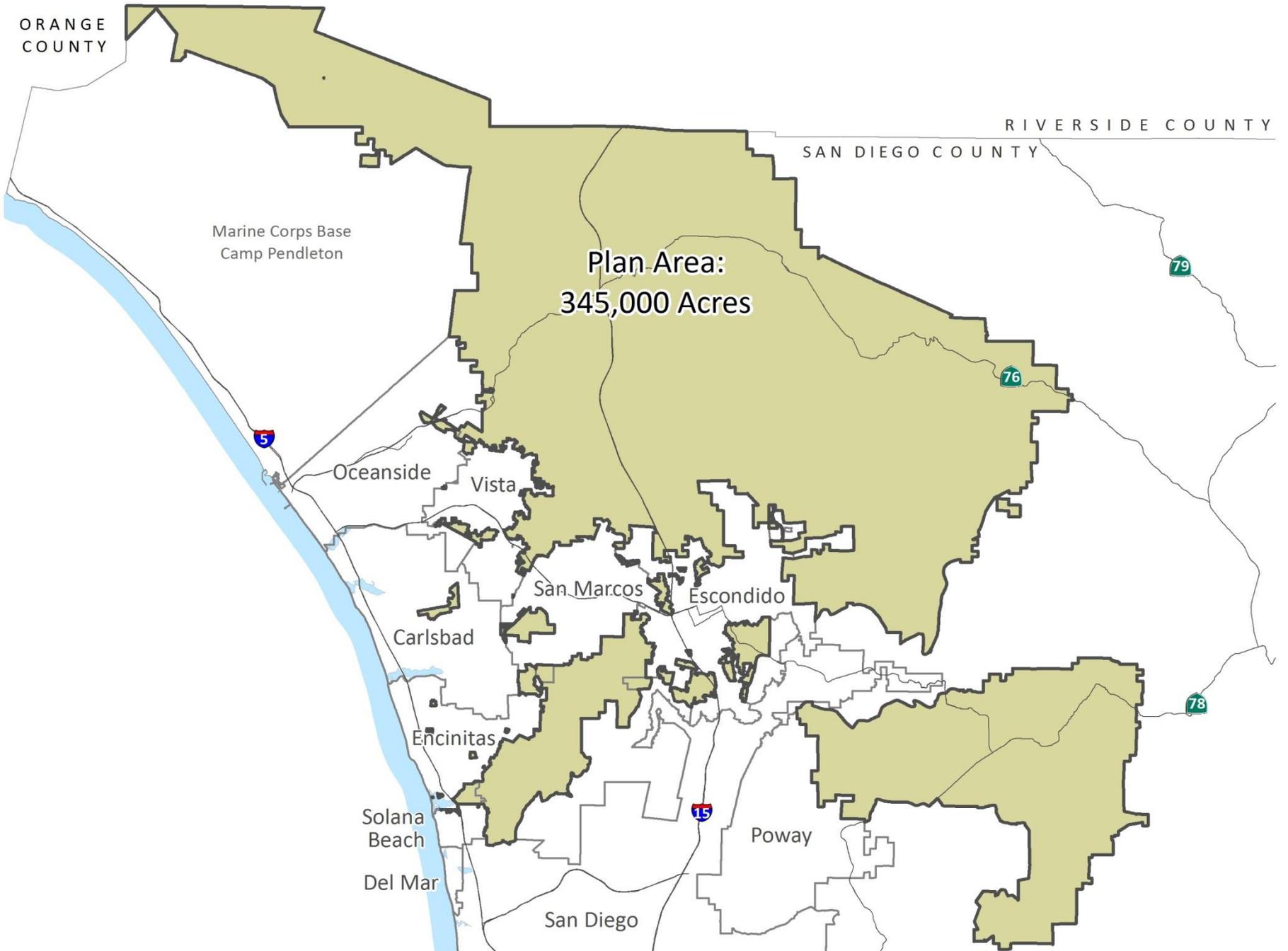
Poway

San Diego

78

5

15



ORANGE COUNTY

RIVERSIDE COUNTY

SAN DIEGO COUNTY

Marine Corps Base
Camp Pendleton

Permit Area:
290,000 Acres

79

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Oceanside

Vista

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Del Mar

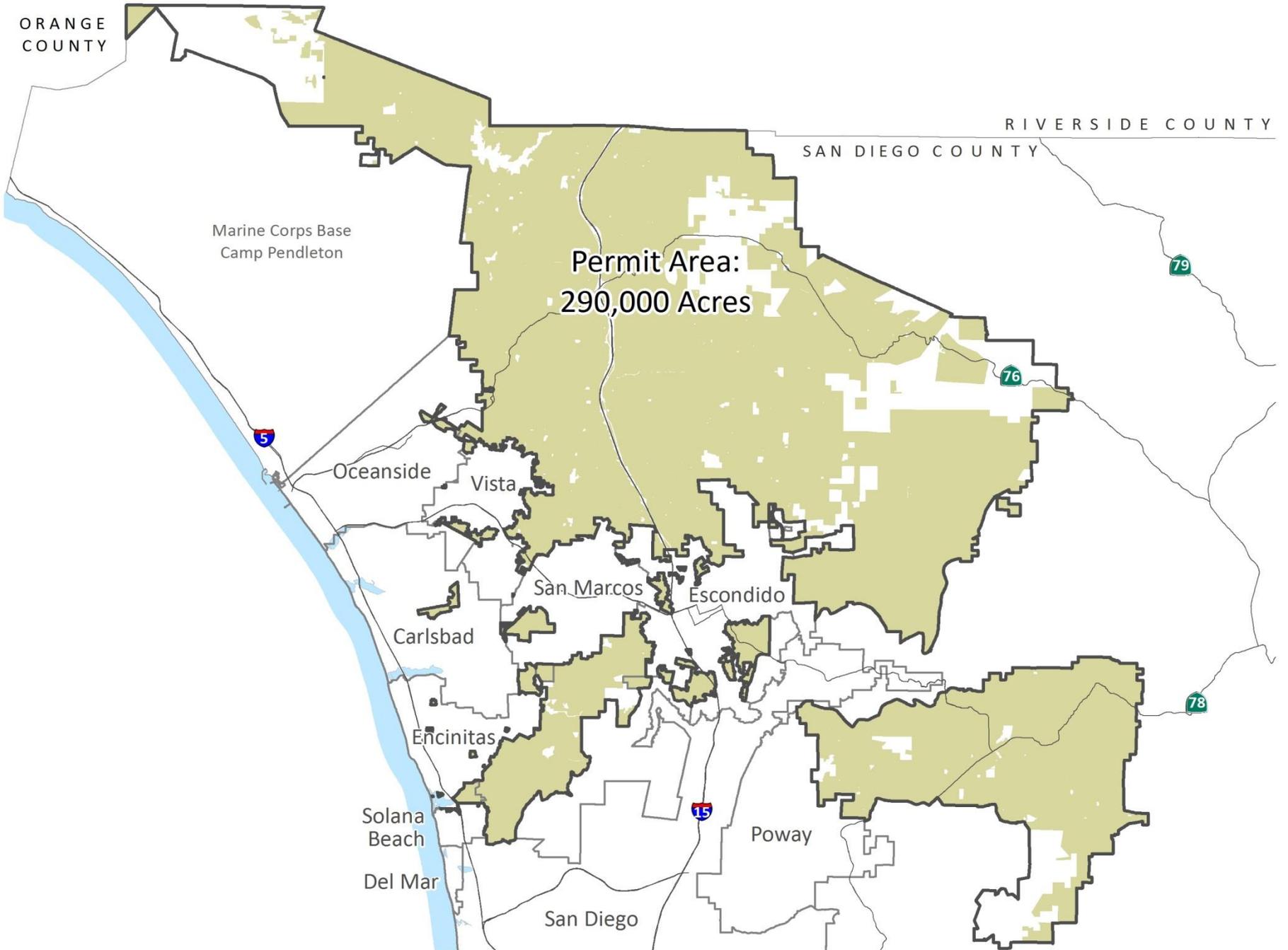
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ORANGE
COUNTY

RIVERSIDE COUNTY

SAN DIEGO COUNTY

Marine Corps Base
Camp Pendleton

Pre-Approved
Mitigation Area (PAMA):
146,000 Acres

79

76

Oceanside

Vista

San Marcos

Escondido

Carlsbad

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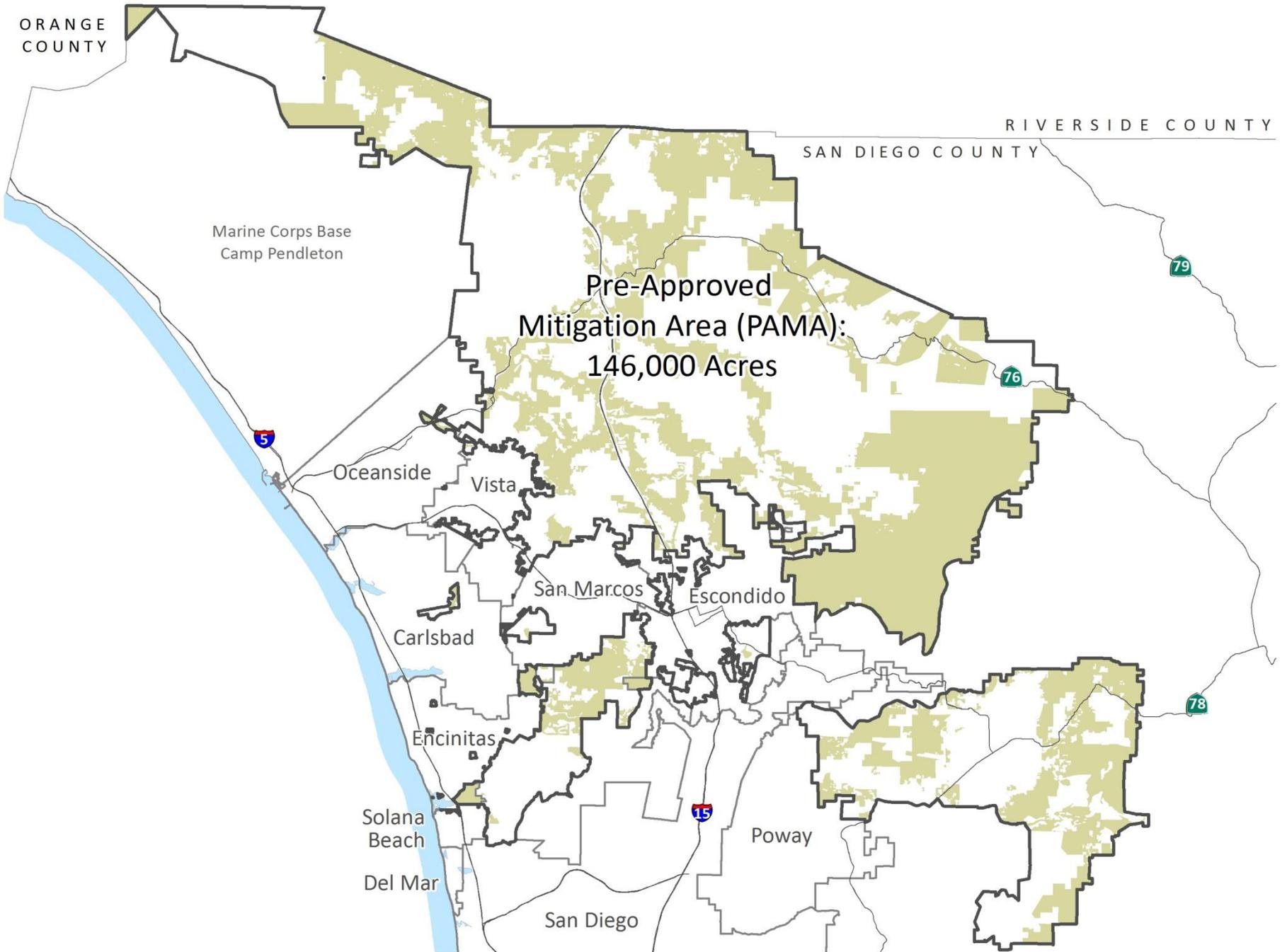
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Data for Preserve Design



1. Vegetation
2. Species Observations
3. Species Predictive Models
4. Habitat Evaluation Model

PAMA Design Principles



Principles:

1. Large blocks of contiguous habitat, following natural topography
2. Large, interconnected blocks of habitat that contribute to the preservation of species
3. Capture major ecological gradients within contiguous preserves
4. Minimize edge effects and reduce the edge-to-preserve area ratio
5. Include high biodiversity lands

Objectives and Constraints → Costs → Spatial Optimization → Outputs

Conservation Target:

Habitat (area)
Species (area or occurrence)

Σ Costs per unachieved target

External Design Constraints:

Synthetic index of conservation costs

Σ Cost of selected sites

Internal Design Constraints:

Clustering (compactness of clusters of selected sites)

Σ Costs of boundaries of contiguous sites

Simulated annealing algorithm

Near optimal network of sites that minimizes overall costs

Does PAMA still “Fit”?



- PAMA still covers the natural areas of the County and the preserve system is still viable
- PAMA has been refined slightly:
 - Aligned to parcel lands
 - Lands owned by jurisdictions not subject to the Plan removed
 - Expanded urban areas removed
 - Some areas not likely to produce conservation through development or acquisition removed

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Marine Corps Base
Camp Pendleton

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Oceanside

Vista

Developed

San Marcos

Escondido

Carlsbad

Encinitas

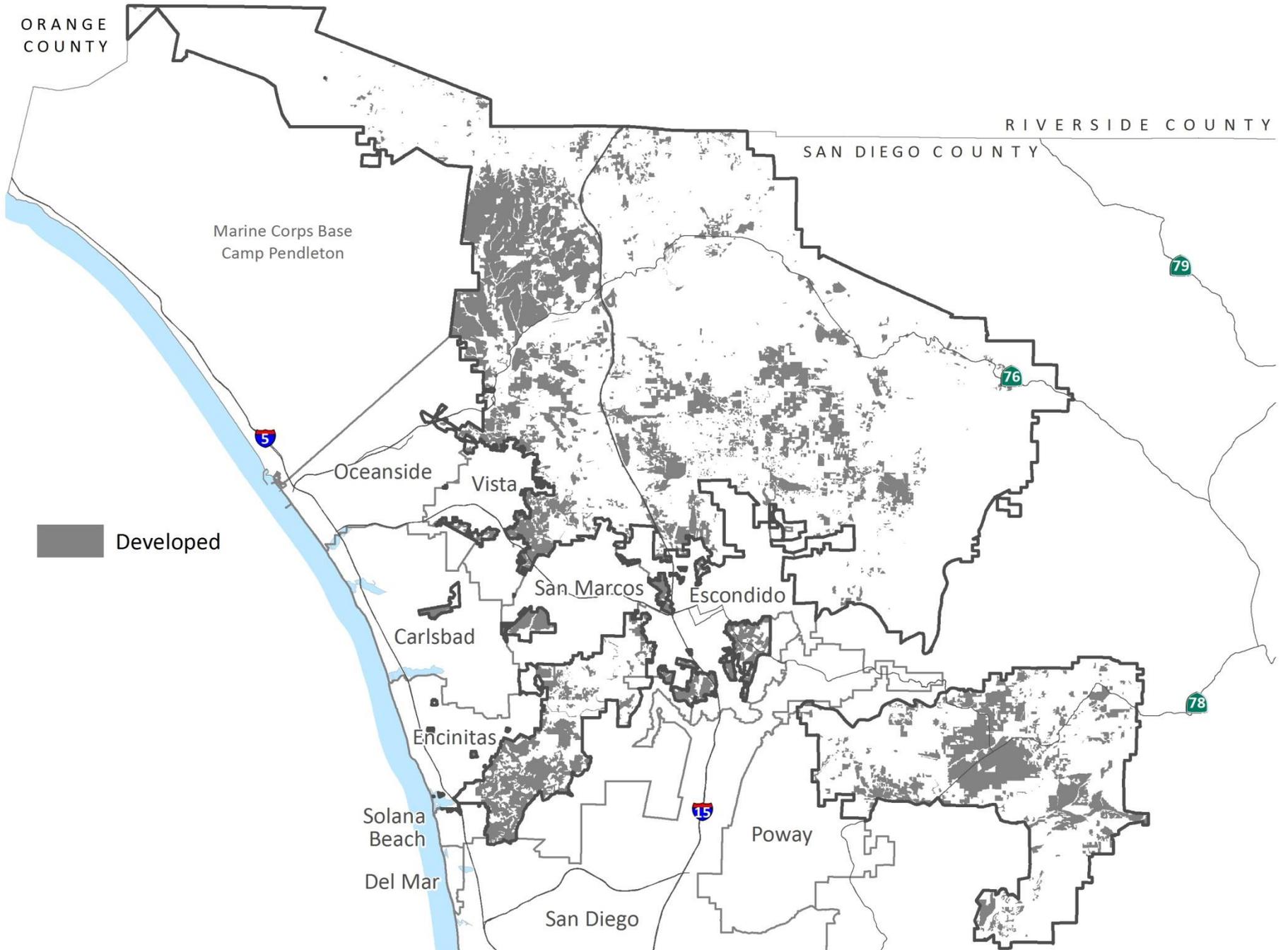
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Solana Beach

Poway

Del Mar

San Diego



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 Agricultural
 Developed

Oceanside

Vista

San Marcos

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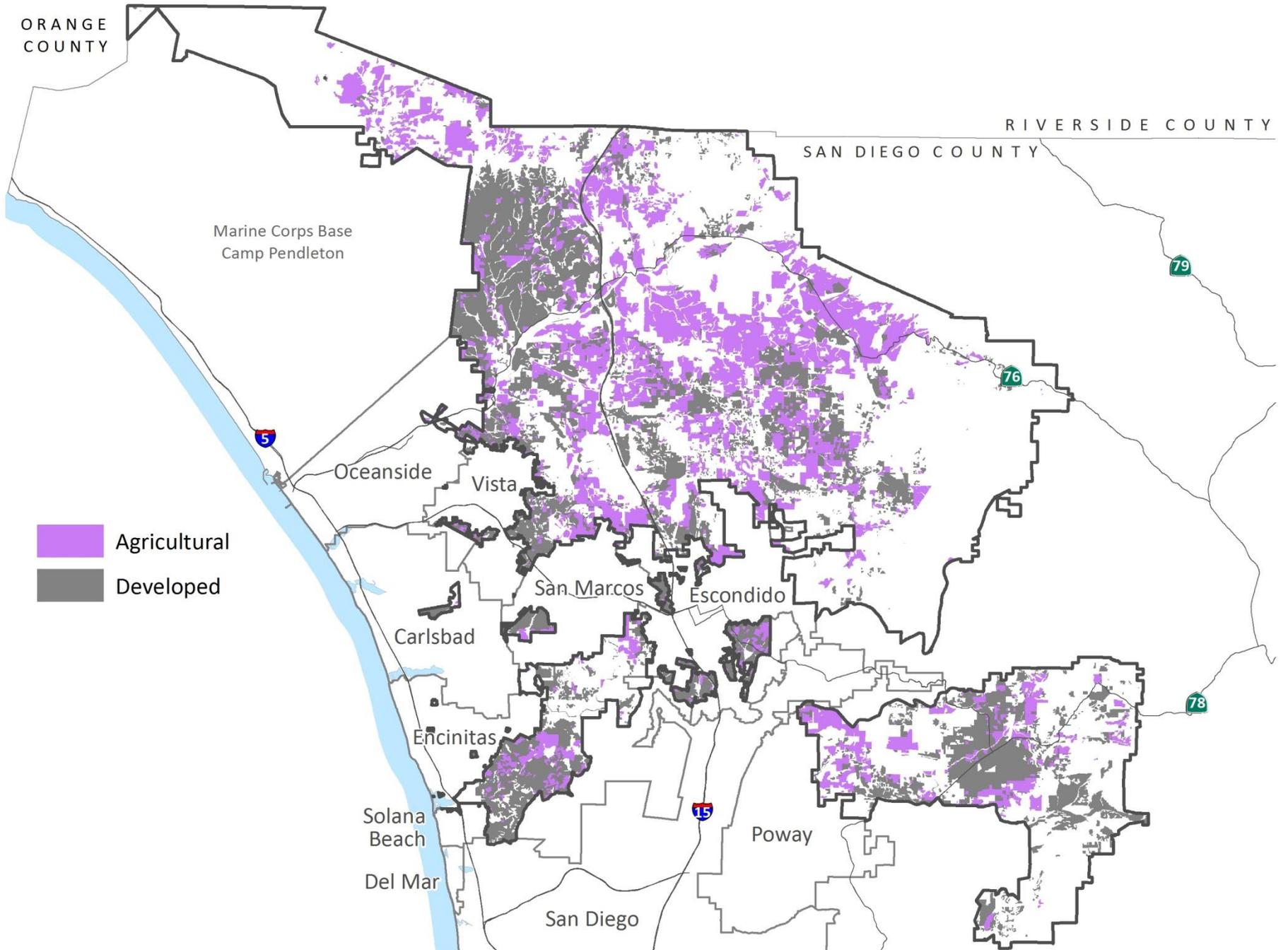
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Oceanside

Vista

San Marcos

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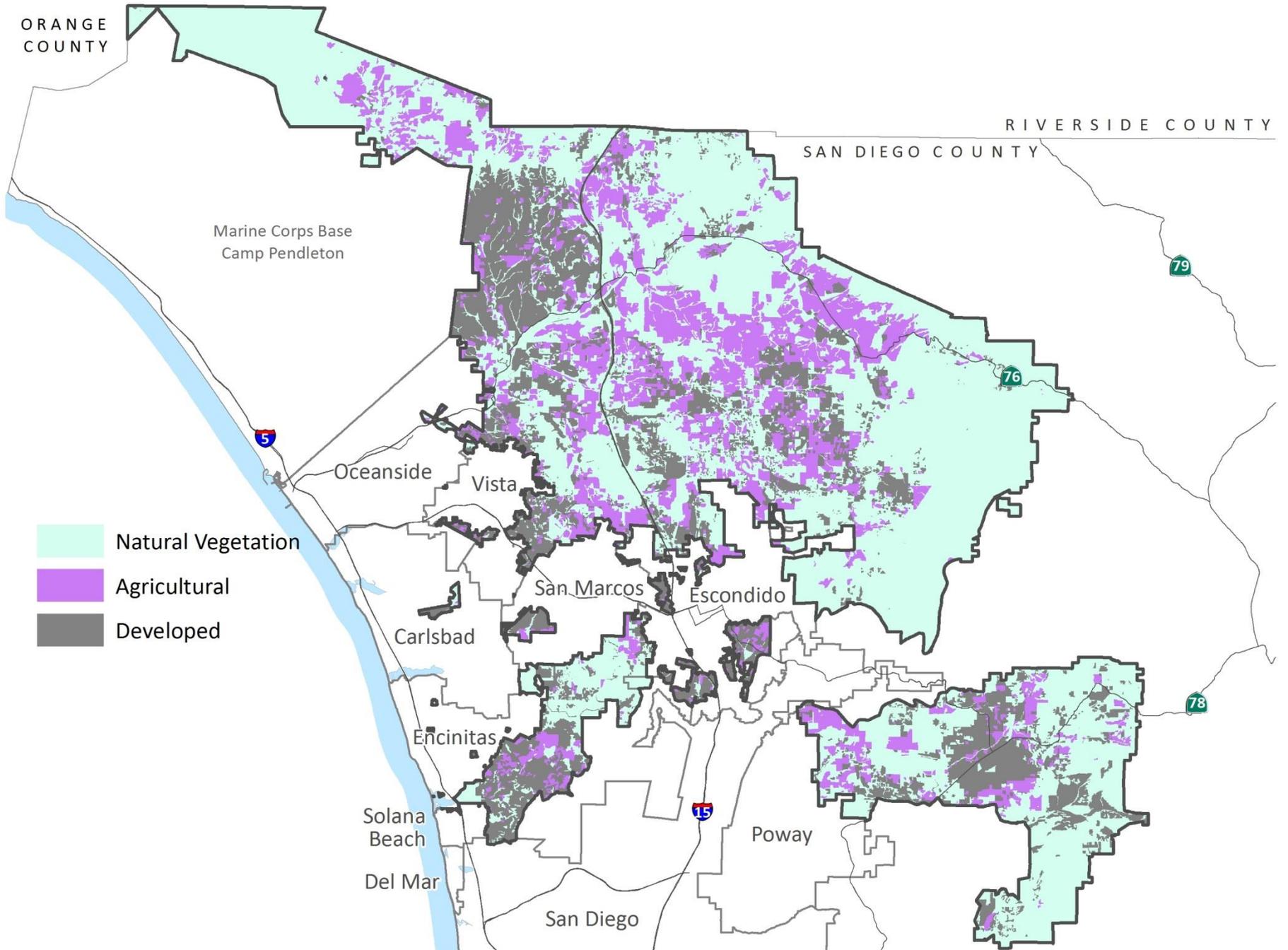
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-  Natural Vegetation
-  Agricultural
-  Developed



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Vista

San Marcos

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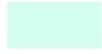
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PAMA



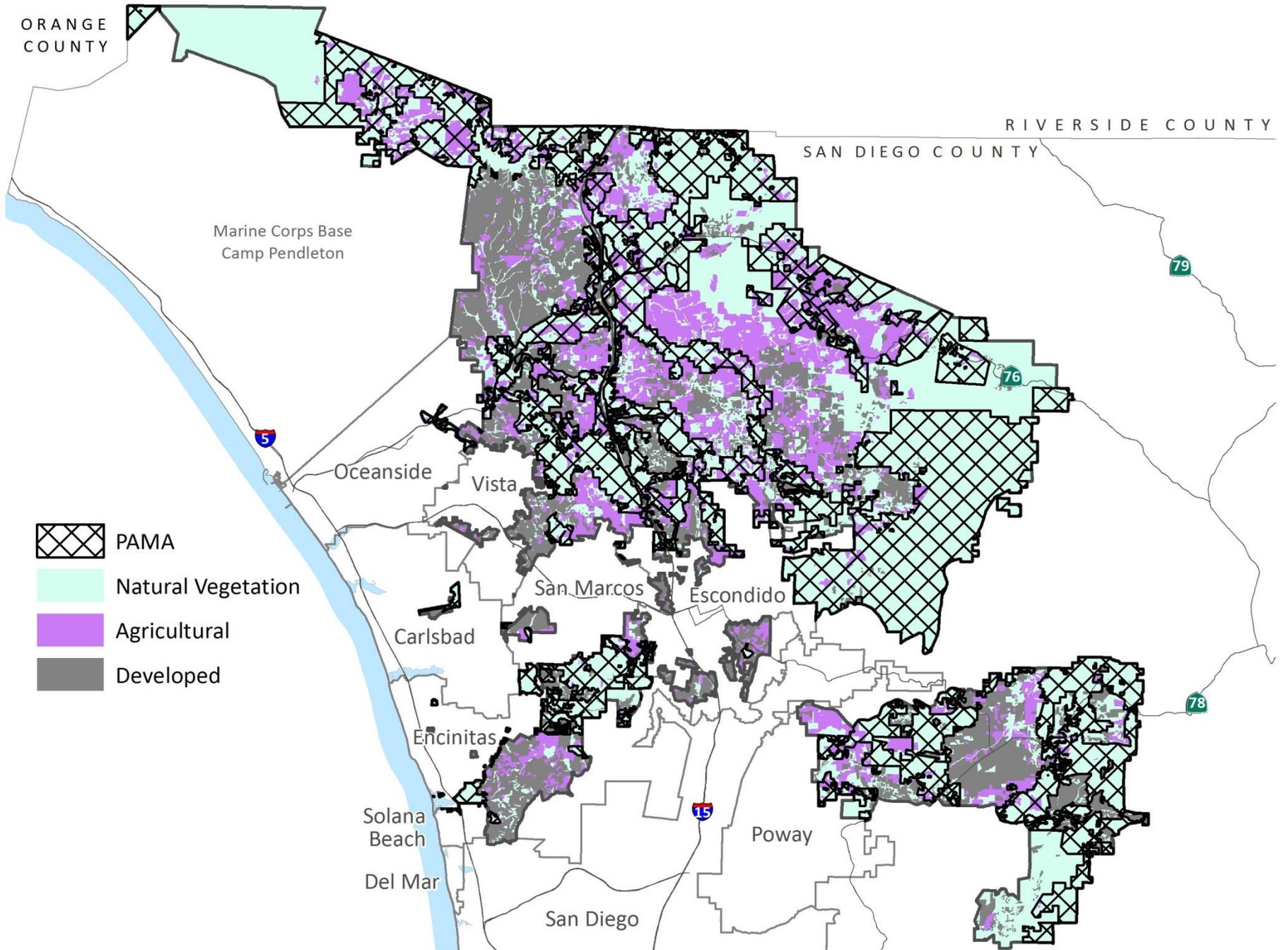
Natural Vegetation



Agricultural



Developed



ORANGE
COUNTY

RIVERSIDE COUNTY

SAN DIEGO COUNTY

Marine Corps Base
Camp Pendleton

79

76

Habitat Value

Very High

High

Moderate

Low

Agriculture

Developed

Oceanside

Vista

San Marcos

Escondido

Carlsbad

Encinitas

Solana
Beach

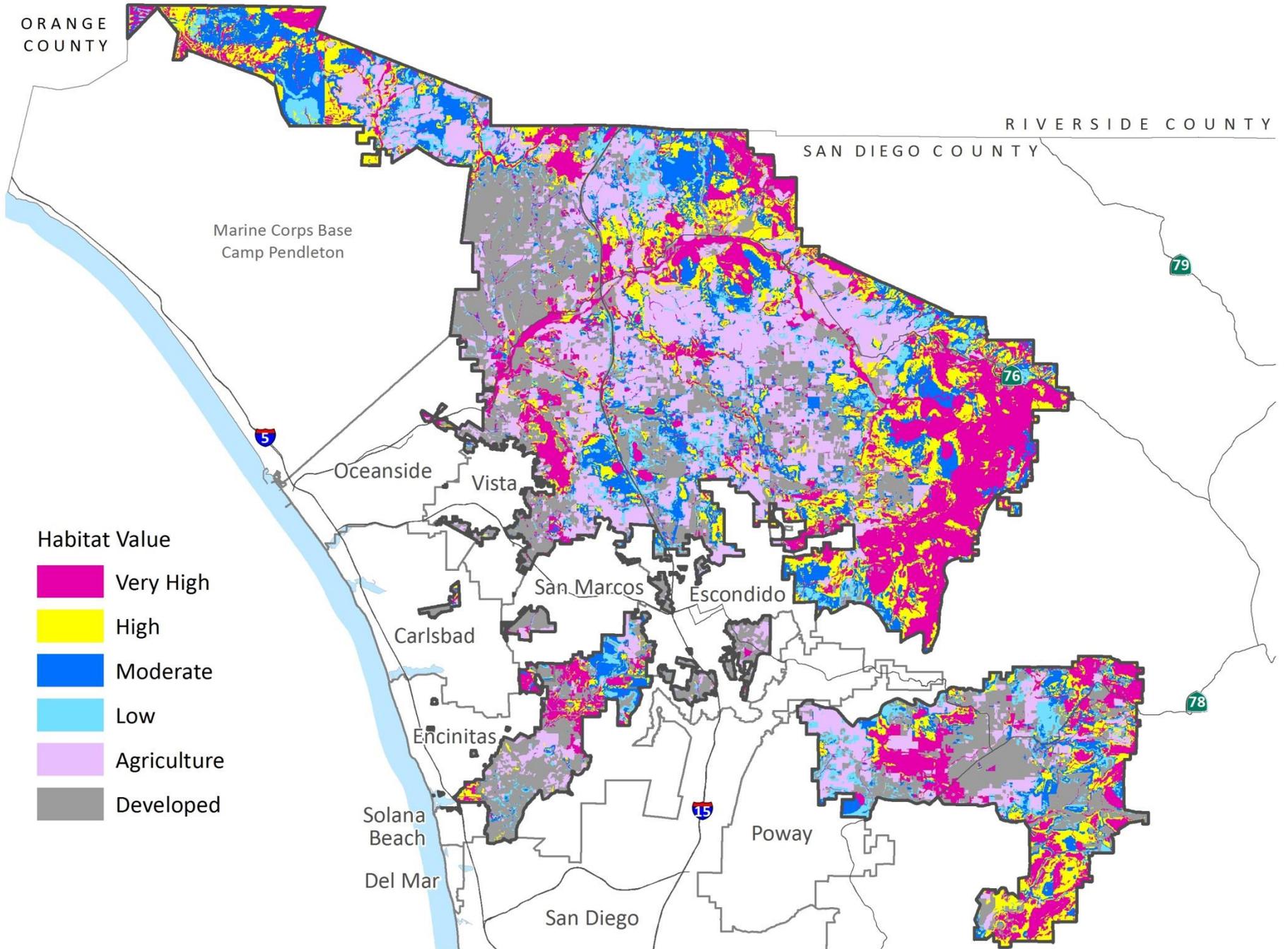
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PAMA

Habitat Value



Very High



High



Moderate



Low



Agriculture



Developed

Oceanside

Vista

San Marcos

Escondido

Carlsbad

Encinitas

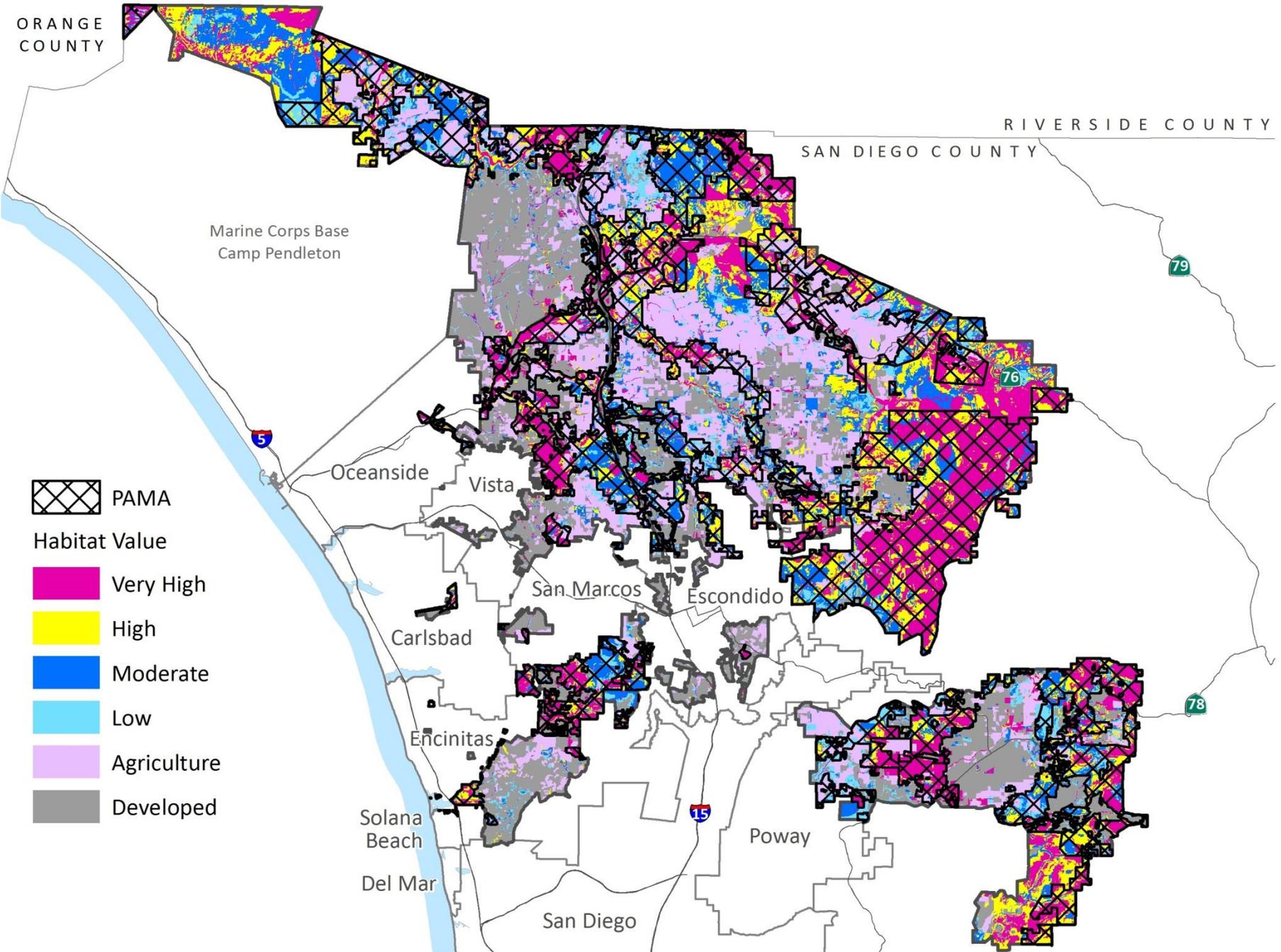
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COUNTY

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Permit Area

 PAMA

 Baseline Preserve

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Vista

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Beach

Del Mar

San Diego

Poway

79

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Permit Area

-  PAMA
-  Outside PAMA
-  Baseline Preserve

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San Diego

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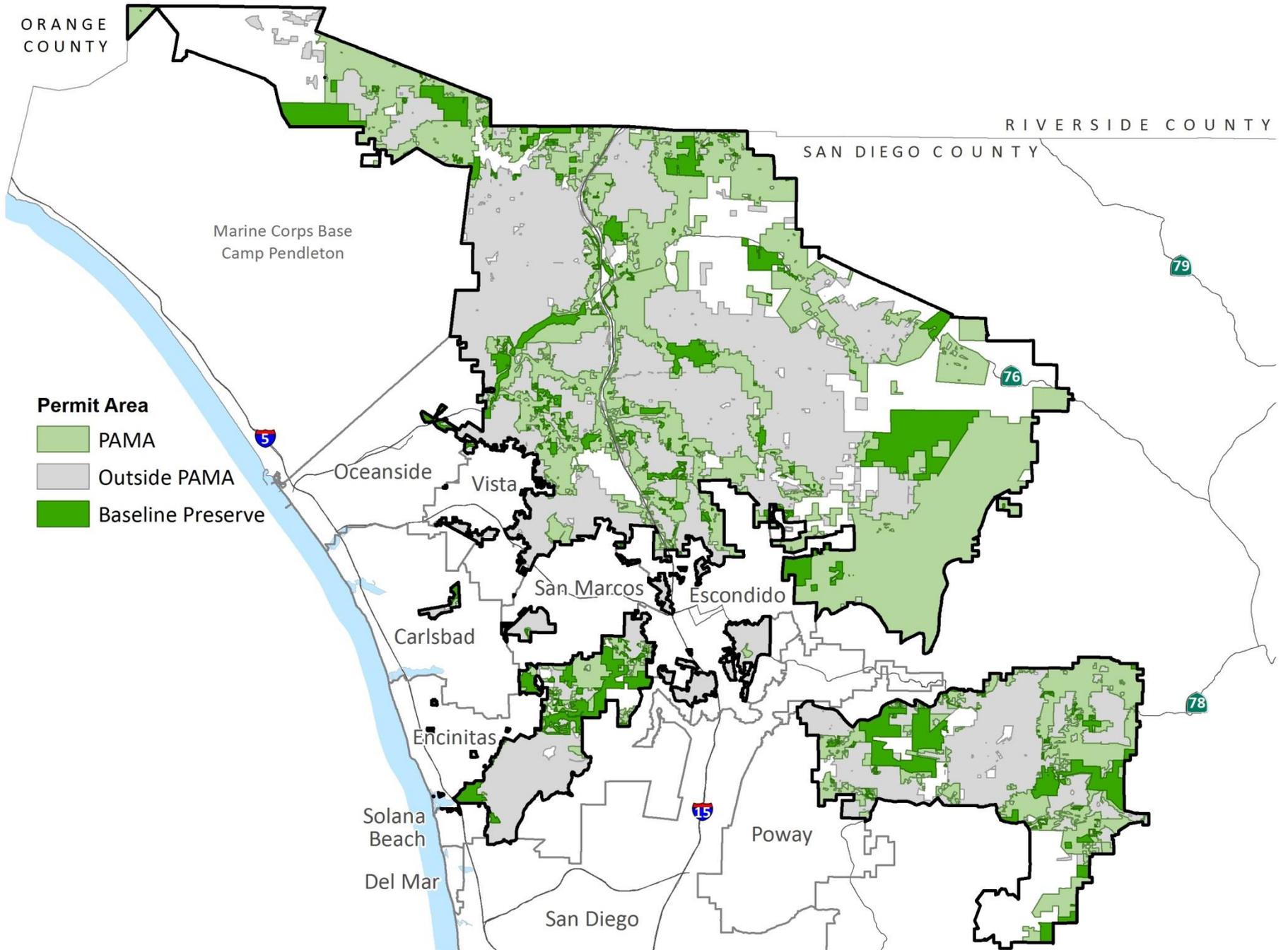
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ORANGE COUNTY

RIVERSIDE COUNTY

SAN DIEGO COUNTY

Marine Corps Base
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Permit Area

-  PAMA
-  Outside PAMA
-  Baseline Preserve
-  Tribal Lands (In Fee) within PAMA

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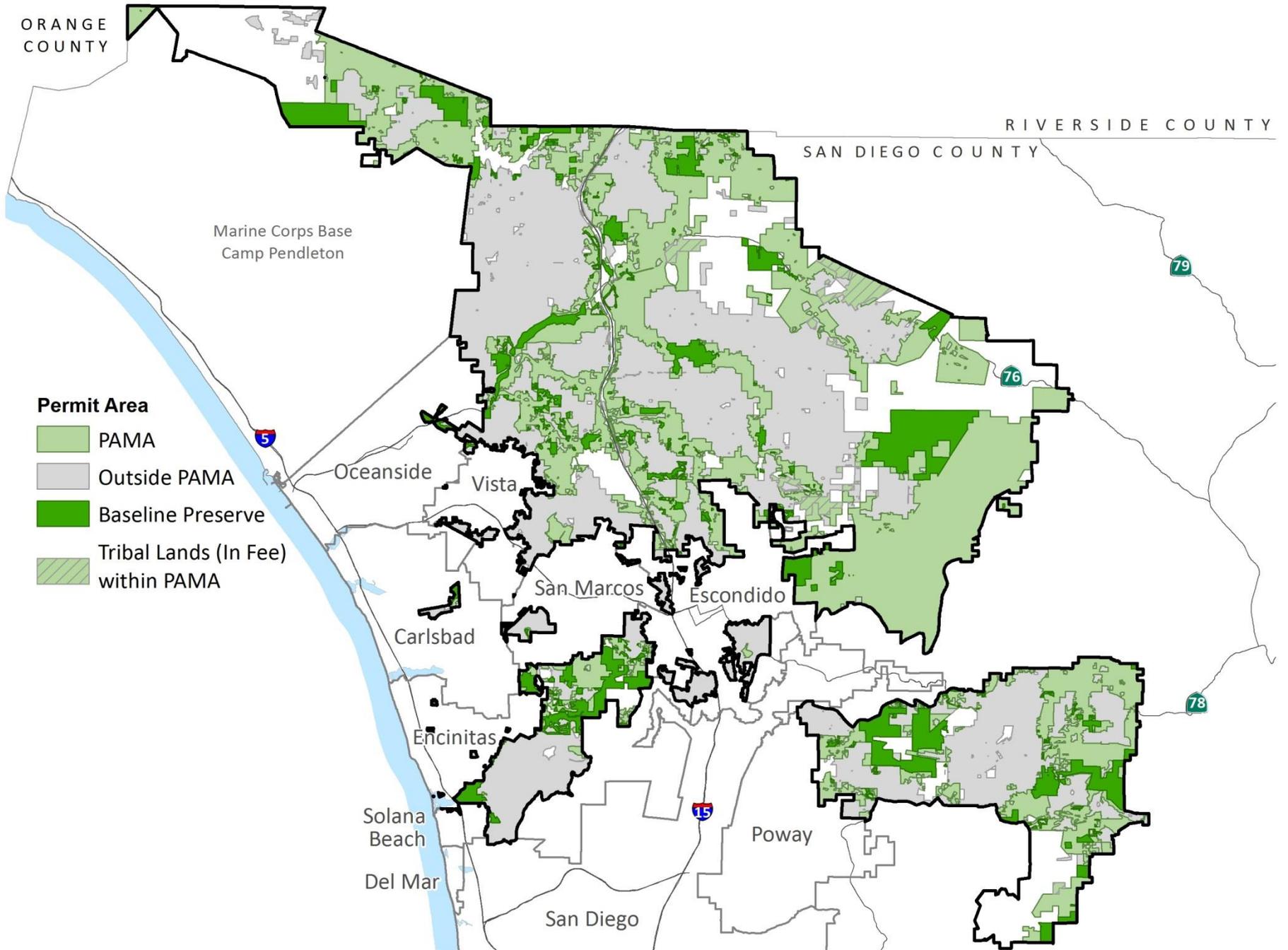
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ORANGE COUNTY

RIVERSIDE COUNTY

SAN DIEGO COUNTY

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Permit Area

-  PAMA
-  Outside PAMA
-  Baseline Preserve
-  Tribal Lands (In Fee)
within PAMA
-  County Projects
-  Private Projects

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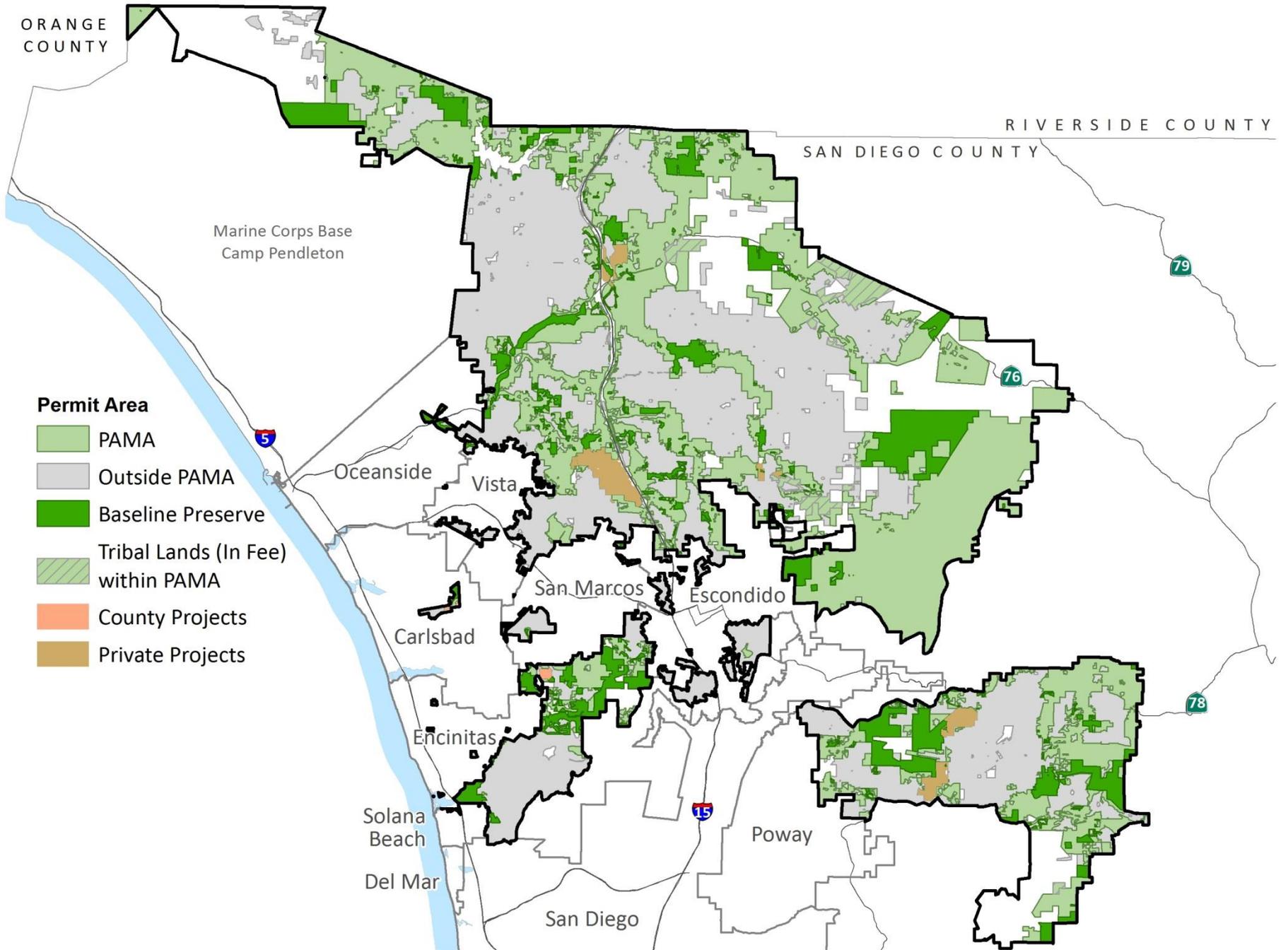
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Private Projects

Board Approved/Concurrence Pending from Wildlife Agencies:

- Butterfield Trails Ranch
- Campus Park West
- Meadowood
- Orchard Run
- Cumming Ranch
- Montecito Ranch

Pending Board Approval/Pending Concurrence from Wildlife Agencies:

- Newland Sierra

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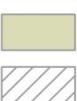
Marine Corps Base
Camp Pendleton

79

Permit Area

-  PAMA
-  Outside PAMA
-  Baseline Preserve
-  County Projects
-  Private Projects
-  Tribal Lands (In Fee)
within PAMA

Outside Permit Area

-  Gregory Canyon Landfill
-  Ecologically Important Lands
(Special Districts and
Caltrans Right-of-Way)
-  Other Special Districts
-  US Forest Service
-  Tribal Lands (In Trust)

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Vista

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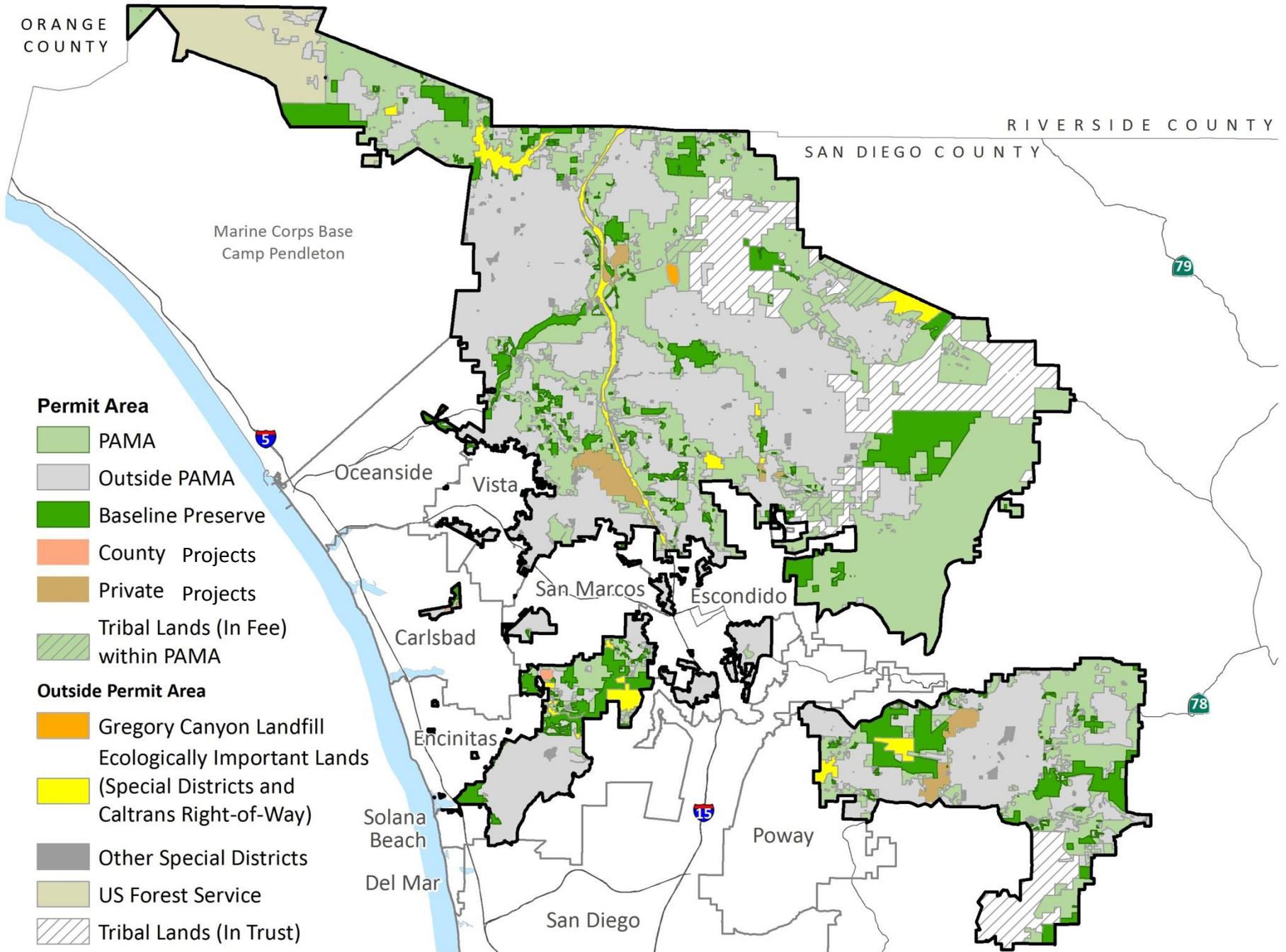
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NC1

NC11

NC2

NC3

NC4

NC5

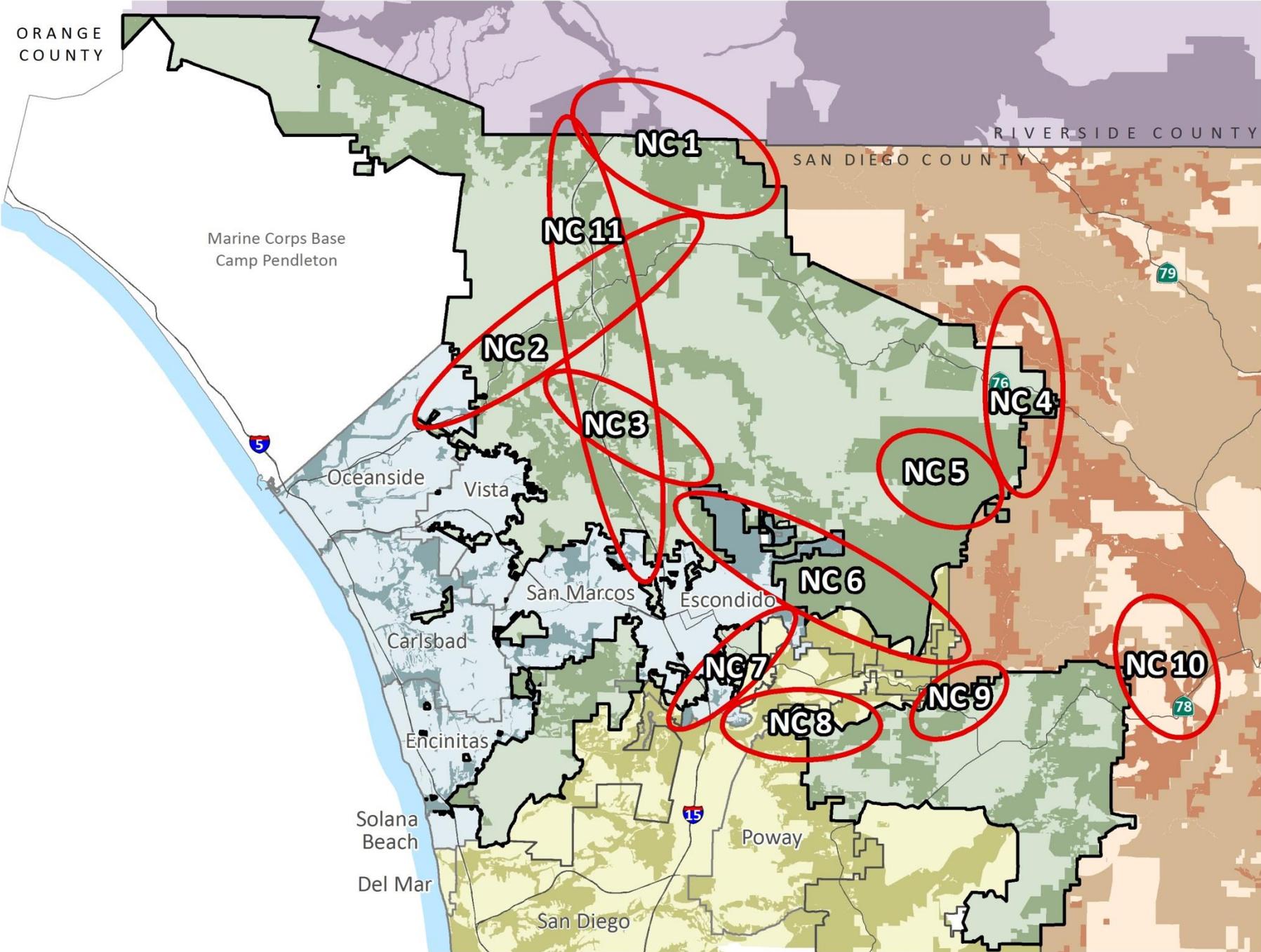
NC6

NC7

NC8

NC9

NC10



Discussion



Preliminary Overview of Species



Questions for Steering Committee

- Any questions on process used to develop the covered species list?
- Any questions on covered vs. watch list species?

Preliminary Overview of Species



Three categories of species:

- Covered Species
- Watch List Species
- Species No Longer Covered

Species Evaluation - Criteria



1. Range
2. Listing Status
3. Impact
4. Data

Species Evaluation - Process



1. Individual species evaluation with Wildlife Agencies
 - Primary consideration: requirements for findings
2. Evaluated species needs for sustainability within Plan Area
3. Analyzed existing regulations that would otherwise protect the species
4. Ability to manage and monitor to the species level if covered

Covered Species - Invertebrates



	Common Name	Scientific Name	Federal Status	State Status California	County Rank/CRPR
1	Harbison's dun skipper	<i>Euphyes vestris harbisoni</i>	-	-	1
2	Hermes copper butterfly	<i>Lycaena hermes</i>	Candidate	-	1
3	Quino checkerspot butterfly	<i>Euphydryas editha quino</i>	FE	-	1
4	Riverside fairy shrimp	<i>Streptocephalus wootoni</i>	FE	-	1
5	San Diego fairy shrimp	<i>Branchinecta sandiegonensis</i>	FE	-	1

Covered Species – Amphibians and Reptiles



	Common Name	Scientific Name	Federal Status	State Status California	County Rank/ CRPR
6	Arroyo toad	Anaxyrus californicus (Bufo californicus)	FE	SSC	1
7	Western spadefoot toad	Spea (Scaphiopus) hammondii	-	SSC	2
8	Southwestern pond turtle	Clemmys marmorata pallida	-	SSC	1
9	Coast horned lizard	Phrynosoma blainvillii	-	SSC	2

Covered Species - Birds



	Common Name	Scientific Name	Federal Status	State Status California	County Rank/CRPR
10	Coastal cactus wren	<i>Campylorhynchus brunneicapillus sandiegensis</i>	MBTA	SSC	1
11	Coastal California gnatcatcher	<i>Polioptila californica</i>	FT/MBTA	SSC	1
12	Golden eagle	<i>Aquila chrysaetos canadensis</i>	BGEPA/ MBTA	SSC FP	1
13	Least Bell's vireo	<i>Vireo bellii pusillus</i>	FE/MBTA	CE	1
14	Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	FE/MBTA	CE	1
15	Tricolored blackbird	<i>Agelaius tricolor</i>	MBTA	Candidate SSC	1
16	Western Burrowing owl	<i>Athene cunicularia hypugaea</i>	MBTA	SSC	1
17	Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	FE/MBTA	CE	n/a

Covered Species - Mammals



	Common Name	Scientific Name	Federal Status	State Status California	County Rank/CRPR
18	Stephens' kangaroo rat	<i>Dipodomys stephensi</i>	FE	CT	1
19	Pallid bat	<i>Antrozous pallidus</i>	-	SSC	2
20	Townsend's big-eared bat	<i>Corynorhinus townsendii pallescens</i>	-	SSC	2

Covered Species - Plants



	Common Name	Scientific Name	Federal Status	State Status California	County Rank/CRPR
21	Del Mar manzanita	<i>Arctostaphylos glandulosa</i> ssp. <i>crassifolia</i>	FE	-	A/1B
22	Encinitas baccharis	<i>Baccharis vanessae</i>	FT	CE	A/1B
23	Engelmann oak	<i>Quercus engelmannii</i>	-	-	D/4
24	Orcutt's spineflower	<i>Chorizanthe orcuttiana</i>	FE	CE	A/1B
25	San Diego ambrosia	<i>Ambrosia pumila</i>	FE	-	A/1B
26	San Diego button-celery	<i>Eryngium aristulatum</i> var. <i>parishii</i>	FE	CE	A/1B
27	San Diego thornmint	<i>Acanthomintha ilicifolia</i>	FT	CE	A/1B
28	Spreading navarretia	<i>Navarretia fossalis</i>	FT	-	A/1B
29	Thread-leaved brodiaea	<i>Brodiaea filifolia</i>	FT	CE	A/1B

Watch List Species - Amphibians, Reptiles and Birds



	Common Name	Scientific Name	State Status California	County Rank/CRPR
<i>Amphibians and Reptiles</i>				
1	Coast range newt	Taricha torosa	SSC	2
2	Red diamond rattlesnake	Crotalus ruber	SSC	2
<i>Birds</i>				
3	Bell's sparrow	Amphispiza belli	SSC	1
4	Grasshopper sparrow	Ammodramus savannarum perpallidus	SSC	1
5	Northern harrier	Circus cyaneus hudsonius	SSC	1
6	Rufous crowned sparrow	Aimophila ruficeps canascens	SSC	1

Watch List Species - Mammals and Plants



	Common Name	Scientific Name	State Status California	County Rank/CRPR
		<i>Mammals</i>		
7	American badger	Taxidea taxus	SSC	2
8	Mountain lion	Puma concolor	SP	2
9	San Diego black-tailed jack rabbit	Lepus californicus bennettii	SSC	2
		<i>Plants</i>		
10	California adolphia	Adolphia californica	-	B/2
11	Chaparral beargrass	Nolina cismontana	-	A/1B
12	Parish's brittlescale	Atriplex parishii var. parishii	-	A/1B
13	Rainbow manzanita	Arctostaphylos rainbowensis	-	A/1B
14	Wart-stemmed ceanothus	Ceanothus verrucosus	-	B/2

No Longer Covered Species - Amphibians, Reptiles and Birds



	Common Name	Scientific Name
<i>Amphibians and Reptiles</i>		
1	Orange-throated whiptail	Cnemidophorus hyperythrus
2	Two stripe garter snake	Thamnophis hammondi
<i>Birds</i>		
3	Yellow-breasted chat	Icteria virens
4	Osprey	Pandion haliaetus
5	White-faced ibis	Plegadis chihi
6	Light-footed clapper rail	Rallus longirostris levipes

No Longer Covered Species - Plants



	Common Name	Scientific Name
7	Coulter's Saltbrush	<i>Atriplex coulteri</i>
8	Nevin's barberry	<i>Berberis nevinii</i>
9	San Diego goldenstar	<i>Bloomeria clevelandii</i>
10	Orcutt's brodiaea	<i>Brodiaea orcuttii</i>
11	Southern tarplant	<i>Centromadia parryi</i> ssp. <i>australis</i>
12	Summer-holly	<i>Comarostaphylis diversifolia</i> ssp. <i>diversifolia</i>
13	Short-leaf dudleya	<i>Dudleya blochmaniae</i> ssp. <i>brevifolia</i>
14	Sticky dudleya	<i>Dudleya viscida</i>
15	Coast barrel cactus	<i>Ferocactus viridescens</i> var. <i>viridescens</i>
16	Felt-leaf monardella	<i>Monardella hypoleuca</i> ssp. <i>lanata</i>
17	Little mousetail	<i>Myosurus minimus</i>
18	Gander's butterweed	<i>Packera ganderi</i>
19	Nuttall's scrub oak	<i>Quercus dumosa</i>
20	San Miguel savory	<i>Satureja chandleri</i>
21	Parry's tetracoccus	<i>Tetracoccus dioicus</i>

ORANGE
COUNTY

SAN DIEGO



Predicted
Distribution

San Diego Ambrosia

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- San Diego Button Celery
- Coastal Cactus Wren
- Coast Horned Lizard
- Del Mar Manzanita
- Harbison's Dun Skipper
- Encinitas Baccharis
- Englemann Oak
- San Diego Fairy Shrimp
- California Gnatcatcher
- Golden Eagle
- Hermes Copper Butterfly
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- Orcutt's Spineflower
- Pallid Bat
- Quino Checkerspot Butterfly
- Riverside Fairy Shrimp
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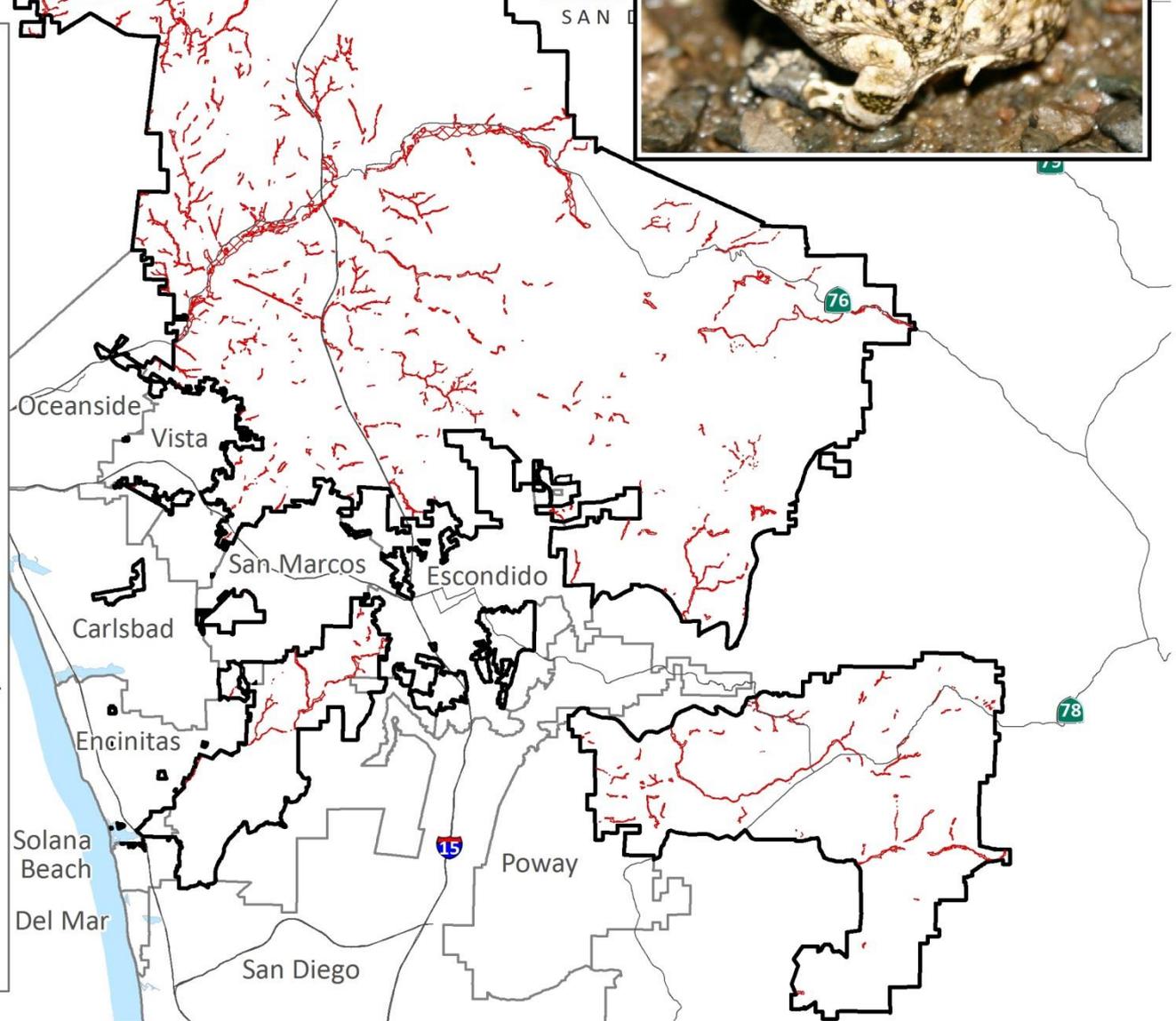
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ORANGE
COUNTY



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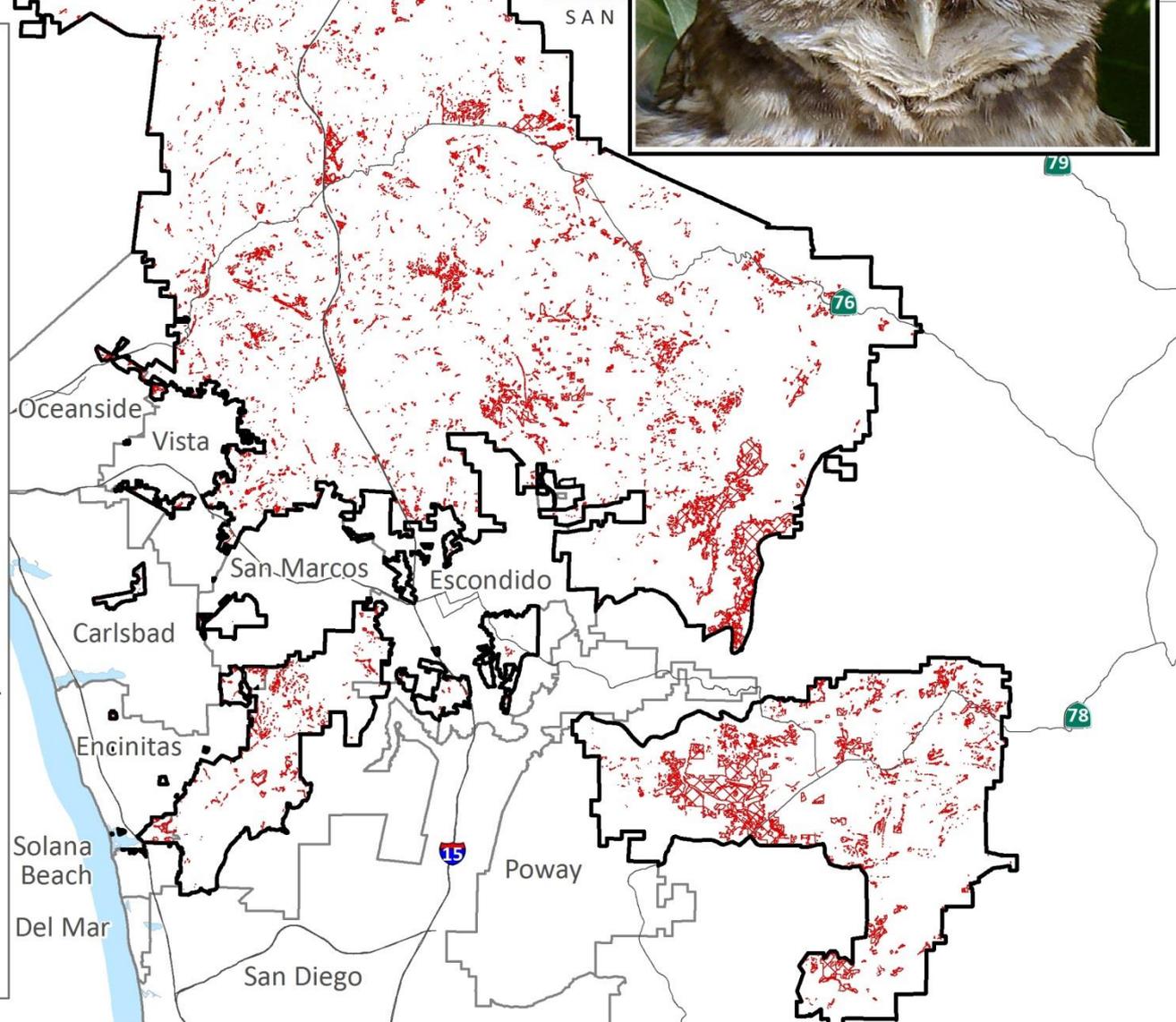


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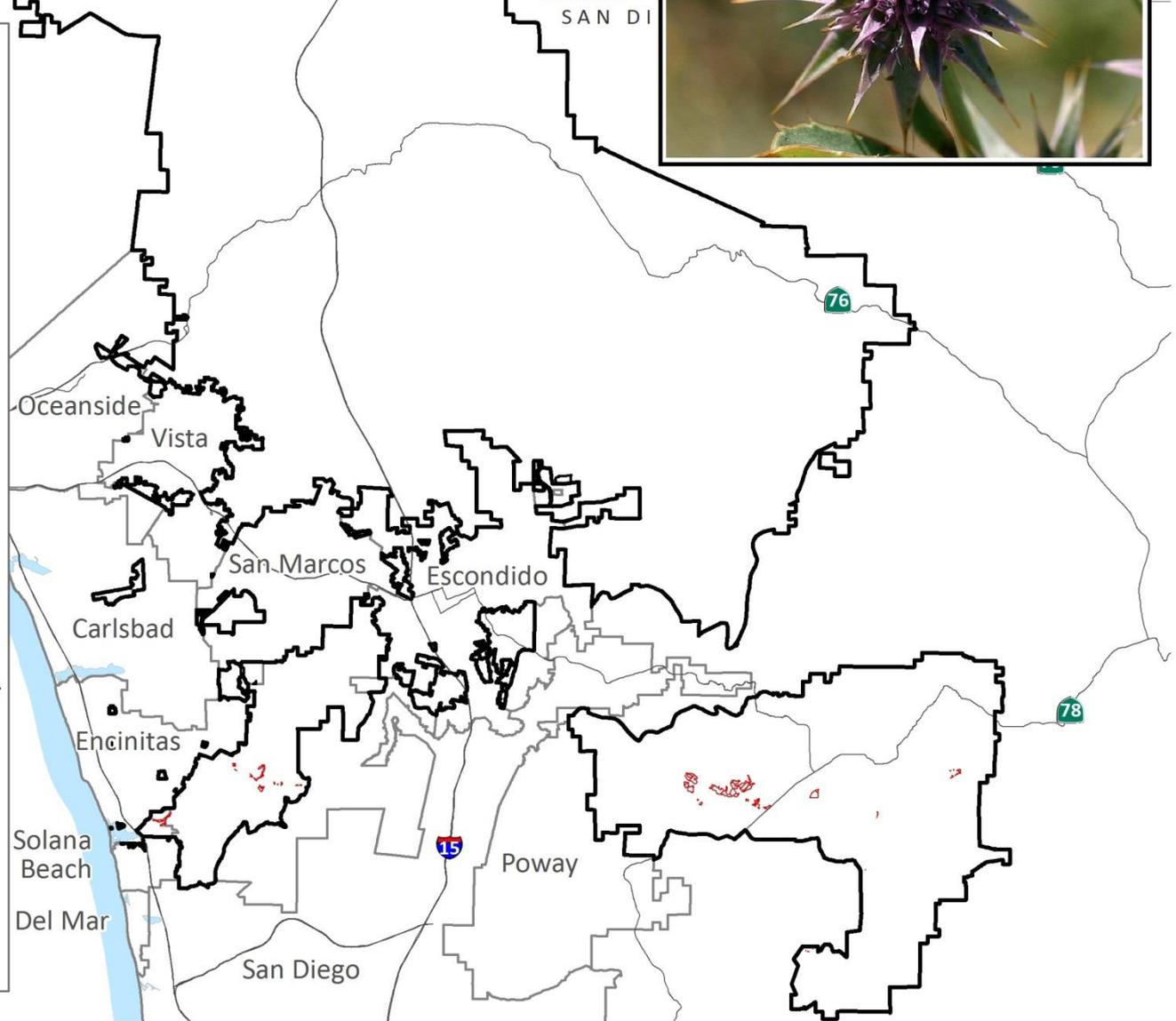


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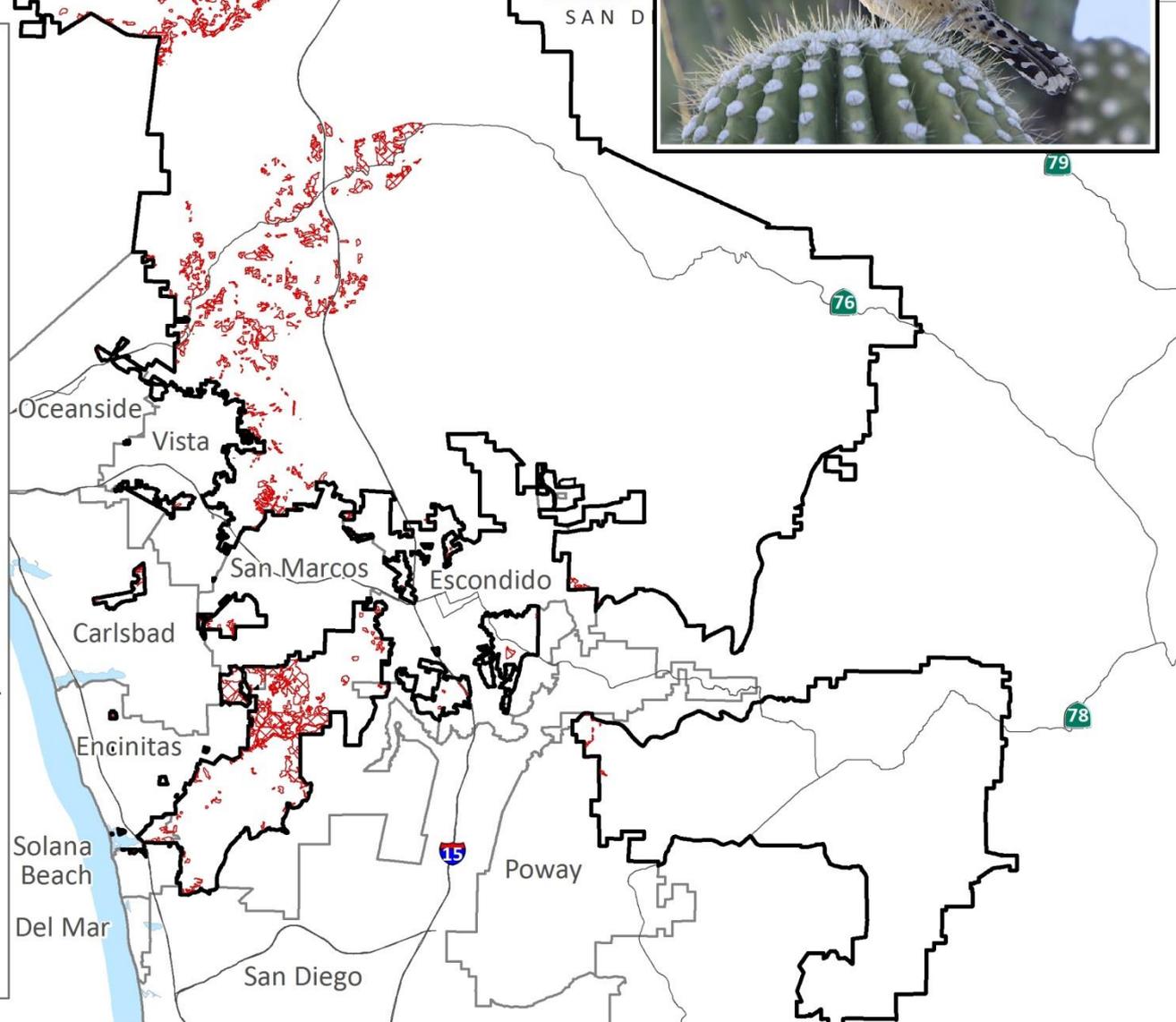


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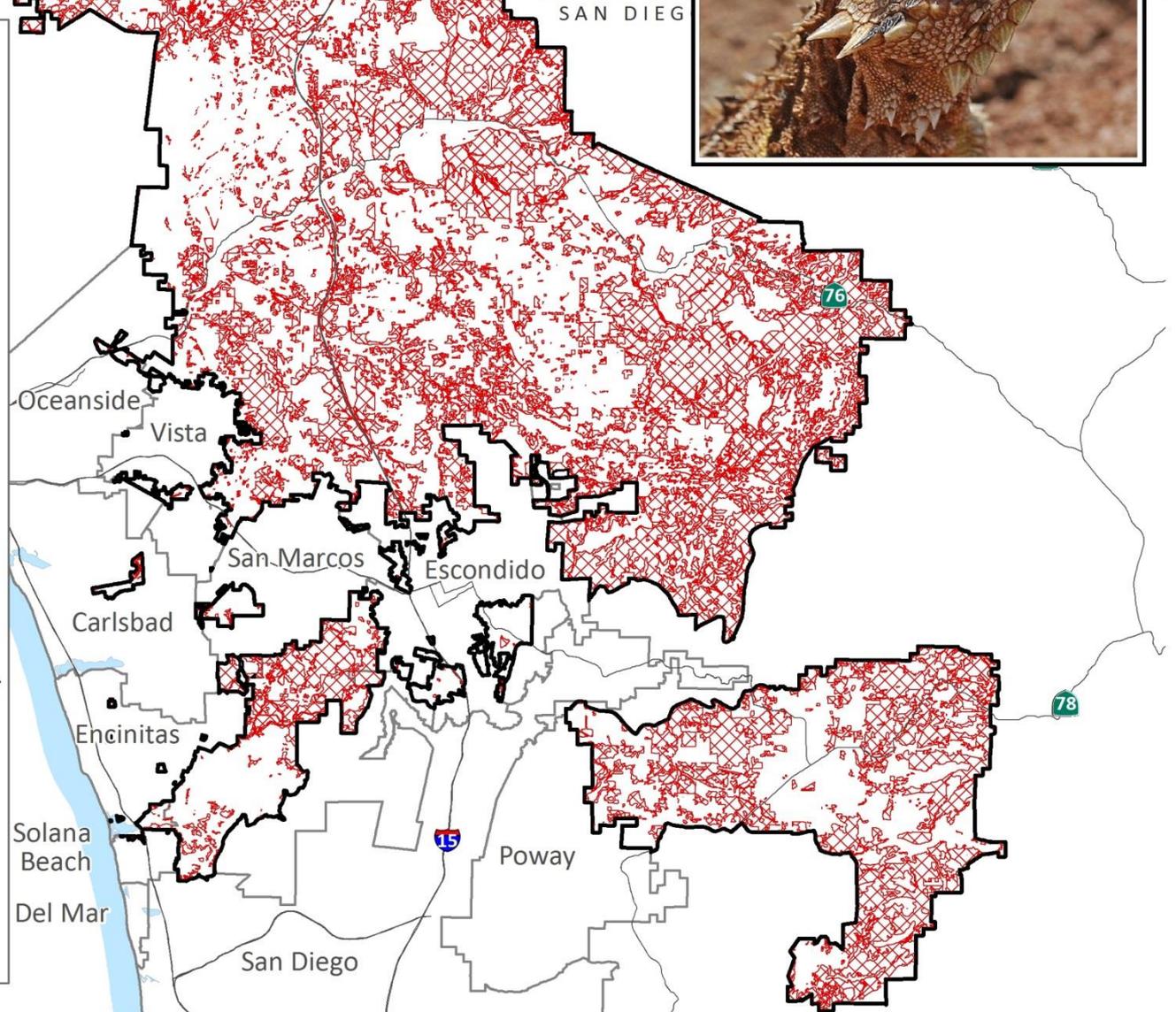


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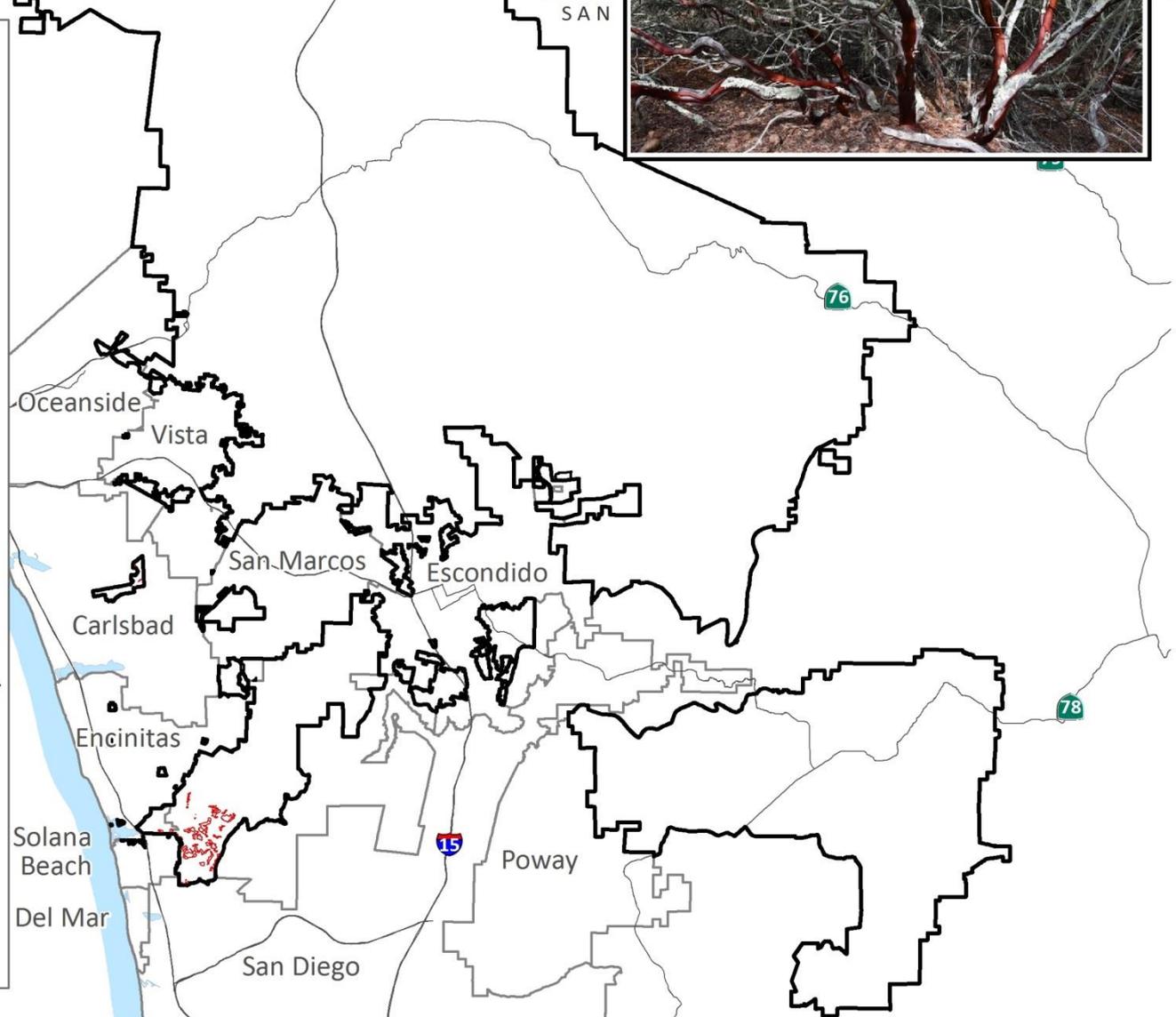


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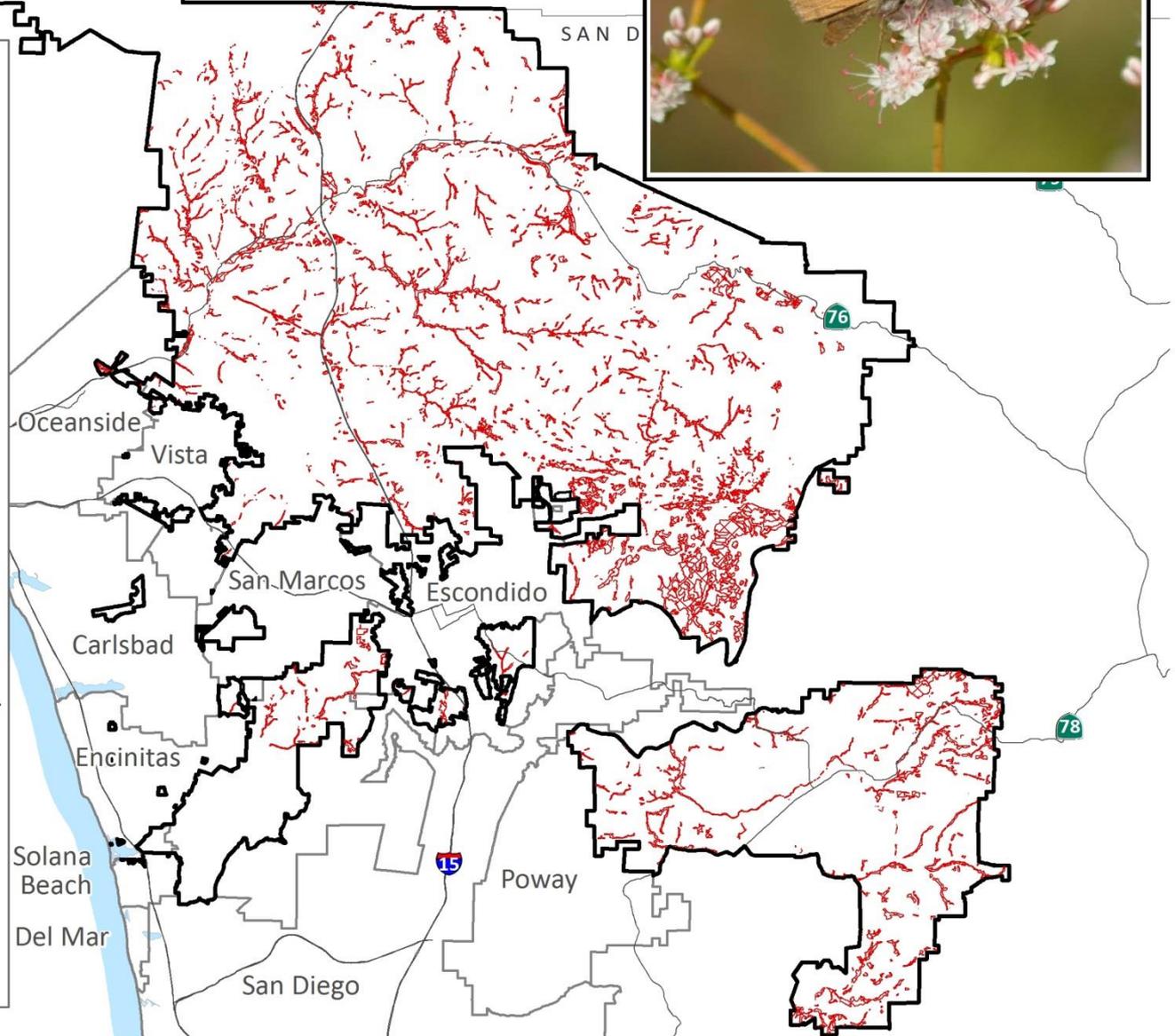


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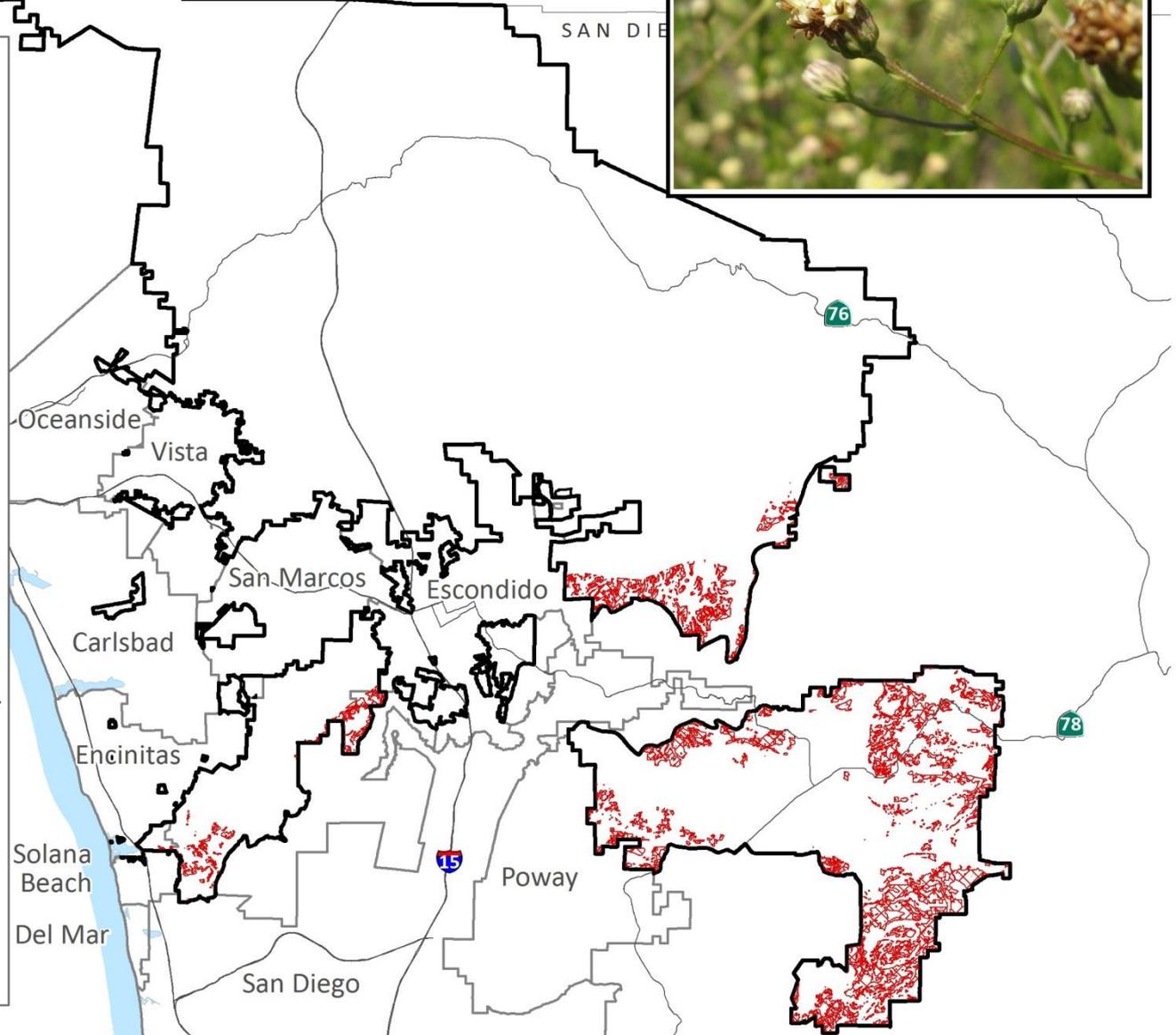


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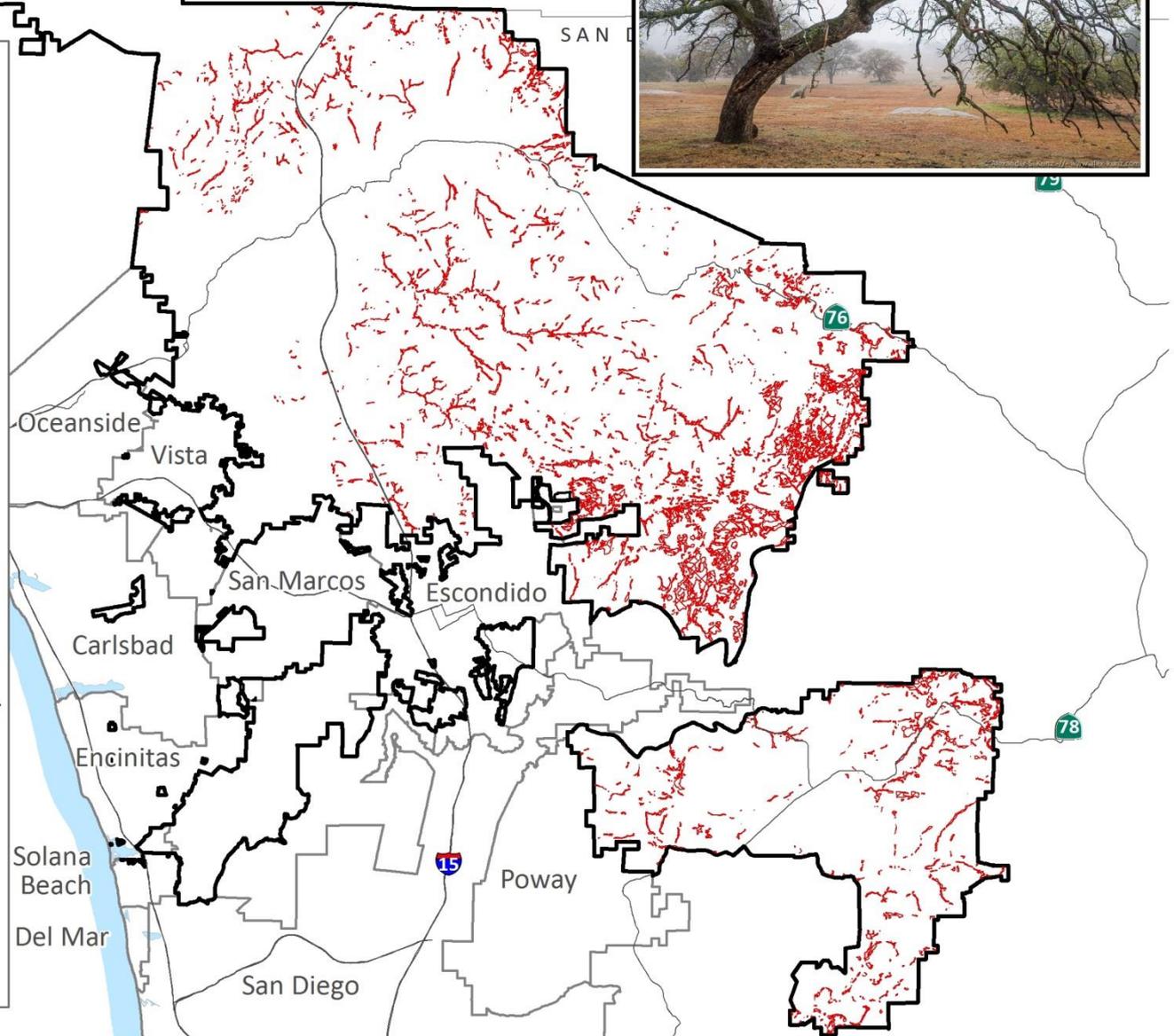


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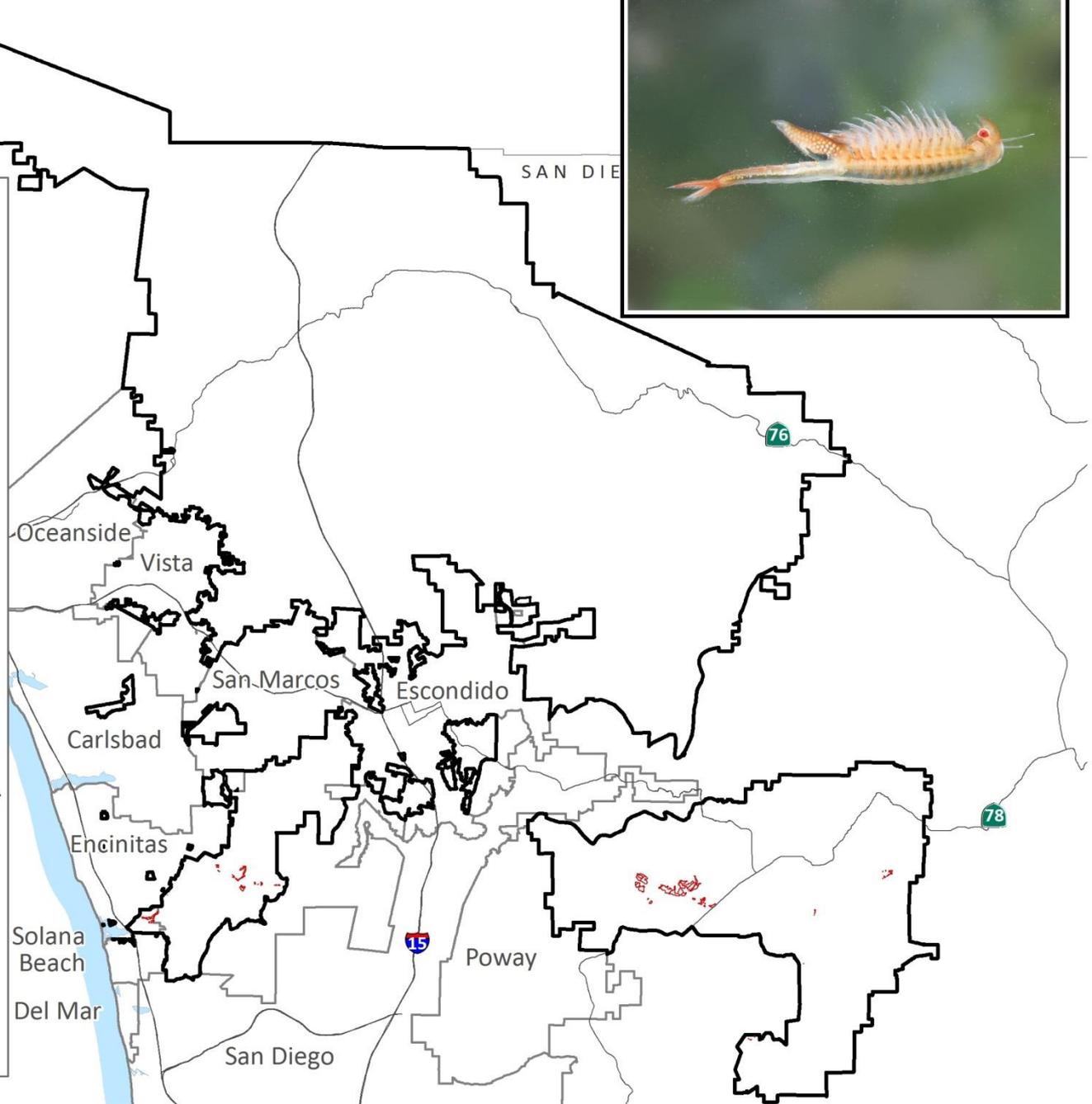


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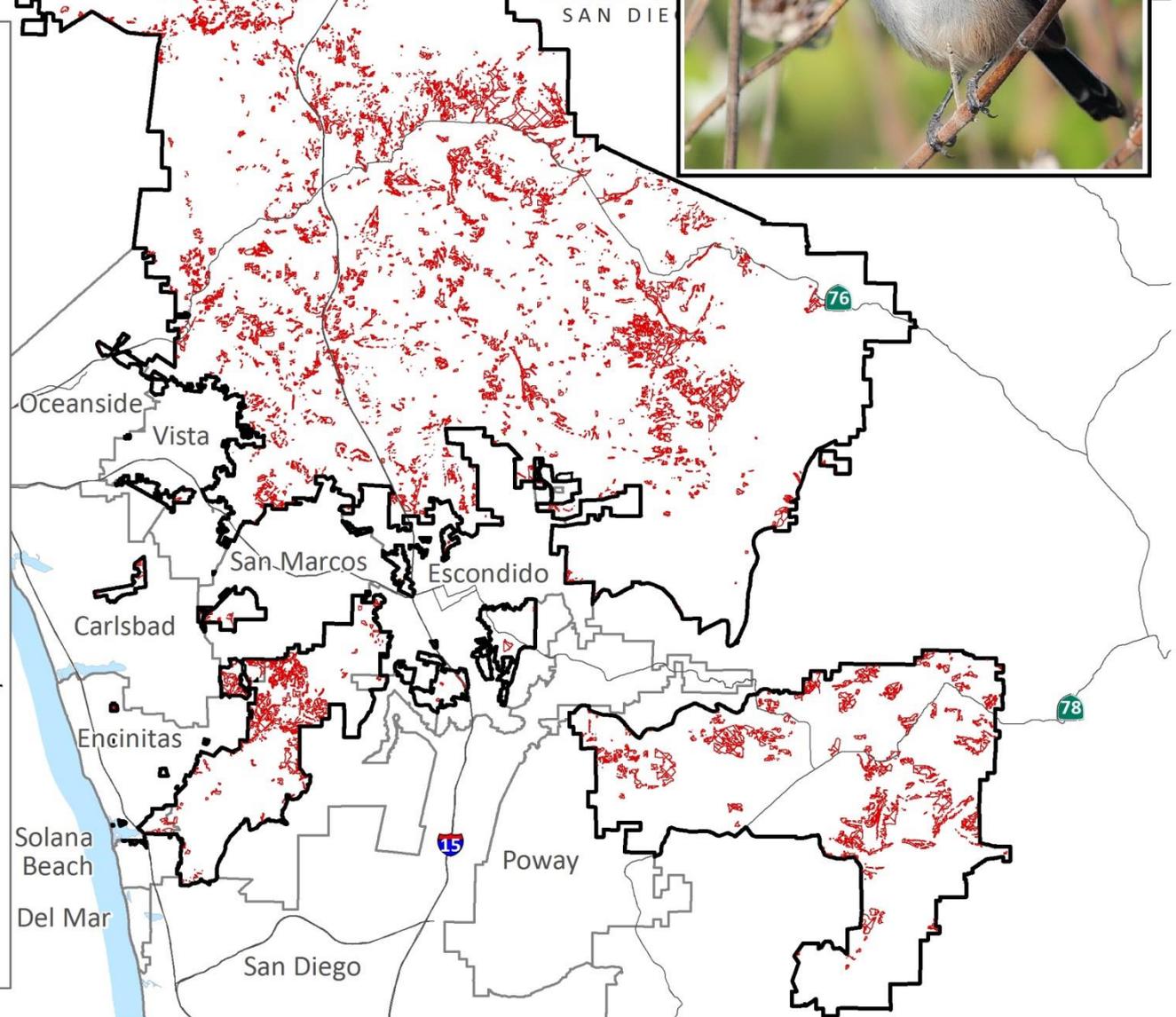


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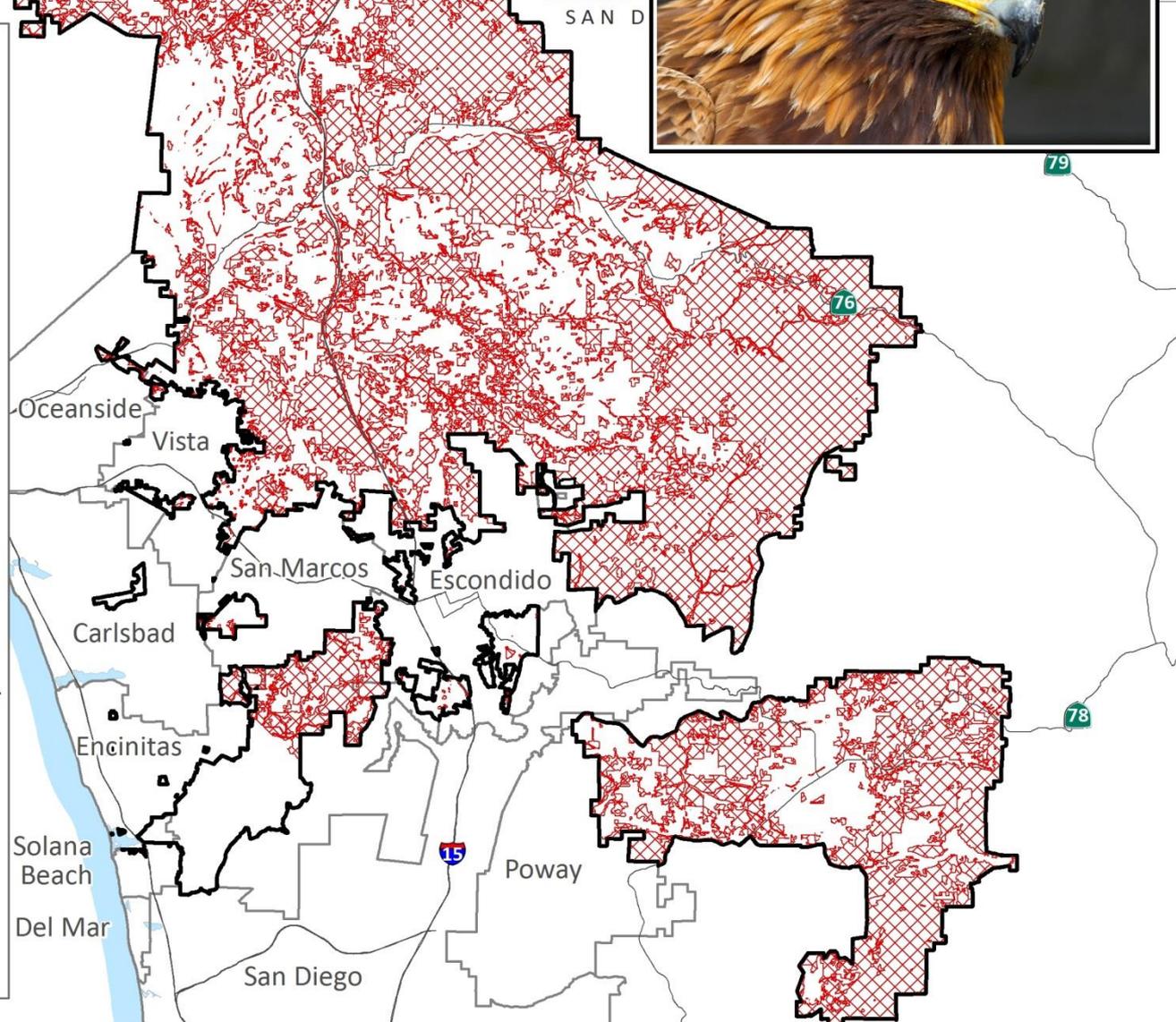


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ORANGE
COUNTY



SAN DIEG

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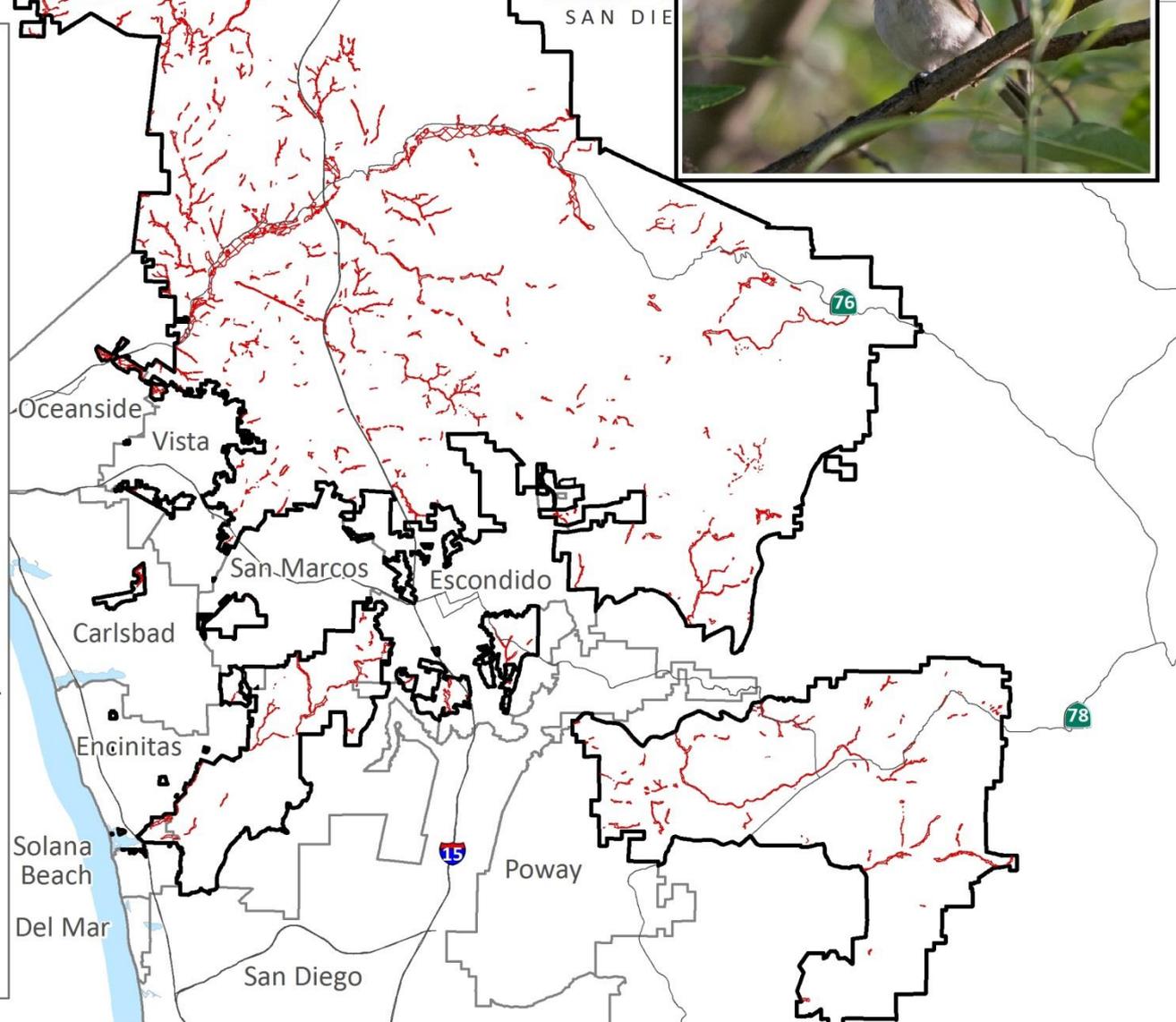
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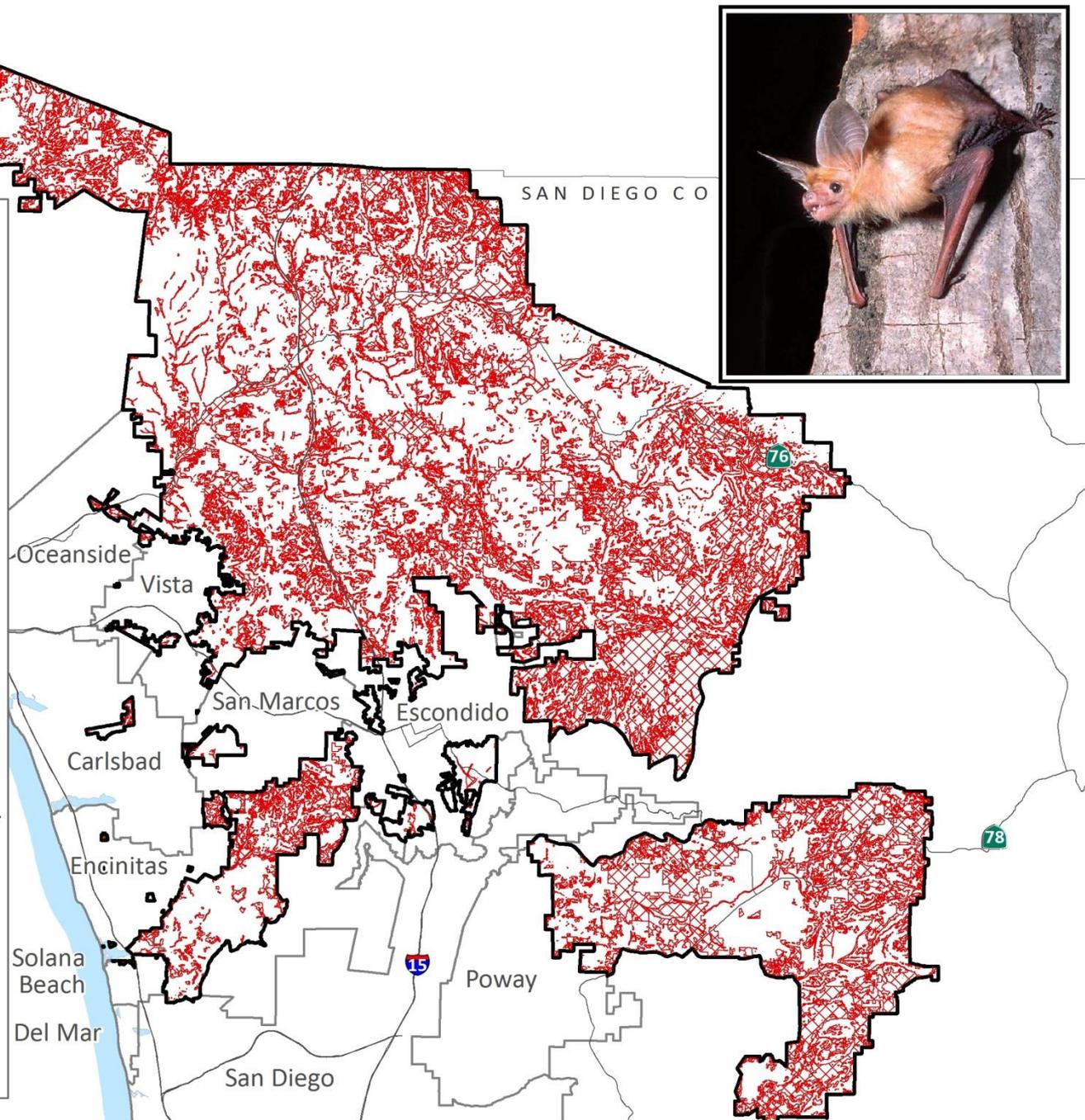
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SAN DIEGO CO

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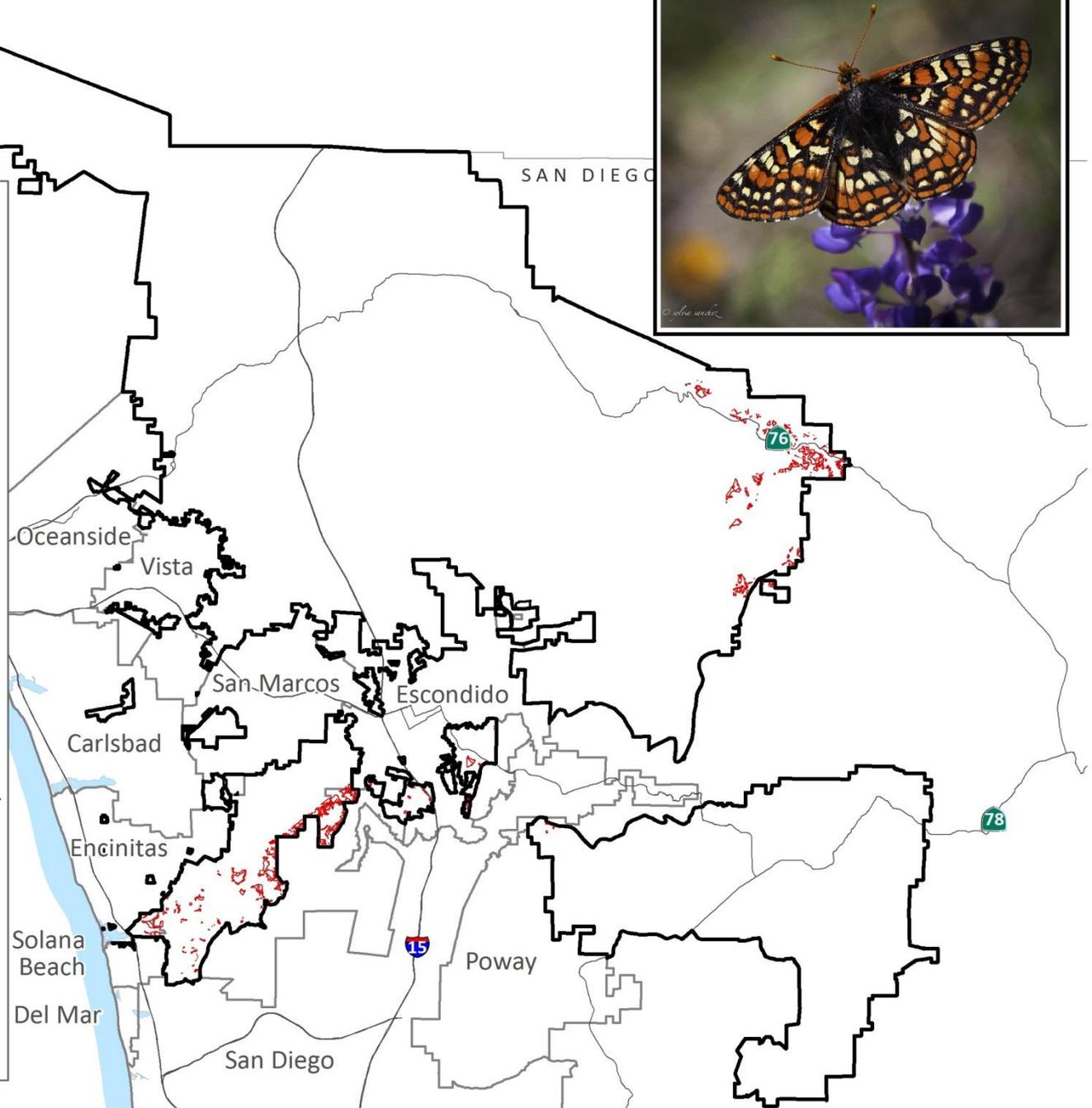


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- Tricolored Blackbird
- Western Spadefoot Toad
- Yellow-billed Cuckoo

Oceanside

Vista

San Marcos

Escondido

Carlsbad

Encinitas

Solana
Beach

Del Mar

San Diego

Poway

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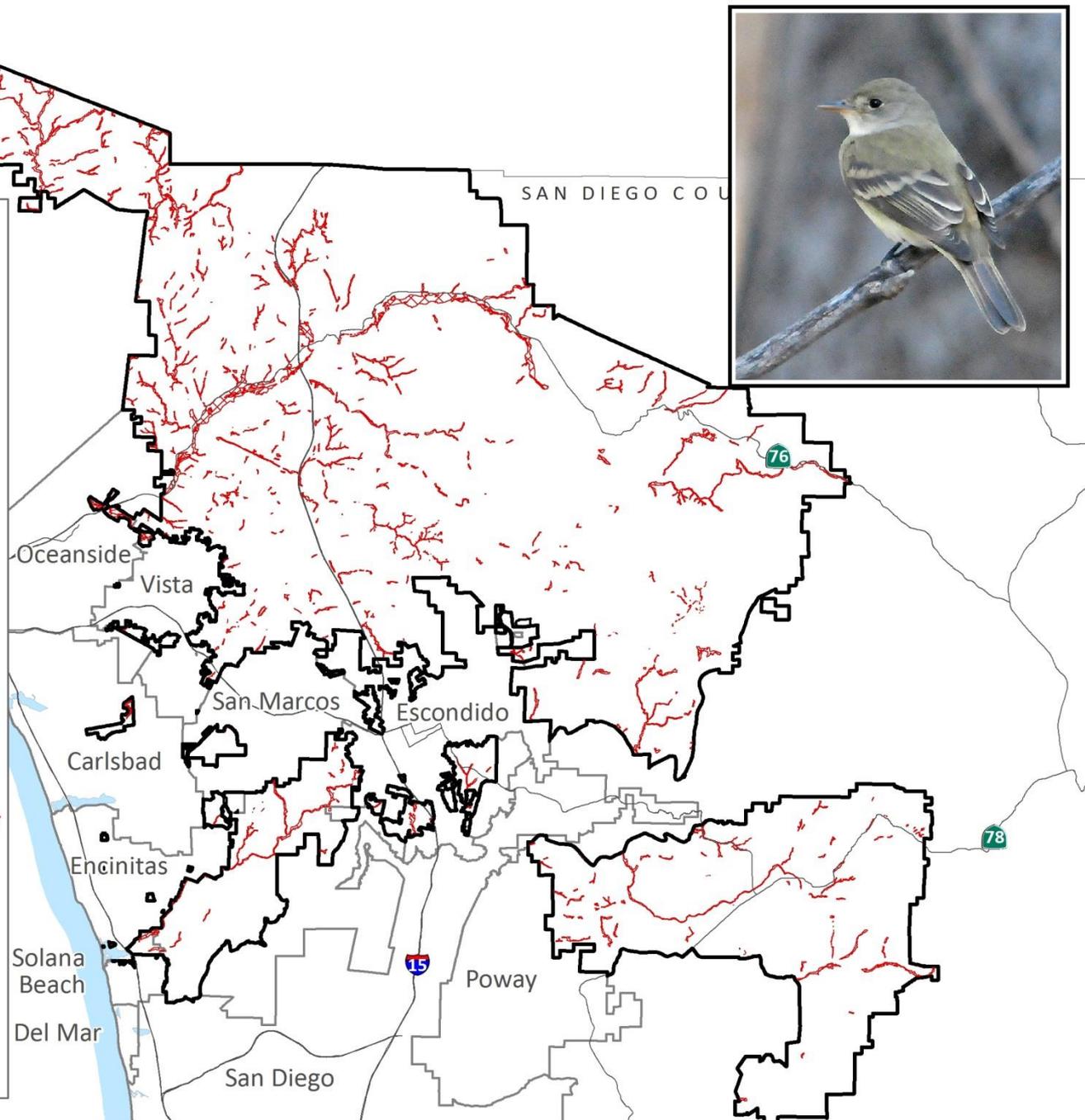
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ORANGE
COUNTY

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 Predicted
Distribution

- San Diego Ambrosia
- Arroyo Toad
- Western Burrowing Owl
- San Diego Button Celery
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- Coast Horned Lizard
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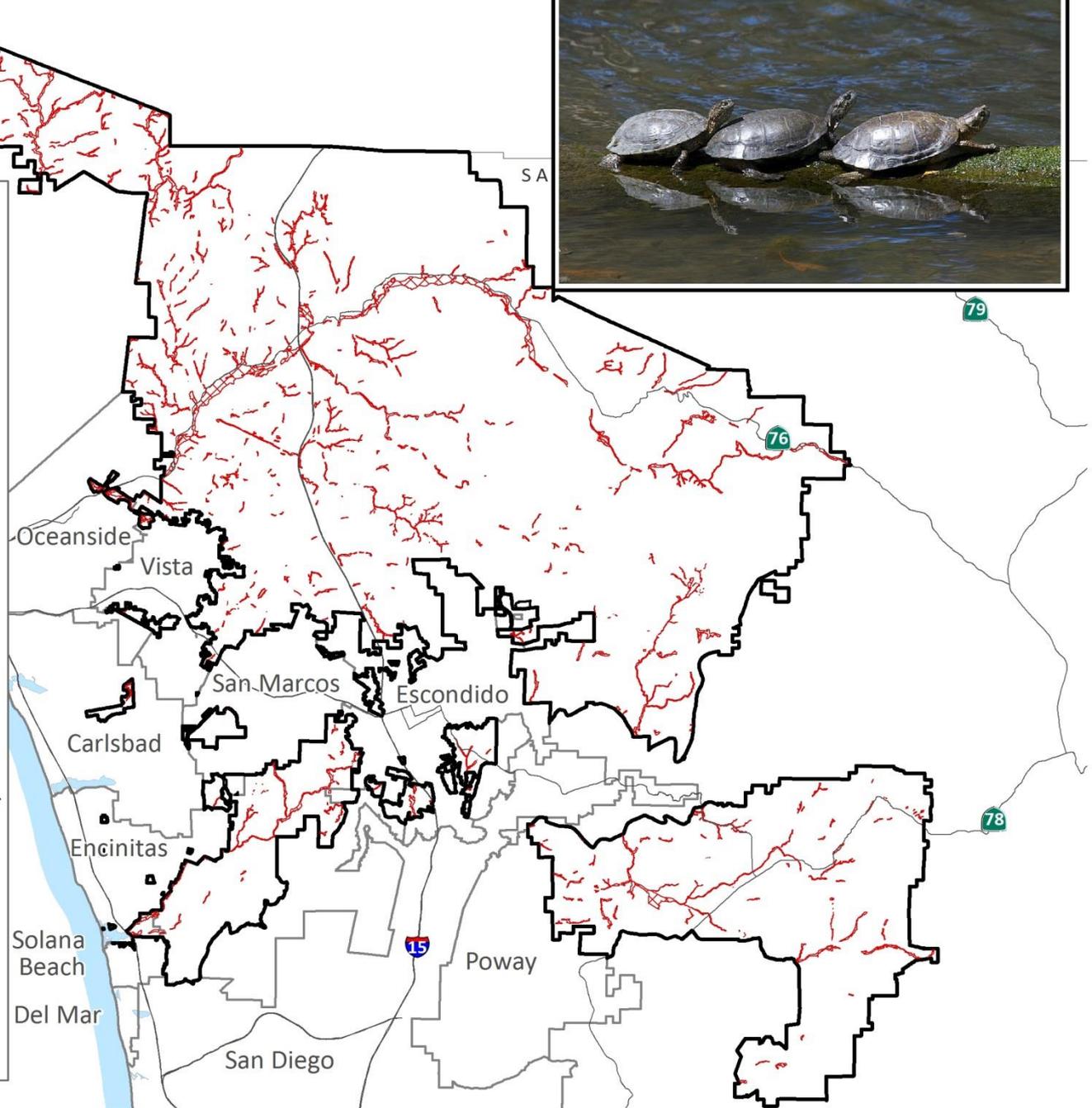


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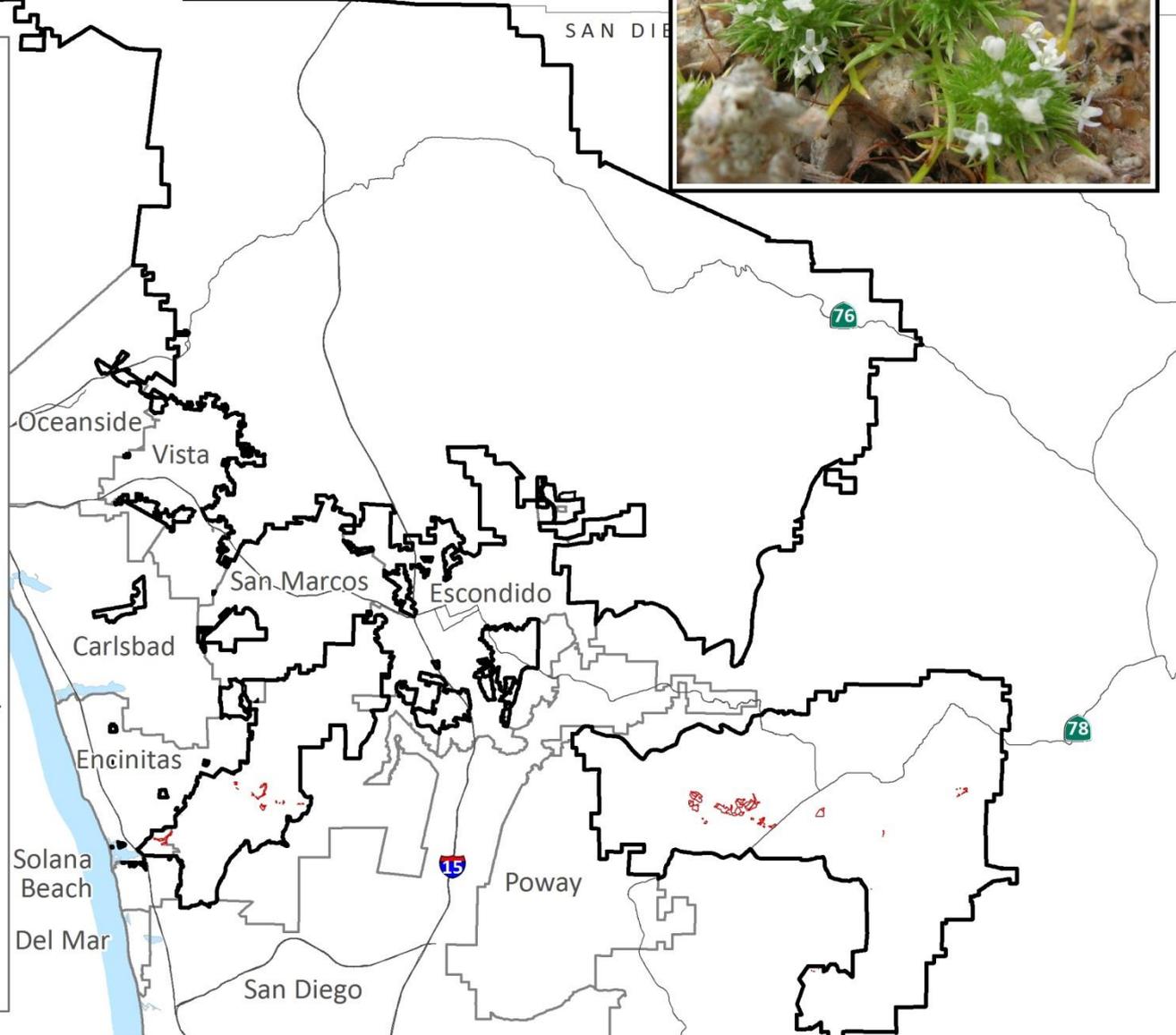


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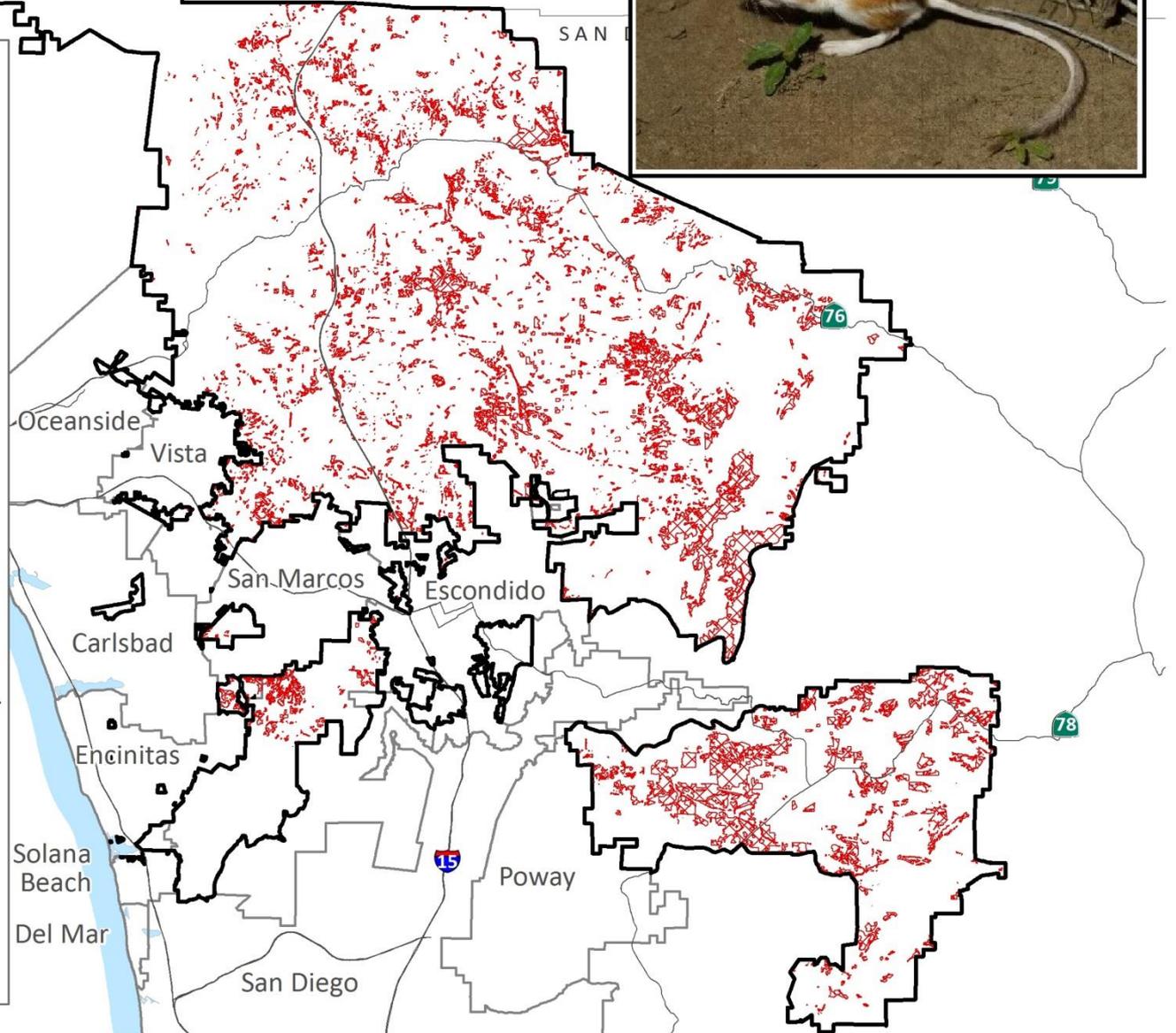


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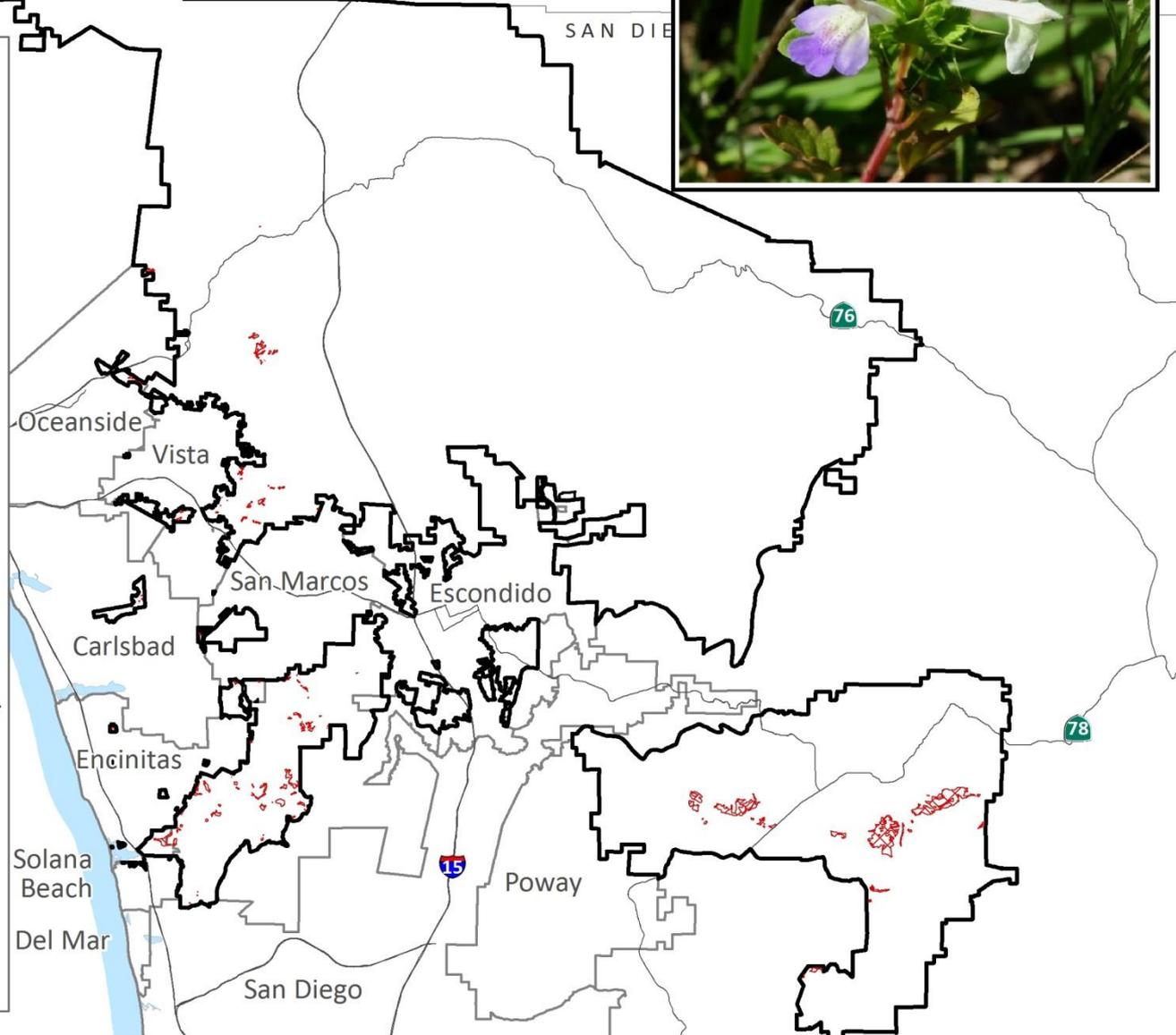


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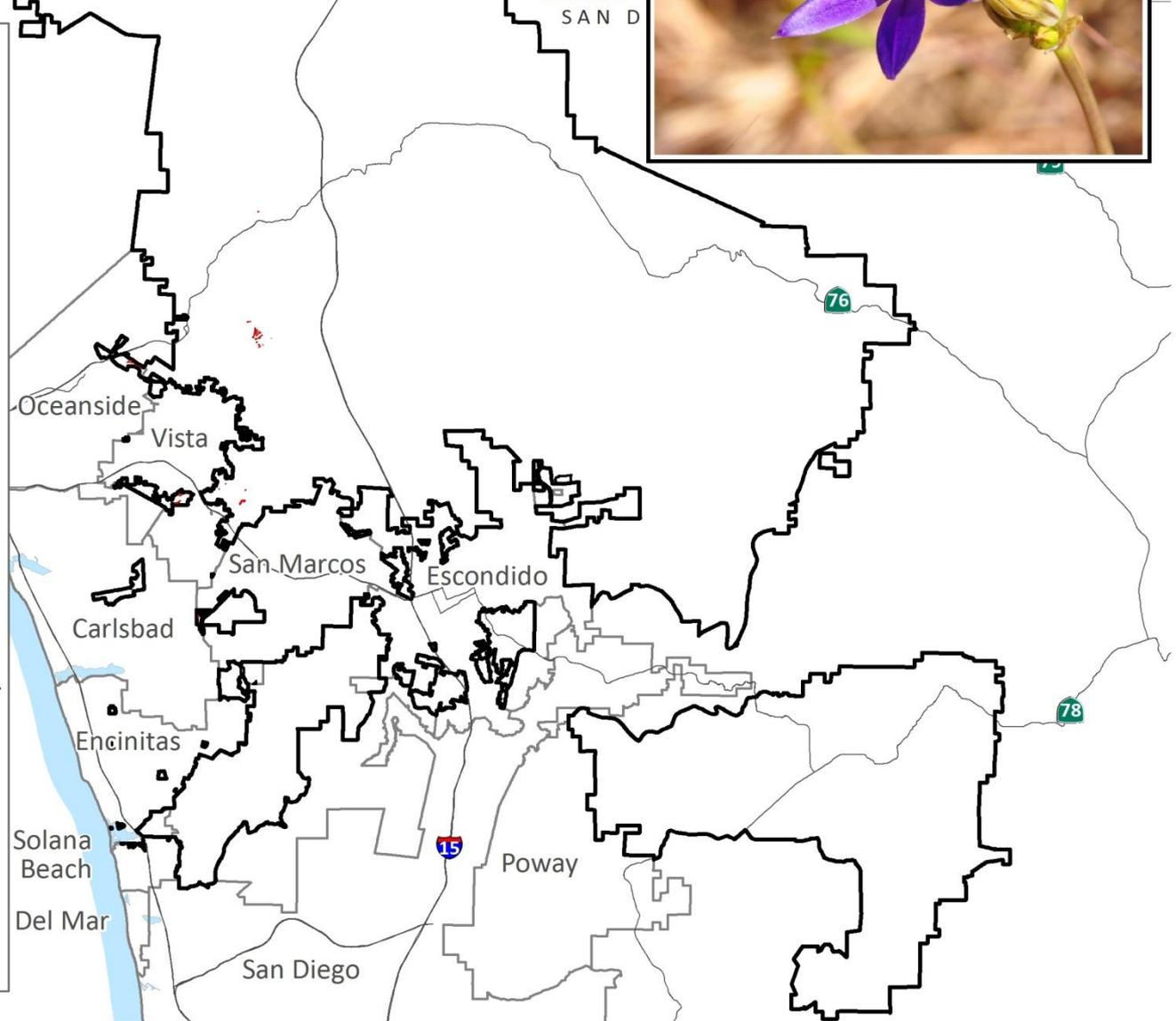


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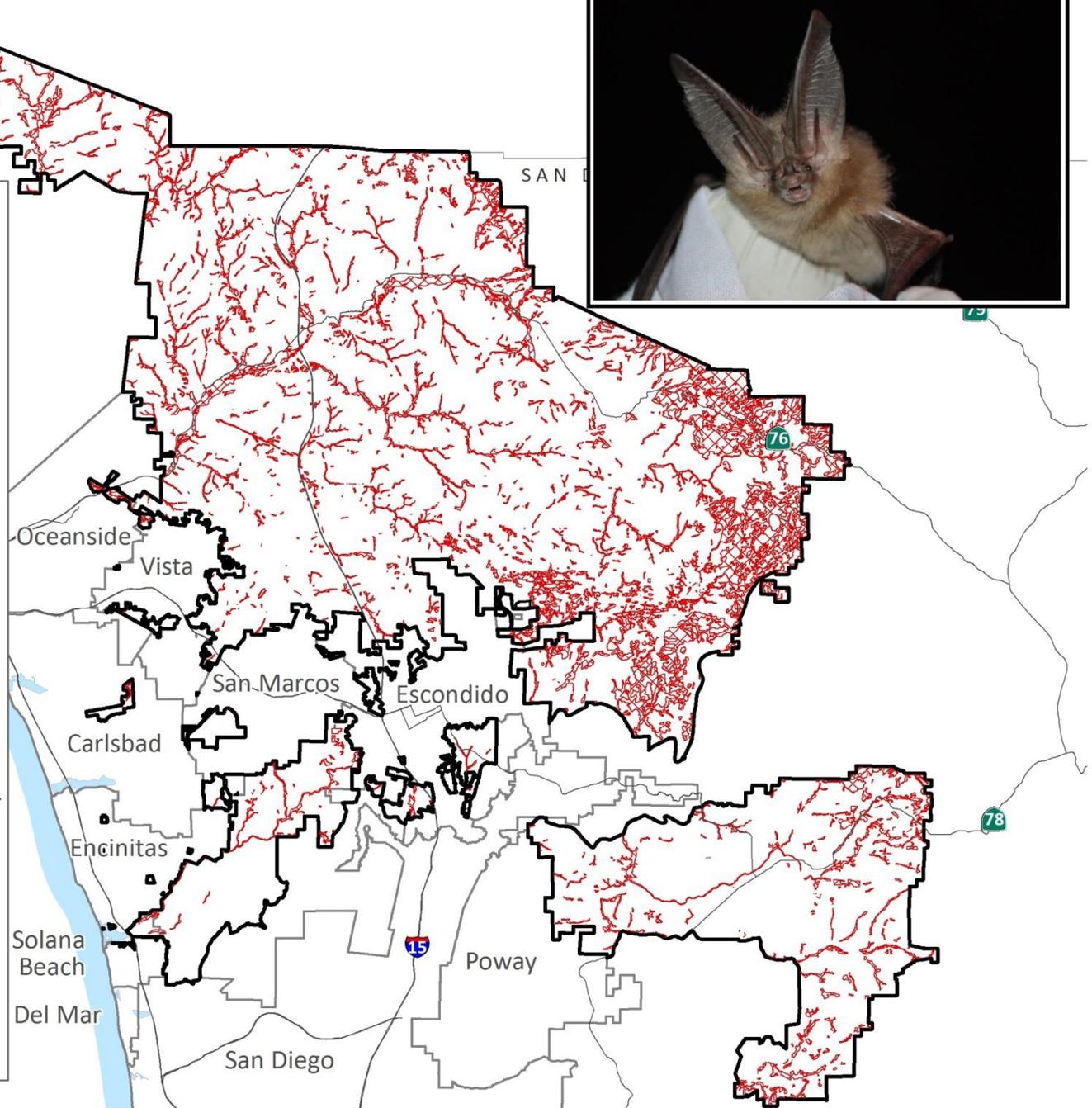


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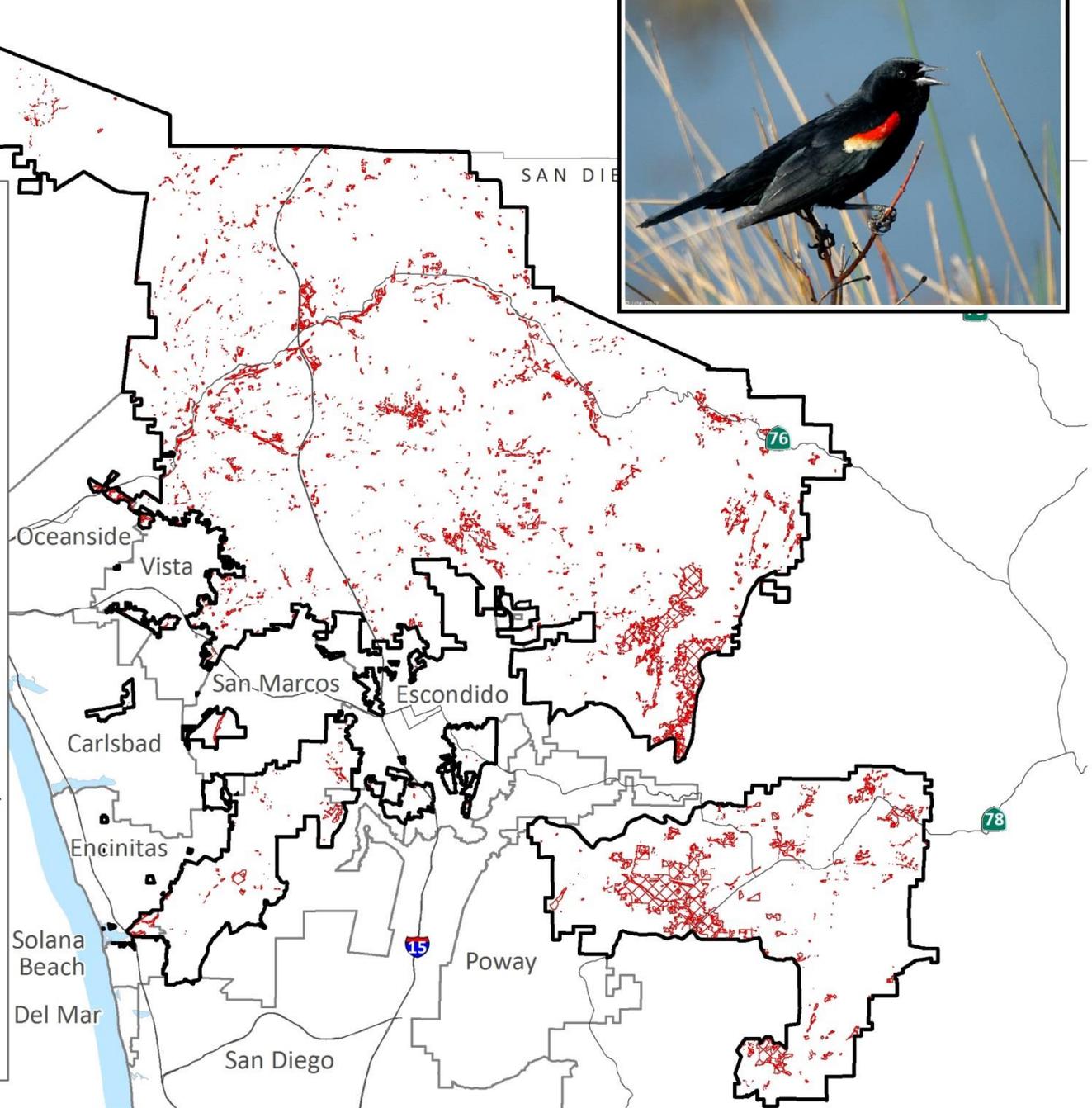


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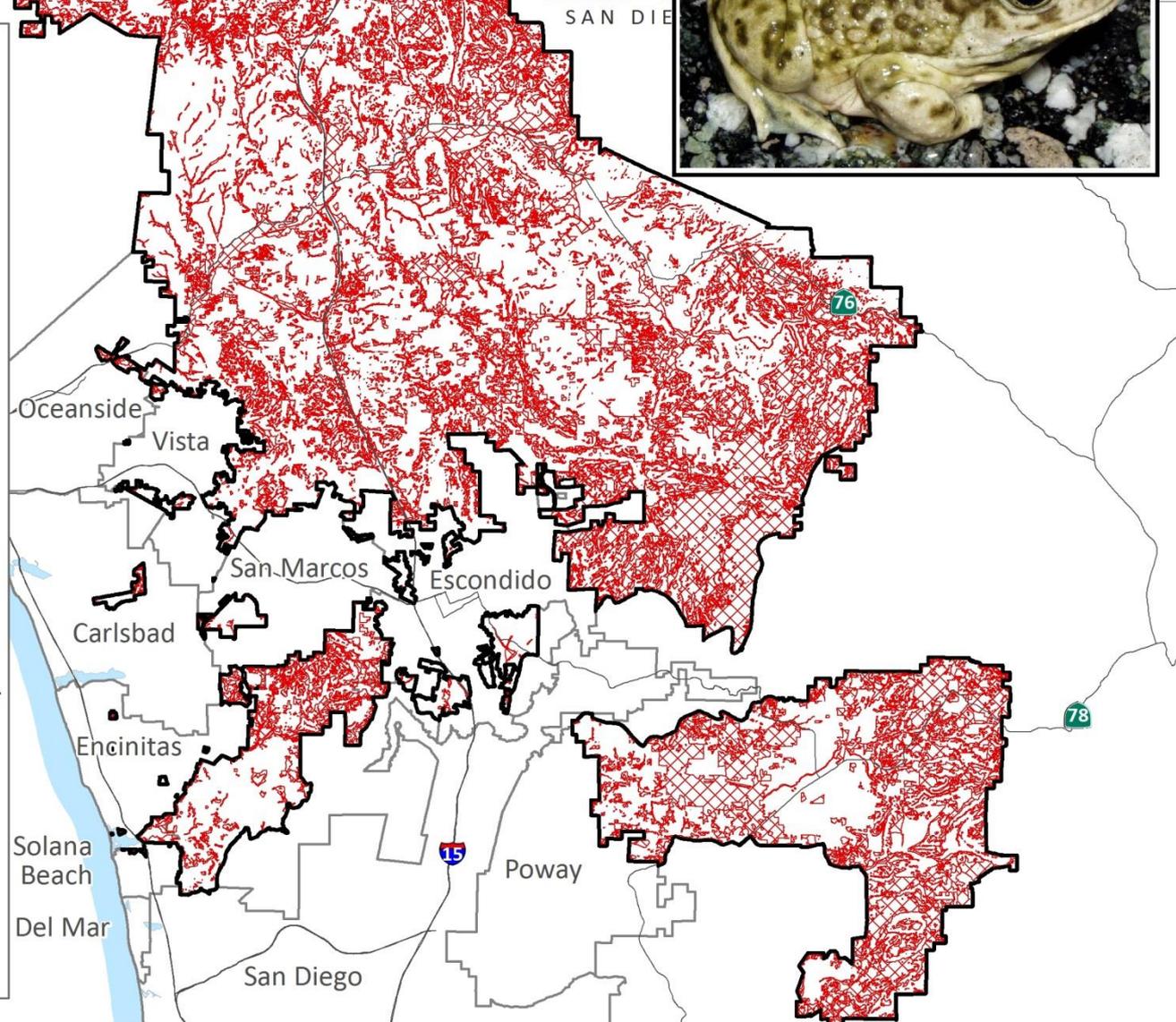


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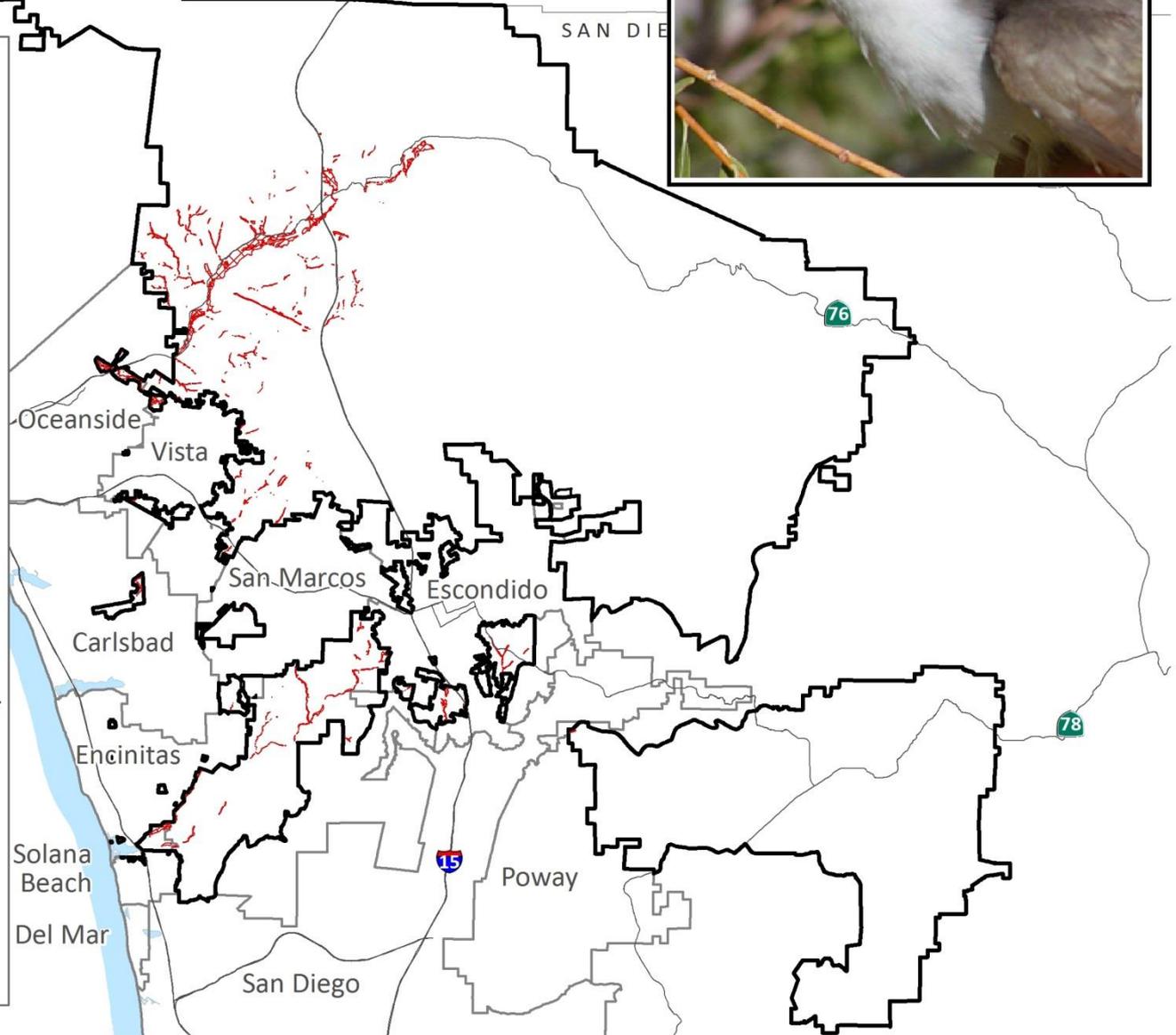


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ORANGE COUNTY

RIVERSIDE COUNTY

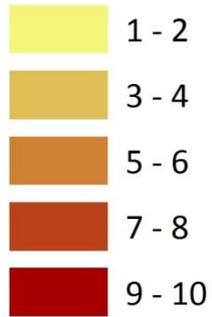
SAN DIEGO COUNTY

Marine Corps Base
Camp Pendleton

79

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Predicted Species Present



Oceanside

Vista

San Marcos

Escondido

Carlsbad

Encinitas

Solana
Beach

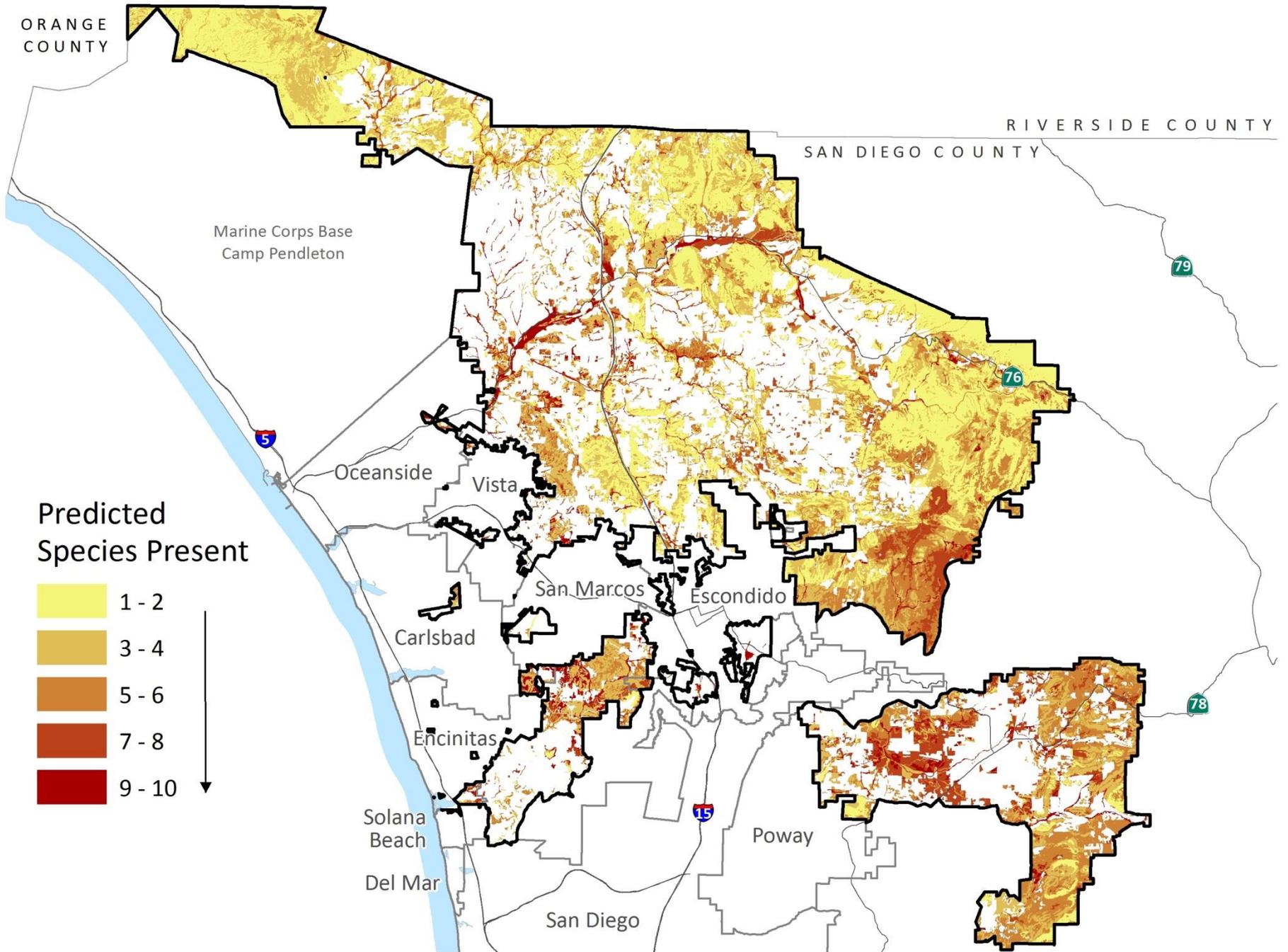
Del Mar

San Diego

Poway

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ORANGE COUNTY

RIVERSIDE COUNTY

SAN DIEGO COUNTY

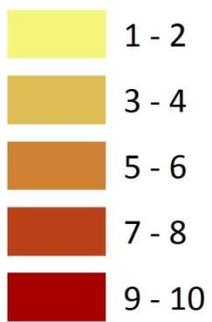
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⊠ PAMA

Predicted
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Oceanside

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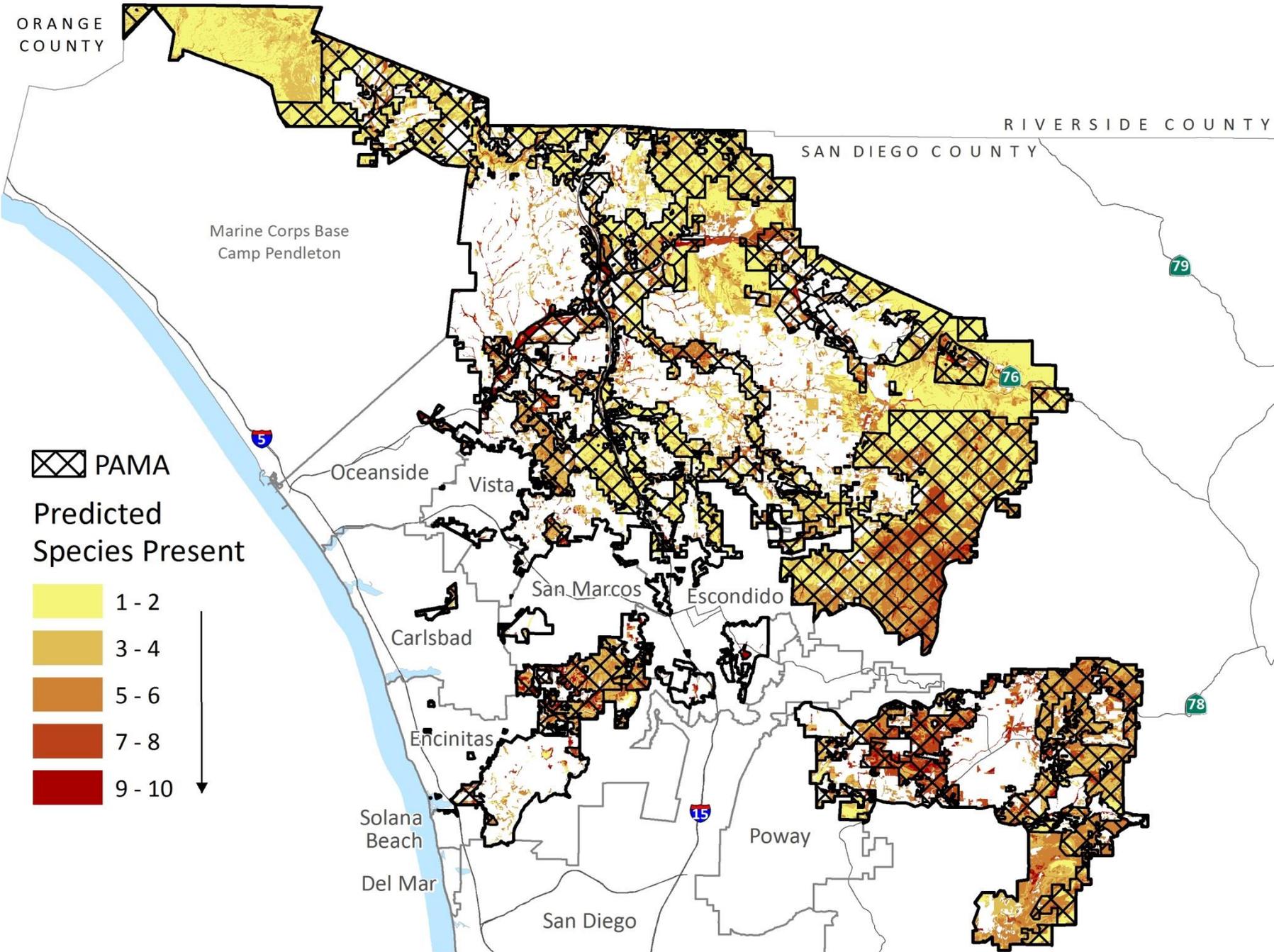
Del Mar

San Diego

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Closing Comments



Wildlife and Habitat Conservation Coalition

Dedicated to the sustained conservation of native animal and plant species in the Southwest Bioregion.



April 24, 2017

The Hon. Dianne Jacob, Chair
Board of Supervisors
San Diego County
1600 Pacific Highway, Room 335
San Diego, CA 92101

RE: Newland Sierra project and the North County Multiple Species Conservation Program

Dear Chairperson Jacob and Members of the Board:

The San Diego Wildlife Conservation Coalition writes to express its concern over how the Department of Planning and Development Services (DPDS) is treating the Newland Sierra proposed project in the context of the North County Multiple Species Conservation Program (NC MSCP). The Coalition consists of 16 San Diego conservation groups representing with over 25,000 members.

First, however, we wish to convey our appreciation to your Board for moving forward on the long delayed and important North County MSCP. Further, we believe that your staff is firm in its commitment to the plan and, at this time, our comments are limited to the Newland Sierra matter.

As a bit of background, earlier this year, DPDS released a list of development projects that would be placed into the draft NC MSCP and also placed into the plan's DEIR for analysis. This list of "private projects" **inappropriately** contained Newland Sierra, a massive proposed development and General Plan amendment (GPA) along I-15 near Twin Oaks. All other projects on this list have already been *approved* by your Board and have substantial concurrence from our partners in the NC MSCP, the state and federal wildlife agencies.

To the contrary, your Board has not approved Newland Sierra, and the site design – which staff would place into the draft plan – has been soundly rejected by the wildlife agencies in numerous letters, due to fragmentation of Pre-Approved Mitigation Area (PAMA) and loss of connectivity.

Our objections are two-fold. First, until such time as *your Board* chooses to amend the General Plan, staff should not effectively pre-judge a GPA and give a "leg up" through environmental analysis and incorporation into the draft NC MSCP. *The adopted General Plan merits a presumption of validity.* In this case, it is noteworthy that a similar project (Merriam Mountains) was actually denied by your Board, and the 2011 General Plan shows the site as Resource Conservation Area, denoting special protection. Especially given previous Board action, we ask that you direct your staff to respect the General Plan.

Dedicated to the sustained conservation of native animal and plant species in the Southwest Bioregion.

Second, when the former project on the Merriam Mountains site was denied, the planning process was restarted and the site reverted to PAMA. This understanding between the County and the wildlife agencies is documented in draft meeting notes, dated January 23, 2014, as follows:

“Background (Merriam Mountains Project)

- a. Mark Slovick summarized the project attributes and hardline that had been established for the Merriam Mountains project, which was denied by the Board of Supervisors in 2010.
- b. After denial, the project reversed to PAMA (Pre-approved Mitigation Area in the draft NC Plan.”

In addition, the fact that any subsequent hardline remained to be negotiated is documented in Notice of Preparation comments from the California Dept. of Fish and Wildlife (letter of March 11, 2015 to County of San Diego):

“3. The County and the Wildlife Agencies have met multiple times to discuss the proposed Newland-Sierra Project site, formerly known as Merriam Mountains, including the following dates: January 23rd, 2014; March 27th, 2014 (Site Visit); April 3rd, 2014; July 29th, 2014 (Site Visit); November 19th, 2014; and, most recently on February 19th, 2015. Based on our past meetings with the County, the Department has provided the following tenets that will guide any hardlined agreement negotiations for the Project:

- a) Though this is a new project, it is very similar to the Merriam Mountains project; however, *all parties agree that it will be evaluated independent of the previous Merriam Mountains Project;*
- b) Potential hardline discussion will be based on current conditions at the project site, in the North County Plan area, and in the County as a whole, as conditions have changed . . .” (Emphasis added.)

Given the failure of the parties to reach concurrence on a *new* site design, it is inappropriate for a project footprint that has been rejected by our wildlife agency partners as inconsistent with the NC MSCP preserve to be placed in the draft plan and its DEIR.

The rationale provided by DPDS is that the *former* project of a *former* developer had “hardline” status. However, because the site has clearly reverted to PAMA, no footprint should be prematurely advanced into environmental review. The proper course of action is to develop the NC MSCP and, when and if the project comes to your Board, assess at that time its compatibility with the NC MSCP (or its current draft) as part of your decision-making.

Again, we recognize and appreciate the overall progress the County is making toward completing the plan but wish to let you know of our concern that this good work could be undermined.

Dedicated to the sustained conservation of native animal and plant species in the Southwest Bioregion.

In closing, we request that the Board direct staff to remove the proposed project footprints in question from the NC MSCP draft plan and from the plan's DEIR, and to show those areas as PAMA.

Sincerely,

Joan Herskowitz, Buena Vista Audubon

George Courser, Sierra Club San Diego

Richard Fowler, Palomar Audubon Society

Pamela Heatherington, Environmental Center of San Diego

Frank Landis, California Native Plant Society, San Diego Chapter

Laura Hunter, Escondido Neighbors United

Dan Silver, Endangered Habitats League

Richard Fowler, Palomar Audubon Society

Jim Peugh, San Diego Audubon Society

Marco Gonzalez, Coastal Environmental Rights Foundation

Van K. Collinsworth, Preserve Wild Santee

cc.

Sarah Aghassi

Mark Wardlaw

Mary Kopaskie

Brian Albright

Peter Eichar

LeAnn Carmichael

Crystal Benham

EXHIBIT A

HONORING THE MSCP

Issue	Case in Point	Documentation
Honoring Assurances Abrogating established procedures and calling plan assurances into question. Coverage is coverage – adaptive management is proper tool for correcting plan issues.	V13 – See Golden Eagle below.	V13.3 –Page 6
	MSCP Biological Opinion says effects of impacts on Golden Eagle which are expected to result from the County Subarea Plan are not significant to the species’ long term survival. Accordingly, V14 has rights to proceed today under MSCP permit, yet FWS seeks to undermine, renegotiate and even acquire the property under the pretext of “new information.” New Information doesn’t impeach Golden Eagle coverage in County. Wildlife agencies refuse to acknowledge County Circulation Element roads may traverse preserve.	V14.1 –Entire Document V14.5 –Entire Document, Page 4 V14.6 –Entire Document V14.7 –Entire Document
	Newland Sierra has an existing hardline preserve and development plan. Neither has been honored.	NS.1 - Entire Document NS.2 –Entire Document Enclosures NS.3 –Entire Document NS.4 –Entire Document
	Fanita Ranch has two hardline plans only one of which has been honored.	HF.3 -Page 2, Page 3
Lack of Good Faith Negotiations Continually “moving the goal posts” so as soon as an issue is addressed, a new one is raised, with no end.	Village 13 negotiated a separate agreement independent of the regional QCB strategy, which was agreed to by the parties. Then, FWS reneged and asked for an unworkable Alternative D, in addition to still requiring a regional mitigation strategy.	V13.1 -Entire Document V13.2 -Entire Document V13.3 -Page 4 V13.4 -Page 1 V13.5 -Exhibit
	Village 14 was encouraged to pursue land exchange beneficial to the preserve. V14 spent one year and \$2MM doing biological due diligence and submitted an exhaustive analysis in support. After nine months with no response, V14 receives summary denial with factually inaccurate rationale, even when it improves the Golden Eagle status and MSCP preserve. V14 asks FWS for meeting to discuss and was turned down.	V14.2 -Entire Document V14.3 –Entire Document V14.4 -Entire Document V14.5 –Entire Document V14.6 –Entire Document
	Newland project was already included in MSCP North County draft plan as a hardline plan, yet FWS denies that. Newland improved on that hard line, yet FWS arbitrarily changes MSCP design criteria and demands that offsite mitigation land be a development project.	NS.1 - Page 1 NS.2 –Entire Document Enclosures NS.3 –Entire Document NS.4 –Entire Document

		Fanita has two previously approved footprints which were even validated by the court. Even so, Home Fed improved on those plans. Instead of support and collaboration, FWS seeks to undermine in damaging letter and bad faith negotiations.	HF.1 —Entire Document HF.3 —Entire Document HF.4 —Exhibit HF.5 —Exhibit
Communication and Actions in Breach of MSCP	Sending damaging comment letters opposing projects that all parties agreed to allow in the MSCP, raising issues over species covered in the MSCP and withholding concerns and information about project impacts until projects go out for public review.	FWS/CDFW Comment letter on V13 EIR.	V13.3 —Page 6
		FWS/CDFW Comment Letter on V14 NOP is the wrong venue for MSCP planning issues, which should be separately addressed with the County in the overall context of the MSCP North Plan.	V14.2 —Entire Document
		FWS/CDFW Comment Letter on Newland Sierra NOP is the wrong venue for MSCP planning issues, which should be separately addressed with the County in the overall context of the MSCP North Plan.	NS.1 —Page 1
		FWS/CDFW disingenuous comment letter on Fanita arbitrarily changing MSCP design criteria. Unilaterally eliminating the 4 (d) interim loss permit process in Santee without following regulatory procedures.	HF.1 —Entire Document HF.3 —Entire Document
Golden Eagle	Not honoring covered species list and trying to sidestep plan provisions to deal with new information.	MSCP Biological Opinion says effects of impacts on Golden Eagle which are expected to result from the County Subarea Plan are not significant to the species' long term survival. FWS says new Golden Eagle information puts the County's MSCP permit at risk. USGS info is not anything new. If a real issue, then FWS needs to follow MSCP Implementation Agreement and not send ominous, threatening letters. FWS wrongly asserts that definition of Take is different for ESA and BGEPA.	GE.1 —Entire Document GE.5 —Attachment A GE.2 —Entire Document GE.3 —Entire Document GE.4 —Entire Document GE.5 —Entire Document
		Using new BGEPA regulations to undermine program assurances for both V13 and V14.	V13.3 —Page 6 HF.2 —Entire Document
Mega-Preserve	Ignoring solutions that do not coincide with agency agenda.	If concern over Golden Eagle is real, there are areas with over 100,000 acres which could be used for expanding core conservation areas, but due to an anti-growth agenda by FWS, these solutions are pushed away because of no threat of development. Warner Springs Ranch Resort owners offered a solution to Golden Eagle "problem" and were ignored. Specifically, service promised assigning a person to work on this and never did.	WSRR.1 —Entire Document WSRR.2 —Entire Document WSRR.3 —Exhibit WSRR.4 —Exhibit WSRR.5 —Exhibit WSRR.6 —Exhibit WSRR.7 —Exhibit WSRR.8 —Exhibit

Documentation & Exhibits	Otay Ranch – Village 13	Otay Ranch – Village 14	Newland Sierra	Home Fed – Fanita Ranch	Golden Eagle	Warner Springs Mega Preserve
	<p>V13.1 Quino Checkerspot Butterfly Amendment</p> <p>V13.2 Biological Resources Technical Report</p> <p>V13.3 Draft EIR Comment Letter for Otay Ranch V13</p> <p>V13.4 Quino Meeting 6-16-2016</p> <p>V13.5 Fig 4.0-3</p>	<p>V14.1 Excerpt from Biological Opinion</p> <p>V14.2 Proposed Otay Ranch Village 14 Land Exchange</p> <p>V14.3 Jackson Pendo Development Company</p> <p>V14.4 Denial Letter</p> <p>V14.5 Notice of Preparation Letter of EIR</p> <p>V14.6 Summary</p> <p>V14.7 Excerpt from Implementing Agreement</p>	<p>NS.1 USFWS NOP Comments.</p> <p>NS.2 CDFW NOP Comments</p> <p>Enclosures</p> <p>NS.3 USFWS/CDFW/County Correspondence</p> <p>NS.4 USFWS Coordination Summary Memo</p>	<p>HF.1 Karen Goebel - Voicemail</p> <p>Karen Goebel Voicemail 9-16-16</p> <p>HF.2 Proposed Eagle Permits</p> <p>HF.3 Draft MSCP Subarea Plan</p> <p>HF.4 Home Fed Fanita Ranch Plan</p> <p>HF.5 FWS Fanita Ranch's (2)</p>	<p>GE.1 Excerpt from Biological and Conference Opinions of the MSCP</p> <p>GE.2 County MSCP Compliance with BGPEPA Letter</p> <p>G.E.3 Multiple Species Conservation Program Compliance</p> <p>G.E.4 Take Coverage for Golden Eagle Under the San Diego MSCP</p> <p>G.E.5 Multiple Species Conservation Program Compliance Letter</p>	<p>WSRR.1 Warner Springs Ranch Resort - Program Synopsi</p> <p>WSRR.2 Warner Springs Ranch Letter to FWS</p> <p>WSRR.3 San Diego County</p> <p>WSRR.4 Rancho San Jose del Valle</p> <p>WSRR.5 Regional Setting/Ownership Map</p> <p>WSRR.6 Warner Springs Resort Map</p> <p>WSRR.7 Comprehensive Conservation and Enhancement Plan Map</p> <p>WSRR.8 Video of Warner Springs Ranch Resort</p>
	<p>Solutions: Honor agreement identified in V13.2 for modified project. Honor MSCP assurances on Golden Eagle</p>	<p>Solutions: Support land exchange. Honor MSCP assurances on Golden Eagle.</p>	<p>Solutions: Honor MSCP North County previous hardline agreement. Support inclusion of revised hardline in current draft of MSCP Plan. Accept mitigation proposal that does not necessarily entail development project.</p>	<p>Solutions: Honor previous two Fanita MSCP Santee hardline agreements. Support inclusion of superior revised hardline in current draft of MSCP plan.</p>	<p>Solutions: Honor MSCP assurances on coverage. Use adaptive management and follow through on mega-preserves.</p>	<p>Solutions: Follow through on assembling mega-preserves.</p>

EXHIBIT B

Newland Sierra, LLC
4790 Eastgate Mall, Suite 150
San Diego, CA 92121

MEMORANDUM

To: Paul Souza, Regional Director, USFWS
Mike Fris, Assistant Regional Director, USFWS
From: Rita Brandin, Newland Communities
Subject: Newland Sierra – USFWS Coordination Summary
Date: November 11, 2016

This memo is intended to provide a brief summary of the history of the Newland Sierra project permitting process in northern San Diego County. The project site is located along I-15 just north of Escondido. It was the subject of a prior permitting process in 2008, known as Merriam Mountains. That project had a footprint of 2,327 acres and onsite preservation of 1,305 acres of open space (56% preservation). Open space design and project hardline agreements were reached with several State and federal agencies. The agreements were memorialized through a Points of Agreement document signed by the parties, including the USFWS Carlsbad office.

The project was not approved by the County of San Diego due to unrelated issues. That, combined with the downturn in the economy, resulted in the project's dormancy until 2013, when Newland Communities acquired rights to the project site and redesigned the project. The new design now includes a 1,985-acre footprint and 1,209 acres of onsite open space (61% preservation). In addition, Newland proposed to purchase additional offsite habitat to further its conservation goals. The only listed species impacted by the project will be 1 pair of gnatcatchers that are within a fuel modification zone on the outer edge of the proposed development.

Newland Communities' intention in 2013 was to gain concurrence and support for a significantly enhanced hardline agreement that reduced the project footprint, increased the percentage of open space and added more mitigation components offsite. This consultation was initiated prior to submittal of the formal application of the project to the County of San Diego. As this process progressed, Newland attempted to accommodate USFWS requests for information, analysis, and yet more mitigation. Service staff dismissed the relevancy of the prior Points of Agreement, maintaining that Newland was required to begin the permitting process as a new project. Further, staff insisted that the County's hardline process was inadequate to use to permit the project, regardless of any improvements from the initial project design. Ultimately, Service staff placed

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Subject: Newland Sierra – USFWS Coordination Summary

demands on the Applicant that were financially infeasible, both in project design and acquisition of specific, additional off-site mitigation. Subsequent to offers to use alternative permitting processes, it has become clear that the Applicant is at an impasse with Service staff.

Following is the history of the site and a summary of the efforts undertaken by Newland.

HISTORY OF PROJECT SITE – PRIOR PROJECT HARDLINE AGREEMENT

- A project called Merriam Mountains began planning and coordination with the County and the USFWS in February 2003.
- The initial plan for that project included development in the northern part of the site (referred to as “Neighborhood Five” as part of the Merriam Mountains project).
- During coordination, USFWS requested that the applicant delete key northern neighborhoods in order to create a preserve in a larger block of habitat in the northern part of the site. Staff agreed to support a hardline if the developer would agree to an “All South” development plan (USFWS letter from staff person Susan Wynn is available upon request).
- In exchange for moving development to the South, a hardline agreement was executed between the developer and the USFWS (dated October 2005 – available upon request).
- Subsequent to that hardline agreement, the local fire district imposed strict fuel modification requirements, which was viewed as a “late hit” by the USFWS; however, the project moved forward through the EIR and entitlement process with the hearing on the project occurring December 9, 2009.
- The Merriam Mountains Specific Plan was denied by San Diego County Board of Supervisors on December 9, 2009

HISTORY OF PROJECT SITE – NEWLAND SIERRA

- Newland Communities acquired the project site in 2010.
- Newland began planning for a new project in 2013 (now referred to as Newland Sierra).
- **October 28, 2013** – Newland meets County staff, and USFWS on October 28, 2013 to introduce the project
 - Newland Sierra used Merriam Mountains (“All South” plan) as a baseline, and then improved upon that design from a biological standpoint.

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Subject: Newland Sierra – USFWS Coordination Summary

- Reconfiguring and reducing the footprint of the neighborhoods, deleting ridge line development, creating habitat linkages, and assembled new open space areas by working with the County Fire Authority and fire district to resolve fuel modification requirements
 - Key to providing an undisturbed northern block of habitat was the removal of a secondary access road (Lawrence Welk Court) that previously bisected the large block of open space in the north under the Merriam plan.
- **January 2014** – USFWS staff indicated four issues that needed proof of resolution before a hardline decision could be made:
 - Lawrence Welk Court removal
 - Removal of fuel modification along I-15 and within the interior of the project site
 - Identification of access and recreation needs within the Preserve determined
 - Survey for Hermes copper to determine presence or not
 - **April 3, 2014** – Newland presented improved site plan and preserve design addressing the items identified by USFWS in January.
 - **July 29, 2014** – Property site visit to include USFWS and CDFW.
 - **November 14, 2014** – Dudek submits 177-page biological technical memorandum addressing USFWS concerns, for USFWS review (available upon request)
 - **November 19, 2014** – Newland presented redesign of trail system and relocation of equestrian access and staging area, as well as overall consistency of open space design with the NC MSCP. USFWS requested a meeting with the fire district to discuss/confirm that no additional fuel modification would be required on the project site.
 - **March 5, 2015** – USFWS staff communicates to County staff that they had not reviewed the technical memorandum, and stated they could not support a hardline agreement absent a full project redesign.
 - **March 12, 2015 (stamped as received)** – USFWS submits a comment letter during the Newland Sierra NOP Scoping Period to this effect, indicating that they

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Subject: Newland Sierra – USFWS Coordination Summary

did not support the project and requesting that Alternatives be analyzed involving substantial redesign. Additionally, the letter from USFWS did not acknowledge any of the ongoing consultation between Newland, the County, and USFWS.

- **June 17, 2015** – In response to USFWS comments from January 2014 regarding the “changed conditions” since the Merriam Mountains hardline agreement was completed, Newland presents information to USFWS (presentation available upon request) indicating how conditions have not changed:
 - Foundational biological data for the NC MSCP is unchanged
 - Overall goals of the NC MSCP are unchanged
 - PAMA boundaries are largely unchanged
 - General Plan land use designations are largely unchanged from the prior General Plan

- **September 9, 2015** – E-mail from Karen Goebel sending a “re-design” of the project to the County via e-mail in preparation for the next day’s meeting.

- **September 10, 2015** - Newland discusses project with USFWS and County staff. Mendel Stewart indicates he first heard about this project 6-8 months ago, and that delays on his staff’s review were due to workload, vacations, and other things. Karen Goebel brings up new issues – wildlife undercrossings, dislike of Camino Mayor. Karen also mentions that 4d (HLP) is another option for biological permitting, since the site doesn’t have a lot of coastal sage scrub and “this is not a core gnatcatcher population.” Karen also mentioned that if Newland were to avoid occupied gnatcatcher habitat, the project could move forward with a 4d denial from USFWS. After consultation with County counsel and staff, Newland understands this is not true.

- **November 5, 2015** – Meeting between County, USFWS, and CDFW where Newland presents revisions to the site plan to partially accommodate their requests for project redesign (pullback in certain areas based on USFWS requests) and an analysis of acreage and biology for fifteen (15) parcels for potential offsite mitigation. USFWS requests an opportunity to review the analysis and promises to provide feedback. A follow up meeting is scheduled for November 19, 2015.

- **November 18, 2015** – Newland receives an e-mail from Karen Goebel indicating that USFWS and CDFW had met on 11/12/15 to review and discuss the proposed offsite acquisition list, and sets forth their position on the amount of acreage overall they would accept for conservation. This e-mail specifically sets forth only

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Subject: Newland Sierra – USFWS Coordination Summary

two properties they would “accept” in order to consider a hardline agreement. Both properties currently have approved tentative maps for development.

- **November 19, 2015** - Meeting between County, USFWS and CDFW to again discuss the list of potential acquisitions.
- **December 2, 2015** – USFWS email indicates that “we will support acquisition of the Morris Ranch property” because it would serve as a linkage, and “we will support the Mountain Gate acquisition” because of its size and location.
- **January 15, 2016** – USFWS email indicates that, even with acquisition of Morris Ranch (which Newland had not yet negotiated awaiting USFWS staff confirmation that no further mitigation was required if the property could be acquired), that USFWS would not move forward with a hardline agreement, for the following reasons:
 - Not enough quality conservation onsite
 - Mitigation being proposed does not adequately make up for the on-site deficiencies
 - Offering a hardline would hinder completion of the NC MSCP
 - Too much time commitment from USFWS and the County to continue down this path

PERMITTING PROCESS CONCERNS

- Draft North County MSCP underway but not anticipated to be completed in time to allow Newland’s project to be permitted under the final plan given our project schedule. USFWS staff person says “Draft NC MSCP has nothing under the hood” further denigrating the efforts.
- Multiple comments from USFWS indicating that approving a hardline for Newland Sierra project would impact the completion of the NC MSCP (Newland Sierra is only 1,985 acres within the NC MSCP study area of 312,284 acres).
- During Section 7 Consultation USFWS staff person says that regardless of whether Army Corps takes jurisdiction over listed species (gnatcatcher), Newland Sierra will still need a Habitat Loss Permit (HLP) as this covers the “entire site.”
- The 4d/HLP process is guided by a Planning Agreement in place that sets forth process while NC MSCP is still being worked on. The Interim Review Process

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ensures that projects being considered for approval prior to adoption of NC MSCP do not compromise the successful implementation of the plan

- USFWS staff continues to disagree with our team regarding fundamental project design considerations in the context of the Interim Review Process guidelines (reference NOP letter and coordination process summarized above) without providing their own “technical reasoning” for rejection but referencing broad, subjective objections under the guise of “meeting the interim guideline objectives”
- Although USFWS staff have stated on several occasions that the project doesn’t need a hardline as it is “easy” to go through the HLP process (with direct comments that the HLP won’t be an issue), there is history on other projects that indicates that staff uses the HLP process to delay projects by never “getting to resolution”.
- With the delays and endless attempts at coordination and resolution that Newland Sierra has experienced since 2014, there is no confidence that the same treatment with the same staff will not occur when the applicant is ready for a Habitat Loss Permit.

EXHIBIT C

Rita Brandin

From: steve@stevethompsonllc.com
Sent: Wednesday, October 12, 2016 3:15 PM
To: Rita Brandin
Subject: FW: Meeting
Attachments: nc ec mscp plan agreemen_20160802082150.pdf

Rita, does this make sense to you?

Steve

“Confidential Attorney/Client Work Product – PREPARED IN ANTICIPATION OF LITIGATION”

From: Stewart, Mendel [mailto:mendel_stewart@fws.gov]
Sent: Wednesday, October 12, 2016 11:42 AM
To: steve@stevethompsonllc.com
Cc: Ed Pert <ed.pert@wildlife.ca.gov>; Karen Goebel <karen_goebel@fws.gov>
Subject: Re: Meeting

Steve,

The problem with the Newland/Sierra project is that we don't believe it meets the agreed to framework (at least from our current understanding) of the County's regional plan. As a result, it is up to the county to either modify her plan or the regional plan. At this point, we are waiting to understand what the county intends to do about its regional plan. Rita's project can move forward with their plans anyway they want. It is up to the county as to how it fits their plan because our understanding is that it has almost no impact on listed species. It is strictly about meeting the planning guidelines agreed to in 2014 (attached).

<Mendel

On Wed, Oct 12, 2016 at 10:06 AM, steve@stevethompsonllc.com <steve@stevethompsonllc.com> wrote:

Mendel/Ed,

Thanks for the quick response.

The major issue really seems to revolve around what is described in the “draft Endangered Species Act Compensatory Mitigation Policy”, as what the applicant can do as appropriate and practicable avoidance and minimization measures. Ed I’m not familiar with the State process, so not sure if you have a comparable direction or guidance?

“Practicable – available and capable of being done after taking into consideration existing technology, logistics, and cost in light of a mitigation measure’s beneficial value and a land use activity’s overall purpose, scope, and scale (81 FR 12380; March 8, 2016).”

If the agencies recommendations to gain your support aren’t practicable and appropriate to the applicant, then it really doesn’t make sense to meet this Friday.

Thanks for your consideration.

Steve

steve@stevethompsonllc.com

916-600-5227

From: Stewart, Mendel [mailto:mendel_stewart@fws.gov]
Sent: Tuesday, October 11, 2016 4:56 PM
To: steve@stevethompsonllc.com
Cc: Ed Pert <ed.pert@wildlife.ca.gov>
Subject: Re: Meeting

Steve,

Ed and I are available all afternoon on Friday. It will depend on whether Mark can meet and what time he is available. As for authority to tell an applicant to suspend their development process, as far as I know we have none. We have not asked them to suspend their project. My understanding from the meeting with Susan Wynn and the Corps was that we just pointed out that getting the regional HCP/NCCP completed as soon as possible would benefit everyone.

I know that we looked hard at Rita's project and provided recommendations on how to gain our (State and Federal wildlife agencies) support for the project. These same recommendations will be provided as comments

when the draft CEQA document comes out. If this project moves forward in advance of the North County Plan, the only Service regulatory oversight will come from the section 7 consultation with the Corps and 4(d) rule compliance through the County. We cannot comment on the outcome of these processes until the applicant and agencies with oversight (Corps and County) submit the required information to us. The Corps has not initiated consultation on the project and the 4(d) information is usually submitted to the County through the CEQA process. As for ESA Mitigation Strategies and the new HCP handbook, we don't expect delays in the processing the North County Plan due to the draft guidance and policies.

We have provided our recommendations to improve the applicant's project design multiple times. These recommendations were provided to help ensure the proposed project would be consistent with the conservation strategy of the North County plan as proposed to us by the County. We agree there is no reason to meet if the project design is not changing. There is nothing to prevent the applicant or the County from moving forward with the CEQA process.

That said, I'm happy to meet with her anytime to go over it again to make sure I understand her permit concerns. Ed is also happy to meet again.

<Mendel

On Mon, Oct 10, 2016 at 7:49 PM, steve@stevethompsonllc.com <steve@stevethompsonllc.com> wrote:

See comments below.

Steve

steve@stevethompsonllc.com

916-600-5227

From: Mendel Stewart [mailto:mendel_stewart@fws.gov]

Sent: Monday, October 10, 2016 5:34 PM

To: steve@stevethompsonllc.com

Subject: Re: Meeting

Steve,

I checked with Ed and he is available as I am on Friday afternoon. Both Ed and I have a meeting with the Corps of Engineers and many others on the San Elijo Lagoon restoration project in the morning on Friday. It will be just Rita and I. Can I make it back to airport for a 4:50 pm flight? What time can you guys meet in the afternoon? Will ask Rita if she is available.

If the afternoon works for you, I recommend that you and Rita ask Mark Wardlaw from the county to attend. We would also need to know who from Rita's group will attend. If she's going to bring other consultants Ed and I would need to bring our staff because we don't really know all the details they know. Rita will ask Mark Wardlaw at the county if he can attend. It will just be Rita and I.

Steve, I also need to know what the subject is. We have already been through discussion about her project as you know. The county, state and our focus should be on getting the regional HCP/NCCP completed. Going over her project again just delays that. *this is a stretch*

Mendel the topic is how to work together to get the needed permits from the Department and FWS for the proposed project. I'm not sure what authority you and Ed have to tell the applicant to suspend the existing permit process and force them to complete a regional HCP/NCCP, of which they are very small player in the conservation strategy, have no control over the agencies performance or ability to complete an HCP, that has been in the works for years. In addition the FWS is apparently hard at work on ESA Mitigation Strategies and a new several hundred page HCP handbook, that if implemented will make it almost impossible to finish an HCP/NCCP. An HCP of this complexity could take up to 50 months according to the draft handbook headed to final.

I haven't seen, maybe I missed it, any analysis of the conservation strategy by the agencies. If the only answer is to make them complete the Regional HCP/NCCP, which they have no control over, then is no real reason to meet locally.

Mendel

Sent from my iPhone

G. Mendel Stewart

U.S. Fish and Wildlife Service

Mobile (760) 533-5976

On Oct 10, 2016, at 11:12 AM, "steve@stevethompsonllc.com" <steve@stevethompsonllc.com> wrote:

Ok how about Rita and I meet Friday morning with Ed, you and the county rep?

I have a meeting with Chuck Bonham, Thursday afternoon, then fly down Thursday night, Fly back late Friday.

Steve

steve@stevethompsonllc.com

916-600-5227

From: Stewart, Mendel [mailto:mendel_stewart@fws.gov]
Sent: Tuesday, October 4, 2016 10:52 AM
To: steve@stevethompsonllc.com
Subject: Re: Meeting

Steve,

I spoke with Ed Pert, Regional Manager for the Department of Fish and Wildlife, about meeting with Rita. He reminded me that they and the County are each involved in this proposed project and should also be involved in any meetings. He also asked me exactly what the subject of the meeting was and I had trouble describing it.

I request that any meetings we have about this project include both the County and the State so that each party is kept informed equally. It would also be helpful to have a better understanding of the specific topic.

Thank you.

<Mendel

On Fri, Sep 30, 2016 at 12:50 PM, steve@stevethompsonllc.com
<steve@stevethompsonllc.com> wrote:

Rita Brandin

From: Stewart, Mendel <mendel_stewart@fws.gov>
Sent: Friday, August 5, 2016 5:37 PM
To: Rita Brandin
Subject: Re: Corps Meeting

Follow Up Flag: FollowUp
Flag Status: Flagged

Rita,

I'm sorry for the delay in responding. I do not plan to attend this. I have a conflict but even if not, our staff should work with you and your team on this.

I am still working on my understanding of the 4d Rule and hope to get answers for you soon.

<Mendel

On Wed, Aug 3, 2016 at 9:39 AM, Rita Brandin <rbrandin@newlandco.com> wrote:

Hi Mendel: Susan Wynn has responded that August 18th at 2:00 works for her to meet with Shanti and our team.

Your participation is very important as well. Please confirm that this date and time work for you as well?

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Mendel Stewart
U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
Field Supervisor
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
760-431-9440
mendel_stewart@fws.gov
<http://www.fws.gov/carlsbad/>

Region 8 Facebook page: <https://www.facebook.com/usfwspacificsouthwest>

Region 8 Twitter page: <https://twitter.com/USFWSPacSWest>

Rita Brandin

From: Stewart, Mendel <mendel_stewart@fws.gov>
Sent: Friday, July 29, 2016 4:31 PM
To: James Whalen
Cc: Rita Brandin; Adams, Matt (matt@biasandiego.org); Karen Goebel; Scott Sobiech
Subject: Re: FW: Soitec Admin Record

Jim,

Thanks for providing this information. We will be in contact to discuss it. Have a great weekend.

<Mendel

On Fri, Jul 29, 2016 at 10:06 AM, James Whalen <james@jwhalen.net> wrote:

Thanks for getting together Tuesday, Mendel. While we have other matters to follow up on, I wanted to take this opportunity to address a comment you made about a “requirement” for 75% open space and 25% limit on development in the North County MSCP’s planning. I also wish to elaborate on BIA concerns about not following the required conservation planning steps in the preparation of the MSCP Subarea plans, in this case, the MSCP North County.

As you can see in the attached, executed Planning Agreement for the North and East County plans, there is no requirement for 75%-25%. I don’t know where staff came up with that notion, but it is not required and Newland shouldn’t be asked to adhere to it.

The same Planning Agreement requires the County and agencies to deploy a steering committee to participate in the process, and unfortunately, we don’t have that yet. I predict this will cause problems because we will be getting a draft plan that is more “cooked” than it should be at this point in the process given no stakeholder review for seven years.

Additionally, you can see in Section 6.2.1 of the Planning Agreement that there are discrete, defined methods that need to be followed for the Service and Department to make the findings to issue take authorizations. Steps 6.2.1 c, e, f, and g *require* that the preparation of the conservation analysis supporting those findings be done using species point locations and species modeling with gap analyses to ensure accuracy in the determination of coverage. In other words, we must prepare MSCP Subarea Plans this way. On other hand, arbitrary or subjective “lines on paper” cannot be supported without such analysis being done. Any litigation brought on a project or subarea plan will be successful challenging the issuance of permits without such analysis.

Accordingly, hardlined boundaries showing what open space will be in a Subarea Plan are a critical precursor of the baseline to achieving an adequate conservation analysis and if changed in either a draft or approved plan

without analysis , the effects ripple throughout through those draft and approved MSCP plans. By the way, I also attached an updated version of the graphic I shared with you Tuesday—it was pointed out the term “landowner” more accurately represents the meaning. The point of that graphic is clear—we have a three-footed stool that is needed for these plans to work. With any of the three missing, no plan.

Please let me know if you have any questions. Thanks again, JimW

--
Mendel Stewart
U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
Field Supervisor
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
760-431-9440
mendel_stewart@fws.gov
<http://www.fws.gov/carlsbad/>

Region 8 Facebook page: <https://www.facebook.com/usfwspacificsouthwest>

Region 8 Twitter page: <https://twitter.com/USFWSPacSWest>

Rita Brandin

From: Stewart, Mendel <mendel_stewart@fws.gov>
Sent: Friday, January 15, 2016 5:45 PM
To: Rita Brandin
Cc: Ed Pert (EPert@dfg.ca.gov); Karen Goebel; Mark Wardlaw; Scott Sobiech
Subject: Re: FW: Follow Up from Telephone Discussion Yesterday -

Rita,

Your request for confirmation that no further offsite mitigation would be requested was because Karen had indicated in her 11/18/2015 email see excerpt below, that the Wildlife Agencies would need to determine whether additional offsite mitigation would be required if Newland Sierra entered into a partnership, where mitigation credit would be shared, to acquire the Morris Ranch property rather than purchase the property outright, where full credit would be given to the Newland Sierra property. You indicated in our 12/9 telephone conversation that Newland Sierra would not be willing to purchase additional acreage.

From our 11/18/2015 email:

"The Morris Ranch site is approximately 230 acres in size. Full conservation of the site by the Applicant would result in a 66/34 conservation to impact goal for the project and because of this area's importance to the draft North Count MSCP, the Wildlife Agencies would agree to a hard-line agreement even at this lower conservation to impact ratio. If the property was purchased in coordination with another entity, the Wildlife Agencies would need to determine the amount of additional offsite acreage that may or may not be needed for a hard-line agreement. We understand that any purchase at this site represents greater risk for the Applicant; however, this is the property that will bring the Applicant greatest support from the Wildlife Agencies, and its conservation could potentially gain support for the project from other conservation groups."

Below are our reasons for not going forward with hardline agreements:

1. We don't believe the necessary quality conservation is designed on site. This includes not only acreage but also the conservation design. We cannot publicly defend what is being proposed as sound conservation meeting the intent of the proposed North County MSCP.
2. We also don't believe the mitigation being proposed, even what would come from your partnership with Camp Pendleton for purchase of Morris Ranch, adequately make up for the on-site deficiencies.
3. We are also concerned about how providing this hardline would impact the completion of the North County MSCP. We are concerned that to continue to provide hardlines that we are reducing the incentive for completing the N. County Plan.

4. Finally, the time commitment required from the wildlife agencies and the county is not well spent. By continuing to address individual project requests for a hardline, we are just encouraging others in the future to make similar requests. It is in all of our best interests to put our efforts toward completing the plan.

I hope this helps clarify our position.

<Mendel

On Tue, Jan 12, 2016 at 1:05 PM, Rita Brandin <rbrandin@newlandco.com> wrote:

Mendel:

I thought it important to document our conversation yesterday, and I've copied Ed on the communication since Gail was on the call as well.

As a follow up to the joint meeting in late November between the Agencies, the County and Newland, I had a call with you and Karen Goebel on 12/9 wherein we discussed the potential offsite acquisition of Morris Ranch, and I requested confirmation from both agencies that if I were able to jointly acquire Morris Ranch that no further mitigation requirements would be required in order to agree to a hard-line. I wanted this assurance before I started discussion with the contact Karen had given me from the Marine Corps.

Our call yesterday was for you to relay the mutual decision of both agencies that a hard-line will no longer be considered by either agency. This decision was arrived at during the joint meeting between both on 1/11/16. When I asked you why you were no longer willing to consider a hard-line even with the directed offsite acquisition, you indicated that the project design is an issue, that the plan doesn't offer enough acreage for conservation and that entering into a hard-line put the future of the North County MSCP at risk. You also indicated that the time commitment to work with individual applicants was not time well spent for the agencies, and that entering into a hard-line with Sierra would potentially open the door to other applicants wanting the same thing.

You indicated that you had communicated this to the County as well.

This is my understanding of our telephone call. I would appreciate your confirmation or corrections so that we have a record of our communication and the Agencies' decision.

Thank you,

Rita Brandin

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Mendel Stewart
U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
Field Supervisor
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
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Rita Brandin

From: Rita Brandin
Sent: Tuesday, January 12, 2016 1:05 PM
To: 'mendel_stewart@fws.gov'
Cc: Ed Pert (EPert@dfg.ca.gov)
Subject: FW: Follow Up from Telephone Discussion Yesterday -

Mendel:

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This is my understanding of our telephone call. I would appreciate your confirmation or corrections so that we have a record of our communication and the Agencies' decision.

Thank you,

Rita Brandin

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Rita Brandin

From: Goebel, Karen <karen_goebel@fws.gov>
Sent: Wednesday, December 16, 2015 5:33 PM
To: Rita Brandin
Subject: Telephone Number

Requested # to
call and tell me
that the agencies (USFW
& EDFW)

Rita,

Can you call me or resend me your telephone number(s). I have misplaced them.

Karen

would not be
meeting to discuss
our proposal
until Jan. 8

Karen Goebel
Assistant Field Supervisor
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
760/431-9440, ext. 296
760/431-9624 Fax

Rita Brandin

Please review
entire email

From: Stewart, Mendel <mendel_stewart@fws.gov>
Sent: Wednesday, December 2, 2015 5:39 PM
To: Rita Brandin
Cc: Karen Goebel; Ed Pert; Mark Wardlaw
Subject: Re: FW: Our Discussion on Friday afternoon, November 20th - Correction on Prior E-Mail

chain

Hi Rita,

Thank-you for trying to capture our conversation. I would like to clarify the following points:

We have no objection to the project applicant's purchase of offsite mitigation lands in support of adding to the overall conservation of the Draft North County MSCP preserve lands; however, from the list of properties provided for our review and support for a potential hard-line agreement, some properties are considered of greater biological value than others. Specifically, we will support acquisition of the Morris Ranch property because the proposed development on the site will sever a key linkage in the Draft North County MSCP, thus conservation of the site has been a priority for conservation for some time. The project applicant's contribution to the acquisition of this critical property would help us make a stronger biological case that the offsite mitigation proposed offsets the loss and fragmentation of the project's onsite PAMA lands. Likewise, we will support the Mountain Gate acquisition because of its size and location within the PAMA and because its purchase will ensure conservation of a large core area of the Draft North County MSCP preserve.

During our conversation, my intent was not to dismiss the value of the Hoospack or Pankey properties' contribution to the Draft North County MSCP preserve system, but only to do what you asked in identifying Service priorities for conservation that would lead to a hard-line agreement. Because the proposed Newland Sierra development will result in a loss of wildlife habitat originally identified to be part of the Draft North County MSCP preserve, acquisition of PAMA lands planned for development helps ensure that there is no net loss of PAMA acreage and that the anticipated size and configuration of the planned preserve can be achieved. Acquisition of one of these properties which both include development would offset the overall loss of existing PAMA acreage that will result from the Newland Sierra development. Conservation of the Hoospack or Pankey properties, while not insignificant, will not assist in maintaining the scope of the PAMA lands needed to assemble the preserve anticipated by the Draft North County MSCP.

I hope this helps clarify our conservation priorities and to dispel any concerns you may have regarding our agency's role in balancing the needs of residential and commercial development with our mission to conserve the nation's important fish and wildlife resources. We believe the section 10 permitting program and regional planning through the MSCP highlight the Service's sincere efforts to work in partnership to achieve this goal.

Marine Corps Base Camp Pendleton is the potential partner for the Morris Ranch property. We let them know that someone might be interested in partnering on this acquisition. Below is the person to contact.

Ken Quigley
Strategic/Regional Environmental Planner
Strategic Planning Section, Building 22165
MCIWEST_MCB Camp Pendleton
Box 555008
Marine Corps Base

Camp Pendleton, CA 92055-5008
(760) 725-9733
DSN: 365-9733
FAX -9722

Please let me know if you have any questions.

<Mendel

On Wed, Dec 2, 2015 at 10:05 AM, Rita Brandin <rbrandin@newlandco.com> wrote:

Good morning Mendel:

After re-reading the e-mail I sent to you on 11/25, I realized that I put the incorrect date down for our last meeting. Please see those corrections below in red.

Please let me know if you have any further additions or corrections. Also, if you have reached the Morris Ranch contact that was discussed in our meeting.

Thank you.

Rita Brandin

From: Rita Brandin
Sent: Wednesday, November 25, 2015 11:58 AM
To: 'mendel_stewart@fws.gov'
Subject: Our Discussion on Friday afternoon, November 20th
Importance: High

Good morning Mendel:

I appreciate that you called me directly on Friday afternoon to discuss the U.S. Fish and Wildlife agency's stance on offsite acquisition options as a follow up to our Thursday, November 19th meeting at the County. As I have reviewed the discussion with others, I've concluded that it might be important to memorialize our conversation so Newland and our team have clarity moving forward. If I missed any key points or misunderstood any of your comments from the discussion, please feel free to provide those additions or corrections to my summary e-mail. I will attempt to capture the key points as I understood them.

As you know, we had previously proposed a list of off-site parcels at our meeting on November 5th, and we discussed the same list at our meeting on November 19th. We asked that you relook at the biological value of those parcels for acceptable offsite acquisition by Newland in lieu of being limited to only the Morris Ranch and Mtn. Gate parcels as communicated in Karen Goebel's e-mail to me on November 18th. You mentioned you would meet further with your staff to discuss the list.

During our call, you mentioned that as a follow up to our 11/19 discussion, you and your staff had further reviewed the list of parcels, and relooked at two parcels in particular that we had discussed at length – the two we refer to as Hooshpack and Pankey. You said that although the California Dept. of Fish and Wildlife wanted to take another look at the biological value of these parcels, that the U.S. Fish and Wildlife Service did not see them as acceptable acquisitions. When I asked why they were not acceptable given our preliminary assessment of their biological value and their core PAMA location, you said they were not “threatened” like the Morris Ranch and Mtn. Gate properties, and these two parcels were of high priority for the agencies. When I asked what you meant by threatened, you said that Hooshpack and Pankey are not priority and that you are not worried about them like Morris Ranch or Mt. Gate because neither parcel has significant development potential under the County's General Plan and slopes and terrain didn't make them as viable for development projects. In summary, you said; “[w]e've talked and unless Newland is willing to acquire one of the two options we provided then there will be no hardline”.

I expressed my concern that it appeared the agency's focus on these two tentative map projects as the only acceptable offsite acquisition land for Newland appeared to be having one developer buy another developer's approved project to keep them from being developed. You responded your agency is trying to protect threatened habitat and there are lots of ways to do that.

To close our discussion, I reiterated your comment regarding the limitation of Morris Ranch or Mtn. Gate as the only acceptable options, and wanted to be clear whether there was any opening, in your mind, for further discussions on the other parcels. You indicated that there was not.

I indicated I was still willing to explore a potential joint deal on Morris Ranch with the party that Karen Goebel had mentioned in our November 19th meeting. You indicated that the agency had not been able to get in touch with him as of our call but when you did you would ask him to call me.

Please let me know if I properly captured the key points of our conversation as I want to make sure we are still on the same page moving forward.

Best regards,

Rita Brandin

Newland Sierra, LLC

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Mendel Stewart
U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
Field Supervisor
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
760-431-9440
mendel_stewart@fws.gov
<http://www.fws.gov/carlsbad/>

Region 8 Facebook page: <https://www.facebook.com/usfwspacificsouthwest>

Region 8 Twitter page: <https://twitter.com/USFWSPacSWest>

Rita Brandin

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Please let me know if I properly captured the key points of our conversation as I want to make sure we are still on the same page moving forward.

Best regards,

Rita Brandin
Newland Sierra, LLC

Rita Brandin

From: Rita Brandin
Sent: Thursday, November 19, 2015 10:29 AM
To: mendel_stewart@fws.gov
Cc: Rita Brandin
Subject: FW: Review of Conservation Options for the Newland Sierra Project

Mendel: I realize we are going to discuss this in today's meeting, but I since I didn't see you copied on Karen's e-mail, I wanted to make sure you've seen what she has proposed.

Karen has not provided a "ranking" of all the potential off-site parcels like we requested but has chosen instead to push us on acquiring the two MOST difficult parcels, and the most costly parcels. This does not bode well for what I would have anticipated to be a move in the right direction towards an amicable negotiation/discussion today.

I was very clear in our last meeting, that in order to provide Newland with the ability to get to a good offsite result, that we needed flexibility on both the **percentage achieved and the parcels** - given that there are no guarantees that option agreement discussions will be successful as we make our way through the discussions. However, given Karen's e-mail below, it appears that both of those requests went unheeded as the two agencies met to discuss this.

I understand that the agencies' first priority is the realization of conservation, and that concern about cost to private owners is not something that rises to importance. We are respectful of the agencies' desire which is why we are willing to explore offsite acquisition to get to a hardline agreement. That being said, there ARE financial constraints that end up making projects infeasible that should be considered, and ham-stringing Newland on viable parcel acquisitions that the agencies are willing to accept is not in good faith.

Hopefully there will be an opportunity today to have a broader discussion about this and we can move toward something that is more of a negotiated agreement versus a dictated agreement?

Rita

From: Goebel, Karen [mailto:karen_goebel@fws.gov]
Sent: Wednesday, November 18, 2015 4:54 PM
To: Mark Wardlaw; Rita Brandin
Cc: Albright, Brian; Ed Pert; Sevrens, Gail@Wildlife
Subject: Review of Conservation Options for the Newland Sierra Project

sent the day before meeting

Mark and Rita:

On November 12, 2015, the Department and Service (Wildlife Agencies) met to review and discuss the information and conservation options presented to us during a meeting with the County and the Applicant on November 5, 2015, regarding a potential hard-line agreement for the Newland Sierra project.

In order to move the discussion forward at our next meeting, the Wildlife Agencies have given consideration to the Applicant's effort to increase the value of the Block 3 area for wildlife resources as live in habitat by removing 14 acres of development and reducing the amount of fuel modification necessary in this block of

habitat. However, with the present configuration of the residential and commercial development, the Block 3 habitat area remains fragmented, is not connected to the larger block of functional habitat to the north, and is not inclusive of habitat across gradients that would be more conducive to wildlife movement.

Because of these limitations, we will agree to "credit" 1/2 of the total acres ($189/2=94.5$ acres) to the conservation acreage totals for the project provided that the entire Block 3 area is managed by the County (or other conservation organization) consistent with the goals of the draft North County MSCP. Should future project modifications require grading or fuel modification within Block 3, the acreage credited to the project's agreed to conservation goal would be reduced and additional offsite acreage expected for conservation.

With the agreed to functional block of core habitat to the north (1,024 acres) and the habitat credit acknowledged for Block 3, the conserved onsite acreage would represent 56% of the site ($1024+94.5/1985$); to reach the draft North County MSCP's 75/25 conservation to impact goal, offsite conservation of an additional 371 acres ($1024+94.5+371/1985$) would be needed. The conserved acreage offsite needs to include 70 acres of coastal sage scrub (CSS) to meet the 4(d) guidelines, and funding (e.g., endowment) for long-term management and monitoring of all offsite preserved lands (i.e., mitigation) needs to be assured by the Applicant.

The Wildlife Agencies recommend that the Applicant pursue either of the following two alternatives for consideration of a hard-lined agreement for the project.

1) Morris Ranch Property. Conservation of this property is a high priority for the Wildlife Agencies because the anticipated development of this area within the Pre-Approved Mitigation Area (PAMA) will sever connectivity between the Merriam/San Marcos Mountains and the San Luis Rey River. While we understand that the Applicant considered this option as not financially viable, the Wildlife Agencies are aware of efforts to purchase the property and may be able to facilitate inclusion of the Applicant into these discussions.

The Morris Ranch site is approximately 230 acres in size. Full conservation of the site by the Applicant would result in a 66/34 conservation to impact goal for the project and because of this area's importance to the draft North County MSCP, the Wildlife Agencies would agree to a hard-line agreement even at this lower conservation to impact ratio. If the property was purchased in coordination with another entity, the Wildlife Agencies would need to determine the amount of additional offsite acreage that may or may not be needed for a hard-line agreement. We understand that any purchase at this site represents greater risk for the Applicant; however, this is the property that will bring the Applicant greatest support from the Wildlife Agencies, and its conservation could potentially gain support for the project from other conservation groups.

2) Mountain Gate. Conservation of the Mountain Gate property is of interest to the Wildlife Agencies because of its overall size and location (mostly PAMA) within the Draft North County MSCP. Conservation of 371 acres of this site would result in a 75/25 conservation to impact goal for the project. With conservation of this acreage, the Wildlife Agencies would agree to a hard-line agreement for the project provided that the site is

confirmed by the Wildlife Agencies to include at least 70 acres of coastal sage scrub and the entire acreage is guaranteed for purchase. For example, to reduce the risk of the entire option failing, the Applicant would need to guarantee to assist The Escondido Conservancy (TEC) with purchase of any remaining acreage TEC is unable to secure funds to purchase.

Finally, the total acreage and habitat composition for the Mountain Gate habitat block needs confirmation. We have information stating the total acreage of the site is 692.8 acres, while the information provided for our review indicates a total acreage of only 558 acres, including 113 acres of CSS. We have information indicating only 17.4 acres of CSS on the Mountain Gate site, including 5 acres within an SDG&E easement that could not be included as mitigation for the Newland Sierra project.

Again, we are providing this information in advance in hopes that it will lead to a productive meeting tomorrow. We look forward to seeing you then. Please forward on to others on your teams as I have not copied everyone at the last meeting.

Sincerely,

Karen

Karen Goebel
Assistant Field Supervisor
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
760/431-9440, ext. 296
760/431-9624 Fax

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Rita Brandin

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Sent: Wednesday, November 18, 2015 4:54 PM
To: Mark Wardlaw; Rita Brandin
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Sincerely,

Karen

Karen Goebel
Assistant Field Supervisor
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
760/431-9440, ext. 296
760/431-9624 Fax

Rita Brandin

From: Rita Brandin
Sent: Wednesday, September 9, 2015 2:54 PM
To: Brian Grover (bgrover@dudek.com); 'brice@bosslergroup.com'
Subject: FW: Newland Sierra Proposed Project Alternative
Attachments: Newland MSCP Alternative.jpg

Need to look at this and have a conversation this afternoon --- I am available any time ---

From: Gungle, Ashley [<mailto:Ashley.Gungle@sdcounty.ca.gov>]
Sent: Wednesday, September 09, 2015 2:28 PM
To: Rita Brandin; brice@bosslergroup.com
Cc: Slovick, Mark
Subject: FW: Newland Sierra Proposed Project Alternative

Rita, Brice,

The following was received this afternoon.

Thanks,

Ashley

Ashley Gungle, Land Use/ Environmental Planner
COUNTY OF SAN DIEGO | Planning & Development Services
T. 858.495.5375

From: "Goebel, Karen" <karen_goebel@fws.gov>
To: "Wardlaw, Mark" <Mark.Wardlaw@sdcounty.ca.gov>
Cc: "Ed Pert" <Ed.Pert@wildlife.ca.gov>, "Mendel Stewart" <mendel_stewart@fws.gov>
Subject: Newland Sierra Proposed Project Alternative

Hi Mark,

As promised, we have attached a map depicting a proposed alternative for the Newland Sierra project that gets us closer to the 75/25 conservation to development goals of the draft North County Plan under the MSCP. We have made a sincere effort to listen to the project proponent's desire to maintain their commercial center and considered topography of the site in development of this alternative.

The proposed alternative reduces development by about 106 acres to address our prior concerns and specifically minimizes edge effects, increases functionality of core wildlife habitat areas, allows wildlife connectivity across the site and to the south, and provides a range in topographical gradients to support live in habitat and wildlife movement. As noted on the map, we would also like to discuss alternative access routes and incorporation of wildlife movement features into the roadway design.

With these changes the project will achieve a 68/32 conservation to development ratio. The anticipated offsite mitigation of coastal sage scrub will move the project closer to achieving the

75/25 goal of the draft North County Plan. Offsite mitigation should be located within the Pre-Approved Mitigation Area of the draft North County Plan and contribute to the San Marcos-Merriam Mountain Core (Planning Unit 9).

We look forward to our meeting tomorrow to discuss this proposed alternative and its potential to achieve our support for a proposed hardline agreement for inclusion in the draft North County plan.

Sincerely,

Karen

Karen Goebel
Assistant Field Supervisor
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
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760/431-9440, ext. 296
760/431-9624 Fax





Incorporate features (e.g., undercrossings, directional fencing) in the road design to minimize road kill and maintain connectivity for wildlife.

Keep development behind ridge line to maintain connectivity to the south.

Removed development to minimize edge effects, maintain large block of habitat with a diversity of topography.

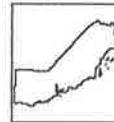
Consider new access roads - Twin Oak Crest and Camino Calafia



UNITED STATES
Department of the Interior

Newland Sierra

-  Development/Access Roads
-  FMZ Special Management Area
-  FMZ Zones 1 and 2
-  Openspace



US Fish and Wildlife Service
2017 Staff Report
Comments: 1/10/2018
Prepared by: E. Luciani
March 2018

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Monthly Batching Meeting With U.S Fish and Wildlife Service and Department of Fish and Game

Date: August 18, 2016

Project Name: Newland Sierra

Project Number:

Name of Note Taker: Kimberly Davis

Name of County Staff Presenting Case: Mark Slovick

Name of USFWS Staff: Doreen Stadlander, Becca Reeves, Emily Cate

Name of CDFG Staff: Dave Mayer

Other Attendees: County staff: Alex Elias, Darin Neufeld, Kimberly Davis

Reason for Agenda Item:

The purpose of the meeting was to inform the agencies that a draft EIR will be out for public review soon. The biological technical report is almost complete and will be submitted to agencies for review within 4 weeks (and before public review); the applicant will request either an HLP or a Section 7 consultation. Numerous meetings discussing this project have been held and the agencies have previously been provided biological information including survey results.

Discussion:

1. Were there specific concerns raised by the USFWS?
 - Were there update CAGN surveys?
 - Uncertainty regarding a project of this size and effect on the PAMA being appropriate for the HLP process, i.e. it may not fit into the 4d category. Section 10 permit is an option should incidental take authorization be needed
 - Request agency opportunity for review/coordination before public draft
 - Although this is a batching meeting, HLP findings were not provided prior to the today's meeting and are not being reviewed.
 - County indicated that the issue of an HLP had been discussed with the USFWS (Karen Goebel) at previous meetings and that Karen stated that while she was not being "predecisional" she did not know of any reason the findings could not be made. Will need to follow up on comments made regarding HLP with Karen G. when she returns

3. Were there specific concerns raised by DFG?

- Question of off-site mitigation for CSS
 - Request 75%/25% conservation consistent with NC MSCP, or additional lands conserved in PAMA to reach the 75%
 - Open space is fragmented
 - Require better discussion for how project is consistent with NC MSCP preserve
 - Connectivity will be precluded
4. Were determinations made? County to check date of last California gnatcatcher surveys. Last surveys were conducted in 2013.
5. Does the project need to be presented at a subsequent batching meeting? No, the biological technical report and HLP findings will be provided to the agencies prior to public review.

EXHIBIT D



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008



In Reply Refer To:
FWS-SDG-15B0150-15CPA0175

MAR 12 2015

Mr. Mark Slovick
County of San Diego
Department of Planning and Development Services
5510 Overland Avenue, Suite 110
San Diego, California 92123

Subject: Notice of Preparation of an Environmental Impact Report for the Newland Sierra Project, Unincorporated San Diego County, California

Dear Mr. Slovick:

We have reviewed the subject Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR), dated February 12, 2015, which we received on March 5, 2015. The proposed Newland Sierra project encompasses 1,985 acres located west of Interstate 15, north of Deer Springs Road, and east of Twin Oaks Valley Road within unincorporated San Diego County (County). The proposed project would include the development of a new master planned community consisting of 2,135 homes, general commercial uses, school site, 37 acres of parks, and 1,202 acres of biological open space. In addition, the project would include an extensive trail system consisting of: 7.1 miles of multi-purpose pathways along the main road; 8.7 miles of internal pathways and trails within neighborhoods; and 3.3 miles of trails through the open space areas (2 miles of multi-purpose trail and 1.3 miles of secondary trails).

The primary concern and mandate of the U.S. Fish and Wildlife Service (Service) is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), the Migratory Bird Treaty Act (16 U.S.C. 703), and the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c). Our comments are based on the information provided in the NOP, our knowledge of sensitive and declining vegetation communities in the County, and our participation in regional conservation planning efforts.

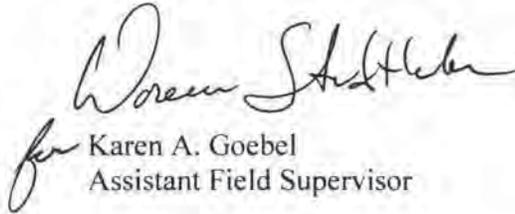
One of our primary concerns is the potential impacts of the proposed project to assembling a subregional preserve system. The proposed project site is located within the planning area for the North County Multiple Species Conservation Program (NCMSCP). The NCMSCP is a comprehensive habitat conservation planning program that attempts to preserve native habitats for a multitude of sensitive species for which the County, Service, and California Department of Fish and Wildlife entered into a Planning Agreement (Revised and Amended May 12, 2014). The proposed project site and areas to the north, south, east, and west are identified as "Pre-approved Mitigation Area" (PAMA) in the draft NCMSCP plan. More specifically, the proposed project site is located

within Planning Unit 9 (San Marcos-Merriam Mountains Core Area) and represents one (Merriam Mountains) of only two remaining large blocks of natural habitat west of Interstate 15 in the PAMA. In addition, the habitat evaluation maps of the County's draft NCMSCP plan indicates that habitats on and adjacent to the project site are "moderate", "high", and "very high" habitat quality.

To ensure that the proposed project is consistent with the conservation goals of the draft NCMSCP as well as Planning Unit 9 of the draft PAMA, we recommend that the DEIR fully analyze a project alternative that would remove the three development bubbles identified as Towncenter, Terraces, and Hillside (see Figure 1 which was provided to us by the County) and associated access roads. The re-design would minimize project impacts to the draft PAMA, provide for a large, contiguous block of open space in the eastern and northern portion of the property thereby contributing to assemblage of the San Marcos-Merriam Mountains Core Area, and maintain connectivity between on and offsite areas designated as draft PAMA and to other conservation efforts outside the NCMSCP planning area. To further assist you in evaluating the proposed project, we have provided the enclosed recommendations for inclusion in the DEIR.

We appreciate the opportunity to comment on the subject NOP and request that a copy of the DEIR be provided to our office upon its release. If you have any questions regarding this letter or require additional information, please contact Michelle Durflinger of our office at 760-431-9440, extension 356.

Sincerely,



Karen A. Goebel
for Karen A. Goebel
Assistant Field Supervisor

Enclosure

cc: David Mayer, California Department of Fish and Wildlife, San Diego, California

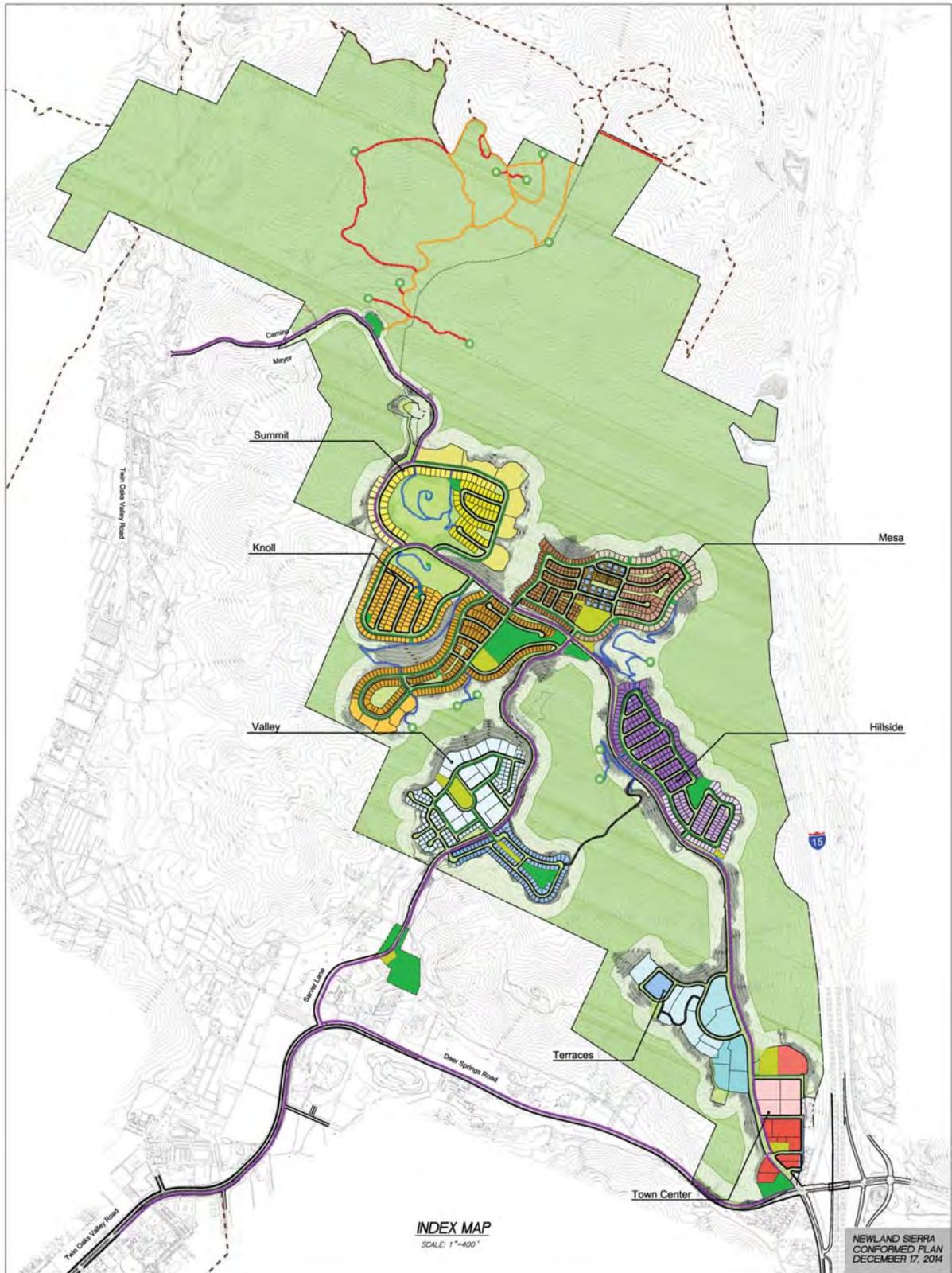


Figure 1. Newland Sierra Conformed Plan. Provided by San Diego County

ENCLOSURE

To assist our review of the project and to assist the County in compliance with pertinent Federal statutes and laws, we recommend that the DEIR for the proposed Newland Sierra project contain the following information.

1. A complete discussion of the purpose and need for, and description of, the proposed project, including all ancillary facilities, staging areas, and access routes to the construction and staging areas.
2. A complete analysis of the effect that the project may have on completion and implementation of regional and/or subregional conservation programs including the County of San Diego's draft North County MSCP. We recommend that the County ensure that the development of this and other proposed projects do not preclude long-term preserve planning options.
3. A complete list and assessment of the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying federally listed threatened, endangered, or proposed candidate species, and any locally unique species and sensitive habitats. Specifically, the DEIR should include:
 - a. Discussions regarding the regional setting with special emphasis on resources that are rare or unique to the region that would be affected by the project. This discussion is critical to an assessment of environmental impacts.
 - b. A current inventory of the biological resources associated with each habitat type on site and within the area of impact.
 - c. A thorough assessment of rare plants and rare natural communities.
 - d. A current inventory of rare, threatened, and endangered species on site and within the area of impact.
 - e. Discussions regarding seasonal variations in use by sensitive species of the project site as well as the area of impact on those species, using acceptable species-specific survey procedures as determined through consultation with the Service and the California Department of Fish and Wildlife, collectively the Wildlife Agencies. Focused species-specific surveys, conducted in conformance with established protocols at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required.
4. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources. All facets of the project should be included in this assessment. Specifically, the DEIR should provide:
 - a. Specific acreage and descriptions of the types of wetlands, scrub, and other sensitive habitats that will or may be affected by the proposed project or project alternatives. Maps and tables should be used to summarize such information.

- b. Detailed discussions, including both qualitative and quantitative analyses, of the potentially affected listed and sensitive species (fish, wildlife, plants), and their habitats on the proposed project site, area of impact, and alternative sites, including information pertaining to their local status and distribution. The anticipated or real impacts of the project on these species and habitats should be fully addressed.
 - c. Discussions regarding indirect project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any proposed Natural Community Conservation Planning (NCCP) protected lands.
 - i) Impacts to wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated.
 - ii) Discussions of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage. The latter subject should address: project-related changes on drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the project site.
 - d. Discussions regarding possible conflicts resulting from wildlife-human interactions at the interface between the development project and natural habitats. The zoning of areas for development projects or other uses that are nearby or adjacent to natural areas may inadvertently contribute to wildlife-human interactions.
5. A thorough discussion of mitigation measures for adverse project-related impacts on sensitive plants, animals, and habitats. Specifically, the DEIR should include/address:
- a. Where avoidance is infeasible, mitigation measures that emphasize minimization of project impacts. For unavoidable impacts, onsite habitat restoration or enhancement should be discussed in detail. If onsite mitigation is not feasible or would not be biologically viable (e.g., it would not adequately mitigate the loss of biological functions and values), offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.
 - b. Mitigation measures to alleviate indirect project-related impacts on biological resources, including measures to minimize changes in the hydrologic regimes on site, and means to convey runoff without damaging biological resources, including the morphology of onsite and downstream habitats.
 - c. Where proposed grading or clearing is within 100 feet of proposed biological open space, or otherwise preserved sensitive habitats, a requirement for temporary fencing. Fencing should be placed on the impact side and should result in no vegetation loss within open space. All temporary fencing should be removed only after the conclusion of all grading, clearing, and construction activities.

- d. A requirement that a County-approved biological monitor to be present during initial clearing, grading, and construction in sensitive habitat areas and/or in the vicinity of biological open space areas to ensure that conservation measures associated with resource agency permits and construction documents are performed. The biological monitor should have the authority, and responsibility, to halt construction to prevent or avoid take of any listed species and/or to ensure compliance with all avoidance, minimization, and mitigation measures. Any unauthorized impacts or actions not in compliance with the permits and construction documents should be immediately brought to the attention of the County and the Wildlife Agencies.
- e. Plans for restoration and revegetation, to be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria (e.g., percent cover of native and nonnative species; species richness); (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity.
- f. Measures to protect, in perpetuity, the targeted habitat values of proposed preservation and/or restoration areas from direct and indirect negative impacts. The objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Permanent fencing should be installed between the impact area and biological open space and be designed to minimize intrusion into the sensitive habitats from humans and domestic animals. There should be no gates that would allow access between the development and biological open space. Additional issues that should be addressed include proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, etc.
- g. Development and implementation of a management and monitoring plan (MMP), including a funding commitment, for any on and/or offsite biological open space easements, if applicable. An appropriate natural lands management organization, subject to approval by the County and Wildlife Agencies, should be identified. The MMP should outline biological resources on the site, provide for monitoring of biological resources, address potential impacts to biological resources, and identify actions to be taken to eliminate or minimize those impacts. A Property Analysis Record (PAR) or similar analysis should be completed to determine the amount of funding needed for the perpetual management, maintenance, and monitoring of the biological conservation easement areas by the natural lands management organization. It should be demonstrated that the proposed funding mechanism would ensure that adequate funds would be available on an annual basis to implement the MMP. The natural lands management organization should submit a draft MMP, PAR results, and proposed funding mechanism to the County and Wildlife Agencies for review and approval prior to initiating construction activities; the resulting final plan should be submitted to the County and Wildlife Agencies and the funds for implementing the MMP transferred within 90 days of receiving approval of the draft plan.

- h. To avoid impacts to nesting birds, the DEIR should require that all clearing and grubbing occur outside the avian breeding season. The general breeding season for nesting birds occurs approximately February 15 through September 15; however, raptors may begin breeding as early as January 1. If project construction is necessary during the avian breeding season, a qualified biologist should conduct a survey for nesting birds within 3 days prior to the work in the area to ensure no nesting birds in the project area would be impacted by the project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. The buffer shall be a minimum width of 300 feet (500 feet for raptors), shall be delineated by temporary fencing, and shall remain in effect as long as construction is occurring or until the nest is no longer active. No project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be affected by the construction.

EXHIBIT E



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



March 12, 2015

Mr. Mark Slovick
County of San Diego, Planning & Development Services
5510 Overland Avenue, Suite 110
San Diego, CA 92123-1239
mark.slovick@sdcounty.ca.gov

Subject: Comments on the Notice of Preparation of a Draft Environmental Impact Report for the Newland Sierra General Plan Amendment, Specific Plan, Rezone and Tentative Map Project (PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597, LOG NO. PDS2015-ER-08-001), County of San Diego, California (SCH#2015021036)

Dear Mr. Slovick:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced Notice of Preparation (NOP) for a draft Environmental Impact Report (DEIR) for the Newland Sierra Project (SCH#2015021036) (Project) dated February 12, 2015. The comments provided herein are based upon information provided in the NOP for the DEIR (and associated reference materials including Dudek's December 2013 Memorandum), our knowledge of sensitive and declining vegetation communities, and ongoing regional habitat conservation planning in the County of San Diego (County). The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA; §§15386 and 15381, respectively) and is responsible for ensuring appropriate conservation of the State of California's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (CESA, Fish and Game Code §2050 *et seq.*) and other sections of the Fish and Game Code. The Department is also responsible for the administration of the Lake and Stream Alteration Agreement Program (Fish and Game Code §1600 *et seq.*). The Department also administers the Natural Community Conservation Planning (NCCP) program (NCCP, Fish and Game Code §2800 *et seq.*). The County is a participant in the Natural Community Conservation Planning (NCCP) program. Currently, the County has an adopted South County Multiple-Species Conservation Program (MSCP), and is actively pursuing its draft North County MSCP (NC-MSCP). The NC-MSCP is a comprehensive habitat conservation planning program that attempts to preserve native habitats for a multitude of sensitive species for which the County, Fish and Wildlife Service, and California Department of Fish and Wildlife entered into a Planning Agreement (County of San Diego, 2014).

The Project site consists of 51 parcels totaling approximately 1,985 acres located west of Interstate 15, north of Deer Springs Road, and east of Twin Oaks Valley Road within the Twin Oaks Valley and Hidden Meadows Communities of the North County Metropolitan Subregional Plan area (southern portion) and the Bonsall Community Planning area (northern portion) of the unincorporated San Diego County (County). The project would include the development of a

new master planned community consisting of 2,135 dwelling units, 81,000 square feet of general commercial uses, a six-acre charter school site, approximately 37 acres of parks and 1,202 acres of biological open space. Overall, the master-planned development would consist of seven planning areas focused around a town center located off Deer Springs Road in the southeastern corner of the site and include an extensive trail system including: 7.1 miles of multi-use pathways along the main road; 8.7 miles of internal pathways and trails within neighborhoods; two miles of multi-purpose trails through the open space area; and, 1.3 miles of secondary trails through the open space area. The project would require several County approvals, including a General Plan Amendment, Specific Plan, Rezone, Tentative Map and habitat loss permit (HLP). Access to the project site would be provided by two main access points along Deer Springs Road, with an additional access point provided at Camino Mayor off of Twin Oaks Valley Road. Earthwork for the Project is estimated to consist of 10,700,000 cubic yards of balanced cut/fill with construction anticipated to occur in three phases over a 5 to 10 year period. The project would require the extension of fire protection services (Deer Springs Fire Protection District), sewer and water utilities [Vallecitos Water District (VWD)] and natural gas and electricity utilities [San Diego Gas & Electric Company (SDG&E)].

The project site is located within the northern portion of the Merriam Mountains range, a narrow 8.5-mile-long chain of low mountains generally running north-south with a variety of east-west trending ridgelines and scattered peaks. The property is primarily undeveloped with on-site topography composed mostly of hills and valleys dominated by rock (granodiorite) outcroppings with moderate to steeply sloping terrain, with elevations ranging from approximately 660 feet above mean sea level (AMSL) near the northwestern end to approximately 1,750 feet AMSL in the west central portion of the Project site. Various dirt roads and trails that provide access to each parcel and service roads for existing water infrastructure traverse the project site. An abandoned quarry is located in the northwest portion of the project site and an abandoned private landing strip is located in the north central portion. Surrounding land uses to the north, west, and south of the project site include large-lot, single-family residential development, agricultural uses and conserved open space.

The project site is also located within the NC-MSCP planning area, within Planning Unit 9 (San Marcos-Merriam Mountains Core Area) and the Pre-Approved Mitigation Area (PAMA) and represents one (Merriam Mountains) of only two remaining large blocks of natural habitat west of Interstate 15 in the PAMA. Vegetation on the project site consists of large blocks of Southern Mixed Chaparral with interspersed patches of

Mr. Mark Slovick
County of San Diego, Planning & Development Services
March 12, 2015
Page 3 of 3

Diegan Coastal Sage Scrub, Coast Live Oak Woodlands, and Southern Willow Scrub. The South Fork of Moosa Canyon also runs from the northern to northeastern area of the project site. In addition, the habitat evaluation mapping for the County's draft NC-MSCP plan indicates that habitats on and adjacent to the project site are "moderate", "high", and "very high" habitat quality, and areas to the north, south, east, and west are also identified as PAMA.

The Department offers the comments and recommendations in the enclosure to assist in avoiding, minimizing, and adequately mitigating Project-related impacts to biological resources, and to ensure that the Project is consistent with ongoing regional habitat conservation planning efforts (i.e. that it would not preclude the preserve assembly or prevent the achievement of the biological goals anticipated under the NC-MSCP Subregional Plan). We appreciate the opportunity to comment on this NOP and look forward to further coordination with the County on this Project. If you have questions regarding our letter, please contact Randy Rodriguez (858) 637-7111 or Randy.Rodriguez@wildlife.ca.gov.

Sincerely,



Gail K. Sevens
Environmental Program Manager
South Coast Region

Enclosure: (9 pages)

cc: State Clearinghouse, Sacramento
Karen A. Goebel, U.S. Fish and Wildlife Service (Karen_Goebel@fws.gov)
Mindy Fogg, County of San Diego (Mindy.Fogg@sdcounty.ca.gov)
Eric Lardy, County of San Diego (Eric.Lardy@sdcounty.ca.gov)

ENCLOSURE

California Department of Fish and Wildlife Comments and Recommendations:
NOP for the DEIR for the
Newland Sierra Project

NOP Comments

1. To enable the Department to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, wildlife, and other biological resources, we recommend the following information be included in the DEIR:

A. A complete discussion of the purpose and need for, and description of, the proposed Project, including all staging areas and access routes to the construction and staging areas.

B. Analyses of a range of feasible alternatives to ensure that alternatives to the proposed Project are fully considered and evaluated. The analyses must include alternatives that avoid or otherwise minimize impacts to sensitive biological resources, particularly wetlands. Specific alternative locations should be evaluated in areas with lower resource sensitivity, where appropriate. For example, to provide for a larger, contiguous block of open space in the eastern and northern portion of the property, to minimize edge effects to onsite biological open space areas, and to maintain connectivity between on- and offsite areas designated for conservation, we recommend that the draft EIR include the following alternatives: 1) one that would remove the three easternmost development bubbles (i.e., areas identified by the County in a prior meeting as Towncenter, Terraces, and Hillside) and associated access roads; 2) another possible alternative to consider would remove the easterly half of the Mesa development area (located just northwest of Hillside) and the Terraces and Hillside areas (but retain the Towncenter area); and, 3) a third alternative that would move some of the development proposed in the central and eastern areas of the site to the old quarry locations (also see Comment No. 3).

C. A complete assessment of the flora and fauna within and adjacent to the project area; specifically, the DEIR should include:

- a) Discussions regarding the regional setting, pursuant to CEQA Guidelines, section 15125(c), with special emphasis on resources that are rare or unique to the region that would be affected by the Project. This discussion is critical to an assessment of environmental impacts.
- b) A current inventory of the biological resources (to include rare, threatened, and endangered, and other sensitive species) associated with each habitat type on site and within the area of potential effect. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). This should include sensitive fish, wildlife, reptile, and amphibian species. The Department's California Natural Diversity Data Base in Sacramento should be contacted at www.wildlife.ca.gov/biogeodata/ to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code.
- c) Discussions regarding seasonal variations in use of the project area and vicinity by sensitive species, and acceptable species-specific survey procedures as determined through consultation with the Wildlife Agencies. Focused species-specific surveys, conducted in conformance with established protocols at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required.

D. A thorough discussion of direct, indirect, and cumulative Project-related impacts expected to adversely affect biological resources. All facets of the Project should be included in this assessment. Specifically, the DEIR should include:

- a) Specific acreages and descriptions of the types of wetlands, coastal sage scrub, and other habitats that would potentially be affected by the proposed Project or project alternatives. Maps and tables should be used to summarize such information.
- b) Detailed discussions, including both qualitative and quantitative analyses, of potential direct effects on listed and other sensitive species (fish, wildlife, plants) and their habitats within the area of impact of the proposed and alternative projects.
- c) Discussions regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (*e.g.*, preserve lands associated with a NCCP).
- d) Impacts to wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated.
- e) Discussions of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage. The latter subject should address: Project-related changes on drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the Project site.
- f) If applicable, a discussion of the effects of any Project-related dewatering or ground water extraction activities to the water table and the potential resulting impacts on the wetland/riparian habitat, if any, supported by the surface and groundwater.
- g) Discussions regarding possible conflicts resulting from wildlife-human interactions at the interface between the development Project and natural habitats.
- h) A cumulative effects analysis as described under CEQA Guidelines, section 15130, assessing the impacts of the proposed Project in conjunction with past, present, and anticipated future projects, relative to their impacts on native plant communities and wildlife.

E. A thorough discussion of mitigation measures for adverse Project-related impacts on sensitive plants, animals, and habitats. Specifically, the DEIR should include/address:

- a) Measures to fully avoid and otherwise protect Rare Natural Communities from Project-related impacts. The Wildlife Agencies consider these communities as threatened habitats having both regional and local significance.
- b) Where avoidance is infeasible, mitigation measures that emphasize minimization of Project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable (*e.g.*, it would not adequately mitigate the loss of biological functions and values), off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. The Wildlife Agencies generally do not encourage the use of relocation, salvage, and/or transplantation as mitigation for impacts on rare, threatened, or endangered species. Studies have shown these efforts are experimental in nature and do not provide for the long-term viability of the target species.
- c) Mitigation measures to alleviate indirect Project-related impacts on biological resources, including measures to minimize changes in the hydrologic regimes on site, and means to convey runoff without damaging biological resources, including the morphology of on-site and downstream habitats.

- d) Where proposed grading or clearing is within 100 feet of proposed biological open space, or otherwise preserved sensitive habitats, a requirement for temporary fencing. Fencing should be placed on the impact side and should result in no vegetation loss within open space. All temporary fencing should be removed only after the conclusion of all grading, clearing, and construction activities.
- e) A requirement that a qualified biological monitor to be present during initial clearing, grading, and construction in sensitive habitat areas and/or in the vicinity of biological open space areas to ensure that conservation measures associated with resource agency permits and construction documents are performed. The biological monitor should have the authority to halt construction to prevent or avoid take of any listed species and/or to ensure compliance with all avoidance, minimization, and mitigation measures. Any unauthorized impacts or actions not in compliance with the permits and construction documents should be immediately brought to the attention of the Lead Agency and the Wildlife Agencies.
- f) Measures to protect, in perpetuity, the targeted habitat values of proposed preservation and/or restoration areas from direct and indirect negative impacts. The objective should be to offset the Project-induced qualitative and quantitative losses of wildlife habitat values. Permanent fencing should be installed between the impact area and biological open space and be designed to minimize intrusion into the sensitive habitats from humans and domestic animals, particularly cats. There should be no gates that would allow access between the development and biological open space. Additional issues that should be addressed include proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, etc.
- g) Development and implementation of a management and monitoring plan (MMP), including a funding commitment, for any on- and/or off-site biological open space easements, if applicable. An appropriate natural lands management organization, subject to approval by the County and Wildlife Agencies, should be identified. The MMP should outline biological resources on the site, provide for monitoring of biological resources, address potential impacts to biological resources, and identify actions to be taken to eliminate or minimize those impacts. A Property Analysis Record (PAR) or comparable method should be completed to determine the amount of funding needed for the perpetual management, maintenance, and monitoring of the biological conservation easement areas by the natural lands management organization. It should be demonstrated that the proposed funding mechanism would ensure that adequate funds would be available on an annual basis to implement the MMP. The natural lands management organization should submit a draft MMP, PAR results, and proposed funding mechanism to the Wildlife Agencies for review and approval prior to initiating construction activities; the final plan should be submitted to the Wildlife Agencies and the funds for implementing the MMP transferred within 90 days of receiving approval of the draft plan.

2. The Department recommends that measures be taken to avoid Project impacts to nesting birds. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). Proposed Project activities (including, but not limited to, staging and disturbances to native and nonnative vegetation, structures, and substrates) should occur outside of the avian breeding season which generally runs from February 1 - September 1 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If avoidance of the avian breeding season is not feasible, the Department recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300 feet of the disturbance area (within 500 feet for raptors). Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

3. The County and the Wildlife Agencies have met multiple times to discuss the proposed Newland-Sierra Project site, formerly known as Merriam Mountains, including the following dates: January 23rd, 2014; March 27th, 2014 (Site Visit); April 3rd, 2014; July 29th, 2014 (Site Visit); November 19th, 2014; and, most recently on February 19th, 2015. Based on our past meetings with the County, the Department has provided the following tenets that will guide any hardlined agreement negotiations for the Project:

- a) Though this is a new project, it is very similar to the Merriam Mountains project; however, all parties agree that it will be evaluated independent of the previous Merriam Mountains Project;
- b) Potential hardline discussion will be based on current conditions at the project site, in the North County Plan area, and in the County as a whole, as conditions have changed;
- c) A suite of species, not the coastal California gnatcatcher alone, is the driver for preservation at this location;
- d) The project should achieve a 25 percent development and 75 percent preservation ratio on-site to the maximum extent practicable; initial proposals only showed an approximate 60:40 ratio. For any portion of the 75 percent conservation that cannot be achieved on-site, the balance should be met by contributing land that adds value to the Merriam Mountains connection, preferably in the same NC-MSCP planning unit. Additional off-site conservation, if part of the proposal, should emphasize additional conservation of coastal sage scrub habitat. For example, at prior meetings, there were discussions about potentially acquiring excess Caltrans rights-of-ways along the easterly project boundary to enhance the proposed open space configuration and wildlife connections along the eastern border of the Project;
- e) The north-south habitat connectivity along I-15 is important for the NC Plan;
- f) Internal open space (e.g., block 3) is not acceptable for preservation credit;
- g) Removal of the northern access road to Lawrence Welk Court would improve preservation in the northern open space; however, there needs to be commitment by the County/Fire that a secondary access road would not be required at any time for the Project;
- h) Proposed trails need to be compatible with habitat preservation for wildlife.
- i) It must be demonstrated that restoration of the old quarry site can be achieved, considering the slope, soils and other factors in the area;
- j) Where vineyards are proposed in areas adjacent to proposed open space, best management practices that are effective and can be enforced should be included as part of any hardline agreement; and,
- k) Drought conditions have worsened and the site is old growth chaparral and prime for wildfire. The wildlife agencies need proof of fire district agreement or accepted Fire Protection Plan [also see 3.f)].

Based on our February 19th, 2015 meeting with the County, to ensure that the proposed project is consistent with the conservation goals of the draft NC-MSCP (see comment No. 4), we recommend that the DEIR fully analyze the following project alternatives: 1) an alternative that would remove the three easternmost development bubbles (i.e., areas identified by the County in a prior meeting as Towncenter, Terraces, and Hillside) and associated access roads; 2) an alternative that would be to remove the easterly half of the Mesa development area (located just northwest of Hillside) and the Terraces and Hillside areas (but retain the Towncenter area) to open up the easterly corridor and provide better connection along the northern and eastern portions of the property and to the south, while maximizing the conservation of coastal sage scrub; and, 3) an alternative that move some of the development proposed in the central and eastern areas of the site to the old quarry locations. The first two alternatives recommended for inclusion in the DEIR would substantially minimize project impacts to the draft PAMA, provide for a large, contiguous block of open space in the eastern and northern portion of the property, minimize edge effects to onsite biological open space areas, and maintain connectivity between on and offsite areas designated as draft PAMA within Planning Unit 9 and to other conservation efforts outside the NC-MSCP planning area. The last alternative would have the same benefits of the first two, but also conserve more coastal sage scrub and provide a better preserve design in the central area of the site while locating development in an existing disturbed area, closer

to access and eliminate the need to expend resources on restoration that may or may not be successful (see Comment No. 1).

4. As stated above, the proposed Project is located primarily within the PAMA, within the San Marcos-Merriam Mountains Core Area (Planning Unit 9) and is identified as a large block of habitat (typically 500 acres or more) that supports a viable population of multiple wildlife species and represents one of only two remaining large blocks of natural habitat west of Interstate 15 (I-15) in the PAMA. Site conditions and size currently facilitate the movement of small and larger mammals to traverse across to adjacent mostly undeveloped areas, such as the San Marcos Mountains located northwest of the project site. The draft NC-MSCP plan anticipates that approximately 75 percent of lands designated as PAMA would be conserved with 25 percent utilized for development and anticipates the following conservation goals for the San Marcos-Merriam Mountains Core Area (Planning Unit 9):

- a) Conserve oak woodlands, coastal sage scrub (particularly in Twin Oaks) to maintain populations and connectivity of coastal California gnatcatcher and other coastal sage scrub-dependent species, and chaparral on mafic or gabbro soils that support sensitive plant species, such as chaparral beargrass and Parry's tetradymus, San Diego thornmint (particularly in San Marcos Mountains), or California adolphia;
- b) Ensure that a core community of coastal California gnatcatcher and other coastal sage scrub-dependent species remains in the coastal sage scrub block in Twin Oaks;
- c) Conserve the north-south connectivity of coastal California gnatcatcher habitat along I-15 between the Riverside County line and the City of Escondido. Maintain the east-west connectivity of natural habitats on either side of I-15 for dispersal of coastal sage scrub community birds;
- d) Conserve the riparian and upland habitats of Gopher Canyon Creek for water quality and sensitive species, such as southwestern pond turtle and least Bell's vireo; and,
- e) Ensure the San Diego thornmint population in the Palisades open space preserve is maintained and enhanced, if practicable.

Current project proposals have shown only about 60 percent conservation of lands designated as PAMA, which would not be consistent with the NC-MSCP reserve assembly targets and would fragment a core block of habitat that is planned to connect designated preserve areas with high value habitat within the NC-MSCP PAMA, including areas currently conserved to mitigate impacts to gnatcatchers and gnatcatcher habitat. Fragmentation reduces habitat quality and promotes increased levels of nest predation and brood parasitism, and ultimately, increased rates of local extinction (Wilcove 1985, Rolstad 1991, Saunders *et al.* 1991, Soulé *et al.* 1988). Connectivity among habitat reserve areas (i.e., connectivity among gnatcatcher habitat within the NC-MSCP PAMA) is essential for long-term maintenance of the viability of gnatcatcher in this area. Maintaining connectivity among these patches of gnatcatcher habitat serves to: (1) allow exchange of genetic material among populations; (2) allow recolonization of habitat patches from which gnatcatchers have been extirpated; and (3) allow relatively safe travel for gnatcatchers moving from one area to another. Fragmentation of habitat within core habitat areas and the narrowing of connections among blocks of remaining habitat for gnatcatchers are expected to reduce the function and value of these areas.

The DEIR should evaluate direct and indirect impacts the proposed development would have on the planned San Marcos-Merriam Mountains Core Area linkage and NC-MSCP planning unit goals, as well as north-south and east-west wildlife movement through/across the site (e.g., from open space Block 3 to other conserved areas on-site and designated PAMA off-site and from areas east of I-15, through the site and across Twin Oaks Valley/Deer Springs Road), including impacts to wildlife movement (including gnatcatchers, mammals and herpetofauna), loss of and fragmentation to habitat patches/blocks, corridor length/width, connectivity, etc.

5. The Department recommends a 100-foot buffer from the riparian habitat in the major drainage of Moosa Canyon Creek. This habitat is expected, either currently or in time, to support sensitive riparian species such as the endangered least Bell's vireo. We further recommend that any limited encroachment (necessitated by site topography) from on-site trails not approach any closer than 50-feet to riparian/wetland habitat. The DEIR should include a map showing the location of all proposed trails.

6. The current project description includes several parks and fuel modification zones within the open space acreage. Parks and fuel modification zones are considered fully impacted by the Wildlife Agencies and cannot be included in biological open space proposed for conservation to offset impacts to sensitive resources and must be mitigated appropriately. The DEIR should clearly differentiate between biological open space that would be used as mitigation to offset Project impacts (natural open space) and open space (i.e., parks and fuel modification zones) that would be routinely impacted.

7. The Section 10 of the CEQA Initial Study (Environmental Checklist Form) indicates that the Project would require issuance of a County Habitat Loss Permit (HLP, Ordinance Nos. 8365, 8380, 8608, 8846, 9457, and 9671), which implements the interim 4(d) rule of the federal Endangered Species Act and the state Natural Community Conservation Planning (NCCP) Process Guidelines for loss of coastal sage scrub habitat during preparation of a NCCP-HCP. To approve an interim habitat loss application, the local agency must make the following findings:

- a) The proposed habitat loss is consistent with the interim loss criteria in the Conservation Guidelines and with any subregional process if established by the subregion;
- b) The habitat loss does not cumulatively exceed the 5% guideline;
- c) The habitat loss will not preclude connectivity between areas of high habitat values;
- d) The habitat loss will not preclude or prevent the preparation of the subregional NCCP (e.g., the loss would not foreclose future reserve planning options;
- e) The habitat loss has been minimized and mitigated to the maximum extent practicable;
- f) The habitat loss will not appreciably reduce the likelihood of the survival and recovery of listed species in the wild; and,
- g) The habitat loss is incidental to otherwise lawful activities.

The NC-MSCP Planning Agreement also establishes guidelines for interim projects while the Plan is being completed (Section 6.6, Interim Project Processing Interim Review Process and Exhibit B). The Interim Review guidelines identify that where a project will not affect CSS but will negatively affect (a) biological resources in areas mapped as "high value" and "very high value" based on the County's habitat evaluation models that utilize the best available information at the time, (b) areas mapped as "moderate" or "low" value that may be important for preserve assembly, and/or (c) proposed Covered Species or their habitat based on current biological surveys, the NCCP/4(d) findings shall be considered and preserve design principles shall be applied to the project including the following:

- a) On-site open space should provide a long-term biological benefit;
- b) On-site open space must protect habitat of equal or greater value as that being impacted. No isolated pockets of open space should be used for mitigation credit;
- c) Separate lots should be used whenever possible for on-site open space to help protect the biological value of the preserved areas;
- d) On-site open space shall contribute to regional conservation efforts;
- e) Open space design, to the extent known, should not reduce the biological diversity found on the site;
- f) Open space design shall maintain habitat connectivity between areas of high quality habitat;
- g) The most sensitive resources shall be protected to maximize long-term viability; and,
- h) Edge effects and habitat fragmentation shall be minimized by maximizing the surface area to perimeter ratio, preserving large blocks of contiguous open space. Edge effects shall be further

minimized by establishing buffers, providing fencing and/or permanent signs, and limiting trails and/or lighting.

The DEIR should include sufficient information and analysis to demonstrate how the project is consistent with the preliminary conservation objectives of the NC-MSCP (including the planning units goals for the San Marcos-Merriam Mountains Core Area, see Comment No. 4) and the Planning Agreement Exhibit B guidelines for interim projects and how it would meet the NCCP/4(d) findings required for the County to issue a HLP for impacts to coastal sage scrub (which are subject to Wildlife Agency approval).

8. The proposed Project is located adjacent to various lands that have been or are planned to be conserved for biological resources, including lands owned by the City of Oceanside located immediately to the north of the Project. The DEIR should evaluate the direct and cumulative effects that the proposed development would have on the adjacent existing and proposed conservation located in both jurisdictions. The analysis should include effects on these lands from the proposed Project, including direct and indirect impacts from: (a) increased public use of these open space areas from the Project's population; (b) lighting; (c) noise; (e) drainage; (f) landscaping and introducing vegetation, etc.

9. All plans for restoration/revegetation associated with the Project should be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity. The plan for restoring coastal sage scrub on 4.9 acres onsite and 4.7 acres offsite would require approval by the Wildlife Agencies as part of the federal/state authorization(s) for impacts to coastal sage scrub.

10. The Department is concerned about the potential direct and indirect effects to biological resources associated with the construction of pedestrian trails in areas proposed for designation as open space on site. We recommend that trails in open space be located to not bisect intact areas and instead be placed along the perimeter or edge of open space areas. The following information should be included in the DEIR regarding any proposed pedestrian trail: an aerial photograph with an overlay of the proposed alignment of the trail in relation to designated or proposed open space; specifications of the trail design; specification that the trail would be for hiking only; measures to avoid/minimize impacts related to hikers straying off-trail and/or trail use by unauthorized vehicles including bicycles; and a discussion of how the proposed location and use of the trail would be consistent with the County's draft NC-MSCP.

11. To increase potential habitat and functionality of on-site wildlife corridors, we recommend that any Project-graded slopes and fuel clearing areas requiring replanting be planted with compatible, low-fuel natives (e.g., cacti and other succulents) to minimize the potential for invasive species to spread into the proposed on-site mitigation/open space areas and into adjacent natural lands.

12. The County should ensure that all development-related landscaping proposed adjacent to on- or off-site habitat does not include exotic plant species that may be invasive to native habitats. Exotic species should be removed and replaced with native or non-invasive exotic species based on the California Invasive Plant Council's (Cal-IPC) "Invasive Plant Inventory" list that can be obtained from Cal-IPC's web site at <http://www.cal-ipc.org>. This list includes such species as pampas grass, fountain grass, myoporum, black locust, capeweed, tree of heaven, sweet alyssum, English ivy, French broom, Scotch broom, and Spanish broom. In addition, landscaping should not use plants that require intensive irrigation, fertilizers, or pesticides adjacent to preserve areas and water runoff from landscaped areas should be directed away from

Mr. Mark Slovick
County of San Diego
March 11, 2015
Page E-8 of E-9

the biological conservation easement area and contained and/or treated within the development footprint. The applicant should submit a draft list of species to be included in the landscaping to the Wildlife Agencies for approval at least 60 days prior to initiating Project impacts. Additionally, the applicant should also submit to the Agencies the final list of species to be included in the landscaping within 30 days of receiving approval of the draft list of species.

13. The NC-MSCP is still in-progress, and is expected to be completed in 2017. Until the NC-MSCP is completed and permit issued, the Department considers adverse impacts to a species protected by the California Endangered Species Act (CESA), for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by state law (Fish and Game Code, §§ 2080, 2085). Consequently, if the Project, Project construction, or any Project-related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, the Department recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from the Department may include an incidental take permit (ITP) or a consistency determination in certain circumstances, among other options [Fish and Game Code §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a project and mitigation measures may be required in order to obtain a CESA permit. Revisions to the Fish and Game Code, effective January 1998, may require that the Department issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

14. The Department has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed, the project applicant (or “entity”) must provide written notification to the Department pursuant to section 1600 *et seq.* of the Fish and Game Code. The project area supports aquatic, riparian, and wetland habitats. The DEIR should include a jurisdictional delineation of the creeks/drainages and their associated riparian habitats. The delineation should be conducted pursuant to the Service wetland definition adopted by the Department (Cowardin *et al.* 1979). Based on this notification and other information, the Department then determines whether a Lake and Streambed Alteration (LSA) Agreement is required. The Department’s issuance of a LSA for a project that is subject to CEQA will require CEQA compliance actions by the Department as a Responsible Agency. As a Responsible Agency under CEQA, the Department may consider the City’s DEIR for the project. We recommend that all wetlands and watercourses on-site, whether ephemeral, intermittent or perennial, should be retained and provided with substantial setbacks to preserve the riparian and aquatic values and maintain their value to on-site and off-site wildlife and plant populations. Moreover, to minimize additional requirements by the Department pursuant to section 1600 *et seq.* and/or under CEQA, the document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of an SAA.¹

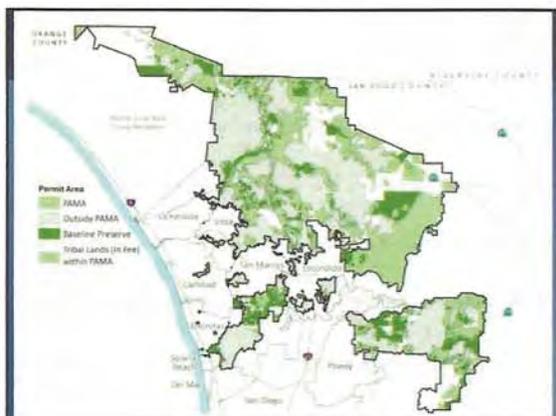
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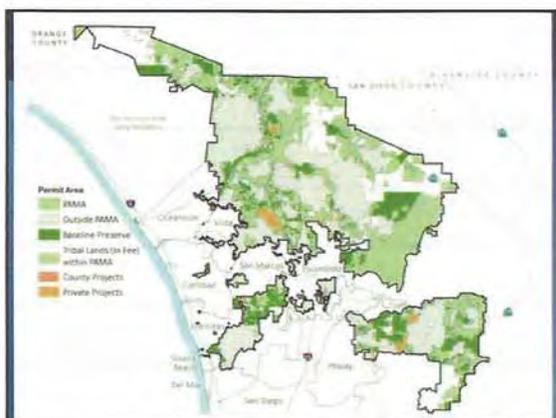
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¹ A notification package for a SAA may be obtained by accessing the Department’s web site at www.wildlife.ca.gov/habcon/1600.

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- Wilcove, D.S. 1985. Nest predation in forest tracts and the decline of migratory songbirds. Ecology. Vol. 66. Pp. 1211-1214.

EXHIBIT F





Private Projects

Board Approved/Concurrence Pending from Wildlife Agencies:

- Butterfield Trails Ranch
- Campus Park West
- Meadowood
- Orchard Run
- Cumming Ranch
- Montecito Ranch

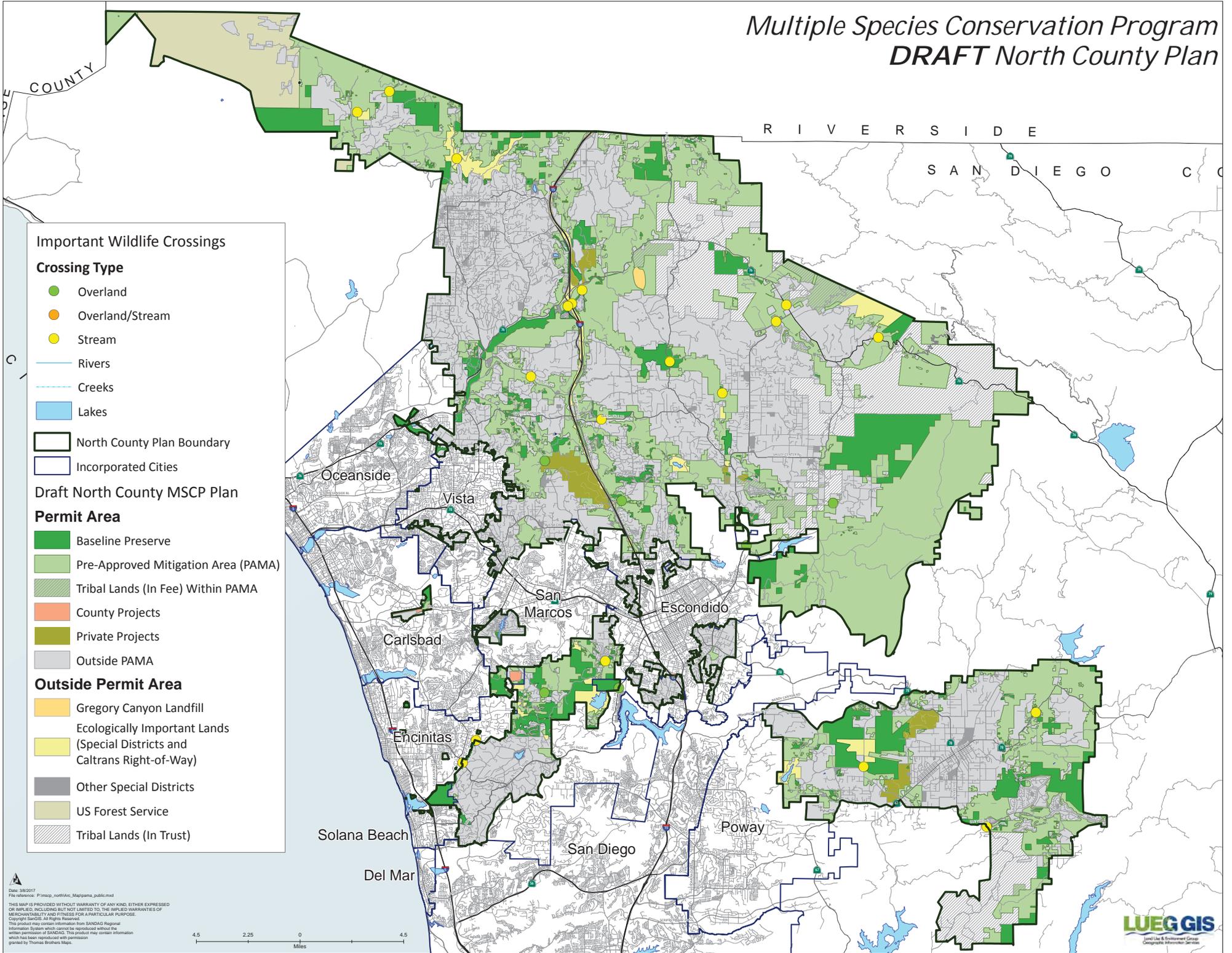
Pending Board Approval/Pending Concurrence from Wildlife Agencies:

- Newland Sierra

24

Newland Sierra ⊕

Multiple Species Conservation Program DRAFT North County Plan



Important Wildlife Crossings

Crossing Type

- Overland
- Overland/Stream
- Stream
- Rivers
- - - Creeks
- Lakes

North County Plan Boundary

Incorporated Cities

Draft North County MSCP Plan

Permit Area

- Baseline Preserve
- Pre-Approved Mitigation Area (PAMA)
- Tribal Lands (In Fee) Within PAMA
- County Projects
- Private Projects
- Outside PAMA

Outside Permit Area

- Gregory Canyon Landfill
- Ecologically Important Lands (Special Districts and Caltrans Right-of-Way)
- Other Special Districts
- US Forest Service
- Tribal Lands (In Trust)

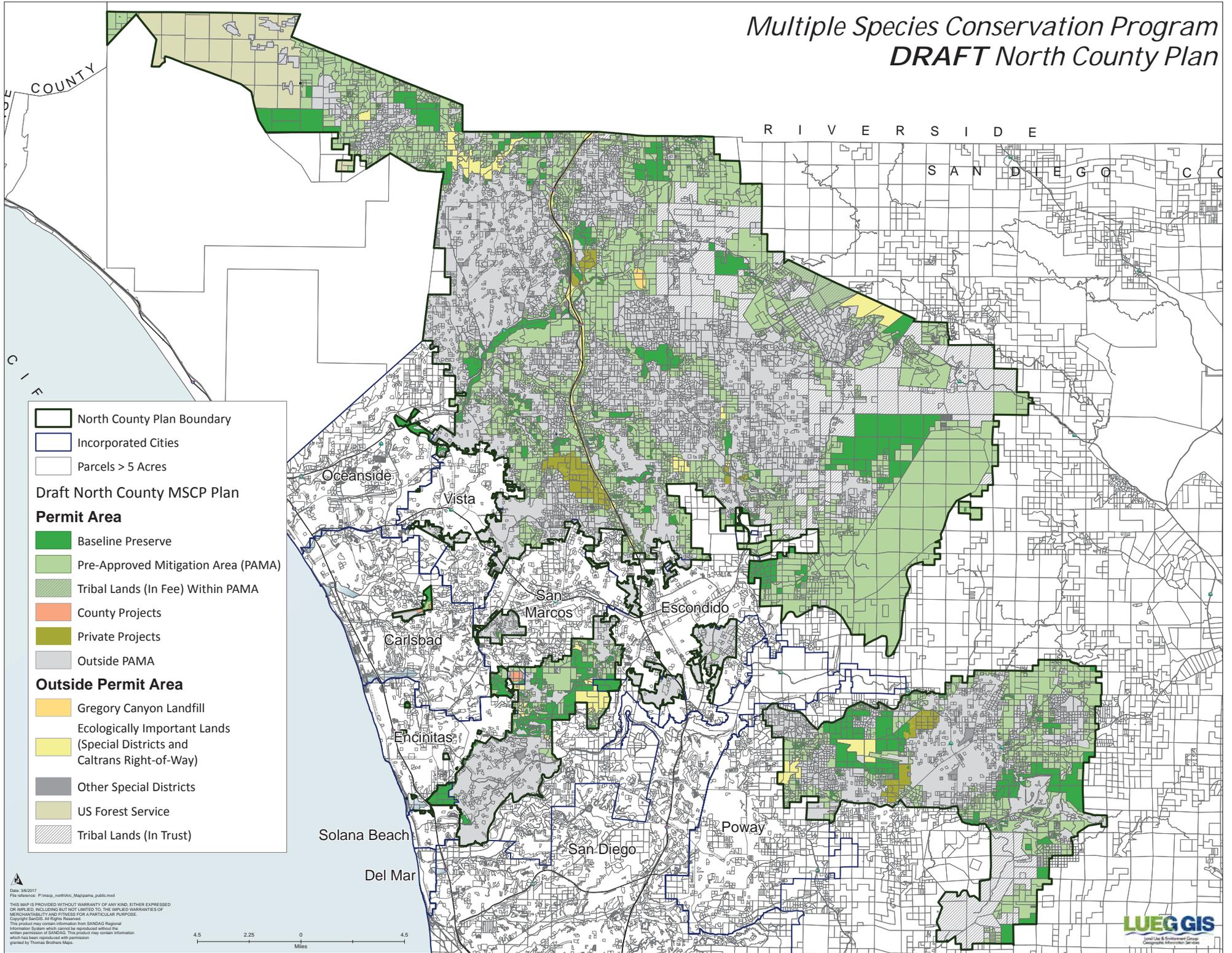


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Multiple Species Conservation Program DRAFT North County Plan



- North County Plan Boundary
- Incorporated Cities
- Parcels > 5 Acres
- Draft North County MSP Plan**
- Permit Area**
- Baseline Preserve
- Pre-Approved Mitigation Area (PAMA)
- Tribal Lands (In Fee) Within PAMA
- County Projects
- Private Projects
- Outside PAMA
- Outside Permit Area**
- Gregory Canyon Landfill
- Ecologically Important Lands (Special Districts and Caltrans Right-of-Way)
- Other Special Districts
- US Forest Service
- Tribal Lands (In Trust)

Date: 3/8/2017
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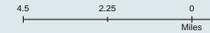
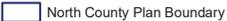
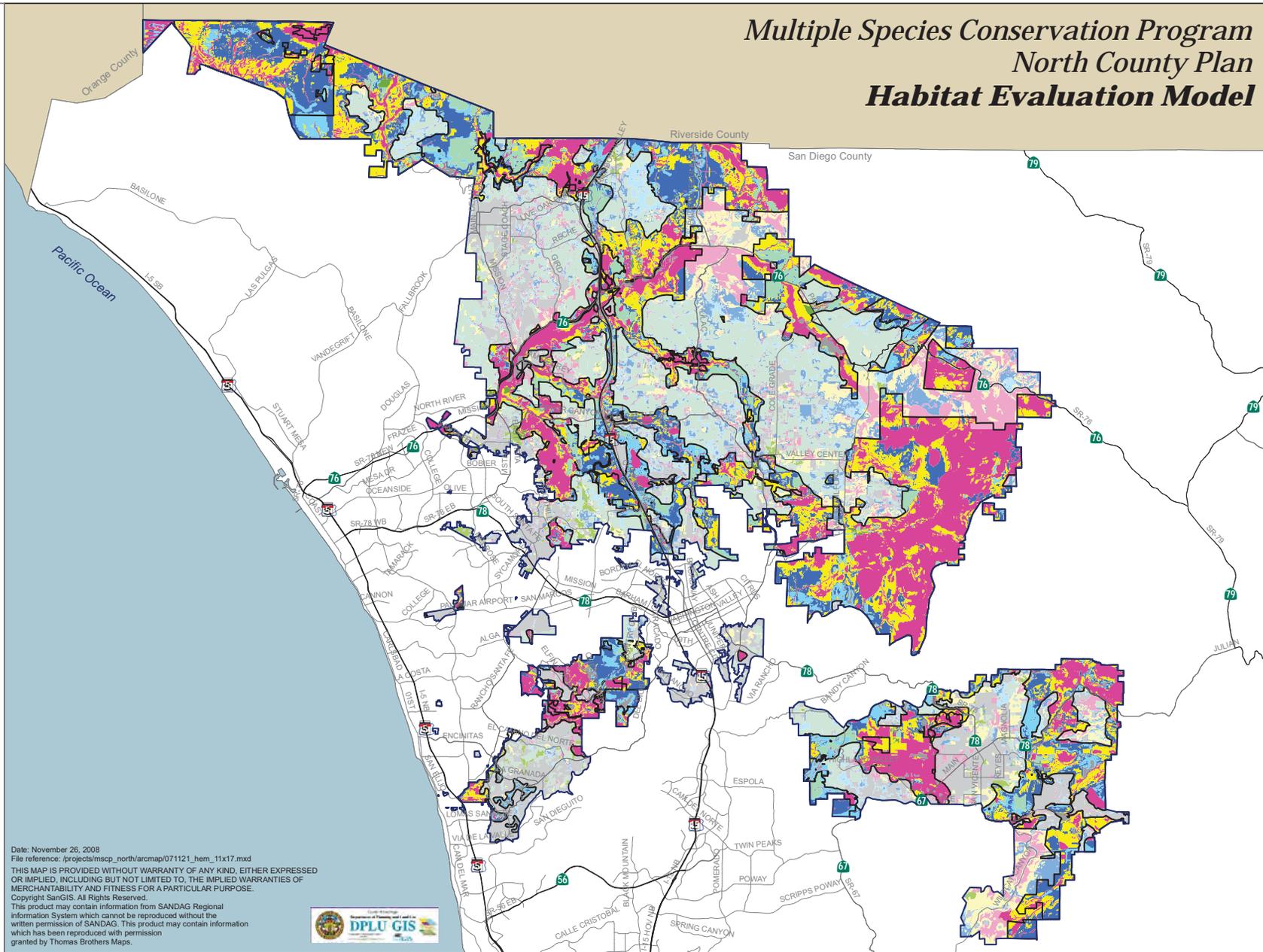


EXHIBIT G

Multiple Species Conservation Program North County Plan Habitat Evaluation Model

-  North County Plan Boundary
-  Pre-Approved Mitigation Area (PAMA)
- Habitat Evaluation Model Results**
- Within Pre-Approved Mitigation Area (PAMA)**
-  Very High
-  High
-  Moderate
-  Low
-  Developed
-  Intensive Agriculture
-  Extensive Agriculture
- Habitat Evaluation Model Results**
- Outside Pre-Approved Mitigation Area (PAMA)**
-  Very High
-  High
-  Moderate
-  Low
-  Developed
-  Intensive Agriculture
-  Extensive Agriculture



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EXHIBIT H

MERRIAM MOUNTAINS SPECIFIC PLAN

APPENDIX V

HARDLINE POINTS OF AGREEMENT

GPA 04-06; SP 04-006; R04-013; VTM5381; S04-035, S04-036, S04-037,
S04-038; Log No. 04-08-028; SCH No. 2004091166

for the

DRAFT ENVIRONMENTAL IMPACT REPORT

August 2007

MERRIAM MOUNTAINS SPECIFIC PLAN

HARDLINE POINTS OF AGREEMENT

September 2005



Life | Land | Community

**Points of Agreement of September 20, 2005
For the Merriam Mountains Project (SP04-006, FWS/CSFG-SDG-4514.1)**

A meeting was held on September 20, 2005 to discuss and agree to basic project and preserve designs and MSCP hardlines for the Merriam Mountains project ("Merriam" or "Project"), including the Specific Plan and any approvals required to implement the Specific Plan. The applicant, NNP-Stonegate Merriam, LLC ("Stonegate"), presented a draft alternative referred to as the September 20, 2005 "All South" development plan ("All South Plan"), for review by the U.S. Fish and Wildlife Service, Department of Fish and Game (collectively, "Wildlife Agencies"), and County of San Diego staff ("County Staff") and to facilitate discussion and concurrence on the following Points of Agreement.

Summary of Fundamental Points of Agreement

- A. County Staff and the Wildlife Agencies concur with the hardlines presented in the All South Plan, including location of a portion of the Merriam trail system in the preserve area to be described in the Merriam habitat management plan;
- B. The Wildlife Agencies agree to consider the Captains' Associates parcel as adequate MSCP mitigation for CSS impacts resulting from the All South Plan;
- C. County Staff and the Wildlife Agencies agree to cooperate in processing an HLP, if necessary, that will not require further avoidance of CSS habitat impacts currently shown on the All South Plan; and
- D. County Staff agrees to address the County RPO in a way that allows the All South Plan to proceed as proposed in the interest of creating an ecologically superior plan.

Specifically, the Wildlife Agencies and County Staff agree to the following points:

MSCP/4(d) Compliance

- 1. County Staff and the Wildlife Agencies concur with the All South Plan as the agreed-upon hardline for Project and agree to proceed with the MSCP analysis using the hardline shown on the All South Plan;
- 2. County Staff and the Wildlife Agencies concur that a portion of the Merriam trail system may be located within designated biological open space (the MSCP preserve) and is a compatible use within the MSCP. The trail system will be designed to County joint use standards and will be presented to County Staff and the Wildlife Agencies for review;
- 3. Impacts to California gnatcatchers on the southeastern portion of the Project will be fully mitigated by purchase of the offsite Captains' Associates property as referenced in the Wildlife Agencies' July 13, 2005 letter; and



4. Should the Project be approved prior to issuance of MSCP permits, the County and the Wildlife Agencies will process an HLP to be included as a discretionary action in the Merriam EIR (with HLP findings included in the EIR). While it is understood that the Service cannot provide pre-decisional permit assurances as it pertains to 4(d) or Section 7 processes, the Wildlife Agencies will take into consideration that the Captains' Associates property satisfies mitigation requirements for impacts to CSS under the MSCP. The Wildlife Agencies further agree not to require further avoidance of CSS habitat other than that shown in the All South Plan.

Mitigation for Impacts to Biological Resources

1. MSCP/4(d) compliance will constitute full mitigation for direct, indirect and cumulative impacts with respect to sensitive habitats, sensitive species, and preserve design; and
2. The Wildlife Agencies will acknowledge in writing their acceptance of the All South Plan preserve design as full mitigation for all biological impacts and will not propose or recommend additional avoidance or minimization of impacts to wetland (jurisdictional) or other resources when future wetland permits (CDFG Streambed Alteration Agreement, ACOE 404, RWQCB 401) are submitted and processed for the Project. The Department of Fish and Game agrees specifically not to require further avoidance measures during processing of a 1602 Streambed Alteration Agreement for the Project.

RPO Compliance

1. County Staff and the Wildlife Agencies agree that the All South Plan is not feasible to implement if the County RPO is strictly applied to areas outside of the designated biological open space (the MSCP preserve). Amendment of the RPO or allowance of an exemption for the Project is necessary to implement the All South Plan.
2. County Staff will support amendment of the RPO to allow impacts to RPO jurisdictional features (sensitive habitat, wetlands, slopes, cultural resources, floodplains) when such impacts allow a design that provides ecological benefits superior to a design that strictly complies with the RPO.
3. County Staff will support findings that impacts to RPO jurisdictional features resulting from the All South Plan are necessary to enhance the overall conservation values of the Project and to provide superior ecological benefits;
4. County Staff will submit the proposed amendment to the RPO for formal review and approval as soon as possible after execution of this Agreement.

GP 2020

1. County Staff concur that the All South Plan, including dwelling units, density, and proposed commercial uses, is consistent with GP 2020 and will be incorporated into the Staff Alternative of the GP 2020 Working Copy;
2. Project processing will not be delayed during preparation of GP 2020; and

3. County Staff and the Wildlife Agencies will not support any reduction in density or intensity in the All South Plan without a corresponding reduction in the size of the biological open space.

Wildlife Agencies' Requests

1. A fire management plan for the Project, including amount and location of fire management buffers, will be presented to County Staff and the Wildlife Agencies once the plan is approved by the Fire Marshall; and
2. The Wildlife Agencies recognize and accept the fire roads through the biological preserve as proposed, but strongly encourage the County to develop a biologically superior access plan utilizing existing private roads through the private property to the west of the All South Development Area and to also eliminate the access to Lawrence Welk Drive.

If, by November 15, 2005, the County is successful in obtaining the necessary access rights, the alternative plan is acceptable to the Deer Springs Fire District Fire Marshall and the San Diego County Fire Marshall, and the costs to permit and construct the alternative road are not increased from the currently proposed road, the applicant agrees to amend its plan and construct the access along this alternative route.

Meeting Participants

Therese O'Rourke, Susan Wynn, U.S. Fish and Wildlife Service; Larry Eng, David Mayer, Department of Fish and Game; Tom Oberbauer, County of San Diego; Joe Perring, Stonegate Development; June Collins, Elizabeth Candela, Dudek; Eric Armstrong, Bob Chase, Fuscoe Engineering; Brice Bossler, The Bossler Group; Michael McCollum, McCollum Associates.

Concurrence Initials

COUNTY OF SAN DIEGO

By: _____

Date: _____

U. S. FISH & WILDLIFE SERVICE

By: _____

Date: _____

NNP-STONEGATE MERRIAM, LLC

By: Stonegate Merriam Mountains, LLC

By:  _____
Joe Perring, Vice President
Project Manager

Date: _____

DEPARTMENT OF FISH & GAME

By: _____

Date: _____

Points of Agreement
Merriam Specific Plan
September 27, 2005
Page 3

- 2. Project processing will not be delayed during preparation of GP 2020; and
- 3. County Staff and the Wildlife Agencies will not support any reduction in density or intensity in the All South Plan without a corresponding reduction in the size of the biological open space.

Wildlife Agencies' Requests

- 1. All fire management buffers for the Project will be located outside the biological open space. The fire management plan, including amount and location of fire management buffers within the development area, will be presented to County Staff and the Wildlife Agencies once the plan is approved by the Fire Marshall; and
- 2. The Wildlife Agencies recognize and accept the fire roads through the biological preserve as proposed, but strongly encourage the County to develop a biologically superior access plan utilizing existing private roads through the private property to the west of the All South Development Area and to also eliminate the access to Lawrence Welk Drive.

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Concurrence Initials

COUNTY OF SAN DIEGO

By: _____

Date: _____

U. S. FISH & WILDLIFE SERVICE

By: Therese O'Rourke

Date: October 12, 2005

NNP-STONEGATE MERRIAM, LLC

By: Stonegate Merriam Mountains, LLC

By: Joe Perring
Joe Perring, Vice President
Project Manager

Date: October 10, 2005

DEPARTMENT OF FISH & GAME

By: _____

Date: _____

Points of Agreement
Merriam Specific Plan
September 27, 2005
Page 3

- 2. Project processing will not be delayed during preparation of GP 2020; and
- 3. County Staff and the Wildlife Agencies will not support any reduction in density or intensity in the All South Plan without a corresponding reduction in the size of the biological open space.

Wildlife Agencies' Requests

- 1. All fire management buffers for the Project will be located outside the biological open space. The fire management plan, including amount and location of fire management buffers within the development area, will be presented to County Staff and the Wildlife Agencies once the plan is approved by the Fire Marshal; and
- 2. The Wildlife Agencies recognize and accept the fire roads through the biological preserve as proposed, but strongly encourage the County to develop a biologically superior access plan utilizing existing private roads through the private property to the west of the All South Development Area and to also eliminate the access to Lawrence Weik Drive.

If, by November 15, 2005, the County is successful in obtaining the necessary access rights, the alternative plan is acceptable to the Deer Springs Fire District Fire Marshall and the San Diego County Fire Marshall, and the costs to permit and construct the alternative road are not increased from the currently proposed road, the applicant agrees to amend its plan and construct the access along this alternative route.

Meeting Participants

Therese O'Rourke, Susan Wynn, U.S. Fish and Wildlife Service; Larry Eng, David Mayer, Department of Fish and Game; Tom Oberbauer, County of San Diego; Joe Perring, Stonegate Development; June Collins, Elizabeth Candela, Dudek; Eric Armstrong, Bob Chase, Fuscoe Engineering; Brice Bossler, The Bossler Group; Michael McCollum, McCollum Associates.

Concurrence Initials

COUNTY OF SAN DIEGO

By: _____

Date: _____

U. S. FISH & WILDLIFE SERVICE

By: _____

Date: _____

NNP-STONEGATE MERRIAM, LLC
By: Stonegate Merriam Mountains, LLC

By: Joe Perring
Joe Perring, Vice President
Project Manager

Date: October 12, 2005

DEPARTMENT OF FISH & GAME

By: _____

Date: _____

Joe Perring

From: Michael McCollum [mccollum@mccollum.com]
Sent: Wednesday, October 12, 2005 12:34 PM
To: Larry Eng
Cc: Joe Perring
Subject: Merriam Points of Agreement

Larry:

To further clarify the language in the Points of Agreement of September 20, 2005, on page 2, under the heading "Mitigation for Impacts to Biological Resources", bullet 2:

It is the intent of this language that any mitigation measures associated with the 1602 agreement process, not result in moving roads, units, or facilities, or any other avoidance or minimization measure that results in the need to redesign the project. We acknowledge that normal mitigation measures will be required to achieve no net loss of Department jurisdictional wetland resources resulting from any project impacts, including, as appropriate, recognition of preserved wetlands within the biological open space.

We prefer not to make changes to the Points of Agreement, since the Service and my client have already signed it, and we believe the existing language speaks only to the avoidance issue, not specific mitigation for impacts; however, this message will make it clear of the agreement's intent.

I would appreciate it if you would fax back to me today the signature page with your signature, and send your original signature to me via U.S. Mail at your convenience.

Thank you for your assistance in concluding this process.

Mike

--
McCollum Associates
10196 Clover Ranch Drive
Sacramento, CA 95829-6574
(916) 688-2040 * Fax (916) 688-7436
www.mccollum.com

TRI Commercial Real Estate Services
www.mccollum.com/tri

GARY L. PRYOR
DIRECTOR



County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017

SAN MARCOS OFFICE
338 VIA VERA CRUZ - SUITE 201
SAN MARCOS, CA 92069-2820
(760) 471-0730

EL CAJON OFFICE
200 EAST MAIN ST. - SIXTH FLOOR
EL CAJON, CA 92020-3912
(619) 441-4030

November 1, 2005

Mr. Joseph Perring
27071 Cabot Road, Suite 106
Laguna Hills, California 92653

Dear Mr. Perring:

This letter is in regards to your request to establish a "hard-line" area within the North County Multiple Species Conservation Plan (MSCP) for the Merriam Project.

For MSCP purposes, the Department of Planning and Land Use supports your current proposal to eliminate the northern development node. This represents a significant step forward in implementing the North County Plan. Furthermore, DPLU will continue to work cooperatively and aggressively with the wildlife agencies to address any remaining issues in the southern portions of the site and complete the "hard-line" approval.

We look forward to continuing to work with you and your team on this project.

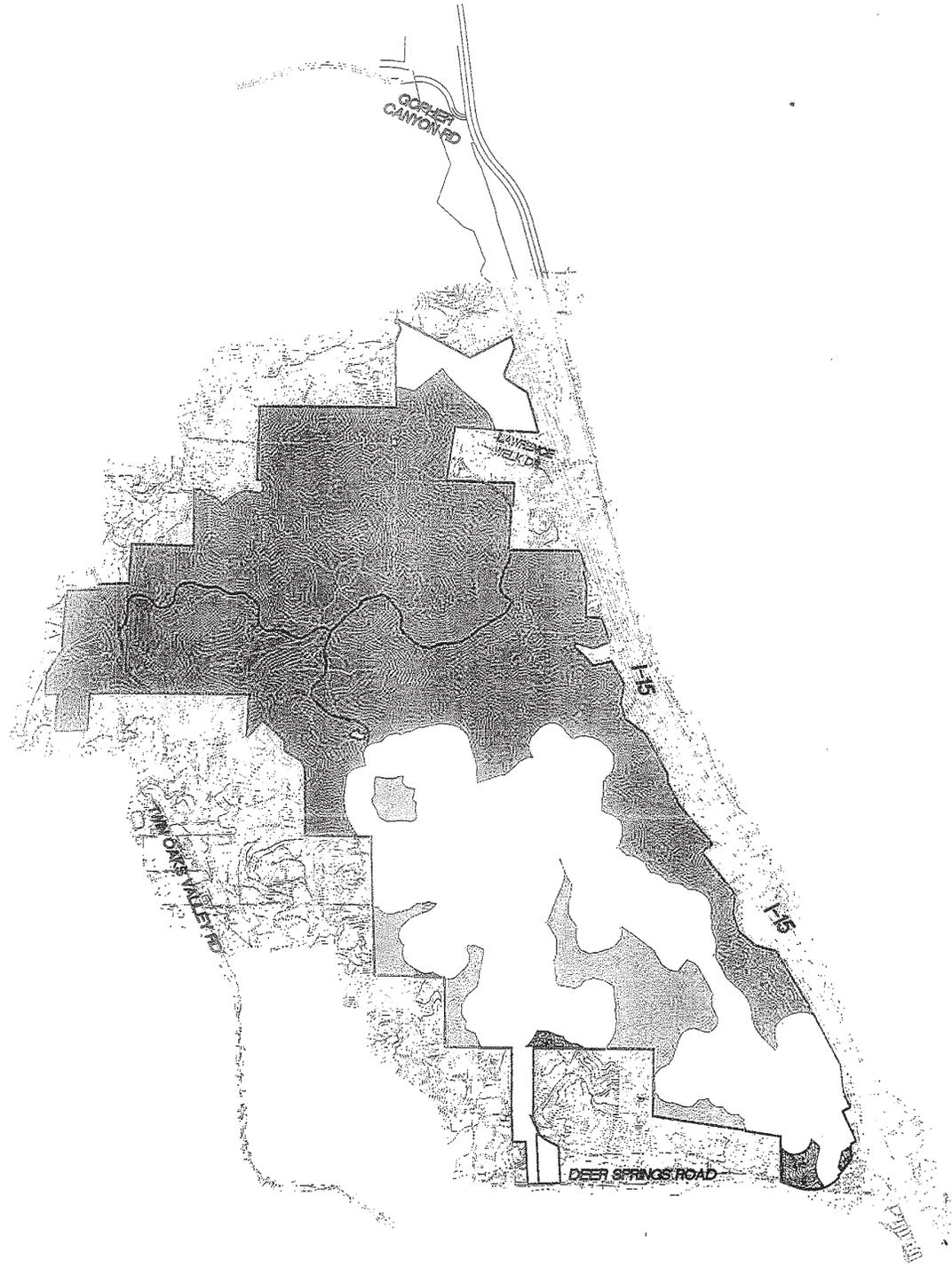
Sincerely,

A handwritten signature in black ink, appearing to read "Ivan Holler".

IVAN HOLLER, Deputy Director
Department of Planning and Land Use

IH:clc

cc: File



-  BIOLOGICAL OPEN SPACE - 1305 AC
-  NATURAL PARK - 14 AC
-  OTHER OPEN SPACE - 178 AC



**DRAFT ALL-SOUTH ALTERNATIVE
PRELIMINARY HARDLINE EXHIBIT
MERRIAM MOUNTAINS**

SEPT 20, 2005

EXHIBIT I

Honoring the MSCP:

Correcting the Record

Endangered Habitats League (EHL) wishes to respond to a matrix titled *Honoring the MSCP*, which was submitted to the US Fish and Wildlife Service and enumerates perceived problems in how the Carlsbad Field Station is handling matters relating to the MSCP. EHL has been a stakeholder from the outset in this precedent setting effort.

We believe that the authors of this matrix – also long-term stakeholders – share a mutual commitment to the MSCP and its successful implementation. That said, we are compelled to correct the many factual errors in its assertions.

More troubling to us than the factual errors is the ascribing of bad motives to Carlsbad, through the use of terms such as “bad faith,” “disingenuous,” “undermine,” “anti-growth agenda,” and “pretext.” Based upon our decades of close work with the Carlsbad personnel, we categorically reject these characterizations. While all parties will at times disagree with FWS judgments or methods—and the need for self examination and improvement is universal among us—we instead find at Carlsbad same mutual commitment to the MSCP as well as honest collaboration.

There is no question that we collectively face challenges to the MSCP, in all the locations referenced. We call for a new round of creative problem solving by stakeholders and agencies alike—the same successful problem solving that led to MSCP adoption over 20 years ago.

This response will track the original matrix.

Honoring assurances

V13/Golden Eagle

See below

V14

Assertions are false: The MSCP anticipates and indeed *requires* FWS to use the CEQA process to comment on MSCP-related projects. In numerous sections (e.g., 1.15, 1.4, 4.2.3) CEQA is specified as a vehicle for notice and comment. CEQA is therefore a *fully* appropriate venue for the FWS to provide input on MSCP consistency. Furthermore, from the public’s perspective, the CEQA process is the *only* accountable and publicly available way to access and participate in MSCP implementation. Continued such use of CEQA by the wildlife agencies is essential. Specific sections of the Subarea Plan follow:

4.3.1. The Process for County Review and Mitigation Within the Metro-Lakeside-Jamul Segment

The Wildlife Agencies shall fulfill their responsibilities to comment on projects as specified under CEQA and pursuant to their statutory authority under the Federal and State Endangered Species Acts and other applicable state and federal laws and regulations.

Section 4.3.2.1 Wildlife Agencies' Role in Project Compliance

The Wildlife Agencies intend to provide comments on specific projects pursuant to their trustee responsibilities and to their statutory authority under the State and Federal laws during the CEQA process.

Regarding the golden eagle, FWS has constructively sought the cooperation of the County and landowners in scientifically examining MSCP adaptive management monitoring data collected by USGS. We are disappointed that these other parties have not, to our knowledge, reciprocated in kind. More specifically, FWS has repeatedly stated that *no determination* has been made as to whether eagle coverage under the MSCP remains biologically valid in light of the monitoring data. It is also important to note that the V14 applicant has proposed not honoring the terms of the Baldwin Agreement, which is part of the MSCP Subarea Plan and Otay Ranch development agreements (and which FWS has respected numerous times where it benefits development interests).

Newland Sierra

Assertions are false: There is no existing “hardline” for this project. When the former project on the Merriam Mountains site was denied by the Board of Supervisors, the site reverted to PAMA. This understanding between the County and the wildlife agencies is documented in draft meeting notes, dated January 23, 2014, as follows:

Background (Merriam Mountains Project)

- a. Mark Slovick summarized the project attributes and hardline that had been established for the Merriam Mountains project, which was denied by the Board of Supervisors in 2010.
- b. After denial, the project reverted to PAMA (Pre-approved Mitigation Area in the the draft NC Plan.

In addition, the fact that any subsequent hardline remained to be negotiated is documented in the NOP comments from the California Dept. of Fish and Wildlife (letter of March 11, 2015 to County of San Diego):

3. The County and the Wildlife Agencies have met multiple times to discuss the proposed Newland-Sierra Project site, formerly known as Merriam Mountains, including the following dates: January 23rd, 2014; March 27th, 2014 (Site Visit); April 3rd, 2014; July 29th, 2014 (Site Visit); November 19th, 2014; and, most recently on February 19th, 2015. Based on our past meetings with the County, the Department has provided the following tenets that will guide any hardlined agreement negotiations for the Project:

- a) Though this is a new project, it is very similar to the Merriam Mountains project; however, all parties agree that it will be evaluated independent of the previous Merriam Mountains Project;
- b) Potential hardline discussion will be based on current conditions at the project site, in the North County Plan area, and in the County as a whole, as conditions have changed;

Fanita Ranch

Assertions are false: Fanita’s prior hardline was mooted—*by the property owner*—when the Fanita Ranch ownership (American General) opted to sell the required Fanita Ranch offsite mitigation to the City of San Diego. Subsequent Fanita Ranch owners chose not to provide the alternative off site mitigation that FWS had offered as an alternative to the original (American General) mitigation package. No other hardline plan has ever been “approved” by the wildlife agencies. In addition, the most recent (Barrett American) project was rejected by the courts as a result of CEQA litigation, and the planning process restarted. In this context, it is our observation that all parties have been treating the site as a “clean slate” from which to re-plan both conservation and development.

Lack of good faith negotiations

Assertions are false: The Village 13 project *never* obtained an agreement, formal or informal, from FWS on the QCB. FWS CEQA comments make it abundantly clear that the footprint discussions were solely in the context of a *regional* quino plan rather than in the DEIR’s context of a stand-alone, project-specific proposal. The latter is far more limited in flexibility. The matrix neglects this vital distinction. In any case, from the public’s point of view, and as a legal matter, the DEIR presents alternatives for *comment and consideration* rather than final decisions.

Village 14 land exchange

Assertions are false: The applicant pursued a land exchange at its own risk. It was denied by the California Department of Fish and Wildlife rather than FWS *per se*. EHL’s scientific analysis showed the exchange was neither biologically sound nor advantageous to the golden eagle.

Newland Sierra

See above discussion.

Fanita Ranch

See above discussion.

Communications and actions in breach of MSCP

Villages 13 and 14

Assertions are false. See above discussion of CEQA comment responsibilities.

Newland Sierra

Assertions are false: The wildlife agencies have historically and appropriately met public trust responsibilities by commenting during the CEQA process. This is essential for a public process whose fundamental purpose is disclosure. Otherwise, decision-making occurs in a back room inaccessible to the public at large. Furthermore, the Planning Agreement for the North County MSCP specifically identifies formal CEQA comments from FWS as *one* means for FWS to provide input to the lead agency on plan conformity, mitigation, etc.

Exhibit B to the Planning Agreement for North and East County: Interim Review Process:

The Interim Review Process also ensures early review and consideration of proposed discretionary projects and annexations by the Wildlife Agencies. With respect to discretionary projects and annexations which may have the potential to preclude long-term preservation planning or impact the viability of biological resources, the Wildlife Agencies commit to meet with the County and/or project proponent at the earliest feasible point in the CEQA or NEPA process to review such projects. Early identification of potential impacts will assist in the preparation of environmental documents for the project and provide the opportunity to identify potential project alternatives and mitigation measures for consideration in compliance with Public Resources §21080.3(a).

The Wildlife Agencies will retain the right to provide further comments *during the formal public comment period* or may choose to entirely waive their comments during the Interim Review Process *and reserve them for the public comment period*. (Emphases added.)

Fanita Ranch

Assertions are false: The City of Santee's 4(d) benefits were properly ended by FWS when all its coastal sage scrub allocation was used up. (FWS did make an exception to

allow an assisted care facility to go forward by allowing the City of Santee to utilize available County 4(d.)

FWS provides full rationales for preserve recommendations rather than “arbitrary” conclusions (e.g. letter of Dec. 20, 2016). In this regard, the draft Santee Subarea Plan (SAP) requires that the wildlife agencies consider the subregional (MSCP) context when reviewing Santee SAP proposals.

Not honoring covered species and sidestepping new information provisions

Assertions are false: FWS has *appropriately* reviewed new information from the MSCP adaptive management and monitoring program. This is an essential responsibility of permit issuance. FWS has repeatedly clarified what coverage for the eagle means under the MSCP, referring to the Biological Opinion and MSCP Table 3.5, Conditions of Coverage. It has explained the relationship of BGEPA to the MSCP. It is the right of other parties to disagree, of course, but disagreement does not warrant the accusations leveled as to motivation.

No “threatening” letters have been sent regarding the golden eagle. Rather, as noted above, FWS has repeatedly stated that *no determination* has been made as to whether eagle coverage under the MSCP remains biologically valid in light of this information. Instead, it has repeatedly offered to sit down and work through the very real biological issues. Whether permittees themselves have honored golden eagle commitments is another matter, and in point of fact, management actions such as nest monitoring have not been performed.

Ignoring solutions inconsistent with agency agenda

Assertions are false: In regard to the vicinity of Warner Springs, scientific input is that the referenced areas do *not* provide a remedy for golden eagle issues for other parts of the County.

EXHIBIT J

Wildlife and Habitat Conservation Coalition

Dedicated to the sustained conservation of native animal and plant species in the Southwest Bioregion.



April 24, 2017

The Hon. Dianne Jacob, Chair
Board of Supervisors
San Diego County
1600 Pacific Highway, Room 335
San Diego, CA 92101

RE: Newland Sierra project and the North County Multiple Species Conservation Program

Dear Chairperson Jacob and Members of the Board:

The San Diego Wildlife Conservation Coalition writes to express its concern over how the Department of Planning and Development Services (DPDS) is treating the Newland Sierra proposed project in the context of the North County Multiple Species Conservation Program (NC MSCP). The Coalition consists of 16 San Diego conservation groups representing with over 25,000 members.

First, however, we wish to convey our appreciation to your Board for moving forward on the long delayed and important North County MSCP. Further, we believe that your staff is firm in its commitment to the plan and, at this time, our comments are limited to the Newland Sierra matter.

As a bit of background, earlier this year, DPDS released a list of development projects that would be placed into the draft NC MSCP and also placed into the plan's DEIR for analysis. This list of "private projects" **inappropriately** contained Newland Sierra, a massive proposed development and General Plan amendment (GPA) along I-15 near Twin Oaks. All other projects on this list have already been *approved* by your Board and have substantial concurrence from our partners in the NC MSCP, the state and federal wildlife agencies.

To the contrary, your Board has not approved Newland Sierra, and the site design – which staff would place into the draft plan – has been soundly rejected by the wildlife agencies in numerous letters, due to fragmentation of Pre-Approved Mitigation Area (PAMA) and loss of connectivity.

Our objections are two-fold. First, until such time as *your Board* chooses to amend the General Plan, staff should not effectively pre-judge a GPA and give a "leg up" through environmental analysis and incorporation into the draft NC MSCP. *The adopted General Plan merits a presumption of validity.* In this case, it is noteworthy that a similar project (Merriam Mountains) was actually denied by your Board, and the 2011 General Plan shows the site as Resource Conservation Area, denoting special protection. Especially given previous Board action, we ask that you direct your staff to respect the General Plan.

Dedicated to the sustained conservation of native animal and plant species in the Southwest Bioregion.

Second, when the former project on the Merriam Mountains site was denied, the planning process was restarted and the site reverted to PAMA. This understanding between the County and the wildlife agencies is documented in draft meeting notes, dated January 23, 2014, as follows:

“Background (Merriam Mountains Project)

- a. Mark Slovick summarized the project attributes and hardline that had been established for the Merriam Mountains project, which was denied by the Board of Supervisors in 2010.
- b. After denial, the project reversed to PAMA (Pre-approved Mitigation Area in the draft NC Plan.”

In addition, the fact that any subsequent hardline remained to be negotiated is documented in Notice of Preparation comments from the California Dept. of Fish and Wildlife (letter of March 11, 2015 to County of San Diego):

“3. The County and the Wildlife Agencies have met multiple times to discuss the proposed Newland-Sierra Project site, formerly known as Merriam Mountains, including the following dates: January 23rd, 2014; March 27th, 2014 (Site Visit); April 3rd, 2014; July 29th, 2014 (Site Visit); November 19th, 2014; and, most recently on February 19th, 2015. Based on our past meetings with the County, the Department has provided the following tenets that will guide any hardlined agreement negotiations for the Project:

- a) Though this is a new project, it is very similar to the Merriam Mountains project; however, *all parties agree that it will be evaluated independent of the previous Merriam Mountains Project;*
- b) Potential hardline discussion will be based on current conditions at the project site, in the North County Plan area, and in the County as a whole, as conditions have changed . . .” (Emphasis added.)

Given the failure of the parties to reach concurrence on a *new* site design, it is inappropriate for a project footprint that has been rejected by our wildlife agency partners as inconsistent with the NC MSCP preserve to be placed in the draft plan and its DEIR.

The rationale provided by DPDS is that the *former* project of a *former* developer had “hardline” status. However, because the site has clearly reverted to PAMA, no footprint should be prematurely advanced into environmental review. The proper course of action is to develop the NC MSCP and, when and if the project comes to your Board, assess at that time its compatibility with the NC MSCP (or its current draft) as part of your decision-making.

Again, we recognize and appreciate the overall progress the County is making toward completing the plan but wish to let you know of our concern that this good work could be undermined.

Dedicated to the sustained conservation of native animal and plant species in the Southwest Bioregion.

In closing, we request that the Board direct staff to remove the proposed project footprints in question from the NC MSCP draft plan and from the plan's DEIR, and to show those areas as PAMA.

Sincerely,

Joan Herskowitz, Buena Vista Audubon

George Courser, Sierra Club San Diego

Richard Fowler, Palomar Audubon Society

Pamela Heatherington, Environmental Center of San Diego

Frank Landis, California Native Plant Society, San Diego Chapter

Laura Hunter, Escondido Neighbors United

Dan Silver, Endangered Habitats League

Richard Fowler, Palomar Audubon Society

Jim Peugh, San Diego Audubon Society

Marco Gonzalez, Coastal Environmental Rights Foundation

Van K. Collinsworth, Preserve Wild Santee

cc.

Sarah Aghassi

Mark Wardlaw

Mary Kopaskie

Brian Albright

Peter Eichar

LeAnn Carmichael

Crystal Benham

EXHIBIT K

Merriam Mountains Wildlife Connectivity Review

April 18, 2017



Megan Jennings, Ph.D.
Research Ecologist
Assistant Adjunct Professor
San Diego State University

Importance of Connectivity for Wildlife

Current land management plans throughout the U.S. and Europe are designed to protect biodiversity by establishing a network of core habitat areas that are connected via linkages. The central principle of this large-scale conservation planning is that viable populations and natural communities can be supported by a connected landscape network (Beier *et al.* 2006, Crooks and Sanjayan 2006, Boitani *et al.* 2007, Barrows *et al.* 2011), particularly as the landscape becomes altered by anthropogenic features like roads and housing developments. Landscape connectivity allows for movement among patches of suitable habitat, reduces the chance of extinction and effects of demographic stochasticity on small populations (Brown and Kodric-Brown 1977), and maintains gene flow between populations in patchy landscapes (Simberloff *et al.* 1992) allowing more rapid recovery after events such as fire and disease outbreaks. Over longer time scales, and in the face of changing abiotic conditions, connectivity may also prove critical for range shifts in response to landscape changes caused by changing climate and altered disturbance regimes (Hannah *et al.* 2002, Heller and Zavaleta 2009). In southern California, this landscape-scale network approach has been adopted in response to the widespread habitat conversion and fragmentation that has resulted from development in the region (Riverside County 2003, County of San Diego 1998).

Connectivity is often considered from two different perspectives, physical and functional connectivity. **Physical connectivity** indicates whether there is structure connecting two patches of habitat, whereas **functional connectivity** accounts for how wildlife respond to that structure and the implications of those considerations for the species of concern (Taylor *et al.* 1993, Tischendorf and Fahrig 2000a, 2000b). The distinction between physical connectivity and functional connectivity in fragmented landscapes is critical when implementing conservation and mitigation measures to prevent irreversible habitat fragmentation. There are a variety of factors that can affect this response, including but not limited to, life history traits of the affected species, habitat configuration, degree of habitat fragmentation, and type of fragmenting features (*e.g.*, roads, houses). Furthermore, this response will differ among species with some demonstrating a greater sensitivity to these factors than others.

Wildlife Connectivity in the Merriam Mountains

The Merriam Mountains area is only one of two large habitat blocks that remain west of I-15 that are classified as Pre-Approved Mitigation Area (PAMA) with a goal of 75% conservation under the Draft North County Multiple Species Conservation Plan (NCMSCP). Given the remaining open spaces and known critical movement areas nearby (*i.e.*, the San Luis Rey River to the north), the Merriam Mountains area serves as a critical area for wildlife movement and connectivity at a local scale. The area offers drainages and ridgelines, features known to support wildlife movement, running in both east-west and north-south directions. Based on my research on connectivity in San Diego County (Jennings and Lewison 2013) and what prior research efforts have learned about wildlife movement and connectivity in the region (Crooks 2002, Lyren *et al.* 2009, 2008, 2006), it appears that the Merriam Mountains are situated in a critical location that currently allows it to serve as a stepping stone between habitat patches north of Escondido, San Marcos, and Vista to the Merriam and San Marcos Mountains, Moosa Canyon, and the San Luis Rey River.

Although east-west movement is undoubtedly challenged by Interstate 15 (I-15) to the east of the Merriam Mountains, some species may be able to cross through the concrete box culvert located under I-15 (Figure 1). The length and height of this structure¹ likely deter crossings by larger species like mountain lion (*Puma concolor*) and southern mule deer (*Odocoileus hemionus fuliginatus*), but smaller species may be able to traverse the crossing (Figure 2). A suite of small to medium mammals, such as raccoon (*Procyon lotor*), opossum (*Didelphis virginiana*), striped skunk (*Mephitis mephitis*), coyote (*Canis latrans*), bobcat (*Lynx rufus*), as well as a host of small mammals, may be most likely to use this structure. Furthermore, the location of this structure is such that connectivity could be enhanced with improvements to the structure design.

There are also locations to the north and south of the Merriam Mountains that allow for east-west movement past the freeway (*e.g.*, Moosa Canyon). North-south connectivity is likely more important for wildlife movement in the area. The quality of undeveloped lands in the area is high and the current development intensity and agricultural activities are not likely to be acting as an impediment to wildlife movement. In a recent update to the connectivity section of the Management Strategic Plan for Conserved Lands in Western San Diego County,² the San Diego Management and Monitoring Program identified the Merriam Mountains as a key area connecting core linkages to the north, south, east, and west (Figure 3). Additionally, the proposed designation of area to the north as PAMA under the NCMSCP will further enhance the importance of the open space in the Merriam Mountains and connectivity to and from this area that will serve as a stepping stone, provide source populations of many species, and support ecological resilience in this part of San Diego County.

From a broader regional perspective on connectivity, the connections available for wildlife to move through this area are crucial for maintaining connectivity to the Santa Ana Mountains. The Santa Ana-Palomar linkage is a wildlife corridor that has been highlighted in numerous connectivity studies to date (*e.g.*, South Coast Wildlands 2008, Spencer *et al.* 2010); however, this linkage remains unrealized due the difficulty in getting animals across the I-15 to the north in Temecula. Currently, one of the few areas where it is currently feasible for a movement corridor is in the vicinity of the Merriam Mountains. This is an especially important issue for mountain lions, which have experienced a decline in genetic diversity and led to inbreeding and concerns about long term persistence of the apex predator in the Santa Ana Mountains (Ernest *et al.* 2014), as well as additional effects to the San Diego population of mountain lions.

Without adequate habitat quality or structure, the effective distance³ among preserved lands in this part of San Diego County would more than double, as negotiating additional roads and development would limit the species that could successfully traverse the distance. By fragmenting this area, it may no longer serve as suitable habitat for viable populations of southern mule deer, key predators such as bobcats or coyotes (Crooks 2002), or as a critical stepping stone for dispersing mountain lions searching for larger blocks of suitable habitat. Furthermore, the type of stepping-stone connectivity that this area provides is critical for the

¹ Structure measures approximately 5 feet high x 7.5 feet wide x 900 feet long.

² https://portal.sdmmp.com/view_threat.php?threatid=TID_20160304_1454 (last accessed Apr. 17, 2017).

³ Effective distance accounts for both the physical distance and the barriers and resistance of moving through the landscape.

movement of avifauna with limited dispersal abilities, such as the federally threatened California gnatcatcher (*Poliophtila californica californica*). Connectivity between suitable patches of coastal sage scrub habitat is necessary if the gnatcatcher is to not only persist, but recover in coastal southern California, particularly in San Diego County where coastal sage scrub habitats continue to be constrained at a rapid rate. The proposed development may result in the physical and genetic isolation of populations of mule deer, bobcat, coyote, and other species on either side of Deer Springs Road and west of I-15, a phenomenon that has been demonstrated in other areas of southern California where roads and development have fragmented habitats for these species in a similar fashion (Riley *et al.* 2006, Lee *et al.* 2012). These effects would result in cumulative impacts to connectivity and wildlife corridors in the area, and require that existing lands providing connectivity be considered more carefully in broader subregional and temporal contexts.

Wildlife Connectivity and the Proposed Newland-Sierra Development

Design Configuration

Although the proposed design configuration of the Newland Sierra project is intended to preserve the core habitat on Merriam Mountain, it will rather serve to further isolate that area and limit its function in providing habitat that will contribute to regional biodiversity. Even though the project design appears to incorporate a number of areas of open space, the configuration of those spaces is such that roughly only 400 hectares (<1,000 acres) will remain as suitable core habitat or a major movement corridor for those species. Reducing that block to an effective size less than 1,000 acres and cutting off movement to and from the east and south would substantially reduce its functionality as preserved lands under California's Natural Community Conservation Planning (NCCP) program.

The 2009 Draft Environmental Impact Report for the previously proposed project on this site notes that much of the evidence for wildlife movement on the site was observed along existing dirt roads and trails but assumed agricultural lands and dense chaparral would not be used by most species. The use of these dirt roads is not an indicator of unsuitability of the site, but rather of the adaptable nature of many of the medium to large mammals that are likely to occur on site. Furthermore, agricultural lands, particularly avocado orchards, are known to provide important habitat for mammalian carnivores (Nogeire *et al.* 2013) and should be considered an important component of the conservation design for this area of the County. Additionally, a review of aerial imagery of the proposed project area revealed that, although there are areas of dense chaparral on site, the density is not uniform across the project area, nor does that make it impenetrable to wildlife. As is common across the region, the south- and east-facing slopes of the project area are substantially less dense than north- and west-facing slopes. Further, ongoing disturbance (such as dirt roads and trails) throughout the project area have created many areas of lower density open patches among the chaparral. Finally, dense chaparral is not a barrier to movement for many species and provides important cover for many small and medium species.

The proposed configuration of the Newland Sierra Project focuses on providing opportunities for east-west movement between the Merriam Mountains and San Marcos Mountain. While connectivity to San Marcos Mountain to the west is an important habitat linkage to conserve and

manage, it is not the only critical wildlife corridor in the region. In fact, focusing only on that linkage could create a connectivity dead-end, limiting any movement to the east or south from the Merriam Mountains or into the area from the east and south. These east-west and north-south corridors (Figure 4) are critical for maintaining adequate wildlife movement and consequently, ecological functioning, in the western part of the North County. Furthermore, to adequately ensure there is functional connectivity for wildlife to move to and from the open space in the San Marcos Mountains, appropriately sited and designed wildlife crossing structures need to be installed along Twin Oaks Valley Road. These structures should consider a range of species from large to small and be placed along existing movement paths to encourage use and reinforced with directional fencing to limit at-grade crossing by wildlife, which can lead to increased wildlife-vehicle collisions.

Road Impacts

The proposed increase in the size of Deer Springs Road, the improvements to the I-15 interchange, as well as the expansion of the footprint of development in the immediate vicinity of the I-15 interchange would be exceptionally difficult to plan so that wildlife could continue to move through the area, particularly given the importance of north-south movement through this area. The increase in the size and traffic load along Deer Springs Road is a serious concern for both resident and migrating/dispersing wildlife moving through the area. In its current state, Deer Springs Road, a two-lane secondary road, is most likely a source of mortality for wildlife, but not a barrier to movement as the I-15 is for long stretches. Although it is certain that some proportion of animals that attempt to cross Deer Springs Road do not successfully make the crossing, the road currently only serves to reduce functional connectivity and affect the movement of individuals rather than having a barrier effect on entire populations. A wider and more heavily traveled road in this location would be more likely to impede wildlife movement and affect resident and dispersing populations in the area. Appropriately sized, spaced, sited, and designed structures must be included in the design of the road to allow for wildlife movement to avoid increasing the mortality effect of the road and limit the degree of the barrier effect that will occur when the road is widened. Furthermore, incorporating the addition of wildlife crossing structures along I-15 could facilitate movement for a suite of species, enhancing east-west connectivity.

Other roads of concern in the proposed project are Camino Mayor and the proposed section of Mesa Rock Road that would bisect the proposed central section of “open space”. These two roads would also need to incorporate appropriate wildlife crossing structures to limit the impacts of these roadways on habitat and movement. In particular, the design of these latter two roads lends itself to the greatest degree of wildlife-vehicle collisions as secondary roads often seem passable by wildlife but excessive speeds and limited sight distance can result in roadkill hotspots along roads that bisect natural areas as proposed in the Newland Sierra project.

Edge Effects

The areas designated as “open space” within the interior of the proposed development, notably the area identified as “Block 3” in some planning documents, cannot be considered core habitat nor movement corridors for wildlife as they will be impacted both directly and indirectly by the development and activities therein, once built and occupied by residents. This area of habitat will

be surrounded by roads on all sides and development on three sides with only a narrow opening to the south. Any wildlife present in this area will be susceptible to edge effects such as human-wildlife conflict, reduced habitat quality and quantity from fuels clearance, and exposure to a greater risk of predation, disease, and toxins from the human environment. In fact, lower probabilities of occurrence of wildlife species such as bobcats or gray fox has been documented at distances less than 1,500 to 2,000 meters (4,920 to 6,560 feet) from urban edges (Ordeñana *et al.* 2010) which would eliminate most, if not all, of “Block 3” as habitat for those species. Many smaller species are also likely to experience edge effects in a habitat patch less than 200 acres, such as “Block 3”. Species such as the red diamond rattlesnake (*Crotalus ruber*), which have demonstrated avoidance of roads and development in southern California (Tracey 2000), will be subject to persecution and removal when located next to homes and trails and may also experience higher mortality rates on surrounding roads. The San Diego coast horned lizard (*Phrynosoma coronatum blainvillii*) may also face increased mortality from roadkill, collection, and lack of food if Argentine ants (*Linepithema humile*) colonize the site (Fisher *et al.* 2002), displacing the native harvester ants (*Pogonomyrmex* spp.) the lizard’s primary food resource. When there are factors likely to introduce edge effects such as these into an area of core habitat, buffers and expanded core areas are the most appropriate mitigation for those effects. Buffers ranging from 230 to 300 meters (755 to 984 feet) have been recommended to mitigate these edge effects (Environmental Law Institute 2003). If such a buffer is applied, the remaining habitat in “Block 3” would equate to roughly 16 hectares (40 acres).

To the east, the swath of habitat remaining between the proposed development and I-15 should not be considered a suitable movement corridor as the barrier or deterrent effect of a road of that magnitude will be well beyond the immediate footprint. For example, in modeling movement habitat for bobcats in San Diego County based on GPS telemetry data, the effect of roads such as I-15 on the species occurs at as much as 1,000 meters (3,280 feet) away (Jennings, *unpublished data*). Effects of developed areas were strongest at 519 meters (1,703 feet), and in sparse or disturbed habitats, 1,000 meters. A functional wildlife corridor that would allow for north-south movement to the west of I-15 would need to be shielded from the freeway. The area with the highest probability of movement in this area is the first canyon to the west of I-15 where the commercial area and neighborhood access via Mesa Rock Road are proposed.

The proposed trail system throughout the open space would also contribute to edge effects, as human recreation in the form of dog walking, hiking, mountain biking, horseback riding, and bird watching all affect wildlife activity patterns (George and Crooks 2006, Reed and Merenlender 2008, Reed and Merenlender 2011). The design of the proposed trails in the 2016 Newland Sierra Specific Plan (Figure 62, p. 187) displays a number of dead-end or loop trails. These are likely to result in additional volunteer trails and off-site exploration. In addition, trails leading from the backs of the neighborhoods that are adjacent to the open space (*e.g.*, Summit and Mesa) are also likely. Furthermore, design features for the project such as the proposed Oak Grove Park (Figure 63, p. 189) may become an ecological trap for wildlife, drawing them in with shade, trees, and providing water sources but located adjacent to a major intersection and high levels of traffic that pose a danger to wildlife.

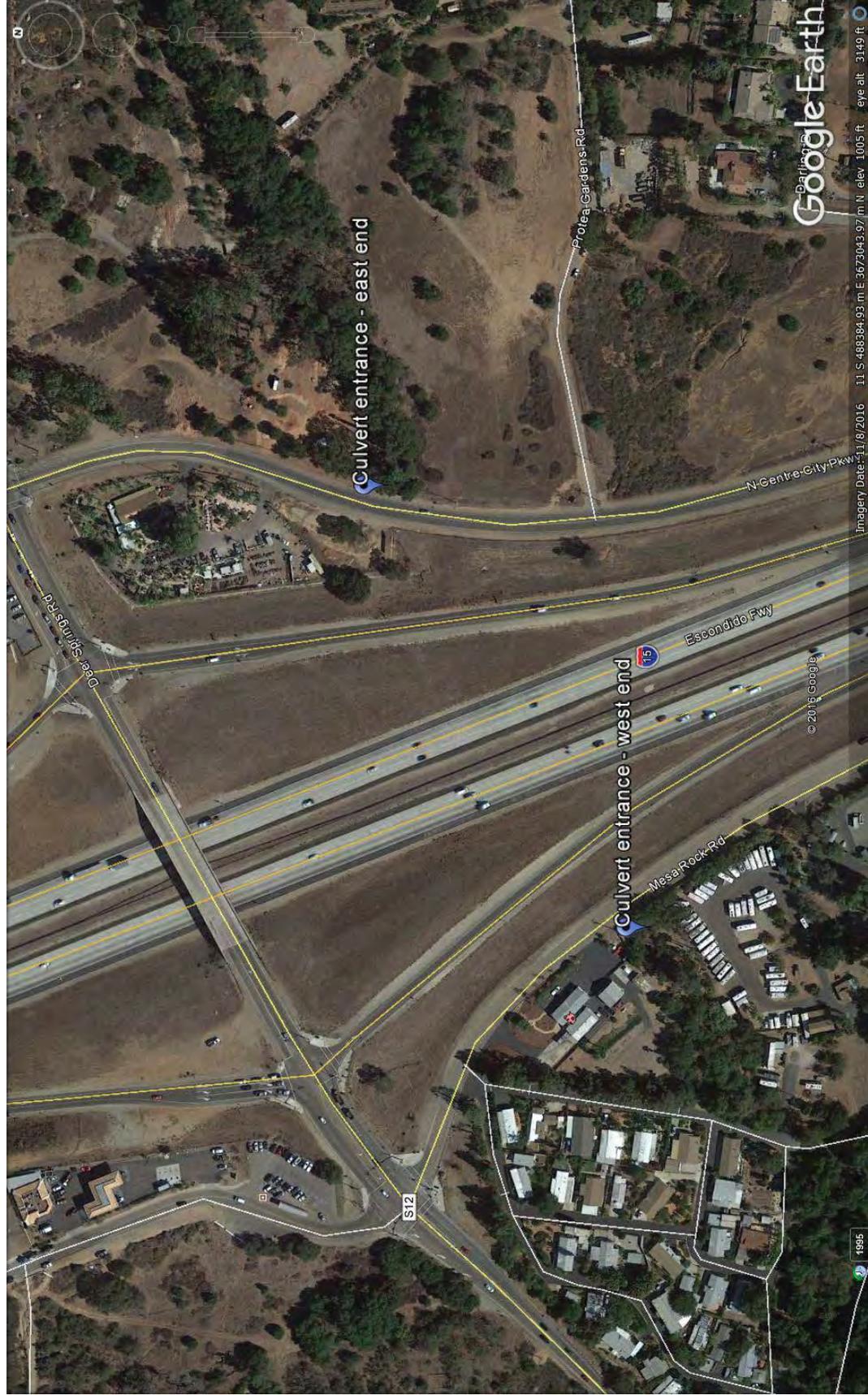


Figure 1. Box culvert location under Interstate 15.



Figure 2. Photographs of I-15 drainage culvert. Left: Creek on east side flowing into culvert; Upper right: east entrance to culvert; Lower right: View to west end of culvert from inside east end.

ArcGIS ▾ MSP Cores and Linkages



Figure 3. Map of Management Strategic Plan core areas and linkages in the vicinity of the Merriam Mountains.

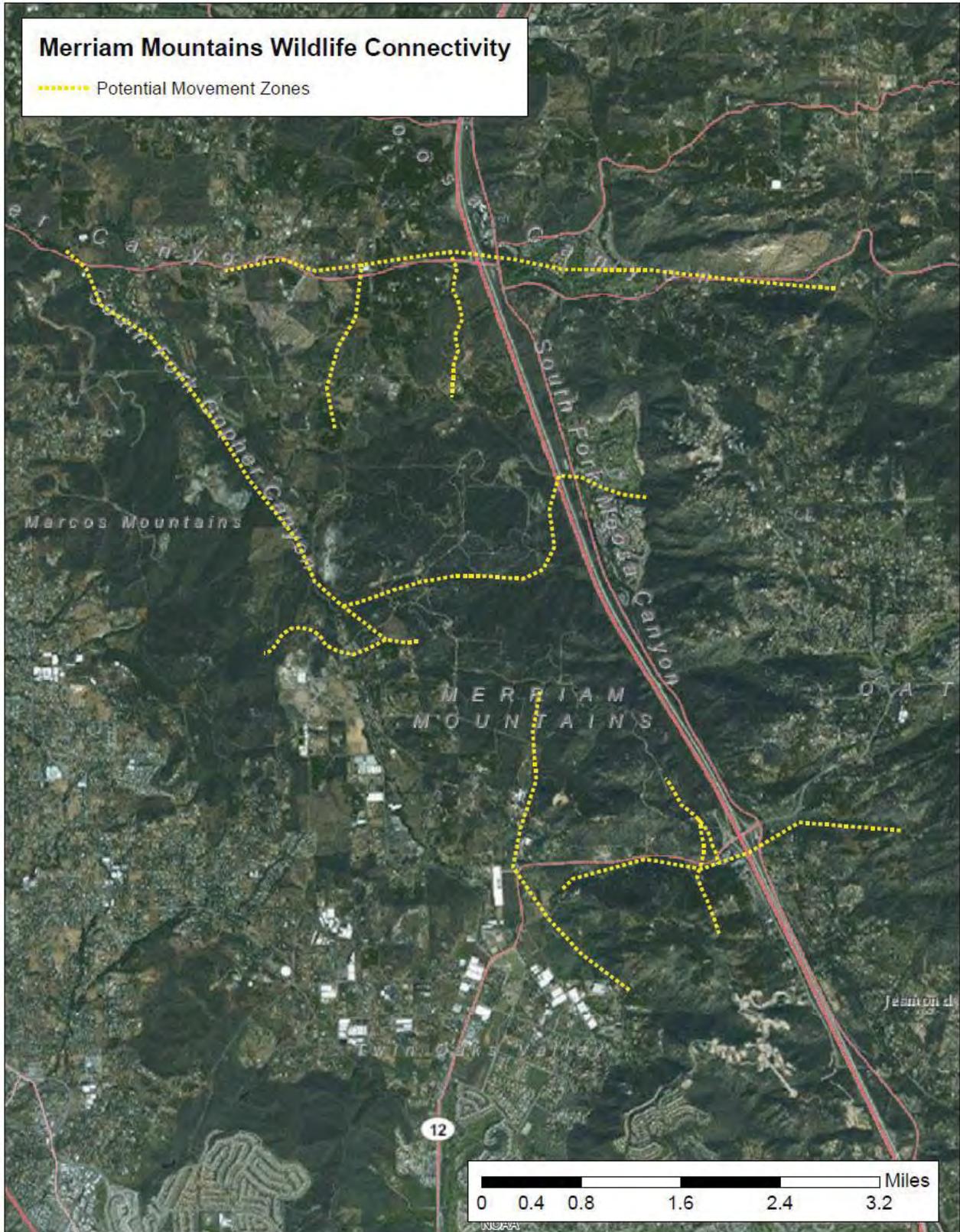


Figure 4. Putative movement zones in the vicinity of the Merriam Mountains

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Curriculum Vitae

Megan K. Jennings

mjennings@mail.sdsu.edu

<http://www.conservationecologylab.com/megan-jennings.html>

Professional Preparation

Dartmouth College	Environmental and Evolutionary Biology	B.A., 2000
University of California, Davis San Diego State University	Ecology	Ph.D., 2013
San Diego State University	Institute for Ecological Monitoring and Management (IEMM)	Postdoctoral Fellow, 2014-2016

Appointments

2016–present	Research Ecologist, Institute for Ecological Monitoring and Management, San Diego State University
2016–present	Adjunct Assistant Professor, San Diego State University
2016–present	Science Program Manager, Climate Science Alliance – South Coast
2014–2016	Postdoctoral Research Fellow, Institute for Ecological Management and Monitoring, San Diego State University
2013–2014	District Wildlife Biologist, Descanso Ranger District, Cleveland National Forest
2007–2013	Wildlife Biologist, Student Career Experience Program, Cleveland National Forest
2008–2010	Graduate Student Lecturer, San Diego State University, Experimental Ecology
2003–2007	Assistant Biologist, Cleveland National Forest, Palomar Ranger District

Selected Publications and Presentations

- Kalansky, J., **M. Jennings**, D. Cayan, R. Clemesha, A. Gershunov, K. Guirguis, D. Lawson, A. Pairis, D. Pierce, J. Randall, E. Stein, A. Syphard, and S. Vanderplank. 2017. San Diego County: The ecological impacts of climate change on a biodiversity hotspot. California Climate Summit (Poster)
- Jennings, M.K.** and R.L. Lewison. *In Review*. Why do animals cross the road?: Characterizing wildlife crossing structures. *Biological Conservation*.
- Jennings, M.K. *In Press*. Bobcat. In: S. Tremor, W. Spencer, and J. Diffendorfer (eds), *The San Diego County Mammal Atlas*.
- Jennings, M.K. *In Press*. Gray fox. In: S. Tremor, W. Spencer, and J. Diffendorfer (eds), *The San Diego County Mammal Atlas*.

Curriculum Vitae

- Jennings, M.K. *In Review*. Faunal diversity in chaparral ecosystems. In: E.C. Underwood, H.D. Safford, N. Molinari, J.E. Keeley, and J. Hooper (eds), *The Ecological Value of Chaparral Landscapes: Ecosystem Services and Resource Management*.
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- Jennings, M.** and R. McCreary. 2016. An Overview of San Diego County's Ongoing Feral Pig Eradication Project. Proceedings of the 27th Vertebrate Pest Conference, Newport Beach, CA.
- Jennings, M.** and R. Lewison. 2013. Planning for connectivity under climate change: Using bobcat movement to assess landscape connectivity across San Diego County's open spaces. Technical Report.
- Jennings, M.** 2013. Landscape dynamics in southern California: Understanding mammalian carnivore response to fire and human development. Doctoral Dissertation
- Jennings, M.** R. Lewison, L. Lyren, E. Boydston. Assessing Connectivity in Ecological Networks: Effects of Land Use and Climate Change. 2014 Annual Meeting of the Western Section of The Wildlife Society. January 27-31, 2014. Reno, NV.

Synergistic Activities

1. International Urban Wildlife Conference 2017, Host Committee Member
2. Symposium Organizer – International Urban Wildlife Conference 2017: Connectivity in the Urban Environment; Natural Areas Conference 2016: Climate Change Impacts on Ecosystem Services and Climate Change Adaptation in Southern California
3. Climate Science Alliance – South Coast: Vision Team and Advisory Team Member, 2015 – present
4. California Landscape Conservation Cooperative: Stakeholder Committee Member (Representing Climate Science Alliance – South Coast), 2016 – present
5. San Diego State of the Science Assessment Team for California's 4th Climate Assessment: Co-organizer with Dan Cayan and Julie Kalansky (SIO), 2016 – present
6. Southern California Climate Adaptation Project: Stakeholder Advisory Committee Member, 2014 – 2016

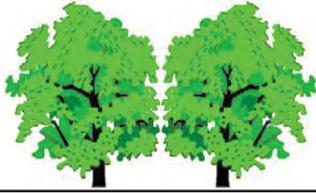
Curriculum Vitae

7. San Diego Monitoring and Management Program: Regular meeting attendee and workshop participant (Connectivity Strategic Plan Science Session, July 2014; Genetics for Monitoring and Management Workshop, December 2013; Fire and Wildlife Strategic Plan Workshop, March 2013)
8. Climate Kids: Featured scientist and developed Carnivores module for Climate Kids program in San Diego County, 2016 – present
9. National Center for Ecological Analysis and Synthesis: Open Science for Synthesis Training Participant, July – August 2014
10. San Diego Intergovernmental Feral Pig Working Group: Project Lead, 2013–2014
11. Invited lectures: Riparian Restoration Workshop – November 2016; Caltrans Connectivity Planning Workshop – January 2016; Buena Vista Audubon Society – January 2015; The 2nd Southern California Chaparral Symposium – June 2015; Fund for Animals Wildlife Center - November 2014; The Escondido Creek Conservancy – June 2014; San Diego Zoo Institute for Conservation Research - November 2013, May 2014; Friends of Hellhole Canyon – January 2014; Environmental Mitigation Program Working Group Meeting – November 2013, July 2015, November 2016; San Diego Tracking Team – September 2013; Torrey Pines Docent Association – June 2013; Friends of Los Peñasquitos Canyon – April 2013; San Diego Monitoring and Management Program – May 2012

Grants and Awards

- 2016-2019 California Department of Fish and Wildlife State Wildlife Grant – Climate Resilient Connectivity for the South Coast Ecoregion (\$180,000)
- 2016-2019 Wildlife Conservation Board – Climate Resilient Connectivity for the South Coast Ecoregion (\$250,000)
- 2016-2017 San Diego Association of Governments – SR-67 Connectivity Assessment (\$188,405)
- 2014-2017 California Department of Fish and Wildlife – Feral Pig Monitoring Grant (\$77,401)
- 2014-2015 Caltrans – Contract for Wildlife Monitoring of SR-67 (\$96,000)
- 2011-2012 Blasker-Miah-Rose Fund for Climate Change Research (\$68,000)
- 2010-2012 Achievement Rewards for College Scientists (ARCS) Scholar (\$14,000)
- 2009-2010 UC Davis School of Veterinary Medicine Wildlife Health Center Fellow (\$5,000)
- 2009-2010 San Diego State University – University Grants Program (\$9,970)
- 2008-2009 Collaborator funding, NSF – Emerging Infectious Disease Grant under co-PIs Dr. Kevin Crooks and Dr. Sue VandeWoude at Colorado State University (\$10,000)

EXHIBIT L



Twin Oaks Valley Community Sponsor Group

P.O. Box 455
San Marcos, Ca. 92079

Mr. Mark Wardlaw, Director
San Diego Co. Planning & Dev.
5510 Overland Ave. Suite 310
San Diego, CA 92123

Board of Supervisors
San Diego County Board of Supervisors
1600 Pacific Highway, Room 335
San Diego, CA 92101

April 22, 2017

RE: Multiple Species Conservation Program (MSCP)

Dear Director Wardlaw and Board of Supervisors,

The Twin Oaks Valley Sponsor Group would like the County to clarify the status of the proposed Newland Sierra development project in the North County (NC) MSCP. The Newland Sierra project is located in the Twin Oaks area and we have been told the draft EIR will be published soon. We have also attended recent meetings regarding the NC MSCP to better understand that planning process between the County and state and federal wildlife agencies. We have been told by County staff members that the Newland Sierra project will be part of the NC MSCP, but we have concerns that the project may be excluded as a private project. Please see the attached maps showing this.

At our regularly scheduled meeting on April 19, 2017, the sponsor group board voted unanimously (5-0-0) to send a letter to the County asking for clarification about this topic. We are formally asking if there are any pending or new private projects such as the Newland Sierra project and/or Lilac Hill Ranch project has been excluded from the NC MSCP? If yes for any project, what is the reasons why. Have the other agencies involved in the NC MSCP agreed with this? We would appreciate your clarification about the status of the Newland Sierra project and other development projects and the discussions between the agencies involved.

Thank you for looking into this topic. We look forward to your response.

Sincerely,

Tom Kumura, Chairman
Twin Oaks Valley Sponsor Group

FIRM / AFFILIATE OFFICES

Barcelona	Moscow
Beijing	Munich
Boston	New York
Brussels	Orange County
Century City	Paris
Chicago	Riyadh
Dubai	Rome
Düsseldorf	San Diego
Frankfurt	San Francisco
Hamburg	Seoul
Hong Kong	Shanghai
Houston	Silicon Valley
London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

May 17, 2017

VIA EMAIL AND FEDERAL EXPRESS

The Honorable Dianne Jacob, Chair
Board of Supervisors
San Diego County
1600 Pacific Highway Room 335
San Diego CA 92101

Re: Investigation Needed into Newland's Misleading Backroom Dealing For Its "Sierra" Project And Potential Implications For County Staff

Chairwoman Jacob and Members of the Board of Supervisors:

We represent the Golden Door Properties LLC (the "Golden Door"). Adjacent to the Golden Door's property, the Newland Real Estate Group, LLC ("Newland") has proposed a revised Merriam Mountains project, known as the "Sierra" project (the "Newland Project" or "Project"). Newland's proposal includes 2,135 residential units, 81,000 square feet of commercial development, a school, and various parks and equestrian facilities resulting in a population of over 6,000 residents, larger than the City of Del Mar.

We write today to request that the Board ensure that County staff does not advocate for the approval of the Newland Project with other public agencies, prior to the Board's own consideration of this previously rejected project.

Newland proposes to build its Project near Deer Springs Road in rural Twin Oaks Valley ("Project Site"), which is a crucial connection point for east-west and north-south connectivity for wildlife in the North County Multiple Species Conservation Program ("NC MSCP" or "Plan"). The Golden Door opposes the Newland Project and has corresponded extensively with staff members at the County's Department of Planning and Development Services ("County Planning Staff") regarding our concerns.

A few weeks ago, we were given documents from the U.S. Fish and Wildlife Service describing efforts by Newland and its allies to surreptitiously evade biological mitigation for the proposed Project and to undermine the NC MSCP. These documents only provide a limited view into Newland's actions, but they raise significant concerns about Newland's non-public negotiations with the U.S. Fish and Wildlife Service ("USFWS"), false claims Newland and its allies have made as part of such negotiations, and Newland's attempts to circumvent the proper channels at USFWS. The documents are attached as Exhibits A through E to this letter.

Newland may have involved in County Planning Staff in its actions, placing staff in a position where they appear to be the developers' advocates rather than neutral land use specialists processing projects for the public's benefit. If that is what has occurred, we do not believe it is appropriate for Newland to force County Planning Staff to advocate for proposed projects, especially where the Newland Project has been previously rejected by the Board, and conflicts with the County's General Plan and Subregional Plan adopted for this site in 2011.

We have only a limited view of these actions through the available documents. Therefore, we request that you ask staff to investigate these matters and determine whether Newland has recruited staff to advocate for its Project with other agencies prior to the Board's own consideration of the Project. It is possible that further investigation will vindicate the parties involved; however, based on the documents we have been able to review—attached to this letter—there is enough information to warrant further fact-finding on this matter.

The proposed Newland Project Site has high value biological characteristics and is an important part of the draft NC MSCP. We want to ensure that the public, including environmental groups and local communities, are part of any process to evaluate and mitigate for the biological impacts Newland's proposed development would cause on the Project Site.

I. FACTUAL BACKGROUND

A. Recently Obtained Documents Raise Concerns Regarding Newland's Efforts to Evade Biological Mitigation Outside of Public View

Our concerns regarding Newland's behind the scenes actions with regard to biological mitigation began when we obtained a copy of a "matrix" apparently prepared by a representative of the San Diego Building Industry Association ("BIA"). See **Exhibit A**. Newland's project manager and Vice-President, Rita Brandin, is also Vice-Chair of the BIA. We understand the BIA Matrix was provided to officials in the USFWS office in Washington, D.C., in an attempt to mislead the agency regarding USFWS's local Carlsbad office's negotiations with Newland regarding mitigation for the Project's biological impacts.

The BIA Matrix also appears intended to intimidate USFWS into refraining from commenting on development project in the California Environmental Quality Act ("CEQA") process—effectively implementing a gag order. It appears that when Newland was unable to convince USFWS's local Carlsbad office to eliminate important biological mitigation requirements for the Project, Newland, or San Diego BIA lobbyists acting on its behalf, attempted to go up the chain at USFWS in an effort to find a decision-maker less familiar with the facts on the ground who might be swayed by Newland's false statements.

Several attachments to the BIA Matrix are also attached here: a memo from Newland's Rita Brandin to the USFWS Regional Director in Sacramento (**Exhibit B**), a compilation of emails between Newland, the County, and USFWS and the California Department of Fish and

Wildlife (“CDFW”) (together with USFWS, the “Wildlife Agencies”) (**Exhibit C**¹), and letters from the Wildlife Agencies to the County regarding the Newland Project’s Notice of Preparation (“NOP”) (**Exhibit D** [USFWS], **Exhibit E** [CDFW]).

Our concerns about Newland’s efforts to evade biological mitigation appeared to be confirmed by materials provided *by County Planning Staff* at recent stakeholder meetings for the NC MSCP that show the Newland Project Site carved out of the NC MSCP as a “private project.” See **Exhibit F**.²

These maps (as proposed by County Planning Staff, apparently at Newland’s behest) show the Newland Project to be the *only unapproved project* and *the only project which conflicts with the County General Plan* to be carved out of the proposed NC MSCP and subject to different rules than the rest of the North County area.

B. NC MSCP Preparation and Purpose

Preparation of the NC MSCP has been ongoing for nearly 20 years now. The NC MSCP’s purposes include providing a regional, inter-connected preserve system and avoiding the need for project-by-project negotiations with multiple permitting processes. As such, it is critical that the NC MSCP be biology-driven and not provide special treatment for any particular developer. As part of the planning process, the County and the Wildlife Agencies have identified land with important biological characteristics, known as Pre-Approved Mitigation Areas (“PAMA”).

Protecting PAMA is critical to ensure conservation of contiguous blocks of habitat. We understand that a draft Plan, as proposed by the stakeholders, may be provided to the public later this year, and a Draft EIR for the NC MSCP may be published in 2018, with final approvals projected for 2020 and 2021. In addition to the County, the Wildlife Agencies must approve the NC MSCP before it takes effect.

During preparation of the Plan, projects proposed in the NC MSCP area are subject to an “interim process” outlined in a 2014 Planning Agreement signed by the County, USFWS, and CDFW. This interim process requires that projects be consistent with the NC MSCP’s preliminary species and habitat preservation goals and requires that project approvals not compromise the successful implementation of the NC MSCP. As such, consideration of NC MSCP consistency and goals is an integral part of any development project’s CEQA review for biological impacts and comments from the Wildlife Agencies—even before the Plan has been completed.

¹ We do not know the source of the highlighting and hand-written notes throughout the email compilation in Exhibit C or the highlighting in the memorandum in Exhibit B.

² Exhibit F is a copy of a slide from a PowerPoint presentation provided by the County showing Newland Project as the only unapproved project being pulled out of the NC MSCP. Exhibit F also contains two draft NC MSCP maps showing the Newland Project Site removed as a “private project.”

C. The Merriam Mountains/Newland Project Site

The proposed Newland Project is located on the same site as the failed Merriam Mountains project—approximately 2,000 acres in rural North County between Deer Springs Road and Gopher Canyon Road along the west side of I-15. The Project Site is located in Planning Unit 9 of the NC MSCP (San Marcos-Merriam Mountains Core Area) and sits on one of only two remaining large blocks of natural habitat west of I-15 in PAMA. A portion of the Project Site is located in Resource Conservation Area 23 of the North County Metro Community Plan. Draft NC MSCP habitat evaluation maps indicate that habitat on and adjacent to the Newland Project Site are moderate, high, and very high quality habitat. See **Exhibit G**.

D. The Board of Supervisors' Decisions to Keep the Project Site Rural: The Failed Merriam Mountains and the General Plan Update

The Merriam Mountains project, considered by the Board in 2010, proposed approximately 2,600 homes on the Project Site, which was zoned for just over 300 homes at that time. In 2005, the Merriam Mountains developer entered into a “Hardline Points of Agreement” with the County, USFWS, and CDFW (then titled California Department of Fish and Game) to allow for that project’s biological impacts. See **Exhibit H**. This 2005 “Hardline Points of Agreement” provided that, among other provisions, (1) the County was required to amend its Resource Protection Ordinance (“RPO”) to allow for the project design, (2) the project’s density would be consistent with the zoning in the General Plan Update, and (3) the developer would purchase an off-site mitigation property known as the “Captains Associates property.”

The Board rejected the Merriam Mountains project and refused to amend the prior General Plan to accommodate the development. Then in 2011, the Board approved its General Plan Update that *down-zoned* the Project Site to accommodate only approximately 100 homes and decided that the area should be preserved as rural lands. In both instances the Board has voted on the density for this site in the past decade, the Board has voted to maintain the site’s rural nature and protect its biological value.

E. The Proposed Newland Project’s Background

Despite the Board’s consistent votes to keep Twin Oaks Valley rural, Newland now seeks a General Plan Amendment to add a development that is larger than the City of Del Mar.

The County published its NOP for the Newland Project in February 2015. The Wildlife Agencies provided comments on the Newland Project’s NOP, emphasizing the importance of the Project Site within the NC MSCP for connectivity purposes. The Wildlife Agencies’ NOP letters raise several specific points regarding the site’s biological importance:

- (1) the Project and areas on all sides are identified as PAMA in the NC MSCP;
- (2) the proposed Project sits on one of only two remaining large blocks of natural habitat west of I-15 in PAMA;

(3) habitat evaluation maps for the draft NC MSCP indicate habitat on and adjacent to the Project Site are moderate, high, and very high quality habitat;

(4) north-south habitat connectivity along I-15 is important for the NC MSCP; and

(5) development on the Project Site could fragment core habitat planned to connect designated preserve areas.

See Exhibits D, E. In addition, the Wildlife Agencies proposed alternatives in which Newland would remove its development along the I-15, which would allow for some continued north-south connectivity on the Project Site.

On May 7, 2015, County Planning Staff issued a Scoping Letter for the Newland Project, which addressed the Project's consistency with the NC MSCP as a "major project issue."³ The Scoping Letter concedes that no hardline agreement has been approved for the Newland Project, noting that "if the Wildlife Agencies Hardline Agreement is not approved, the project would be required to comply with the North County Plan and its requirements for projects in [PAMA], including avoidance of critical populations of sensitive species and adherence to preserve design and linkage principles. If the North County Plan has not been approved prior to the project moving forward, the project will require compliance with the Habitat Loss Permit (HLP) Ordinance and the County and Wildlife Agencies Planning Agreement." Scoping Letter at 4.

Nearly a year after publishing its NOP, Newland submitted a revised Specific Plan and grading plans. The County published these documents on its website but did not issue a new NOP or provide any notice that the Project had been revised. Now, almost two-and-a-half years after publication of the Project's NOP, no further CEQA documentation has been published, and the public is unaware of any further changes the developer may have made.

II. NEWLAND'S APPARENT EFFORTS TO EVADE REQUIRED BIOLOGICAL MITIGATION

Unfortunately, based on available documents, it appears that Newland has used this time to engage in backroom dealing and attempts to weaken environmental protection requirements without any opportunity for public review or comment.

Based on our review of the available documents, it appears that Newland has pursued aggressive negotiations with the Wildlife Agencies to revive the 2005 "Hardline Points of Agreement" even though the Wildlife Agencies agreed, and the County admits, that the Newland Project is a "new" project with no approved hardline agreement. Newland has argued to the

³ The Scoping Letter is part of the County's files for the Newland Project and available online at <http://www.sandiegocounty.gov/content/dam/sdc/pds/regulatory/docs/newlandsierra/NewlandSierraScopingLetter.pdf>.

Wildlife Agencies that its Project is the same project as Merriam Mountains and has fought USFWS's mitigation proposals.

Further, the conditions of the 2005 "Hardline Points of Agreement" do not appear to have been fulfilled: (1) the County has not amended its RPO consistent with that agreement, (2) the Project is inconsistent with the 2011 General Plan Update because it proposes more than 20 times the allowed residential density, and (3) there is no evidence Newland has purchased the "Captains Associates property" which was specifically identified in this agreement as essential mitigation.

It appears that Newland's failure to convince the local USFWS office in Carlsbad to rely on an unfulfilled "points of agreement" for the defunct Merriam Mountains project caused Newland's lobbyists to go over the heads of the Carlsbad office to the USFWS Regional Office in Sacramento and to the USFWS office in Washington, D.C. From the material we have reviewed, Newland or lobbyists on Newland's behalf have seemingly fed these offices false information in an attempt to short-circuit the orderly preparation of the NC MSCP and CEQA review of the Newland Project's biological impacts.

In particular, the BIA Matrix and its attachments, which were provided to the USFWS office in D.C., includes multiple false statements about the Newland Project, including:

- (1) that there is an existing hardline agreement for the project (Exhibits B, C);
- (2) that the underlying land use designation on the Project Site is "largely unchanged" from when the Merriam Mountains project was considered and rejected (Exhibit B); and
- (3) that the USFWS Carlsbad office is requiring Newland "suspend" their project. (Exhibit C.⁴)

These assertions are simply false. As described above, there is no valid hardline agreement for the Project. Additionally, the underlying zoning on the Project Site has been cut to one-third of the prior allowance for residential; it is not "largely unchanged." Finally, the USFWS Carlsbad office told Newland they could go through the typical permitting process if they did not want to pursue the proposed off-site mitigation. Exhibit C.⁵ Any "suspension" of

⁴ Accusations that the Carlsbad USFWS offices are trying to "suspend" the Newland Project are included in an email exchange between consultant Steve Thompson and USFWS staff member Mendel Stewart on October 10 and 11, 2016.

⁵ References to the typical permitting process are included in an email exchange between Steve Thompson and Mendel Stewart on October 10 and 11, 2016. Further, the County's May 7, 2015 Scoping Letter for the Project indicates that Newland will need to obtain a Habitat Loss Permit if the NC MSCP is not completed prior to Project approval.

the Project is due to Newland's refusal to provide adequate on and off-site mitigation, not any action by the local USFWS office.

In fact, the BIA Matrix's false statements about the Newland Project, and about other projects, warranted a letter from the Endangered Habitats League—a long-time stakeholder in the NC MSCP process—titled “Correcting the Record,” which addresses the BIA Matrix's numerous falsehoods, attached hereto as **Exhibit I**.

In addition, it is troubling that the BIA matrix criticizes the local USFWS office for providing NOP comments on the Newland Project. *See* Exhibit A. Any attempt to silence an agency responsible for environmental protection from commenting on a development project is contrary the spirit of open public processes. Why would an expert agency not provide input within its realm of expertise? Moreover, why is Newland so concerned about what these wildlife experts working for the public good would say about their proposed Project?

It is also concerning that County Planning Staff is mentioned in and included on several of the email exchanges between Newland and USFWS, raising the question of the degree to which Newland is attempting to improperly involve County Planning Staff as a project-advocate behind closed doors for a project that contradicts the County's General Plan. Such activity would go far beyond merely processing a project, and any attempt by Newland to drag County Planning Staff into its closed door dealings should be investigated and disclosed to the public.

It is important that the Board and the public understand the process by which Newland has sought to minimize its biological mitigation requirements—and the degree to which Newland involved County Planning Staff in such efforts. Project design and mitigation are supposed to be developed through a public process under CEQA. It is unclear what actions Newland has taken, and forced County Planning Staff to take as advocates of the Project, in the almost two and half years since submitting its application, but the limited records we have been able to review indicate a process that is not transparent. Newland's efforts have attempted to minimize biological protection without the public knowing about it.

We hope you are able to provide additional information and an open and fair public process to evaluate this information.

III. NEWLAND'S ATTEMPTS TO OBTAIN SPECIAL TREATMENT IN THE NC MSCP AS A “PRIVATE PROJECT” “CARVE OUT” DESPITE BEING INCONSISTENT WITH THE COUNTY'S GENERAL PLAN

Materials recently provided to NC MSCP stakeholders by County Planning Staff show the Newland Project Site carved out of the NC MSCP as a “private project.” *See* Exhibit F. The Newland Project is the *only unapproved project* given such treatment. This “carve out” raises questions as to why this project that contradicts the County's General Plan would receive such special treatment when County Planning Staff has already determined in its May 7, 2015 Scoping Letter that the Project must comply with the NC MSCP.

The removal of the Project Site from the draft Plan would pre-determine the analysis and mitigation of biological impacts without an opportunity for public participation. The NC MSCP is not likely to be approved for several years, after the projected date for the Board's consideration of the Newland Project. The County and the Wildlife Agencies are required to consider the consistency of any proposed project with the NC MSCP's principles. Prematurely carving the Newland Project of the draft NC MSCP without any public process, therefore, prejudices consideration of the Project's biological impacts. This cart-before-the-horse approach is improper—especially here where the Board has voted to keep this Project Site rural.

Further consideration of the Newland Project's biological impacts without reference to its connectivity and importance for fulfillment the NC MSCP's goals would be incomplete and not provide adequate information to the public or decision-makers. Newland should not be able to avoid the NC MSCP's protections for PAMA and wildlife connections by seeking special treatment without any opportunity for public review and input before the Board takes any action.

The Wildlife and Habitat Conservation Coalition (“WHCC”), a group of environmental groups including many longtime stakeholders in the NC MSCP process, share this concern, as described more fully in a letter the WHCC submitted to the Board last month. *See Exhibit J.* The WHCC letter emphasizes (1) the need to for County Planning Staff to respect the General Plan in developing the NC MSCP and (2) that the Newland Project Site reverted to PAMA after rejection of the Merriam Mountains project. In accordance with WHCC's concerns, Newland should not be able to avoid the NC MSCP's protections for PAMA and wildlife connections by seeking special treatment without any opportunity for public review and input.

Protection of the Newland Project Site as PAMA carries significant biological importance, because it is one of only two remaining large blocks of natural habitat west of I-15 in PAMA.⁶ Carving the Newland Project out of the NC MSCP for a hardline agreement would itself violate the purpose of the NC MSCP. Additionally, carving out the Newland Project Site is particularly contradictory here, because Newland has failed to provide any of the additional biological protection measures that were supposed to accompany the 2005 “Hardline Points of Agreement” for the defunct Merriam Mountains project. Newland has not acquired the specified “Captains Associates” off-site mitigation property, it has not obtained an amendment from the County to the RPO, and its development proposal is not consistent with the County's General Plan. *See Exhibit H.*

Moreover, Newland's efforts to obtain a special carve out from the NC MSCP have occurred out of public view and without the input of local communities, including the County sponsor groups, which exist for the purpose of informing the County's decision-making process for land use matters in their local communities. The Twin Oaks Valley Sponsor Group (“TOVSG”)—which is responsible for land use recommendations over most of the Newland Project Site—was left out of the process. In fact, the TOVSG made a special request to the

⁶ *See Exhibits D, E.* In addition, a report prepared by Megan Jennings, Ph.D., at the request of the Golden Door further demonstrates the biological value of the Newland Project Site and its importance for wildlife connectivity throughout North County. The report is attached as **Exhibit K.**

County inquiring about the purported NC MSCP carve out for the Newland Project.⁷ If any biological analysis for the Newland Project is occurring outside of the Project's own approval process, there should be a full CEQA review, including the requisite public input, for the Newland Project's biological impacts as part of the NC MSCP—and the Project's EIR should not be approved until the completion of any such separate process.

The County's General Plan was approved by the Board of Supervisors in 2011 after spending millions of dollars and facilitating a decade-long process with significant public input to determine the blueprint for the County's growth and development. Simply put, Newland's proposed project contradicts that blueprint by dropping a population the size of the City of Del Mar in an area with significant biological value that the Board has twice voted should remain rural. To now carve out a special exemption from the NC MSCP—and to do so without any public review or input—would starkly contradict the letter and spirit of the law, smart planning principles, due process, and efficient use of public resources.

We request that the Board direct County Planning Staff not to pursue any proposed special designation for the Newland Project Site in the NC MSCP prior to the Board's own consideration and any County approval or rejection of Newland's Project, and to publicly disclose Newland's efforts to obtain this backroom benefit.

IV. NEWLAND'S PATTERN OF OBFUSCATION AND HYPOCRISY

Newland filed its application with the County almost two and a half years ago. Since that time, they have apparently given contradictory statements in public and private and have sought to avoid public disclosure as much as possible.

- A year after filing its initial application Newland submitted a new Specific Plan and new grading plans to the County but refused to recirculate the Project's NOP or provide any public notice.
- Newland insists the re-design and reconstruction of the Caltrans interchange at I-15 and Deer Springs Road be evaluated in a separate process after the County considers the Project, even though the interchange re-design is triggered by Project-generated trips.
- When the Golden Door requested its biologist have supervised limited access to the Project Site, Newland refused, offering only a short, guided in-vehicle tour that could not accommodate biological investigation.

⁷ A letter from the TOVSG to the County requesting clarification of the Newland Project Site's status within the NC MSCP is attached as **Exhibit L**.

- Newland has also omitted from its grading plans critical impacts that are part of Newland's proposed widening of Deer Springs Road.⁸

In short, Newland has provided little information to the public or opportunities for public input over the nearly two and a half years that the County has been processing this Project.

Further, in attempting to negotiate less protective biological mitigation requirements with USFWS, Newland claimed that its project is the same as the Merriam Mountains project and should be able to rely on the 2005 "Hardline Points of Agreement." Yet, in public, Newland has adamantly denied it is the same project as the failed Merriam Mountains project.

In fact, Newland's Vice President and project manager, Rita Brandin, stated in an August 2014 article, "I believe that Newland's approach to planning is distinctly different than the prior developer." *Merriam Mountain Plans Receiving Mixed Reviews*, THE COAST NEWS, INLAND EDITION, Aug. 1, 2014. Yet, in a memorandum from Ms. Brandin to USFWS staff at the regional office in Sacramento, Ms. Brandin complains that Newland "is at an impasse with Service staff" due, in part, to the fact that "[USFWS] staff dismissed the relevancy of the prior Points of Agreement, maintaining that Newland was required to begin the permitting process as a **new project**." Exhibit B at 1-2 (emphasis added).

Now that Newland is telling state and federal wildlife agencies that it is not proposing a "new" project and is instead simply renewing the same project as previously rejected by the Board, why is the County even wasting public resources to process it?

Newland's renewed Merriam Mountains application has the same flaws which caused the Board to reject it in 2010. In explaining his vote against the Merriam Mountains project, Supervisor Roberts noted that the project suffered from too much 20th century planning: "Housing development will become much more urban, providing amenities the communities want and ask for, and transit connections that do more than just a token job of offering people transportation alternatives besides the automobile."⁹ Like the failed Merriam Mountains project, the Newland Project is located on the same Project Site far from urban and employment centers, which will require long automobile trips. Even as more transit options have developed County-wide since the Board considered the Merriam Mountains project, including the Bus Rapid Transit program ending in Escondido on I-15, Newland's renewed proposal includes no

⁸ Reports from Delane Engineering demonstrate these issues, have been submitted to the County by the Golden Door, and are on file with County Planning Staff. In addition, Delane presented this work to County Planning and Public Works Staff.

⁹ Supervisor Roberts' press release explaining his vote against the Merriam Mountains project is available on his website at <http://www.ronroberts.com/content/d4/en/media/mediacenter/mmountain.html>. "My own personal feeling is that the communities of the 21st century are going to be very, very different . . . they are going to have, as an integral part, public transit. They are going to be lower in their impacts in every way shape or form." Alison St. John, *Roberts Votes to Scuttle Merriam Mountain Project*, KPBS.ORG (Mar. 24, 2010).

provision for transit connections. Further, the Project itself is designed with a small commercial center in the extreme southeast corner, but most of the residential units are located far away across steep grades through curving internal loop roads sprinkled with cul-de-sacs.

The Newland Project poses the same 20th century planning problems as the previous Merriam Mountains project, yet Newland (apparently working with County Planning Staff) conveniently emphasizes its differences in public while disingenuously attempting to rely on the prior project's "agreements" to lobby for special benefits behind closed doors with federal and state wildlife agencies.

V. NEWLAND'S POTENTIAL INVOLVEMENT OF COUNTY PLANNING STAFF

It is unclear from the documents obtained to what degree Newland involved County Planning Staff in its attempts to avoid biological mitigation requirements. It is apparent, however, that Newland included County Planning Staff in some of its email correspondence and meetings with USFWS. *See* Exhibit C.¹⁰ It is also unclear what involvement, if any, County Planning Staff had in preparation or presentation of the false and misleading BIA Matrix. None of these documents were provided to us in our prior public record act requests to County staff about Newland's project.

We hope you will investigate these matters and provide the public additional information as to County Planning Staff's role, if any, in Newland's actions in lobbying these other agencies. County Planning Staff should also be asked to stop any lobbying of other agencies to persuade them to exclude Newland's project from the pending draft NC MSCP. Prior to Board action on the Project and any County approval, it is improper for Newland to place County Planning Staff in the position of project advocates before other agencies. County Planning Staff should not be asked to advocate for an unapproved development proposal that contradicts the County's General Plan and is located in an area that the Board has twice voted to keep rural.

¹⁰ A November 18, 2015 email from USFWS staff member Karen Goebel is addressed to Rita Brandin and County Planning Director, Mark Wardlaw; a January 15, 2016 email exchange between Mendel Stewart and Rita Brandin copies Mark Wardlaw; a October 10, 2016 email from consultant Steve Thompson refers to a "County rep;" and a September 9, 2015 email from County Planning Staff member Ashely Gungle to Rita Brandin forwards an email from Karen Goebel to Mark Wardlaw.

VI. CONCLUSION

Thank you for your time and attention to our comments. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Mark Wardlaw, County Planning and Development Services
Darin Neufeld, County Planning and Development Services
Mark Slovic, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Peter Eichar, County Planning and Development Services
Crystal Benham, County Planning and Development Services
Karen A. Goebel, USFWS
Mendel Stewart, USFWS
Gail K. Sevrens, CDFW
Tom Kumura, Twin Oaks Valley Sponsor Group Chair
Margarette Morgan, Bonsall Sponsor Group Chair
Wayne Dauber, Hidden Meadows Sponsor Group Chair
Dan Silver, Endangered Habitats League
Laura Hunter, Wildlife and Habitat Conservation Coalition
George Courser, Sierra Club San Diego
Doug Hageman, Newland
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
Mark Dillon, Gatzke Dillon & Balance
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Andrew Yancey, Latham & Watkins



County of San Diego

MARK WARDLAW
DIRECTOR

PLANNING & DEVELOPMENT SERVICES
5510 OVERLAND AVENUE, SUITE 310, SAN DIEGO, CA 92123
(858) 694-2962 • Fax (858) 694-2555
www.sdcountry.ca.gov/pds

June 5, 2017

Latham & Watkins LLP
Christopher W. Garrett
12670 High Bluff Drive
San Diego, CA 92130

RESPONSE TO "INVESTIGATION NEEDED INTO NEWLAND'S MISLEADING BACKROOM DEALING FOR ITS 'SIERRA' PROJECT AND POTENTIAL IMPLICATIONS FOR COUNTY STAFF"

Dear Mr. Garrett,

At the request of the County Board of Supervisors and Chief Administrative Officer Helen Robbins-Meyer, Planning & Development Services (PDS) is responding to your May 17, 2017 letter titled "Investigation Needed into Newland's Misleading Backroom Dealing for Its 'Sierra' Project and Potential Implications For County Staff."

Background

As you know, the County is currently processing an application submitted by Newland Sierra LLC for a proposed development project (Project) located north of Deer Springs Road, directly west of Interstate 15 in the North County Metropolitan Subregional Plan and Bonsall Community Plan areas, within unincorporated San Diego County. The Project includes a General Plan Amendment, Specific Plan, Rezone, and Tentative Map to subdivide approximately 1,985 acres into 2,135 dwelling units, 81,000 square feet of commercial space, a 6-acre school site, approximately 36 acres of public and private parks, 19 miles of trails and approximately 1,209 acres of biological open space. While the Project is located on a site similar to that on which the former Merriam Mountains project was proposed, it is a new application and includes a new project description.

County's Role in the Process

As the lead agency, PDS completes an independent evaluation of private land development applications, including the Project, for compliance with applicable County, State and Federal laws, regulations and ordinances. As such, PDS is not an advocate for or against the Project, but acts in an independent regulatory capacity as the lead agency for the Project. Based on its independent evaluation of the Project's compliance with applicable requirements, PDS will

formulate a recommendation for the Planning Commission and then the Board of Supervisors (Board) who has the ultimate authority to (i) certify or decline to certify an Environmental Impact Report (EIR) for the Project; and (ii) approve or deny the Project. In addition, and as described more fully below, during the processing of the Project by the County, there will be extensive opportunities for public review and comment, including input from the appropriate community/ sponsor group, public review and comment of the Draft EIR, and public hearings held by both the Planning Commission and the Board about the Project and the evaluation. This is in addition to the public EIR scoping meeting and Notice of Preparation (NOP) public review period that have already occurred for the Project.

As part of the County's independent evaluation of projects, PDS consults with other agencies which may have additional permitting authorities. Your letter raises concerns that PDS staff are included on emails between the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) (collectively referred to as Wildlife Agencies) and the applicant. However, it is common practice for the County, a project applicant, and the Wildlife Agencies to communicate where a project will require approvals and/or concurrence from both the County and the Wildlife Agencies. It is also standard practice for the County to elevate issues within an agency to pursue issue resolution. The County's role in communicating with other agencies does not include advocating or lobbying these agencies to approve projects. The County has not traveled to the USFWS Regional Office in Sacramento or to the USFWS office in Washington, D.C. on behalf of the project applicant to circumvent working with the local USFWS Carlsbad Office.

While the County facilitates the public input process and consults with outside agencies, it should be clarified that the Building Industry Association (BIA) is independent from the County. None of the analysis or determinations made by PDS were based on the BIA matrix nor did the County have any involvement in its preparation. Lastly, PDS recovers the full cost of services related to the processing land development permit applications through deposit accounts that are paid for by project applicants. PDS does not use public funds to process permit applications.

Public Participation in the Process

A Draft EIR is being prepared for the Project by the applicant and will be released for a 60-day public review and comment period. All public comments received during the comment period are responded to and included in a Final EIR to be presented to the Planning Commission and Board at noticed public hearings for consideration and action. The Project will also likely require permits from the California Regional Water Quality Control Board and the U.S. Army Corps of Engineers and will, therefore, also likely undergo public review in accordance with the National Environmental Policy Act (NEPA).

Impacts to biological resources are studied as part of the California Environmental Quality Act (CEQA) and NEPA processes and appropriate mitigation is required to be provided. Through analysis of the biological resources onsite, it has been determined that the Project will result in impacts to Diegan coastal sage scrub (CSS) and result in the need for "take" of the California gnatcatcher, a federally listed threatened species. In accordance with the Endangered

Species Act (Act), there are currently three options for the Project to pursue take authorization for the California gnatcatcher including: (i) obtaining a Section 7 permit; (ii) obtaining a Section 10 permit; or (iii) through the issuance of and concurrence on a Habitat Loss Permit (HLP) in accordance with Section 4(d) of the Act, State Natural Community Conservation Planning (NCCP) Act Conservation Guidelines and Process Guidelines, and the County's HLP Ordinance implementing the 4(d) process. The applicant's pursuit of these permits requires the County's involvement with and determinations by the Wildlife Agencies.

Multiple Species Conversation Program – Draft North County Plan (Draft Plan)

The Project is also located within the planning area for the Multiple Species Conservation Plan – Draft North County Plan (Draft Plan), a regional multi-species Habitat Conservation Plan (HCP) and NCCP currently being prepared for consideration and approval by the Board and the Wildlife Agencies. Should the Draft Plan be approved, it would provide a fourth option for the Project to pursue take authorization for the California gnatcatcher.

As part of the effort to develop the Draft Plan, the County is conducting stakeholder outreach and engagement to gather input and feedback from interested parties as we work with the Wildlife Agencies to develop the Draft Plan. The County intends to release a public review of the Draft Plan and kick-off scoping for the environmental documentation process by the end of 2017, including the issuance of a NOP.

Currently, the County shows the Project site as a proposed “hardline” (preserve and development area defined) project within the Draft Plan. As was done in the previous public review of a prior iteration of the Draft Plan that was released in 2009, the anticipated public review of the Draft Plan will include supplemental information within an appendix that explains and justifies why certain projects were included as proposed hardlines. Information provided below indicates some of the rationale for including proposed hardline projects, which will be fully articulated in the public review of the Draft Plan that is anticipated for release at the end of 2017. It should also be noted that although the Wildlife Agencies accepted a hardline for the former Merriam Mountains project, this Project does not propose to revise or rely upon that hardline, but instead proposes a new hardline based on the current proposed Project.

In order for a project to be included as a hardline within the approved Multiple Species Conservation Plan – North County Plan (Final Plan), the project footprint to be developed and the footprint to be preserved, including any offsite mitigation areas, must be concurred upon by the Wildlife Agencies, the project proponent, and the County. While the Project is the only proposed project included within the current Draft Plan that has not yet received Board approval, inclusion of the Project in the Draft Plan does not, in any manner, indicate County support for the Project or provide the Project with an approval advantage. The Project will separately need Board approval as required by applicable laws and ordinances, and if it is denied by the Board or significantly revised, it will be removed or modified within the Draft Plan. In addition to the Board's required approval of the Project, the Wildlife Agencies will also need to approve take, either through the incidental take permit for the Final Plan or via one of the other options listed above.

The Project's inclusion in the Draft Plan reflects the County's view that the Project's proposed development footprint and open space preserve area should be considered within the conservation analysis for the Draft Plan but does not give the project any preferential treatment or eliminate any mitigation requirements. A fundamental piece of the Draft Plan will be a conservation analysis that forms the scientific basis upon which the Wildlife Agencies will base their biological opinions and findings in order to issue the County an Incidental Take Permit per the Act. The conservation analysis is currently in a working draft form that includes a preliminary analysis of potential impacts in the planning area, as well as an analysis of potential build-out of a preserve through mitigation, avoidance, and land acquisition. In order to complete this analysis, the County conducted an assessment of potential projects that are currently expected to occur within the planning area for the Draft Plan.

The main purpose of identifying projects and including them as proposed hardlines is so they can be properly incorporated in the conservation analysis of the Draft Plan. Inclusion of the Project as a proposed hardline does not exempt the project from or eliminate the need for the Project to provide mitigation for its biological impacts under either the Act or CEQA. In conducting the preliminary conservation analysis, County biologists believe that the open space design and future preservation of the 1,209 acres of land that the Project proposes complements the anticipated preserve and Pre-Approved Mitigation Area for the Draft Plan. As a result, the Project has been included in the Draft Plan and, to be included in the Final Plan, the Wildlife Agencies must concur. The Final Plan will also have to be approved by the Board.

The County appreciates your interest in the evaluation of the Project application and the formulation of the Draft Plan. You have been included on PDS's notification list to receive a notice of the availability of public review of the Draft EIR for the Project. We look forward to receiving additional comments from the Golden Door on the Draft EIR when it is released. If you have any questions about the Project, please contact the Project Manager, Ashley Smith at (858) 495-5375 or Ashley.Smith2@sdcounty.ca.gov or Planning Manager, Mark Slovick at (858) 495-5172 or Mark.Slovick@sdcounty.ca.gov.

Sincerely,



MARK WARDLAW, Director
Planning & Development Services

cc: County Board of Supervisors
Helen Robbins-Meyer, Chief Administrative Officer
Sarah Aghassi, Deputy Chief Administrative Officer
William Witt, County Counsel
Victor Avina, Policy Advisor, District 1
Adam Wilson, Policy Advisor, District 2
Jason Paguio, Policy Advisor, District 3

Christopher W. Garrett

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Adrian Granda, Policy Advisor, District 4
Melanie Wilson, Policy Advisor, District 5
Michael Fris, Assistant Regional Director, USFWS
Mendel Stewart, Field Supervisor, USFWS
Karen A. Goebel, Assistant Field Supervisor, USFWS
Ed Pert, South Coast Regional Manager, CDFW
Gail K. Sevrens, Environmental Program Manager, CDFW
Andrew Yancey, Latham & Watkins
Dan Silver, Endangered Habitats League
Denise Price, Clay Co.
Doug Hageman, Newland
George Courser, Sierra Club San Diego
Kathy Van Ness, Golden Door
Laura Hunter, Wildlife and Habitat Conservation Coalition
Mark Dillon, Gatzke Dillon & Balance
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
Stephanie Saathoff, Clay Co.
Bonsall Community Sponsor Group
Hidden Meadows Community Sponsor Group
Twin Oaks Valley Community Sponsor Group

- Voice of San Diego - <https://www.voiceofsandiego.org> -

Oasis for the Wealthy, Golden Door, Fights Housing Project That Just Won't Die

Posted By *Ry Rivard* On January 11, 2017 @ 7:00 am

At the Golden Door, a Japanese-style resort near San Marcos, koi circle a pond slowly and green grass welcomes the wind.

Thirty miles away, at the law offices of Latham & Watkins, the Golden Door's legal team is less tranquil. They have fired off hundreds of pages of letters and lawsuits aimed at thwarting the plans of the resort's nearest neighbor, Newland Communities.

Newland wants to build a 2,100-unit housing development, called Newland Sierra, across the street and up a hill from the Golden Door. That project, the Golden Door says, is an existential threat to the resort.

For 50 years, the Golden Door has catered to the world's rich or famous – Oprah, Elizabeth Taylor and Joanne Conway, who went to the resort many times before she bought it in 2012 for \$25 million ^[1]. Conway is the wife of a billionaire co-founder of the Carlyle Group ^[2].

The resort has faced threats before, from other nearby developments and fire. Now it's preparing to fight Newland's project in front of a developer-friendly County Board of Supervisors in the middle of a housing crisis.

Less than a decade ago, the board rejected a similar plan for the same property known as Merriam Mountains. Like the 1,700-home Lilac Hills Ranch master-planned development near Valley Center that was defeated last fall by county voters ^[3], Newland's plans require an amendment to the county's general plan, which must be approved by either county supervisors or voters.

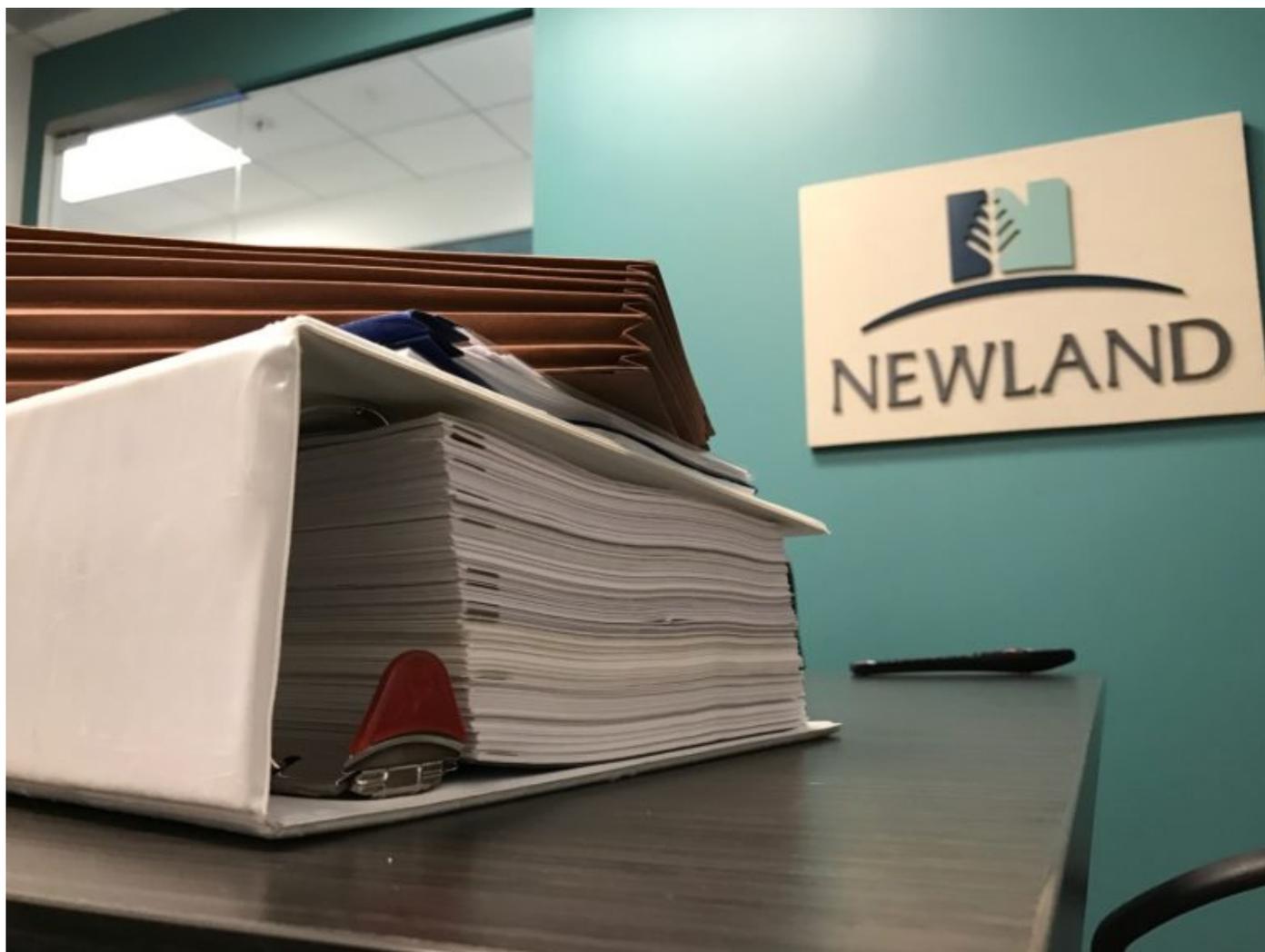
Between the Golden Door's 600 acres and Newland's 1,985 acres sit two things: narrow Deer Springs Road and a whole different way of seeing the world.

The resort's general manager, Kathy Van Ness ^[4], said Newland is like other developers asking to tear up rural San Diego County. They'll ruin not just the Golden Door but what's left of the wildland, turning everything out there into a series of gas stations and convenience stores.

"The Golden Door dies, and this'll be a housing development, too," Van Ness said, lamenting the thought of it as she led me on a tour that included stops in front of beautiful paintings [5] from 19th century Japan.

For Van Ness, experience is everything. When I went to visit, I somehow missed the grand golden entrance and ended up at the service entrance with a gardener and the housekeeping staff. Van Ness told me to go back and walk along the elevated boardwalk to enter as one rightly should.

Newland also believes it's selling experiences, though to a far larger audience. If built as planned, their Newland Sierra project would be home to 6,000 people. That'd be more people on that now-undeveloped, occasionally rocky bit of land than presently live in the city of Del Mar.



[6]

Photo by Ry Rivard

Rita Brandin, Newland's senior vice president, wonders why the Golden Door thinks it gets to dictate what happens there. She said part of the land Newland wants to develop is already zoned for commercial property and Newland isn't setting up shop in the middle of nowhere. It's close to other developments, not to mention I-15. She accuses the Golden Door of "bullying" her project.

"We aren't the Goliath in this one," Brandin said. "We're the David."

That's a reference to Conway, the Golden Door's deep-pocketed owner.

Conway bought the Golden Door from the Blackstone Group, a private equity firm. The resort, founded by San Diegan Deborah Szekely, had been somewhat stripped of its originality by then – the Golden Door name was being used at resorts in Puerto Rico and near Scottsdale, Ariz. To bring back the magic ^[7], Conway spent millions restoring it and buying some adjacent land.

Conway brought in Van Ness, who was formerly president of the fashion company Diane Von Furstenberg, with a mandate to protect the Golden Door brand while expanding its reach. Now, instead of putting the Golden Door name on other locations, Van Ness puts the resort's name or logo ^[8] on \$14 bars of soap, \$18 tins of gluten-free ginger cookies and \$28 baby bibs that say, "Future Golden Door Guest." Perhaps on account of its owner's deep pockets, the resort pledges to give away all of its profits ^[9].

That business, though, could now depend not on its own management but on what happens across the road.

One of Golden Door's biggest fears is that the traffic created by Newland Sierra will turn Deer Springs Road into a six-lane highway, ruining any hope of silence at a place that sells it. The road is already filled with cars using a shortcut to avoid clog on the I-15. Their noise is also already there, if still yet tolerable.

"Just put the road somewhere else," Van Ness said. The resort hired an engineering firm to come up with a plan to do just that. That plan calls for a new road to be put through Newland's property.

If this all sounds a bit familiar, it is. Another company, Stonegate, was trying to develop the same property not that long ago. In 2010 ^[10], County Supervisor Ron Roberts cast the deciding vote to kill the project, then 500 homes larger and known as Merriam Mountains. Now, as then, the project needs the board's approval because it requires an amendment to the county's general plan.

Roberts' current views are unknown and they may be for a while longer. It's unlikely the board will have the Newland project in front of it for a vote until at least the end of the year.

Golden Door is doing what it can to push that date back as far as possible. In October it filed two lawsuits that could provide separate roadblocks for Newland.

The first, filed Oct. 24, is against the Vallecitos Water District and Newland for being unable to verify that there's enough water for Newland Sierra's future residents – a problem that appears to exist solely on paper ^[11]. The second, filed Oct. 26, is against the county for having a flawed environmental planning process that doesn't do enough to help curb climate change.

Golden Door sent a letter in 2014 to oppose Lilac Hills. While it wasn't a direct threat to the Golden Door, the letter was a shot across the bow to other backcountry developers.

Golden Door has found some allies in that fight, including Dan Silver, head of the Endangered Habitats League, which often opposes major new development in North County and East County.

"They've made the connections between their specific issue and the larger issue that's facing San Diego, which is whether to sprawl into rural areas or whether to pursue a more city-centric pattern of development," he said.

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URL to article: <https://www.voiceofsandiego.org/topics/land-use/oasis-for-the-wealthy-golden-door-fights-housing-project-that-just-wont-die/>

URLs in this post:

[1] bought it in 2012 for \$25 million: <http://www.sandiegouniontribune.com/sdut-golden-touch-but-wolf-at-door-2014oct09-story.html>

[2] billionaire co-founder of the Carlyle Group: <http://www.forbes.com/profile/william-conway-jr/>

[3] was defeated last fall by county voters:

<https://www.voiceofsandiego.org/topics/politics/with-measure-b-defeat-lilac-hills-finally-hits-a-no-that-will-be-hard-to-get-around/>

[4] Kathy Van Ness: <http://goldendoor.com/a-way-of-life/team/kathy-van-ness/>

[5] beautiful paintings: <http://goldendoor.com/a-way-of-life/art-collection/>

[6] Image: https://www.voiceofsandiego.org/wp-content/uploads/2017/01/Golden-Door-IMG_0018-e1484097873666.jpg

[7] To bring back the magic: http://goldendoor.com/wp-content/uploads/2015/05/GD_Departure_JulyAugust2015.pdf

[8] puts the resort's name or logo: <https://shop.goldendoor.com/>

[9] pledges to give away all of its profits: <http://goldendoor.com/a-way-of-life/community/>

[10] In 2010: <http://www.kpbs.org/news/2010/mar/24/roberts-votes-scuttle-merriam-mountains-project/>

[11] a problem that appears to exist solely on paper:

<https://www.voiceofsandiego.org/topics/land-use/san-marcos-looming-water-shortage-might-mirage/>

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EXHIBIT A

HONORING THE MSCP

Issue	Case in Point	Documentation
Honoring Assurances Abrogating established procedures and calling plan assurances into question. Coverage is coverage – adaptive management is proper tool for correcting plan issues.	V13 – See Golden Eagle below.	V13.3 –Page 6
	MSCP Biological Opinion says effects of impacts on Golden Eagle which are expected to result from the County Subarea Plan are not significant to the species’ long term survival. Accordingly, V14 has rights to proceed today under MSCP permit, yet FWS seeks to undermine, renegotiate and even acquire the property under the pretext of “new information.” New Information doesn’t impeach Golden Eagle coverage in County. Wildlife agencies refuse to acknowledge County Circulation Element roads may traverse preserve.	V14.1 –Entire Document V14.5 –Entire Document, Page 4 V14.6 –Entire Document V14.7 –Entire Document
	Newland Sierra has an existing hardline preserve and development plan. Neither has been honored.	NS.1 - Entire Document NS.2 –Entire Document Enclosures NS.3 –Entire Document NS.4 –Entire Document
	Fanita Ranch has two hardline plans only one of which has been honored.	HF.3 -Page 2, Page 3
Lack of Good Faith Negotiations Continually “moving the goal posts” so as soon as an issue is addressed, a new one is raised, with no end.	Village 13 negotiated a separate agreement independent of the regional QCB strategy, which was agreed to by the parties. Then, FWS reneged and asked for an unworkable Alternative D, in addition to still requiring a regional mitigation strategy.	V13.1 -Entire Document V13.2 -Entire Document V13.3 -Page 4 V13.4 -Page 1 V13.5 -Exhibit
	Village 14 was encouraged to pursue land exchange beneficial to the preserve. V14 spent one year and \$2MM doing biological due diligence and submitted an exhaustive analysis in support. After nine months with no response, V14 receives summary denial with factually inaccurate rationale, even when it improves the Golden Eagle status and MSCP preserve. V14 asks FWS for meeting to discuss and was turned down.	V14.2 -Entire Document V14.3 –Entire Document V14.4 -Entire Document V14.5 –Entire Document V14.6 –Entire Document
	Newland project was already included in MSCP North County draft plan as a hardline plan, yet FWS denies that. Newland improved on that hard line, yet FWS arbitrarily changes MSCP design criteria and demands that offsite mitigation land be a development project.	NS.1 - Page 1 NS.2 –Entire Document Enclosures NS.3 –Entire Document NS.4 –Entire Document

		Fanita has two previously approved footprints which were even validated by the court. Even so, Home Fed improved on those plans. Instead of support and collaboration, FWS seeks to undermine in damaging letter and bad faith negotiations.	HF.1 —Entire Document HF.3 —Entire Document HF.4 —Exhibit HF.5 —Exhibit
Communication and Actions in Breach of MSCP	Sending damaging comment letters opposing projects that all parties agreed to allow in the MSCP, raising issues over species covered in the MSCP and withholding concerns and information about project impacts until projects go out for public review.	FWS/CDFW Comment letter on V13 EIR.	V13.3 —Page 6
		FWS/CDFW Comment Letter on V14 NOP is the wrong venue for MSCP planning issues, which should be separately addressed with the County in the overall context of the MSCP North Plan.	V14.2 —Entire Document
		FWS/CDFW Comment Letter on Newland Sierra NOP is the wrong venue for MSCP planning issues, which should be separately addressed with the County in the overall context of the MSCP North Plan.	NS.1 —Page 1
		FWS/CDFW disingenuous comment letter on Fanita arbitrarily changing MSCP design criteria. Unilaterally eliminating the 4 (d) interim loss permit process in Santee without following regulatory procedures.	HF.1 —Entire Document HF.3 —Entire Document
Golden Eagle	Not honoring covered species list and trying to sidestep plan provisions to deal with new information.	MSCP Biological Opinion says effects of impacts on Golden Eagle which are expected to result from the County Subarea Plan are not significant to the species' long term survival. FWS says new Golden Eagle information puts the County's MSCP permit at risk. USGS info is not anything new. If a real issue, then FWS needs to follow MSCP Implementation Agreement and not send ominous, threatening letters. FWS wrongly asserts that definition of Take is different for ESA and BGEPA.	GE.1 —Entire Document GE.5 —Attachment A GE.2 —Entire Document GE.3 —Entire Document GE.4 —Entire Document GE.5 —Entire Document
		Using new BGEPA regulations to undermine program assurances for both V13 and V14.	V13.3 —Page 6 HF.2 —Entire Document
Mega-Preserve	Ignoring solutions that do not coincide with agency agenda.	If concern over Golden Eagle is real, there are areas with over 100,000 acres which could be used for expanding core conservation areas, but due to an anti-growth agenda by FWS, these solutions are pushed away because of no threat of development. Warner Springs Ranch Resort owners offered a solution to Golden Eagle "problem" and were ignored. Specifically, service promised assigning a person to work on this and never did.	WSRR.1 —Entire Document WSRR.2 —Entire Document WSRR.3 —Exhibit WSRR.4 —Exhibit WSRR.5 —Exhibit WSRR.6 —Exhibit WSRR.7 —Exhibit WSRR.8 —Exhibit

Documentation & Exhibits	Otay Ranch – Village 13	Otay Ranch – Village 14	Newland Sierra	Home Fed – Fanita Ranch	Golden Eagle	Warner Springs Mega Preserve
	<p>V13.1 Quino Checkerspot Butterfly Amendment</p> <p>V13.2 Biological Resources Technical Report</p> <p>V13.3 Draft EIR Comment Letter for Otay Ranch V13</p> <p>V13.4 Quino Meeting 6-16-2016</p> <p>V13.5 Fig 4.0-3</p>	<p>V14.1 Excerpt from Biological Opinion</p> <p>V14.2 Proposed Otay Ranch Village 14 Land Exchange</p> <p>V14.3 Jackson Pendo Development Company</p> <p>V14.4 Denial Letter</p> <p>V14.5 Notice of Preparation Letter of EIR</p> <p>V14.6 Summary</p> <p>V14.7 Excerpt from Implementing Agreement</p>	<p>NS.1 USFWS NOP Comments</p> <p>NS.2 CDFW NOP Comments</p> <p>Enclosures</p> <p>NS.3 USFWS/CDFW/County Correspondence</p> <p>NS.4 USFWS Coordination Summary Memo</p>	<p>HF.1 Karen Goebel - Voicemail</p> <p>Karen Goebel Voicemail 9-16-16</p> <p>HF.2 Proposed Eagle Permits</p> <p>HF.3 Draft MSCP Subarea Plan</p> <p>HF.4 Home Fed Fanita Ranch Plan</p> <p>HF.5 FWS Fanita Ranch's (2)</p>	<p>GE.1 Excerpt from Biological and Conference Opinions of the MSCP</p> <p>GE.2 County MSCP Compliance with BGPEPA Letter</p> <p>G.E.3 Multiple Species Conservation Program Compliance</p> <p>G.E.4 Take Coverage for Golden Eagle Under the San Diego MSCP</p> <p>G.E.5 Multiple Species Conservation Program Compliance Letter</p>	<p>WSRR.1 Warner Springs Ranch Resort - Program Synopsi</p> <p>WSRR.2 Warner Springs Ranch Letter to FWS</p> <p>WSRR.3 San Diego County</p> <p>WSRR.4 Rancho San Jose del Valle</p> <p>WSRR.5 Regional Setting/Ownership Map</p> <p>WSRR.6 Warner Springs Resort Map</p> <p>WSRR.7 Comprehensive Conservation and Enhancement Plan Map</p> <p>WSRR.8 Video of Warner Springs Ranch Resort</p>
	<p>Solutions: Honor agreement identified in V13.2 for modified project. Honor MSCP assurances on Golden Eagle</p>	<p>Solutions: Support land exchange. Honor MSCP assurances on Golden Eagle.</p>	<p>Solutions: Honor MSCP North County previous hardline agreement. Support inclusion of revised hardline in current draft of MSCP Plan. Accept mitigation proposal that does not necessarily entail development project.</p>	<p>Solutions: Honor previous two Fanita MSCP Santee hardline agreements. Support inclusion of superior revised hardline in current draft of MSCP plan.</p>	<p>Solutions: Honor MSCP assurances on coverage. Use adaptive management and follow through on mega-preserves.</p>	<p>Solutions: Follow through on assembling mega-preserves.</p>

EXHIBIT B

Newland Sierra, LLC
4790 Eastgate Mall, Suite 150
San Diego, CA 92121

MEMORANDUM

To: Paul Souza, Regional Director, USFWS
Mike Fris, Assistant Regional Director, USFWS
From: Rita Brandin, Newland Communities
Subject: Newland Sierra – USFWS Coordination Summary
Date: November 11, 2016

This memo is intended to provide a brief summary of the history of the Newland Sierra project permitting process in northern San Diego County. The project site is located along I-15 just north of Escondido. It was the subject of a prior permitting process in 2008, known as Merriam Mountains. That project had a footprint of 2,327 acres and onsite preservation of 1,305 acres of open space (56% preservation). Open space design and project hardline agreements were reached with several State and federal agencies. The agreements were memorialized through a Points of Agreement document signed by the parties, including the USFWS Carlsbad office.

The project was not approved by the County of San Diego due to unrelated issues. That, combined with the downturn in the economy, resulted in the project's dormancy until 2013, when Newland Communities acquired rights to the project site and redesigned the project. The new design now includes a 1,985-acre footprint and 1,209 acres of onsite open space (61% preservation). In addition, Newland proposed to purchase additional offsite habitat to further its conservation goals. The only listed species impacted by the project will be 1 pair of gnatcatchers that are within a fuel modification zone on the outer edge of the proposed development.

Newland Communities' intention in 2013 was to gain concurrence and support for a significantly enhanced hardline agreement that reduced the project footprint, increased the percentage of open space and added more mitigation components offsite. This consultation was initiated prior to submittal of the formal application of the project to the County of San Diego. As this process progressed, Newland attempted to accommodate USFWS requests for information, analysis, and yet more mitigation. Service staff dismissed the relevancy of the prior Points of Agreement, maintaining that Newland was required to begin the permitting process as a new project. Further, staff insisted that the County's hardline process was inadequate to use to permit the project, regardless of any improvements from the initial project design. Ultimately, Service staff placed

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Subject: Newland Sierra – USFWS Coordination Summary

demands on the Applicant that were financially infeasible, both in project design and acquisition of specific, additional off-site mitigation. Subsequent to offers to use alternative permitting processes, it has become clear that the Applicant is at an impasse with Service staff.

Following is the history of the site and a summary of the efforts undertaken by Newland.

HISTORY OF PROJECT SITE – PRIOR PROJECT HARDLINE AGREEMENT

- A project called Merriam Mountains began planning and coordination with the County and the USFWS in February 2003.
- The initial plan for that project included development in the northern part of the site (referred to as “Neighborhood Five” as part of the Merriam Mountains project).
- During coordination, USFWS requested that the applicant delete key northern neighborhoods in order to create a preserve in a larger block of habitat in the northern part of the site. Staff agreed to support a hardline if the developer would agree to an “All South” development plan (USFWS letter from staff person Susan Wynn is available upon request).
- In exchange for moving development to the South, a hardline agreement was executed between the developer and the USFWS (dated October 2005 – available upon request).
- Subsequent to that hardline agreement, the local fire district imposed strict fuel modification requirements, which was viewed as a “late hit” by the USFWS; however, the project moved forward through the EIR and entitlement process with the hearing on the project occurring December 9, 2009.
- The Merriam Mountains Specific Plan was denied by San Diego County Board of Supervisors on December 9, 2009

HISTORY OF PROJECT SITE – NEWLAND SIERRA

- Newland Communities acquired the project site in 2010.
- Newland began planning for a new project in 2013 (now referred to as Newland Sierra).
- **October 28, 2013** – Newland meets County staff, and USFWS on October 28, 2013 to introduce the project
 - Newland Sierra used Merriam Mountains (“All South” plan) as a baseline, and then improved upon that design from a biological standpoint.

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- Reconfiguring and reducing the footprint of the neighborhoods, deleting ridge line development, creating habitat linkages, and assembled new open space areas by working with the County Fire Authority and fire district to resolve fuel modification requirements
 - Key to providing an undisturbed northern block of habitat was the removal of a secondary access road (Lawrence Welk Court) that previously bisected the large block of open space in the north under the Merriam plan.
- **January 2014** – USFWS staff indicated four issues that needed proof of resolution before a hardline decision could be made:
 - Lawrence Welk Court removal
 - Removal of fuel modification along I-15 and within the interior of the project site
 - Identification of access and recreation needs within the Preserve determined
 - Survey for Hermes copper to determine presence or not
 - **April 3, 2014** – Newland presented improved site plan and preserve design addressing the items identified by USFWS in January.
 - **July 29, 2014** – Property site visit to include USFWS and CDFW.
 - **November 14, 2014** – Dudek submits 177-page biological technical memorandum addressing USFWS concerns, for USFWS review (available upon request)
 - **November 19, 2014** – Newland presented redesign of trail system and relocation of equestrian access and staging area, as well as overall consistency of open space design with the NC MSCP. USFWS requested a meeting with the fire district to discuss/confirm that no additional fuel modification would be required on the project site.
 - **March 5, 2015** – USFWS staff communicates to County staff that they had not reviewed the technical memorandum, and stated they could not support a hardline agreement absent a full project redesign.
 - **March 12, 2015 (stamped as received)** – USFWS submits a comment letter during the Newland Sierra NOP Scoping Period to this effect, indicating that they

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did not support the project and requesting that Alternatives be analyzed involving substantial redesign. Additionally, the letter from USFWS did not acknowledge any of the ongoing consultation between Newland, the County, and USFWS.

- **June 17, 2015** – In response to USFWS comments from January 2014 regarding the “changed conditions” since the Merriam Mountains hardline agreement was completed, Newland presents information to USFWS (presentation available upon request) indicating how conditions have not changed:
 - Foundational biological data for the NC MSCP is unchanged
 - Overall goals of the NC MSCP are unchanged
 - PAMA boundaries are largely unchanged
 - General Plan land use designations are largely unchanged from the prior General Plan

- **September 9, 2015** – E-mail from Karen Goebel sending a “re-design” of the project to the County via e-mail in preparation for the next day’s meeting.

- **September 10, 2015** - Newland discusses project with USFWS and County staff. Mendel Stewart indicates he first heard about this project 6-8 months ago, and that delays on his staff’s review were due to workload, vacations, and other things. Karen Goebel brings up new issues – wildlife undercrossings, dislike of Camino Mayor. Karen also mentions that 4d (HLP) is another option for biological permitting, since the site doesn’t have a lot of coastal sage scrub and “this is not a core gnatcatcher population.” Karen also mentioned that if Newland were to avoid occupied gnatcatcher habitat, the project could move forward with a 4d denial from USFWS. After consultation with County counsel and staff, Newland understands this is not true.

- **November 5, 2015** – Meeting between County, USFWS, and CDFW where Newland presents revisions to the site plan to partially accommodate their requests for project redesign (pullback in certain areas based on USFWS requests) and an analysis of acreage and biology for fifteen (15) parcels for potential offsite mitigation. USFWS requests an opportunity to review the analysis and promises to provide feedback. A follow up meeting is scheduled for November 19, 2015.

- **November 18, 2015** – Newland receives an e-mail from Karen Goebel indicating that USFWS and CDFW had met on 11/12/15 to review and discuss the proposed offsite acquisition list, and sets forth their position on the amount of acreage overall they would accept for conservation. This e-mail specifically sets forth only

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two properties they would “accept” in order to consider a hardline agreement. Both properties currently have approved tentative maps for development.

- **November 19, 2015** - Meeting between County, USFWS and CDFW to again discuss the list of potential acquisitions.
- **December 2, 2015** – USFWS email indicates that “we will support acquisition of the Morris Ranch property” because it would serve as a linkage, and “we will support the Mountain Gate acquisition” because of its size and location.
- **January 15, 2016** – USFWS email indicates that, even with acquisition of Morris Ranch (which Newland had not yet negotiated awaiting USFWS staff confirmation that no further mitigation was required if the property could be acquired), that USFWS would not move forward with a hardline agreement, for the following reasons:
 - Not enough quality conservation onsite
 - Mitigation being proposed does not adequately make up for the on-site deficiencies
 - Offering a hardline would hinder completion of the NC MSCP
 - Too much time commitment from USFWS and the County to continue down this path

PERMITTING PROCESS CONCERNS

- Draft North County MSCP underway but not anticipated to be completed in time to allow Newland’s project to be permitted under the final plan given our project schedule. USFWS staff person says “Draft NC MSCP has nothing under the hood” further denigrating the efforts.
- Multiple comments from USFWS indicating that approving a hardline for Newland Sierra project would impact the completion of the NC MSCP (Newland Sierra is only 1,985 acres within the NC MSCP study area of 312,284 acres).
- During Section 7 Consultation USFWS staff person says that regardless of whether Army Corps takes jurisdiction over listed species (gnatcatcher), Newland Sierra will still need a Habitat Loss Permit (HLP) as this covers the “entire site.”
- The 4d/HLP process is guided by a Planning Agreement in place that sets forth process while NC MSCP is still being worked on. The Interim Review Process

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ensures that projects being considered for approval prior to adoption of NC MSCP do not compromise the successful implementation of the plan

- USFWS staff continues to disagree with our team regarding fundamental project design considerations in the context of the Interim Review Process guidelines (reference NOP letter and coordination process summarized above) without providing their own “technical reasoning” for rejection but referencing broad, subjective objections under the guise of “meeting the interim guideline objectives”
- Although USFWS staff have stated on several occasions that the project doesn’t need a hardline as it is “easy” to go through the HLP process (with direct comments that the HLP won’t be an issue), there is history on other projects that indicates that staff uses the HLP process to delay projects by never “getting to resolution”.
- With the delays and endless attempts at coordination and resolution that Newland Sierra has experienced since 2014, there is no confidence that the same treatment with the same staff will not occur when the applicant is ready for a Habitat Loss Permit.

EXHIBIT C

Rita Brandin

From: steve@stevethompsonllc.com
Sent: Wednesday, October 12, 2016 3:15 PM
To: Rita Brandin
Subject: FW: Meeting
Attachments: nc ec mscp plan agreemen_20160802082150.pdf

Rita, does this make sense to you?

Steve

“Confidential Attorney/Client Work Product – PREPARED IN ANTICIPATION OF LITIGATION”

From: Stewart, Mendel [mailto:mendel_stewart@fws.gov]
Sent: Wednesday, October 12, 2016 11:42 AM
To: steve@stevethompsonllc.com
Cc: Ed Pert <ed.pert@wildlife.ca.gov>; Karen Goebel <karen_goebel@fws.gov>
Subject: Re: Meeting

Steve,

The problem with the Newland/Sierra project is that we don't believe it meets the agreed to framework (at least from our current understanding) of the County's regional plan. As a result, it is up to the county to either modify her plan or the regional plan. At this point, we are waiting to understand what the county intends to do about its regional plan. Rita's project can move forward with their plans anyway they want. It is up to the county as to how it fits their plan because our understanding is that it has almost no impact on listed species. It is strictly about meeting the planning guidelines agreed to in 2014 (attached).

<Mendel

On Wed, Oct 12, 2016 at 10:06 AM, steve@stevethompsonllc.com <steve@stevethompsonllc.com> wrote:

Mendel/Ed,

Thanks for the quick response.

The major issue really seems to revolve around what is described in the “draft Endangered Species Act Compensatory Mitigation Policy”, as what the applicant can do as appropriate and practicable avoidance and minimization measures. Ed I’m not familiar with the State process, so not sure if you have a comparable direction or guidance?

“Practicable – available and capable of being done after taking into consideration existing technology, logistics, and cost in light of a mitigation measure’s beneficial value and a land use activity’s overall purpose, scope, and scale (81 FR 12380; March 8, 2016).”

If the agencies recommendations to gain your support aren’t practicable and appropriate to the applicant, then it really doesn’t make sense to meet this Friday.

Thanks for your consideration.

Steve

steve@stevethompsonllc.com

916-600-5227

From: Stewart, Mendel [mailto:mendel_stewart@fws.gov]
Sent: Tuesday, October 11, 2016 4:56 PM
To: steve@stevethompsonllc.com
Cc: Ed Pert <ed.pert@wildlife.ca.gov>
Subject: Re: Meeting

Steve,

Ed and I are available all afternoon on Friday. It will depend on whether Mark can meet and what time he is available. As for authority to tell an applicant to suspend their development process, as far as I know we have none. We have not asked them to suspend their project. My understanding from the meeting with Susan Wynn and the Corps was that we just pointed out that getting the regional HCP/NCCP completed as soon as possible would benefit everyone.

I know that we looked hard at Rita's project and provided recommendations on how to gain our (State and Federal wildlife agencies) support for the project. These same recommendations will be provided as comments

when the draft CEQA document comes out. If this project moves forward in advance of the North County Plan, the only Service regulatory oversight will come from the section 7 consultation with the Corps and 4(d) rule compliance through the County. We cannot comment on the outcome of these processes until the applicant and agencies with oversight (Corps and County) submit the required information to us. The Corps has not initiated consultation on the project and the 4(d) information is usually submitted to the County through the CEQA process. As for ESA Mitigation Strategies and the new HCP handbook, we don't expect delays in the processing the North County Plan due to the draft guidance and policies.

We have provided our recommendations to improve the applicant's project design multiple times. These recommendations were provided to help ensure the proposed project would be consistent with the conservation strategy of the North County plan as proposed to us by the County. We agree there is no reason to meet if the project design is not changing. There is nothing to prevent the applicant or the County from moving forward with the CEQA process.

That said, I'm happy to meet with her anytime to go over it again to make sure I understand her permit concerns. Ed is also happy to meet again.

<Mendel

On Mon, Oct 10, 2016 at 7:49 PM, steve@stevethompsonllc.com <steve@stevethompsonllc.com> wrote:

See comments below.

Steve

steve@stevethompsonllc.com

916-600-5227

From: Mendel Stewart [mailto:mendel_stewart@fws.gov]

Sent: Monday, October 10, 2016 5:34 PM

To: steve@stevethompsonllc.com

Subject: Re: Meeting

Steve,

I checked with Ed and he is available as I am on Friday afternoon. Both Ed and I have a meeting with the Corps of Engineers and many others on the San Elijo Lagoon restoration project in the morning on Friday. It will be just Rita and I. Can I make it back to airport for a 4:50 pm flight? What time can you guys meet in the afternoon? Will ask Rita if she is available.

If the afternoon works for you, I recommend that you and Rita ask Mark Wardlaw from the county to attend. We would also need to know who from Rita's group will attend. If she's going to bring other consultants Ed and I would need to bring our staff because we don't really know all the details they know. Rita will ask Mark Wardlaw at the county if he can attend. It will just be Rita and I.

Steve, I also need to know what the subject is. We have already been through discussion about her project as you know. The county, state and our focus should be on getting the regional HCP/NCCP completed. Going over her project again just delays that. *this is a stretch*

Mendel the topic is how to work together to get the needed permits from the Department and FWS for the proposed project. I'm not sure what authority you and Ed have to tell the applicant to suspend the existing permit process and force them to complete a regional HCP/NCCP, of which they are very small player in the conservation strategy, have no control over the agencies performance or ability to complete an HCP, that has been in the works for years. In addition the FWS is apparently hard at work on ESA Mitigation Strategies and a new several hundred page HCP handbook, that if implemented will make it almost impossible to finish an HCP/NCCP. An HCP of this complexity could take up to 50 months according to the draft handbook headed to final.

I haven't seen, maybe I missed it, any analysis of the conservation strategy by the agencies. If the only answer is to make them complete the Regional HCP/NCCP, which they have no control over, then is no real reason to meet locally.

Mendel

Sent from my iPhone

G. Mendel Stewart

U.S. Fish and Wildlife Service

Mobile (760) 533-5976

On Oct 10, 2016, at 11:12 AM, "steve@stevethompsonllc.com" <steve@stevethompsonllc.com> wrote:

Ok how about Rita and I meet Friday morning with Ed, you and the county rep?

I have a meeting with Chuck Bonham, Thursday afternoon, then fly down Thursday night, Fly back late Friday.

Steve

steve@stevethompsonllc.com

916-600-5227

From: Stewart, Mendel [mailto:mendel_stewart@fws.gov]
Sent: Tuesday, October 4, 2016 10:52 AM
To: steve@stevethompsonllc.com
Subject: Re: Meeting

Steve,

I spoke with Ed Pert, Regional Manager for the Department of Fish and Wildlife, about meeting with Rita. He reminded me that they and the County are each involved in this proposed project and should also be involved in any meetings. He also asked me exactly what the subject of the meeting was and I had trouble describing it.

I request that any meetings we have about this project include both the County and the State so that each party is kept informed equally. It would also be helpful to have a better understanding of the specific topic.

Thank you.

<Mendel

On Fri, Sep 30, 2016 at 12:50 PM, steve@stevethompsonllc.com
<steve@stevethompsonllc.com> wrote:

Rita Brandin

From: Stewart, Mendel <mendel_stewart@fws.gov>
Sent: Friday, August 5, 2016 5:37 PM
To: Rita Brandin
Subject: Re: Corps Meeting

Follow Up Flag: FollowUp
Flag Status: Flagged

Rita,

I'm sorry for the delay in responding. I do not plan to attend this. I have a conflict but even if not, our staff should work with you and your team on this.

I am still working on my understanding of the 4d Rule and hope to get answers for you soon.

<Mendel

On Wed, Aug 3, 2016 at 9:39 AM, Rita Brandin <rbrandin@newlandco.com> wrote:

Hi Mendel: Susan Wynn has responded that August 18th at 2:00 works for her to meet with Shanti and our team.

Your participation is very important as well. Please confirm that this date and time work for you as well?

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Mendel Stewart
U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
Field Supervisor
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
760-431-9440
mendel_stewart@fws.gov
<http://www.fws.gov/carlsbad/>

Region 8 Facebook page: <https://www.facebook.com/usfwspacificsouthwest>

Region 8 Twitter page: <https://twitter.com/USFWSPacSWest>

Rita Brandin

From: Stewart, Mendel <mendel_stewart@fws.gov>
Sent: Friday, July 29, 2016 4:31 PM
To: James Whalen
Cc: Rita Brandin; Adams, Matt (matt@biasandiego.org); Karen Goebel; Scott Sobiech
Subject: Re: FW: Soitec Admin Record

Jim,

Thanks for providing this information. We will be in contact to discuss it. Have a great weekend.

<Mendel

On Fri, Jul 29, 2016 at 10:06 AM, James Whalen <james@jwhalen.net> wrote:

Thanks for getting together Tuesday, Mendel. While we have other matters to follow up on, I wanted to take this opportunity to address a comment you made about a “requirement” for 75% open space and 25% limit on development in the North County MSCP’s planning. I also wish to elaborate on BIA concerns about not following the required conservation planning steps in the preparation of the MSCP Subarea plans, in this case, the MSCP North County.

As you can see in the attached, executed Planning Agreement for the North and East County plans, there is no requirement for 75%-25%. I don’t know where staff came up with that notion, but it is not required and Newland shouldn’t be asked to adhere to it.

The same Planning Agreement requires the County and agencies to deploy a steering committee to participate in the process, and unfortunately, we don’t have that yet. I predict this will cause problems because we will be getting a draft plan that is more “cooked” than it should be at this point in the process given no stakeholder review for seven years.

Additionally, you can see in Section 6.2.1 of the Planning Agreement that there are discrete, defined methods that need to be followed for the Service and Department to make the findings to issue take authorizations. Steps 6.2.1 c, e, f, and g *require* that the preparation of the conservation analysis supporting those findings be done using species point locations and species modeling with gap analyses to ensure accuracy in the determination of coverage. In other words, we must prepare MSCP Subarea Plans this way. On other hand, arbitrary or subjective “lines on paper” cannot be supported without such analysis being done. Any litigation brought on a project or subarea plan will be successful challenging the issuance of permits without such analysis.

Accordingly, hardlined boundaries showing what open space will be in a Subarea Plan are a critical precursor of the baseline to achieving an adequate conservation analysis and if changed in either a draft or approved plan

without analysis , the effects ripple throughout through those draft and approved MSCP plans. By the way, I also attached an updated version of the graphic I shared with you Tuesday—it was pointed out the term “landowner” more accurately represents the meaning. The point of that graphic is clear—we have a three-footed stool that is needed for these plans to work. With any of the three missing, no plan.

Please let me know if you have any questions. Thanks again, JimW

--
Mendel Stewart
U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
Field Supervisor
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
760-431-9440
mendel_stewart@fws.gov
<http://www.fws.gov/carlsbad/>

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Rita Brandin

From: Stewart, Mendel <mendel_stewart@fws.gov>
Sent: Friday, January 15, 2016 5:45 PM
To: Rita Brandin
Cc: Ed Pert (EPert@dfg.ca.gov); Karen Goebel; Mark Wardlaw; Scott Sobiech
Subject: Re: FW: Follow Up from Telephone Discussion Yesterday -

Rita,

Your request for confirmation that no further offsite mitigation would be requested was because Karen had indicated in her 11/18/2015 email see excerpt below, that the Wildlife Agencies would need to determine whether additional offsite mitigation would be required if Newland Sierra entered into a partnership, where mitigation credit would be shared, to acquire the Morris Ranch property rather than purchase the property outright, where full credit would be given to the Newland Sierra property. You indicated in our 12/9 telephone conversation that Newland Sierra would not be willing to purchase additional acreage.

From our 11/18/2015 email:

"The Morris Ranch site is approximately 230 acres in size. Full conservation of the site by the Applicant would result in a 66/34 conservation to impact goal for the project and because of this area's importance to the draft North Count MSCP, the Wildlife Agencies would agree to a hard-line agreement even at this lower conservation to impact ratio. If the property was purchased in coordination with another entity, the Wildlife Agencies would need to determine the amount of additional offsite acreage that may or may not be needed for a hard-line agreement. We understand that any purchase at this site represents greater risk for the Applicant; however, this is the property that will bring the Applicant greatest support from the Wildlife Agencies, and its conservation could potentially gain support for the project from other conservation groups."

Below are our reasons for not going forward with hardline agreements:

1. We don't believe the necessary quality conservation is designed on site. This includes not only acreage but also the conservation design. We cannot publicly defend what is being proposed as sound conservation meeting the intent of the proposed North County MSCP.
2. We also don't believe the mitigation being proposed, even what would come from your partnership with Camp Pendleton for purchase of Morris Ranch, adequately make up for the on-site deficiencies.
3. We are also concerned about how providing this hardline would impact the completion of the North County MSCP. We are concerned that to continue to provide hardlines that we are reducing the incentive for completing the N. County Plan.

4. Finally, the time commitment required from the wildlife agencies and the county is not well spent. By continuing to address individual project requests for a hardline, we are just encouraging others in the future to make similar requests. It is in all of our best interests to put our efforts toward completing the plan.

I hope this helps clarify our position.

<Mendel

On Tue, Jan 12, 2016 at 1:05 PM, Rita Brandin <rbrandin@newlandco.com> wrote:

Mendel:

I thought it important to document our conversation yesterday, and I've copied Ed on the communication since Gail was on the call as well.

As a follow up to the joint meeting in late November between the Agencies, the County and Newland, I had a call with you and Karen Goebel on 12/9 wherein we discussed the potential offsite acquisition of Morris Ranch, and I requested confirmation from both agencies that if I were able to jointly acquire Morris Ranch that no further mitigation requirements would be required in order to agree to a hard-line. I wanted this assurance before I started discussion with the contact Karen had given me from the Marine Corps.

Our call yesterday was for you to relay the mutual decision of both agencies that a hard-line will no longer be considered by either agency. This decision was arrived at during the joint meeting between both on 1/11/16. When I asked you why you were no longer willing to consider a hard-line even with the directed offsite acquisition, you indicated that the project design is an issue, that the plan doesn't offer enough acreage for conservation and that entering into a hard-line put the future of the North County MSCP at risk. You also indicated that the time commitment to work with individual applicants was not time well spent for the agencies, and that entering into a hard-line with Sierra would potentially open the door to other applicants wanting the same thing.

You indicated that you had communicated this to the County as well.

This is my understanding of our telephone call. I would appreciate your confirmation or corrections so that we have a record of our communication and the Agencies' decision.

Thank you,

Rita Brandin

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U.S. Fish and Wildlife Service
Carlsbad Fish and Wildlife Office
Field Supervisor
2177 Salk Avenue, Suite 250
Carlsbad, CA 92008
760-431-9440
mendel_stewart@fws.gov
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Rita Brandin

From: Rita Brandin
Sent: Tuesday, January 12, 2016 1:05 PM
To: 'mendel_stewart@fws.gov'
Cc: Ed Pert (EPert@dfg.ca.gov)
Subject: FW: Follow Up from Telephone Discussion Yesterday -

Mendel:

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Thank you,

Rita Brandin

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Rita Brandin

From: Goebel, Karen <karen_goebel@fws.gov>
Sent: Wednesday, December 16, 2015 5:33 PM
To: Rita Brandin
Subject: Telephone Number

Requested # to
call and tell me
that the agencies (USFW
& EDFW)

Rita,

Can you call me or resend me your telephone number(s). I have misplaced them.

Karen

would not be
meeting to discuss
our proposal
until Jan. 8

Karen Goebel
Assistant Field Supervisor
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
760/431-9440, ext. 296
760/431-9624 Fax

Rita Brandin

Please review
entire email

From: Stewart, Mendel <mendel_stewart@fws.gov>
Sent: Wednesday, December 2, 2015 5:39 PM
To: Rita Brandin
Cc: Karen Goebel; Ed Pert; Mark Wardlaw
Subject: Re: FW: Our Discussion on Friday afternoon, November 20th - Correction on Prior E-Mail

chain

Hi Rita,

Thank-you for trying to capture our conversation. I would like to clarify the following points:

We have no objection to the project applicant's purchase of offsite mitigation lands in support of adding to the overall conservation of the Draft North County MSCP preserve lands; however, from the list of properties provided for our review and support for a potential hard-line agreement, some properties are considered of greater biological value than others. Specifically, we will support acquisition of the Morris Ranch property because the proposed development on the site will sever a key linkage in the Draft North County MSCP, thus conservation of the site has been a priority for conservation for some time. The project applicant's contribution to the acquisition of this critical property would help us make a stronger biological case that the offsite mitigation proposed offsets the loss and fragmentation of the project's onsite PAMA lands. Likewise, we will support the Mountain Gate acquisition because of its size and location within the PAMA and because its purchase will ensure conservation of a large core area of the Draft North County MSCP preserve.

During our conversation, my intent was not to dismiss the value of the Hoospack or Pankey properties' contribution to the Draft North County MSCP preserve system, but only to do what you asked in identifying Service priorities for conservation that would lead to a hard-line agreement. Because the proposed Newland Sierra development will result in a loss of wildlife habitat originally identified to be part of the Draft North County MSCP preserve, acquisition of PAMA lands planned for development helps ensure that there is no net loss of PAMA acreage and that the anticipated size and configuration of the planned preserve can be achieved. Acquisition of one of these properties which both include development would offset the overall loss of existing PAMA acreage that will result from the Newland Sierra development. Conservation of the Hoospack or Pankey properties, while not insignificant, will not assist in maintaining the scope of the PAMA lands needed to assemble the preserve anticipated by the Draft North County MSCP.

I hope this helps clarify our conservation priorities and to dispel any concerns you may have regarding our agency's role in balancing the needs of residential and commercial development with our mission to conserve the nation's important fish and wildlife resources. We believe the section 10 permitting program and regional planning through the MSCP highlight the Service's sincere efforts to work in partnership to achieve this goal.

Marine Corps Base Camp Pendleton is the potential partner for the Morris Ranch property. We let them know that someone might be interested in partnering on this acquisition. Below is the person to contact.

Ken Quigley
Strategic/Regional Environmental Planner
Strategic Planning Section, Building 22165
MCIWEST_MCB Camp Pendleton
Box 555008
Marine Corps Base

Camp Pendleton, CA 92055-5008
(760) 725-9733
DSN: 365-9733
FAX -9722

Please let me know if you have any questions.

<Mendel

On Wed, Dec 2, 2015 at 10:05 AM, Rita Brandin <rbrandin@newlandco.com> wrote:

Good morning Mendel:

After re-reading the e-mail I sent to you on 11/25, I realized that I put the incorrect date down for our last meeting. Please see those corrections below in red.

Please let me know if you have any further additions or corrections. Also, if you have reached the Morris Ranch contact that was discussed in our meeting.

Thank you.

Rita Brandin

From: Rita Brandin
Sent: Wednesday, November 25, 2015 11:58 AM
To: 'mendel_stewart@fws.gov'
Subject: Our Discussion on Friday afternoon, November 20th
Importance: High

Good morning Mendel:

I appreciate that you called me directly on Friday afternoon to discuss the U.S. Fish and Wildlife agency's stance on offsite acquisition options as a follow up to our Thursday, November 19th meeting at the County. As I have reviewed the discussion with others, I've concluded that it might be important to memorialize our conversation so Newland and our team have clarity moving forward. If I missed any key points or misunderstood any of your comments from the discussion, please feel free to provide those additions or corrections to my summary e-mail. I will attempt to capture the key points as I understood them.

As you know, we had previously proposed a list of off-site parcels at our meeting on November 5th, and we discussed the same list at our meeting on November 19th. We asked that you relook at the biological value of those parcels for acceptable offsite acquisition by Newland in lieu of being limited to only the Morris Ranch and Mtn. Gate parcels as communicated in Karen Goebel's e-mail to me on November 18th. You mentioned you would meet further with your staff to discuss the list.

During our call, you mentioned that as a follow up to our 11/19 discussion, you and your staff had further reviewed the list of parcels, and relooked at two parcels in particular that we had discussed at length – the two we refer to as Hooshpack and Pankey. You said that although the California Dept. of Fish and Wildlife wanted to take another look at the biological value of these parcels, that the U.S. Fish and Wildlife Service did not see them as acceptable acquisitions. When I asked why they were not acceptable given our preliminary assessment of their biological value and their core PAMA location, you said they were not “threatened” like the Morris Ranch and Mtn. Gate properties, and these two parcels were of high priority for the agencies. When I asked what you meant by threatened, you said that Hooshpack and Pankey are not priority and that you are not worried about them like Morris Ranch or Mt. Gate because neither parcel has significant development potential under the County's General Plan and slopes and terrain didn't make them as viable for development projects. In summary, you said; “[w]e've talked and unless Newland is willing to acquire one of the two options we provided then there will be no hardline”.

I expressed my concern that it appeared the agency's focus on these two tentative map projects as the only acceptable offsite acquisition land for Newland appeared to be having one developer buy another developer's approved project to keep them from being developed. You responded your agency is trying to protect threatened habitat and there are lots of ways to do that.

To close our discussion, I reiterated your comment regarding the limitation of Morris Ranch or Mtn. Gate as the only acceptable options, and wanted to be clear whether there was any opening, in your mind, for further discussions on the other parcels. You indicated that there was not.

I indicated I was still willing to explore a potential joint deal on Morris Ranch with the party that Karen Goebel had mentioned in our November 19th meeting. You indicated that the agency had not been able to get in touch with him as of our call but when you did you would ask him to call me.

Please let me know if I properly captured the key points of our conversation as I want to make sure we are still on the same page moving forward.

Best regards,

Rita Brandin

Newland Sierra, LLC

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Carlsbad Fish and Wildlife Office
Field Supervisor
2177 Salk Avenue, Suite 250
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To close our discussion, I reiterated your comment regarding the limitation of Morris Ranch or Mtn. Gate as the only acceptable options, and wanted to be clear whether there was any opening, in your mind, for further discussions on the other parcels. You indicated that there was not.

I indicated I was still willing to explore a potential joint deal on Morris Ranch with the party that Karen Goebel had mentioned in our November 20th meeting. You indicated that the agency had not been able to get in touch with him as of our call but when you did you would ask him to call me.

Please let me know if I properly captured the key points of our conversation as I want to make sure we are still on the same page moving forward.

Best regards,

Rita Brandin
Newland Sierra, LLC

Rita Brandin

From: Rita Brandin
Sent: Thursday, November 19, 2015 10:29 AM
To: mendel_stewart@fws.gov
Cc: Rita Brandin
Subject: FW: Review of Conservation Options for the Newland Sierra Project

Mendel: I realize we are going to discuss this in today's meeting, but I since I didn't see you copied on Karen's e-mail, I wanted to make sure you've seen what she has proposed.

Karen has not provided a "ranking" of all the potential off-site parcels like we requested but has chosen instead to push us on acquiring the two MOST difficult parcels, and the most costly parcels. This does not bode well for what I would have anticipated to be a move in the right direction towards an amicable negotiation/discussion today.

I was very clear in our last meeting, that in order to provide Newland with the ability to get to a good offsite result, that we needed flexibility on both the **percentage achieved and the parcels** - given that there are no guarantees that option agreement discussions will be successful as we make our way through the discussions. However, given Karen's e-mail below, it appears that both of those requests went unheeded as the two agencies met to discuss this.

I understand that the agencies' first priority is the realization of conservation, and that concern about cost to private owners is not something that rises to importance. We are respectful of the agencies' desire which is why we are willing to explore offsite acquisition to get to a hardline agreement. That being said, there ARE financial constraints that end up making projects infeasible that should be considered, and ham-stringing Newland on viable parcel acquisitions that the agencies are willing to accept is not in good faith.

Hopefully there will be an opportunity today to have a broader discussion about this and we can move toward something that is more of a negotiated agreement versus a dictated agreement?

Rita

From: Goebel, Karen [mailto:karen_goebel@fws.gov]
Sent: Wednesday, November 18, 2015 4:54 PM
To: Mark Wardlaw; Rita Brandin
Cc: Albright, Brian; Ed Pert; Sevrens, Gail@Wildlife
Subject: Review of Conservation Options for the Newland Sierra Project

sent the day before meeting

Mark and Rita:

On November 12, 2015, the Department and Service (Wildlife Agencies) met to review and discuss the information and conservation options presented to us during a meeting with the County and the Applicant on November 5, 2015, regarding a potential hard-line agreement for the Newland Sierra project.

In order to move the discussion forward at our next meeting, the Wildlife Agencies have given consideration to the Applicant's effort to increase the value of the Block 3 area for wildlife resources as live in habitat by removing 14 acres of development and reducing the amount of fuel modification necessary in this block of

habitat. However, with the present configuration of the residential and commercial development, the Block 3 habitat area remains fragmented, is not connected to the larger block of functional habitat to the north, and is not inclusive of habitat across gradients that would be more conducive to wildlife movement.

Because of these limitations, we will agree to "credit" 1/2 of the total acres ($189/2=94.5$ acres) to the conservation acreage totals for the project provided that the entire Block 3 area is managed by the County (or other conservation organization) consistent with the goals of the draft North County MSCP. Should future project modifications require grading or fuel modification within Block 3, the acreage credited to the project's agreed to conservation goal would be reduced and additional offsite acreage expected for conservation.

With the agreed to functional block of core habitat to the north (1,024 acres) and the habitat credit acknowledged for Block 3, the conserved onsite acreage would represent 56% of the site ($1024+94.5/1985$); to reach the draft North County MSCP's 75/25 conservation to impact goal, offsite conservation of an additional 371 acres ($1024+94.5+371/1985$) would be needed. The conserved acreage offsite needs to include 70 acres of coastal sage scrub (CSS) to meet the 4(d) guidelines, and funding (e.g., endowment) for long-term management and monitoring of all offsite preserved lands (i.e., mitigation) needs to be assured by the Applicant.

The Wildlife Agencies recommend that the Applicant pursue either of the following two alternatives for consideration of a hard-lined agreement for the project.

1) Morris Ranch Property. Conservation of this property is a high priority for the Wildlife Agencies because the anticipated development of this area within the Pre-Approved Mitigation Area (PAMA) will sever connectivity between the Merriam/San Marcos Mountains and the San Luis Rey River. While we understand that the Applicant considered this option as not financially viable, the Wildlife Agencies are aware of efforts to purchase the property and may be able to facilitate inclusion of the Applicant into these discussions.

The Morris Ranch site is approximately 230 acres in size. Full conservation of the site by the Applicant would result in a 66/34 conservation to impact goal for the project and because of this area's importance to the draft North County MSCP, the Wildlife Agencies would agree to a hard-line agreement even at this lower conservation to impact ratio. If the property was purchased in coordination with another entity, the Wildlife Agencies would need to determine the amount of additional offsite acreage that may or may not be needed for a hard-line agreement. We understand that any purchase at this site represents greater risk for the Applicant; however, this is the property that will bring the Applicant greatest support from the Wildlife Agencies, and its conservation could potentially gain support for the project from other conservation groups.

2) Mountain Gate. Conservation of the Mountain Gate property is of interest to the Wildlife Agencies because of its overall size and location (mostly PAMA) within the Draft North County MSCP. Conservation of 371 acres of this site would result in a 75/25 conservation to impact goal for the project. With conservation of this acreage, the Wildlife Agencies would agree to a hard-line agreement for the project provided that the site is

confirmed by the Wildlife Agencies to include at least 70 acres of coastal sage scrub and the entire acreage is guaranteed for purchase. For example, to reduce the risk of the entire option failing, the Applicant would need to guarantee to assist The Escondido Conservancy (TEC) with purchase of any remaining acreage TEC is unable to secure funds to purchase.

Finally, the total acreage and habitat composition for the Mountain Gate habitat block needs confirmation. We have information stating the total acreage of the site is 692.8 acres, while the information provided for our review indicates a total acreage of only 558 acres, including 113 acres of CSS. We have information indicating only 17.4 acres of CSS on the Mountain Gate site, including 5 acres within an SDG&E easement that could not be included as mitigation for the Newland Sierra project.

Again, we are providing this information in advance in hopes that it will lead to a productive meeting tomorrow. We look forward to seeing you then. Please forward on to others on your teams as I have not copied everyone at the last meeting.

Sincerely,

Karen

Karen Goebel
Assistant Field Supervisor
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
760/431-9440, ext. 296
760/431-9624 Fax

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Rita Brandin

From: Goebel, Karen <karen_goebel@fws.gov>
Sent: Wednesday, November 18, 2015 4:54 PM
To: Mark Wardlaw; Rita Brandin
Cc: Albright, Brian; Ed Pert; Sevrens, Gail@Wildlife
Subject: Review of Conservation Options for the Newland Sierra Project

Mark and Rita:

*Sent the day before
the meeting*

On November 12, 2015, the Department and Service (Wildlife Agencies) met to review and discuss the information and conservation options presented to us during a meeting with the County and the Applicant on November 5, 2015, regarding a potential hard-line agreement for the Newland Sierra project.

In order to move the discussion forward at our next meeting, the Wildlife Agencies have given consideration to the Applicant's effort to increase the value of the Block 3 area for wildlife resources as live in habitat by removing 14 acres of development and reducing the amount of fuel modification necessary in this block of habitat. However, with the present configuration of the residential and commercial development, the Block 3 habitat area remains fragmented, is not connected to the larger block of functional habitat to the north, and is not inclusive of habitat across gradients that would be more conducive to wildlife movement.

Because of these limitations, we will agree to "credit" 1/2 of the total acres ($189/2=94.5$ acres) to the conservation acreage totals for the project provided that the entire Block 3 area is managed by the County (or other conservation organization) consistent with the goals of the draft North County MSCP. Should future project modifications require grading or fuel modification within Block 3, the acreage credited to the project's agreed to conservation goal would be reduced and additional offsite acreage expected for conservation.

With the agreed to functional block of core habitat to the north (1,024 acres) and the habitat credit acknowledged for Block 3, the conserved onsite acreage would represent 56% of the site ($1024+94.5/1985$); to reach the draft North County MSCP's 75/25 conservation to impact goal, offsite conservation of an additional 371 acres ($1024+94.5+371/1985$) would be needed. The conserved acreage offsite needs to include 70 acres of coastal sage scrub (CSS) to meet the 4(d) guidelines, and funding (e.g., endowment) for long-term management and monitoring of all offsite preserved lands (i.e., mitigation) needs to be assured by the Applicant.

The Wildlife Agencies recommend that the Applicant pursue either of the following two alternatives for consideration of a hard-lined agreement for the project.

1) Morris Ranch Property. Conservation of this property is a high priority for the Wildlife Agencies because the anticipated development of this area within the Pre-Approved Mitigation Area (PAMA) will sever connectivity between the Merriam/San Marcos Mountains and the San Luis Rey River. While we understand that the Applicant considered this option as not financially viable, the Wildlife Agencies are aware of efforts to purchase the property and may be able to facilitate inclusion of the Applicant into these discussions.

The Morris Ranch site is approximately 230 acres in size. Full conservation of the site by the Applicant would result in a 66/34 conservation to impact goal for the project and because of this area's importance to the draft North Count MSCP, the Wildlife Agencies would agree to a hard-line agreement even at this lower conservation to impact ratio. If the property was purchased in coordination with another entity, the Wildlife Agencies would need to determine the amount of additional offsite acreage that may or may not be needed for a hard-line agreement. We understand that any purchase at this site represents greater risk for the Applicant; however, this is the property that will bring the Applicant greatest support from the Wildlife Agencies, and its conservation could potentially gain support for the project from other conservation groups.

2) Mountain Gate. Conservation of the Mountain Gate property is of interest to the Wildlife Agencies because of its overall size and location (mostly PAMA) within the Draft North County MSCP. Conservation of 371 acres of this site would result in a 75/25 conservation to impact goal for the project. With conservation of this acreage, the Wildlife Agencies would agree to a hard-line agreement for the project provided that the site is confirmed by the Wildlife Agencies to include at least 70 acres of coastal sage scrub and the entire acreage is guaranteed for purchase. For example, to reduce the risk of the entire option failing, the Applicant would need to guarantee to assist The Escondido Conservancy (TEC) with purchase of any remaining acreage TEC is unable to secure funds to purchase.

Finally, the total acreage and habitat composition for the Mountain Gate habitat block needs confirmation. We have information stating the total acreage of the site is 692.8 acres, while the information provided for our review indicates a total acreage of only 558 acres, including 113 acres of CSS. We have information indicating only 17.4 acres of CSS on the Mountain Gate site, including 5 acres within an SDG&E easement that could not be included as mitigation for the Newland Sierra project.

Again, we are providing this information in advance in hopes that it will lead to a productive meeting tomorrow. We look forward to seeing you then. Please forward on to others on your teams as I have not copied everyone at the last meeting.

Sincerely,

Karen

Karen Goebel
Assistant Field Supervisor
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
760/431-9440, ext. 296
760/431-9624 Fax

Rita Brandin

From: Rita Brandin
Sent: Wednesday, September 9, 2015 2:54 PM
To: Brian Grover (bgrover@dudek.com); 'brice@bosslergroup.com'
Subject: FW: Newland Sierra Proposed Project Alternative
Attachments: Newland MSCP Alternative.jpg

Need to look at this and have a conversation this afternoon --- I am available any time ---

From: Gungle, Ashley [<mailto:Ashley.Gungle@sdcounty.ca.gov>]
Sent: Wednesday, September 09, 2015 2:28 PM
To: Rita Brandin; brice@bosslergroup.com
Cc: Slovick, Mark
Subject: FW: Newland Sierra Proposed Project Alternative

Rita, Brice,

The following was received this afternoon.

Thanks,

Ashley

Ashley Gungle, Land Use/ Environmental Planner
COUNTY OF SAN DIEGO | Planning & Development Services
T. 858.495.5375

From: "Goebel, Karen" <karen_goebel@fws.gov>
To: "Wardlaw, Mark" <Mark.Wardlaw@sdcounty.ca.gov>
Cc: "Ed Pert" <Ed.Pert@wildlife.ca.gov>, "Mendel Stewart" <mendel_stewart@fws.gov>
Subject: Newland Sierra Proposed Project Alternative

Hi Mark,

As promised, we have attached a map depicting a proposed alternative for the Newland Sierra project that gets us closer to the 75/25 conservation to development goals of the draft North County Plan under the MSCP. We have made a sincere effort to listen to the project proponent's desire to maintain their commercial center and considered topography of the site in development of this alternative.

The proposed alternative reduces development by about 106 acres to address our prior concerns and specifically minimizes edge effects, increases functionality of core wildlife habitat areas, allows wildlife connectivity across the site and to the south, and provides a range in topographical gradients to support live in habitat and wildlife movement. As noted on the map, we would also like to discuss alternative access routes and incorporation of wildlife movement features into the roadway design.

With these changes the project will achieve a 68/32 conservation to development ratio. The anticipated offsite mitigation of coastal sage scrub will move the project closer to achieving the

75/25 goal of the draft North County Plan. Offsite mitigation should be located within the Pre-Approved Mitigation Area of the draft North County Plan and contribute to the San Marcos-Merriam Mountain Core (Planning Unit 9).

We look forward to our meeting tomorrow to discuss this proposed alternative and its potential to achieve our support for a proposed hardline agreement for inclusion in the draft North County plan.

Sincerely,

Karen

Karen Goebel
Assistant Field Supervisor
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008
760/431-9440, ext. 296
760/431-9624 Fax





Incorporate features (e.g., undercrossings, directional fencing) in the road design to minimize road kill and maintain connectivity for wildlife.

Keep development behind ridge line to maintain connectivity to the south.

Removed development to minimize edge effects, maintain large block of habitat with a diversity of topography.

Consider new access roads - Twin Oak Crest and Camino Calafia



UNITED STATES
Department of the Interior

Newland Sierra

-  Development/Access Roads
-  FMZ Special Management Area
-  FMZ Zones 1 and 2
-  Openspace



US Fish and Wildlife Service
2017 Staff Report
Comments Due: 1/10/2018
Prepared by: E. Luciani
March 2015

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Monthly Batching Meeting With U.S Fish and Wildlife Service and Department of Fish and Game

Date: August 18, 2016

Project Name: Newland Sierra

Project Number:

Name of Note Taker: Kimberly Davis

Name of County Staff Presenting Case: Mark Slovick

Name of USFWS Staff: Doreen Stadtlander, Becca Reeves, Emily Cate

Name of CDFG Staff: Dave Mayer

Other Attendees: County staff: Alex Elias, Darin Neufeld, Kimberly Davis

Reason for Agenda Item:

The purpose of the meeting was to inform the agencies that a draft EIR will be out for public review soon. The biological technical report is almost complete and will be submitted to agencies for review within 4 weeks (and before public review); the applicant will request either an HLP or a Section 7 consultation. Numerous meetings discussing this project have been held and the agencies have previously been provided biological information including survey results.

Discussion:

1. Were there specific concerns raised by the USFWS?
 - Were there update CAGN surveys?
 - Uncertainty regarding a project of this size and effect on the PAMA being appropriate for the HLP process, i.e. it may not fit into the 4d category. Section 10 permit is an option should incidental take authorization be needed
 - Request agency opportunity for review/coordination before public draft
 - Although this is a batching meeting, HLP findings were not provided prior to the today's meeting and are not being reviewed.
 - County indicated that the issue of an HLP had been discussed with the USFWS (Karen Goebel) at previous meetings and that Karen stated that while she was not being "predecisional" she did not know of any reason the findings could not be made. Will need to follow up on comments made regarding HLP with Karen G. when she returns

3. Were there specific concerns raised by DFG?

- Question of off-site mitigation for CSS
 - Request 75%/25% conservation consistent with NC MSCP, or additional lands conserved in PAMA to reach the 75%
 - Open space is fragmented
 - Require better discussion for how project is consistent with NC MSCP preserve
 - Connectivity will be precluded
4. Were determinations made? County to check date of last California gnatcatcher surveys. Last surveys were conducted in 2013.
5. Does the project need to be presented at a subsequent batching meeting? No, the biological technical report and HLP findings will be provided to the agencies prior to public review.

EXHIBIT D



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
2177 Salk Avenue, Suite 250
Carlsbad, California 92008



In Reply Refer To:
FWS-SDG-15B0150-15CPA0175

MAR 12 2015

Mr. Mark Slovick
County of San Diego
Department of Planning and Development Services
5510 Overland Avenue, Suite 110
San Diego, California 92123

Subject: Notice of Preparation of an Environmental Impact Report for the Newland Sierra Project, Unincorporated San Diego County, California

Dear Mr. Slovick:

We have reviewed the subject Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR), dated February 12, 2015, which we received on March 5, 2015. The proposed Newland Sierra project encompasses 1,985 acres located west of Interstate 15, north of Deer Springs Road, and east of Twin Oaks Valley Road within unincorporated San Diego County (County). The proposed project would include the development of a new master planned community consisting of 2,135 homes, general commercial uses, school site, 37 acres of parks, and 1,202 acres of biological open space. In addition, the project would include an extensive trail system consisting of: 7.1 miles of multi-purpose pathways along the main road; 8.7 miles of internal pathways and trails within neighborhoods; and 3.3 miles of trails through the open space areas (2 miles of multi-purpose trail and 1.3 miles of secondary trails).

The primary concern and mandate of the U.S. Fish and Wildlife Service (Service) is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), the Migratory Bird Treaty Act (16 U.S.C. 703), and the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c). Our comments are based on the information provided in the NOP, our knowledge of sensitive and declining vegetation communities in the County, and our participation in regional conservation planning efforts.

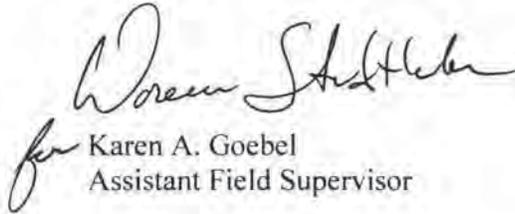
One of our primary concerns is the potential impacts of the proposed project to assembling a subregional preserve system. The proposed project site is located within the planning area for the North County Multiple Species Conservation Program (NCMSCP). The NCMSCP is a comprehensive habitat conservation planning program that attempts to preserve native habitats for a multitude of sensitive species for which the County, Service, and California Department of Fish and Wildlife entered into a Planning Agreement (Revised and Amended May 12, 2014). The proposed project site and areas to the north, south, east, and west are identified as "Pre-approved Mitigation Area" (PAMA) in the draft NCMSCP plan. More specifically, the proposed project site is located

within Planning Unit 9 (San Marcos-Merriam Mountains Core Area) and represents one (Merriam Mountains) of only two remaining large blocks of natural habitat west of Interstate 15 in the PAMA. In addition, the habitat evaluation maps of the County's draft NCMSCP plan indicates that habitats on and adjacent to the project site are "moderate", "high", and "very high" habitat quality.

To ensure that the proposed project is consistent with the conservation goals of the draft NCMSCP as well as Planning Unit 9 of the draft PAMA, we recommend that the DEIR fully analyze a project alternative that would remove the three development bubbles identified as Towncenter, Terraces, and Hillside (see Figure 1 which was provided to us by the County) and associated access roads. The re-design would minimize project impacts to the draft PAMA, provide for a large, contiguous block of open space in the eastern and northern portion of the property thereby contributing to assemblage of the San Marcos-Merriam Mountains Core Area, and maintain connectivity between on and offsite areas designated as draft PAMA and to other conservation efforts outside the NCMSCP planning area. To further assist you in evaluating the proposed project, we have provided the enclosed recommendations for inclusion in the DEIR.

We appreciate the opportunity to comment on the subject NOP and request that a copy of the DEIR be provided to our office upon its release. If you have any questions regarding this letter or require additional information, please contact Michelle Durflinger of our office at 760-431-9440, extension 356.

Sincerely,



Karen A. Goebel
for Karen A. Goebel
Assistant Field Supervisor

Enclosure

cc: David Mayer, California Department of Fish and Wildlife, San Diego, California

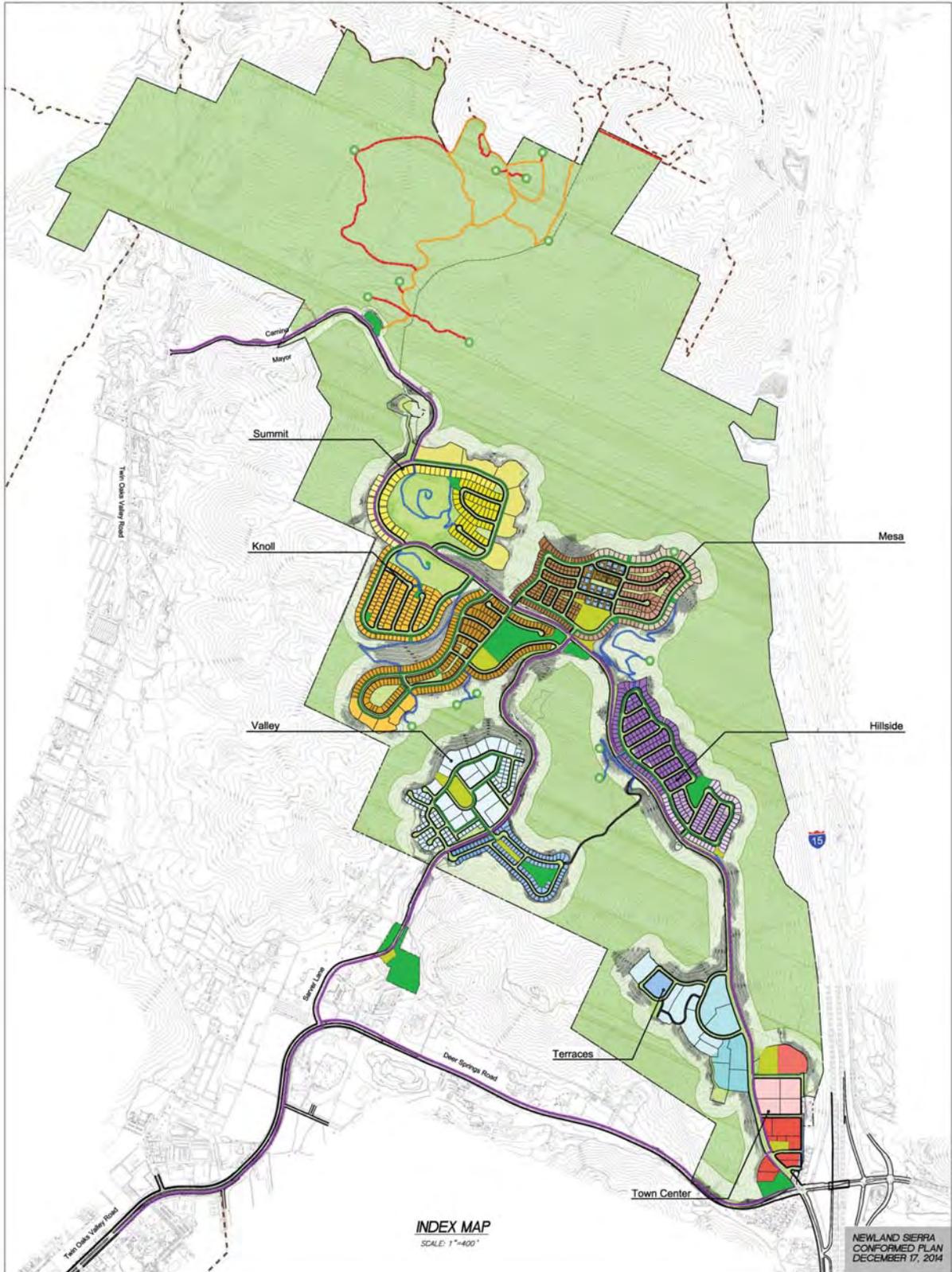


Figure 1. Newland Sierra Conformed Plan. Provided by San Diego County

ENCLOSURE

To assist our review of the project and to assist the County in compliance with pertinent Federal statutes and laws, we recommend that the DEIR for the proposed Newland Sierra project contain the following information.

1. A complete discussion of the purpose and need for, and description of, the proposed project, including all ancillary facilities, staging areas, and access routes to the construction and staging areas.
2. A complete analysis of the effect that the project may have on completion and implementation of regional and/or subregional conservation programs including the County of San Diego's draft North County MSCP. We recommend that the County ensure that the development of this and other proposed projects do not preclude long-term preserve planning options.
3. A complete list and assessment of the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying federally listed threatened, endangered, or proposed candidate species, and any locally unique species and sensitive habitats. Specifically, the DEIR should include:
 - a. Discussions regarding the regional setting with special emphasis on resources that are rare or unique to the region that would be affected by the project. This discussion is critical to an assessment of environmental impacts.
 - b. A current inventory of the biological resources associated with each habitat type on site and within the area of impact.
 - c. A thorough assessment of rare plants and rare natural communities.
 - d. A current inventory of rare, threatened, and endangered species on site and within the area of impact.
 - e. Discussions regarding seasonal variations in use by sensitive species of the project site as well as the area of impact on those species, using acceptable species-specific survey procedures as determined through consultation with the Service and the California Department of Fish and Wildlife, collectively the Wildlife Agencies. Focused species-specific surveys, conducted in conformance with established protocols at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required.
4. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources. All facets of the project should be included in this assessment. Specifically, the DEIR should provide:
 - a. Specific acreage and descriptions of the types of wetlands, scrub, and other sensitive habitats that will or may be affected by the proposed project or project alternatives. Maps and tables should be used to summarize such information.

- b. Detailed discussions, including both qualitative and quantitative analyses, of the potentially affected listed and sensitive species (fish, wildlife, plants), and their habitats on the proposed project site, area of impact, and alternative sites, including information pertaining to their local status and distribution. The anticipated or real impacts of the project on these species and habitats should be fully addressed.
 - c. Discussions regarding indirect project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any proposed Natural Community Conservation Planning (NCCP) protected lands.
 - i) Impacts to wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated.
 - ii) Discussions of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage. The latter subject should address: project-related changes on drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the project site.
 - d. Discussions regarding possible conflicts resulting from wildlife-human interactions at the interface between the development project and natural habitats. The zoning of areas for development projects or other uses that are nearby or adjacent to natural areas may inadvertently contribute to wildlife-human interactions.
5. A thorough discussion of mitigation measures for adverse project-related impacts on sensitive plants, animals, and habitats. Specifically, the DEIR should include/address:
- a. Where avoidance is infeasible, mitigation measures that emphasize minimization of project impacts. For unavoidable impacts, onsite habitat restoration or enhancement should be discussed in detail. If onsite mitigation is not feasible or would not be biologically viable (e.g., it would not adequately mitigate the loss of biological functions and values), offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.
 - b. Mitigation measures to alleviate indirect project-related impacts on biological resources, including measures to minimize changes in the hydrologic regimes on site, and means to convey runoff without damaging biological resources, including the morphology of onsite and downstream habitats.
 - c. Where proposed grading or clearing is within 100 feet of proposed biological open space, or otherwise preserved sensitive habitats, a requirement for temporary fencing. Fencing should be placed on the impact side and should result in no vegetation loss within open space. All temporary fencing should be removed only after the conclusion of all grading, clearing, and construction activities.

- d. A requirement that a County-approved biological monitor to be present during initial clearing, grading, and construction in sensitive habitat areas and/or in the vicinity of biological open space areas to ensure that conservation measures associated with resource agency permits and construction documents are performed. The biological monitor should have the authority, and responsibility, to halt construction to prevent or avoid take of any listed species and/or to ensure compliance with all avoidance, minimization, and mitigation measures. Any unauthorized impacts or actions not in compliance with the permits and construction documents should be immediately brought to the attention of the County and the Wildlife Agencies.
- e. Plans for restoration and revegetation, to be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria (e.g., percent cover of native and nonnative species; species richness); (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity.
- f. Measures to protect, in perpetuity, the targeted habitat values of proposed preservation and/or restoration areas from direct and indirect negative impacts. The objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Permanent fencing should be installed between the impact area and biological open space and be designed to minimize intrusion into the sensitive habitats from humans and domestic animals. There should be no gates that would allow access between the development and biological open space. Additional issues that should be addressed include proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, etc.
- g. Development and implementation of a management and monitoring plan (MMP), including a funding commitment, for any on and/or offsite biological open space easements, if applicable. An appropriate natural lands management organization, subject to approval by the County and Wildlife Agencies, should be identified. The MMP should outline biological resources on the site, provide for monitoring of biological resources, address potential impacts to biological resources, and identify actions to be taken to eliminate or minimize those impacts. A Property Analysis Record (PAR) or similar analysis should be completed to determine the amount of funding needed for the perpetual management, maintenance, and monitoring of the biological conservation easement areas by the natural lands management organization. It should be demonstrated that the proposed funding mechanism would ensure that adequate funds would be available on an annual basis to implement the MMP. The natural lands management organization should submit a draft MMP, PAR results, and proposed funding mechanism to the County and Wildlife Agencies for review and approval prior to initiating construction activities; the resulting final plan should be submitted to the County and Wildlife Agencies and the funds for implementing the MMP transferred within 90 days of receiving approval of the draft plan.

- h. To avoid impacts to nesting birds, the DEIR should require that all clearing and grubbing occur outside the avian breeding season. The general breeding season for nesting birds occurs approximately February 15 through September 15; however, raptors may begin breeding as early as January 1. If project construction is necessary during the avian breeding season, a qualified biologist should conduct a survey for nesting birds within 3 days prior to the work in the area to ensure no nesting birds in the project area would be impacted by the project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. The buffer shall be a minimum width of 300 feet (500 feet for raptors), shall be delineated by temporary fencing, and shall remain in effect as long as construction is occurring or until the nest is no longer active. No project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be affected by the construction.

EXHIBIT E



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



March 12, 2015

Mr. Mark Slovick
County of San Diego, Planning & Development Services
5510 Overland Avenue, Suite 110
San Diego, CA 92123-1239
mark.slovick@sdcounty.ca.gov

Subject: Comments on the Notice of Preparation of a Draft Environmental Impact Report for the Newland Sierra General Plan Amendment, Specific Plan, Rezone and Tentative Map Project (PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597, LOG NO. PDS2015-ER-08-001), County of San Diego, California (SCH#2015021036)

Dear Mr. Slovick:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced Notice of Preparation (NOP) for a draft Environmental Impact Report (DEIR) for the Newland Sierra Project (SCH#2015021036) (Project) dated February 12, 2015. The comments provided herein are based upon information provided in the NOP for the DEIR (and associated reference materials including Dudek's December 2013 Memorandum), our knowledge of sensitive and declining vegetation communities, and ongoing regional habitat conservation planning in the County of San Diego (County). The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA; §§15386 and 15381, respectively) and is responsible for ensuring appropriate conservation of the State of California's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (CESA, Fish and Game Code §2050 *et seq.*) and other sections of the Fish and Game Code. The Department is also responsible for the administration of the Lake and Stream Alteration Agreement Program (Fish and Game Code §1600 *et seq.*). The Department also administers the Natural Community Conservation Planning (NCCP) program (NCCP, Fish and Game Code §2800 *et seq.*). The County is a participant in the Natural Community Conservation Planning (NCCP) program. Currently, the County has an adopted South County Multiple-Species Conservation Program (MSCP), and is actively pursuing its draft North County MSCP (NC-MSCP). The NC-MSCP is a comprehensive habitat conservation planning program that attempts to preserve native habitats for a multitude of sensitive species for which the County, Fish and Wildlife Service, and California Department of Fish and Wildlife entered into a Planning Agreement (County of San Diego, 2014).

The Project site consists of 51 parcels totaling approximately 1,985 acres located west of Interstate 15, north of Deer Springs Road, and east of Twin Oaks Valley Road within the Twin Oaks Valley and Hidden Meadows Communities of the North County Metropolitan Subregional Plan area (southern portion) and the Bonsall Community Planning area (northern portion) of the unincorporated San Diego County (County). The project would include the development of a

new master planned community consisting of 2,135 dwelling units, 81,000 square feet of general commercial uses, a six-acre charter school site, approximately 37 acres of parks and 1,202 acres of biological open space. Overall, the master-planned development would consist of seven planning areas focused around a town center located off Deer Springs Road in the southeastern corner of the site and include an extensive trail system including: 7.1 miles of multi-use pathways along the main road; 8.7 miles of internal pathways and trails within neighborhoods; two miles of multi-purpose trails through the open space area; and, 1.3 miles of secondary trails through the open space area. The project would require several County approvals, including a General Plan Amendment, Specific Plan, Rezone, Tentative Map and habitat loss permit (HLP). Access to the project site would be provided by two main access points along Deer Springs Road, with an additional access point provided at Camino Mayor off of Twin Oaks Valley Road. Earthwork for the Project is estimated to consist of 10,700,000 cubic yards of balanced cut/fill with construction anticipated to occur in three phases over a 5 to 10 year period. The project would require the extension of fire protection services (Deer Springs Fire Protection District), sewer and water utilities [Vallecitos Water District (VWD)] and natural gas and electricity utilities [San Diego Gas & Electric Company (SDG&E)].

The project site is located within the northern portion of the Merriam Mountains range, a narrow 8.5-mile-long chain of low mountains generally running north-south with a variety of east-west trending ridgelines and scattered peaks. The property is primarily undeveloped with on-site topography composed mostly of hills and valleys dominated by rock (granodiorite) outcroppings with moderate to steeply sloping terrain, with elevations ranging from approximately 660 feet above mean sea level (AMSL) near the northwestern end to approximately 1,750 feet AMSL in the west central portion of the Project site. Various dirt roads and trails that provide access to each parcel and service roads for existing water infrastructure traverse the project site. An abandoned quarry is located in the northwest portion of the project site and an abandoned private landing strip is located in the north central portion. Surrounding land uses to the north, west, and south of the project site include large-lot, single-family residential development, agricultural uses and conserved open space.

The project site is also located within the NC-MSCP planning area, within Planning Unit 9 (San Marcos-Merriam Mountains Core Area) and the Pre-Approved Mitigation Area (PAMA) and represents one (Merriam Mountains) of only two remaining large blocks of natural habitat west of Interstate 15 in the PAMA. Vegetation on the project site consists of large blocks of Southern Mixed Chaparral with interspersed patches of

Mr. Mark Slovick
County of San Diego, Planning & Development Services
March 12, 2015
Page 3 of 3

Diegan Coastal Sage Scrub, Coast Live Oak Woodlands, and Southern Willow Scrub. The South Fork of Moosa Canyon also runs from the northern to northeastern area of the project site. In addition, the habitat evaluation mapping for the County's draft NC-MSCP plan indicates that habitats on and adjacent to the project site are "moderate", "high", and "very high" habitat quality, and areas to the north, south, east, and west are also identified as PAMA.

The Department offers the comments and recommendations in the enclosure to assist in avoiding, minimizing, and adequately mitigating Project-related impacts to biological resources, and to ensure that the Project is consistent with ongoing regional habitat conservation planning efforts (i.e. that it would not preclude the preserve assembly or prevent the achievement of the biological goals anticipated under the NC-MSCP Subregional Plan). We appreciate the opportunity to comment on this NOP and look forward to further coordination with the County on this Project. If you have questions regarding our letter, please contact Randy Rodriguez (858) 637-7111 or Randy.Rodriguez@wildlife.ca.gov.

Sincerely,



Gail K. Sevens
Environmental Program Manager
South Coast Region

Enclosure: (9 pages)

cc: State Clearinghouse, Sacramento
Karen A. Goebel, U.S. Fish and Wildlife Service (Karen_Goebel@fws.gov)
Mindy Fogg, County of San Diego (Mindy.Fogg@sdcounty.ca.gov)
Eric Lardy, County of San Diego (Eric.Lardy@sdcounty.ca.gov)

ENCLOSURE

California Department of Fish and Wildlife Comments and Recommendations:
NOP for the DEIR for the
Newland Sierra Project

NOP Comments

1. To enable the Department to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, wildlife, and other biological resources, we recommend the following information be included in the DEIR:

A. A complete discussion of the purpose and need for, and description of, the proposed Project, including all staging areas and access routes to the construction and staging areas.

B. Analyses of a range of feasible alternatives to ensure that alternatives to the proposed Project are fully considered and evaluated. The analyses must include alternatives that avoid or otherwise minimize impacts to sensitive biological resources, particularly wetlands. Specific alternative locations should be evaluated in areas with lower resource sensitivity, where appropriate. For example, to provide for a larger, contiguous block of open space in the eastern and northern portion of the property, to minimize edge effects to onsite biological open space areas, and to maintain connectivity between on- and offsite areas designated for conservation, we recommend that the draft EIR include the following alternatives: 1) one that would remove the three easternmost development bubbles (i.e., areas identified by the County in a prior meeting as Towncenter, Terraces, and Hillside) and associated access roads; 2) another possible alternative to consider would remove the easterly half of the Mesa development area (located just northwest of Hillside) and the Terraces and Hillside areas (but retain the Towncenter area); and, 3) a third alternative that would move some of the development proposed in the central and eastern areas of the site to the old quarry locations (also see Comment No. 3).

C. A complete assessment of the flora and fauna within and adjacent to the project area; specifically, the DEIR should include:

- a) Discussions regarding the regional setting, pursuant to CEQA Guidelines, section 15125(c), with special emphasis on resources that are rare or unique to the region that would be affected by the Project. This discussion is critical to an assessment of environmental impacts.
- b) A current inventory of the biological resources (to include rare, threatened, and endangered, and other sensitive species) associated with each habitat type on site and within the area of potential effect. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). This should include sensitive fish, wildlife, reptile, and amphibian species. The Department's California Natural Diversity Data Base in Sacramento should be contacted at www.wildlife.ca.gov/biogeodata/ to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code.
- c) Discussions regarding seasonal variations in use of the project area and vicinity by sensitive species, and acceptable species-specific survey procedures as determined through consultation with the Wildlife Agencies. Focused species-specific surveys, conducted in conformance with established protocols at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required.

D. A thorough discussion of direct, indirect, and cumulative Project-related impacts expected to adversely affect biological resources. All facets of the Project should be included in this assessment. Specifically, the DEIR should include:

- a) Specific acreages and descriptions of the types of wetlands, coastal sage scrub, and other habitats that would potentially be affected by the proposed Project or project alternatives. Maps and tables should be used to summarize such information.
- b) Detailed discussions, including both qualitative and quantitative analyses, of potential direct effects on listed and other sensitive species (fish, wildlife, plants) and their habitats within the area of impact of the proposed and alternative projects.
- c) Discussions regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (*e.g.*, preserve lands associated with a NCCP).
- d) Impacts to wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated.
- e) Discussions of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage. The latter subject should address: Project-related changes on drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the Project site.
- f) If applicable, a discussion of the effects of any Project-related dewatering or ground water extraction activities to the water table and the potential resulting impacts on the wetland/riparian habitat, if any, supported by the surface and groundwater.
- g) Discussions regarding possible conflicts resulting from wildlife-human interactions at the interface between the development Project and natural habitats.
- h) A cumulative effects analysis as described under CEQA Guidelines, section 15130, assessing the impacts of the proposed Project in conjunction with past, present, and anticipated future projects, relative to their impacts on native plant communities and wildlife.

E. A thorough discussion of mitigation measures for adverse Project-related impacts on sensitive plants, animals, and habitats. Specifically, the DEIR should include/address:

- a) Measures to fully avoid and otherwise protect Rare Natural Communities from Project-related impacts. The Wildlife Agencies consider these communities as threatened habitats having both regional and local significance.
- b) Where avoidance is infeasible, mitigation measures that emphasize minimization of Project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable (*e.g.*, it would not adequately mitigate the loss of biological functions and values), off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. The Wildlife Agencies generally do not encourage the use of relocation, salvage, and/or translocation as mitigation for impacts on rare, threatened, or endangered species. Studies have shown these efforts are experimental in nature and do not provide for the long-term viability of the target species.
- c) Mitigation measures to alleviate indirect Project-related impacts on biological resources, including measures to minimize changes in the hydrologic regimes on site, and means to convey runoff without damaging biological resources, including the morphology of on-site and downstream habitats.

- d) Where proposed grading or clearing is within 100 feet of proposed biological open space, or otherwise preserved sensitive habitats, a requirement for temporary fencing. Fencing should be placed on the impact side and should result in no vegetation loss within open space. All temporary fencing should be removed only after the conclusion of all grading, clearing, and construction activities.
- e) A requirement that a qualified biological monitor to be present during initial clearing, grading, and construction in sensitive habitat areas and/or in the vicinity of biological open space areas to ensure that conservation measures associated with resource agency permits and construction documents are performed. The biological monitor should have the authority to halt construction to prevent or avoid take of any listed species and/or to ensure compliance with all avoidance, minimization, and mitigation measures. Any unauthorized impacts or actions not in compliance with the permits and construction documents should be immediately brought to the attention of the Lead Agency and the Wildlife Agencies.
- f) Measures to protect, in perpetuity, the targeted habitat values of proposed preservation and/or restoration areas from direct and indirect negative impacts. The objective should be to offset the Project-induced qualitative and quantitative losses of wildlife habitat values. Permanent fencing should be installed between the impact area and biological open space and be designed to minimize intrusion into the sensitive habitats from humans and domestic animals, particularly cats. There should be no gates that would allow access between the development and biological open space. Additional issues that should be addressed include proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, etc.
- g) Development and implementation of a management and monitoring plan (MMP), including a funding commitment, for any on- and/or off-site biological open space easements, if applicable. An appropriate natural lands management organization, subject to approval by the County and Wildlife Agencies, should be identified. The MMP should outline biological resources on the site, provide for monitoring of biological resources, address potential impacts to biological resources, and identify actions to be taken to eliminate or minimize those impacts. A Property Analysis Record (PAR) or comparable method should be completed to determine the amount of funding needed for the perpetual management, maintenance, and monitoring of the biological conservation easement areas by the natural lands management organization. It should be demonstrated that the proposed funding mechanism would ensure that adequate funds would be available on an annual basis to implement the MMP. The natural lands management organization should submit a draft MMP, PAR results, and proposed funding mechanism to the Wildlife Agencies for review and approval prior to initiating construction activities; the final plan should be submitted to the Wildlife Agencies and the funds for implementing the MMP transferred within 90 days of receiving approval of the draft plan.

2. The Department recommends that measures be taken to avoid Project impacts to nesting birds. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). Proposed Project activities (including, but not limited to, staging and disturbances to native and nonnative vegetation, structures, and substrates) should occur outside of the avian breeding season which generally runs from February 1 - September 1 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If avoidance of the avian breeding season is not feasible, the Department recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300 feet of the disturbance area (within 500 feet for raptors). Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

3. The County and the Wildlife Agencies have met multiple times to discuss the proposed Newland-Sierra Project site, formerly known as Merriam Mountains, including the following dates: January 23rd, 2014; March 27th, 2014 (Site Visit); April 3rd, 2014; July 29th, 2014 (Site Visit); November 19th, 2014; and, most recently on February 19th, 2015. Based on our past meetings with the County, the Department has provided the following tenets that will guide any hardlined agreement negotiations for the Project:

- a) Though this is a new project, it is very similar to the Merriam Mountains project; however, all parties agree that it will be evaluated independent of the previous Merriam Mountains Project;
- b) Potential hardline discussion will be based on current conditions at the project site, in the North County Plan area, and in the County as a whole, as conditions have changed;
- c) A suite of species, not the coastal California gnatcatcher alone, is the driver for preservation at this location;
- d) The project should achieve a 25 percent development and 75 percent preservation ratio on-site to the maximum extent practicable; initial proposals only showed an approximate 60:40 ratio. For any portion of the 75 percent conservation that cannot be achieved on-site, the balance should be met by contributing land that adds value to the Merriam Mountains connection, preferably in the same NC-MSCP planning unit. Additional off-site conservation, if part of the proposal, should emphasize additional conservation of coastal sage scrub habitat. For example, at prior meetings, there were discussions about potentially acquiring excess Caltrans rights-of-ways along the easterly project boundary to enhance the proposed open space configuration and wildlife connections along the eastern border of the Project;
- e) The north-south habitat connectivity along I-15 is important for the NC Plan;
- f) Internal open space (e.g., block 3) is not acceptable for preservation credit;
- g) Removal of the northern access road to Lawrence Welk Court would improve preservation in the northern open space; however, there needs to be commitment by the County/Fire that a secondary access road would not be required at any time for the Project;
- h) Proposed trails need to be compatible with habitat preservation for wildlife.
- i) It must be demonstrated that restoration of the old quarry site can be achieved, considering the slope, soils and other factors in the area;
- j) Where vineyards are proposed in areas adjacent to proposed open space, best management practices that are effective and can be enforced should be included as part of any hardline agreement; and,
- k) Drought conditions have worsened and the site is old growth chaparral and prime for wildfire. The wildlife agencies need proof of fire district agreement or accepted Fire Protection Plan [also see 3.f)].

Based on our February 19th, 2015 meeting with the County, to ensure that the proposed project is consistent with the conservation goals of the draft NC-MSCP (see comment No. 4), we recommend that the DEIR fully analyze the following project alternatives: 1) an alternative that would remove the three easternmost development bubbles (i.e., areas identified by the County in a prior meeting as Towncenter, Terraces, and Hillside) and associated access roads; 2) an alternative that would be to remove the easterly half of the Mesa development area (located just northwest of Hillside) and the Terraces and Hillside areas (but retain the Towncenter area) to open up the easterly corridor and provide better connection along the northern and eastern portions of the property and to the south, while maximizing the conservation of coastal sage scrub; and, 3) an alternative that move some of the development proposed in the central and eastern areas of the site to the old quarry locations. The first two alternatives recommended for inclusion in the DEIR would substantially minimize project impacts to the draft PAMA, provide for a large, contiguous block of open space in the eastern and northern portion of the property, minimize edge effects to onsite biological open space areas, and maintain connectivity between on and offsite areas designated as draft PAMA within Planning Unit 9 and to other conservation efforts outside the NC-MSCP planning area. The last alternative would have the same benefits of the first two, but also conserve more coastal sage scrub and provide a better preserve design in the central area of the site while locating development in an existing disturbed area, closer

to access and eliminate the need to expend resources on restoration that may or may not be successful (see Comment No. 1).

4. As stated above, the proposed Project is located primarily within the PAMA, within the San Marcos-Merriam Mountains Core Area (Planning Unit 9) and is identified as a large block of habitat (typically 500 acres or more) that supports a viable population of multiple wildlife species and represents one of only two remaining large blocks of natural habitat west of Interstate 15 (I-15) in the PAMA. Site conditions and size currently facilitate the movement of small and larger mammals to traverse across to adjacent mostly undeveloped areas, such as the San Marcos Mountains located northwest of the project site. The draft NC-MSCP plan anticipates that approximately 75 percent of lands designated as PAMA would be conserved with 25 percent utilized for development and anticipates the following conservation goals for the San Marcos-Merriam Mountains Core Area (Planning Unit 9):

- a) Conserve oak woodlands, coastal sage scrub (particularly in Twin Oaks) to maintain populations and connectivity of coastal California gnatcatcher and other coastal sage scrub-dependent species, and chaparral on mafic or gabbro soils that support sensitive plant species, such as chaparral beargrass and Parry's tetracoccus, San Diego thornmint (particularly in San Marcos Mountains), or California adolphia;
- b) Ensure that a core community of coastal California gnatcatcher and other coastal sage scrub-dependent species remains in the coastal sage scrub block in Twin Oaks;
- c) Conserve the north-south connectivity of coastal California gnatcatcher habitat along I-15 between the Riverside County line and the City of Escondido. Maintain the east-west connectivity of natural habitats on either side of I-15 for dispersal of coastal sage scrub community birds;
- d) Conserve the riparian and upland habitats of Gopher Canyon Creek for water quality and sensitive species, such as southwestern pond turtle and least Bell's vireo; and,
- e) Ensure the San Diego thornmint population in the Palisades open space preserve is maintained and enhanced, if practicable.

Current project proposals have shown only about 60 percent conservation of lands designated as PAMA, which would not be consistent with the NC-MSCP reserve assembly targets and would fragment a core block of habitat that is planned to connect designated preserve areas with high value habitat within the NC-MSCP PAMA, including areas currently conserved to mitigate impacts to gnatcatchers and gnatcatcher habitat. Fragmentation reduces habitat quality and promotes increased levels of nest predation and brood parasitism, and ultimately, increased rates of local extinction (Wilcove 1985, Rolstad 1991, Saunders *et al.* 1991, Soulé *et al.* 1988). Connectivity among habitat reserve areas (i.e., connectivity among gnatcatcher habitat within the NC-MSCP PAMA) is essential for long-term maintenance of the viability of gnatcatcher in this area. Maintaining connectivity among these patches of gnatcatcher habitat serves to: (1) allow exchange of genetic material among populations; (2) allow recolonization of habitat patches from which gnatcatchers have been extirpated; and (3) allow relatively safe travel for gnatcatchers moving from one area to another. Fragmentation of habitat within core habitat areas and the narrowing of connections among blocks of remaining habitat for gnatcatchers are expected to reduce the function and value of these areas.

The DEIR should evaluate direct and indirect impacts the proposed development would have on the planned San Marcos-Merriam Mountains Core Area linkage and NC-MSCP planning unit goals, as well as north-south and east-west wildlife movement through/across the site (e.g., from open space Block 3 to other conserved areas on-site and designated PAMA off-site and from areas east of I-15, through the site and across Twin Oaks Valley/Deer Springs Road), including impacts to wildlife movement (including gnatcatchers, mammals and herpetofauna), loss of and fragmentation to habitat patches/blocks, corridor length/width, connectivity, etc.

5. The Department recommends a 100-foot buffer from the riparian habitat in the major drainage of Moosa Canyon Creek. This habitat is expected, either currently or in time, to support sensitive riparian species such as the endangered least Bell's vireo. We further recommend that any limited encroachment (necessitated by site topography) from on-site trails not approach any closer than 50-feet to riparian/wetland habitat. The DEIR should include a map showing the location of all proposed trails.

6. The current project description includes several parks and fuel modification zones within the open space acreage. Parks and fuel modification zones are considered fully impacted by the Wildlife Agencies and cannot be included in biological open space proposed for conservation to offset impacts to sensitive resources and must be mitigated appropriately. The DEIR should clearly differentiate between biological open space that would be used as mitigation to offset Project impacts (natural open space) and open space (i.e., parks and fuel modification zones) that would be routinely impacted.

7. The Section 10 of the CEQA Initial Study (Environmental Checklist Form) indicates that the Project would require issuance of a County Habitat Loss Permit (HLP, Ordinance Nos. 8365, 8380, 8608, 8846, 9457, and 9671), which implements the interim 4(d) rule of the federal Endangered Species Act and the state Natural Community Conservation Planning (NCCP) Process Guidelines for loss of coastal sage scrub habitat during preparation of a NCCP-HCP. To approve an interim habitat loss application, the local agency must make the following findings:

- a) The proposed habitat loss is consistent with the interim loss criteria in the Conservation Guidelines and with any subregional process if established by the subregion;
- b) The habitat loss does not cumulatively exceed the 5% guideline;
- c) The habitat loss will not preclude connectivity between areas of high habitat values;
- d) The habitat loss will not preclude or prevent the preparation of the subregional NCCP (e.g., the loss would not foreclose future reserve planning options;
- e) The habitat loss has been minimized and mitigated to the maximum extent practicable;
- f) The habitat loss will not appreciably reduce the likelihood of the survival and recovery of listed species in the wild; and,
- g) The habitat loss is incidental to otherwise lawful activities.

The NC-MSCP Planning Agreement also establishes guidelines for interim projects while the Plan is being completed (Section 6.6, Interim Project Processing Interim Review Process and Exhibit B). The Interim Review guidelines identify that where a project will not affect CSS but will negatively affect (a) biological resources in areas mapped as "high value" and "very high value" based on the County's habitat evaluation models that utilize the best available information at the time, (b) areas mapped as "moderate" or "low" value that may be important for preserve assembly, and/or (c) proposed Covered Species or their habitat based on current biological surveys, the NCCP/4(d) findings shall be considered and preserve design principles shall be applied to the project including the following:

- a) On-site open space should provide a long-term biological benefit;
- b) On-site open space must protect habitat of equal or greater value as that being impacted. No isolated pockets of open space should be used for mitigation credit;
- c) Separate lots should be used whenever possible for on-site open space to help protect the biological value of the preserved areas;
- d) On-site open space shall contribute to regional conservation efforts;
- e) Open space design, to the extent known, should not reduce the biological diversity found on the site;
- f) Open space design shall maintain habitat connectivity between areas of high quality habitat;
- g) The most sensitive resources shall be protected to maximize long-term viability; and,
- h) Edge effects and habitat fragmentation shall be minimized by maximizing the surface area to perimeter ratio, preserving large blocks of contiguous open space. Edge effects shall be further

minimized by establishing buffers, providing fencing and/or permanent signs, and limiting trails and/or lighting.

The DEIR should include sufficient information and analysis to demonstrate how the project is consistent with the preliminary conservation objectives of the NC-MSCP (including the planning units goals for the San Marcos-Merriam Mountains Core Area, see Comment No. 4) and the Planning Agreement Exhibit B guidelines for interim projects and how it would meet the NCCP/4(d) findings required for the County to issue a HLP for impacts to coastal sage scrub (which are subject to Wildlife Agency approval).

8. The proposed Project is located adjacent to various lands that have been or are planned to be conserved for biological resources, including lands owned by the City of Oceanside located immediately to the north of the Project. The DEIR should evaluate the direct and cumulative effects that the proposed development would have on the adjacent existing and proposed conservation located in both jurisdictions. The analysis should include effects on these lands from the proposed Project, including direct and indirect impacts from: (a) increased public use of these open space areas from the Project's population; (b) lighting; (c) noise; (e) drainage; (f) landscaping and introducing vegetation, etc.

9. All plans for restoration/revegetation associated with the Project should be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity. The plan for restoring coastal sage scrub on 4.9 acres onsite and 4.7 acres offsite would require approval by the Wildlife Agencies as part of the federal/state authorization(s) for impacts to coastal sage scrub.

10. The Department is concerned about the potential direct and indirect effects to biological resources associated with the construction of pedestrian trails in areas proposed for designation as open space on site. We recommend that trails in open space be located to not bisect intact areas and instead be placed along the perimeter or edge of open space areas. The following information should be included in the DEIR regarding any proposed pedestrian trail: an aerial photograph with an overlay of the proposed alignment of the trail in relation to designated or proposed open space; specifications of the trail design; specification that the trail would be for hiking only; measures to avoid/minimize impacts related to hikers straying off-trail and/or trail use by unauthorized vehicles including bicycles; and a discussion of how the proposed location and use of the trail would be consistent with the County's draft NC-MSCP.

11. To increase potential habitat and functionality of on-site wildlife corridors, we recommend that any Project-graded slopes and fuel clearing areas requiring replanting be planted with compatible, low-fuel natives (e.g., cacti and other succulents) to minimize the potential for invasive species to spread into the proposed on-site mitigation/open space areas and into adjacent natural lands.

12. The County should ensure that all development-related landscaping proposed adjacent to on- or off-site habitat does not include exotic plant species that may be invasive to native habitats. Exotic species should be removed and replaced with native or non-invasive exotic species based on the California Invasive Plant Council's (Cal-IPC) "Invasive Plant Inventory" list that can be obtained from Cal-IPC's web site at <http://www.cal-ipc.org>. This list includes such species as pampas grass, fountain grass, myoporum, black locust, capeweed, tree of heaven, sweet alyssum, English ivy, French broom, Scotch broom, and Spanish broom. In addition, landscaping should not use plants that require intensive irrigation, fertilizers, or pesticides adjacent to preserve areas and water runoff from landscaped areas should be directed away from

Mr. Mark Slovick
County of San Diego
March 11, 2015
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the biological conservation easement area and contained and/or treated within the development footprint. The applicant should submit a draft list of species to be included in the landscaping to the Wildlife Agencies for approval at least 60 days prior to initiating Project impacts. Additionally, the applicant should also submit to the Agencies the final list of species to be included in the landscaping within 30 days of receiving approval of the draft list of species.

13. The NC-MSCP is still in-progress, and is expected to be completed in 2017. Until the NC-MSCP is completed and permit issued, the Department considers adverse impacts to a species protected by the California Endangered Species Act (CESA), for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by state law (Fish and Game Code, §§ 2080, 2085). Consequently, if the Project, Project construction, or any Project-related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, the Department recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from the Department may include an incidental take permit (ITP) or a consistency determination in certain circumstances, among other options [Fish and Game Code §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a project and mitigation measures may be required in order to obtain a CESA permit. Revisions to the Fish and Game Code, effective January 1998, may require that the Department issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

14. The Department has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed, the project applicant (or “entity”) must provide written notification to the Department pursuant to section 1600 *et seq.* of the Fish and Game Code. The project area supports aquatic, riparian, and wetland habitats. The DEIR should include a jurisdictional delineation of the creeks/drainages and their associated riparian habitats. The delineation should be conducted pursuant to the Service wetland definition adopted by the Department (Cowardin *et al.* 1979). Based on this notification and other information, the Department then determines whether a Lake and Streambed Alteration (LSA) Agreement is required. The Department’s issuance of a LSA for a project that is subject to CEQA will require CEQA compliance actions by the Department as a Responsible Agency. As a Responsible Agency under CEQA, the Department may consider the City’s DEIR for the project. We recommend that all wetlands and watercourses on-site, whether ephemeral, intermittent or perennial, should be retained and provided with substantial setbacks to preserve the riparian and aquatic values and maintain their value to on-site and off-site wildlife and plant populations. Moreover, to minimize additional requirements by the Department pursuant to section 1600 *et seq.* and/or under CEQA, the document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of an SAA.¹

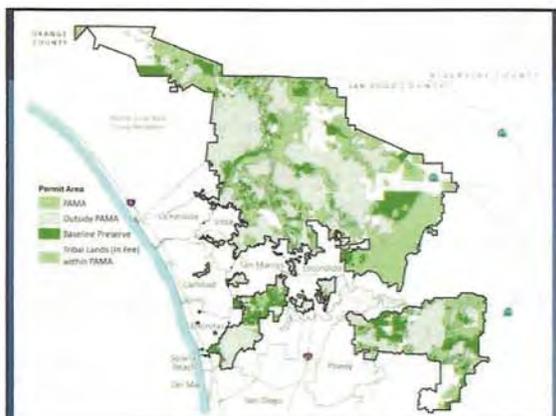
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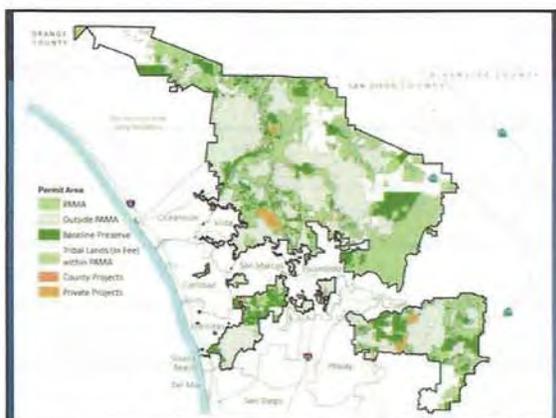
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¹ A notification package for a SAA may be obtained by accessing the Department’s web site at www.wildlife.ca.gov/habcon/1600.

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EXHIBIT F





Private Projects

Board Approved/Concurrence Pending from Wildlife Agencies:

- Butterfield Trails Ranch
- Campus Park West
- Meadowood
- Orchard Run
- Cumming Ranch
- Montecito Ranch

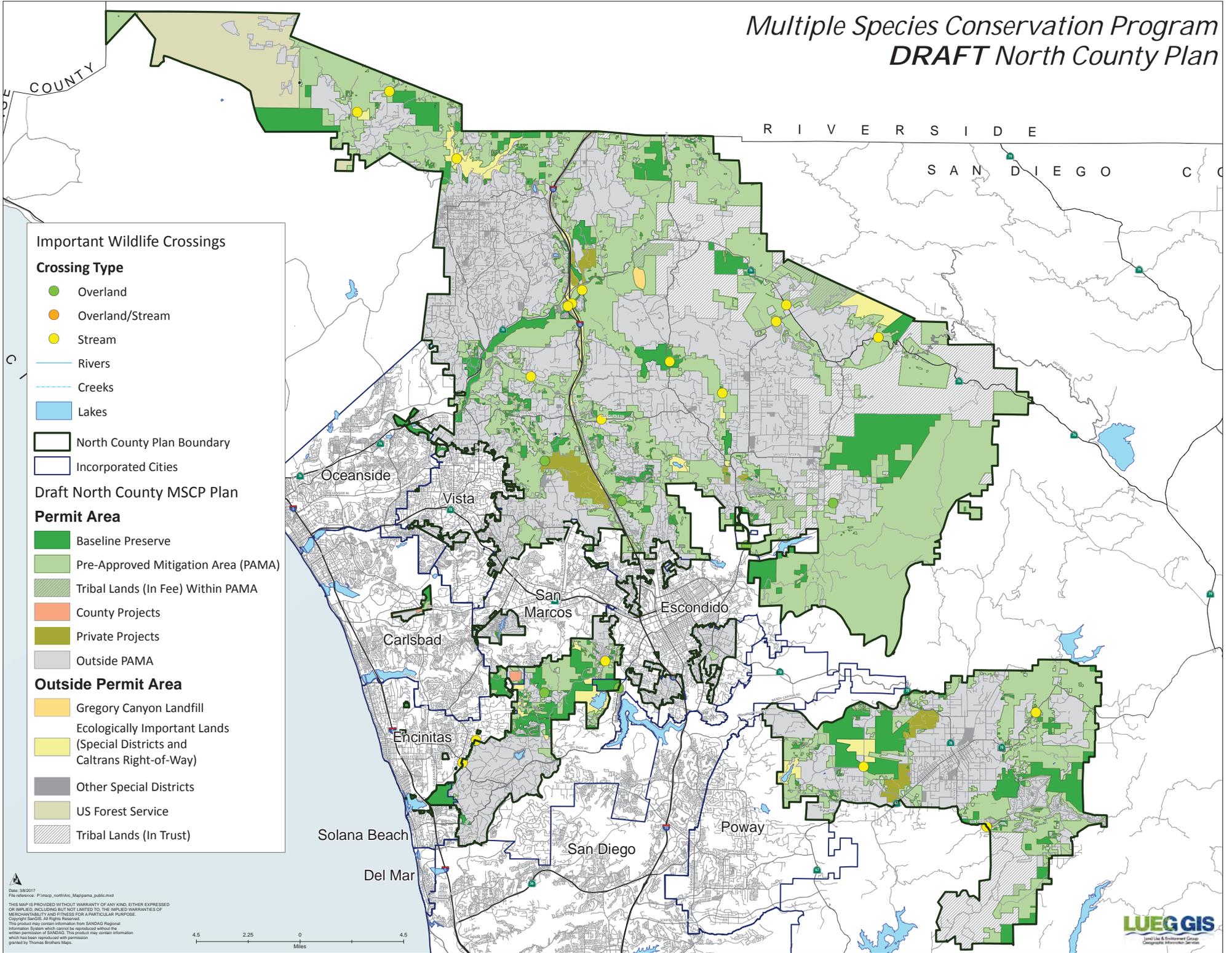
Pending Board Approval/Pending Concurrence from Wildlife Agencies:

- Newland Sierra

24

Newland Sierra ⊕

Multiple Species Conservation Program DRAFT North County Plan



Important Wildlife Crossings

Crossing Type

- Overland
- Overland/Stream
- Stream

- Rivers
- - - Creeks
- Lakes

North County Plan Boundary

Incorporated Cities

Draft North County MSCP Plan

Permit Area

- Baseline Preserve
- Pre-Approved Mitigation Area (PAMA)
- Tribal Lands (In Fee) Within PAMA
- County Projects
- Private Projects
- Outside PAMA

Outside Permit Area

- Gregory Canyon Landfill
- Ecologically Important Lands (Special Districts and Caltrans Right-of-Way)
- Other Special Districts
- US Forest Service
- Tribal Lands (In Trust)



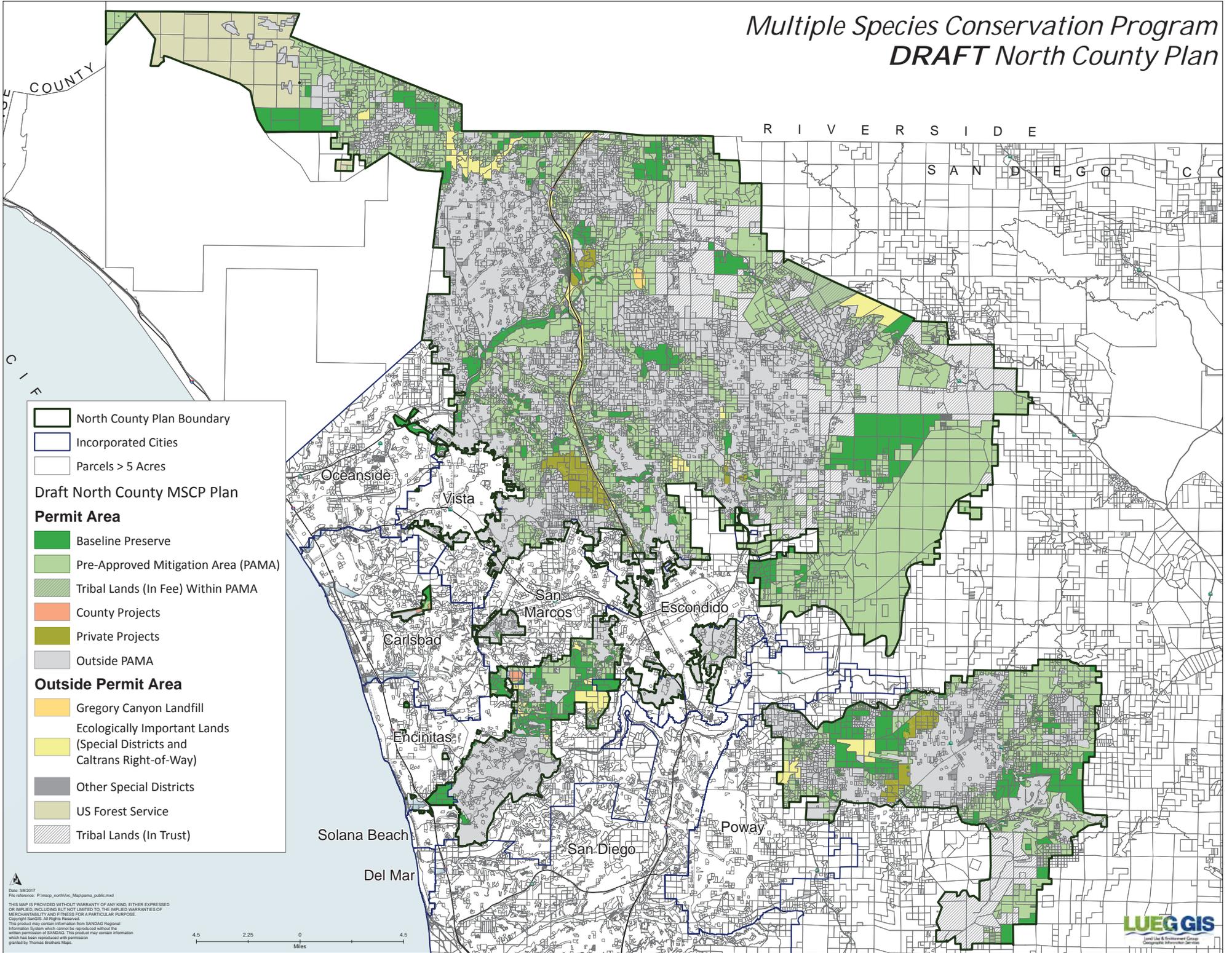
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Multiple Species Conservation Program DRAFT North County Plan



- North County Plan Boundary
- Incorporated Cities
- Parcels > 5 Acres
- Draft North County MSP Plan**
- Permit Area**
- Baseline Preserve
- Pre-Approved Mitigation Area (PAMA)
- Tribal Lands (In Fee) Within PAMA
- County Projects
- Private Projects
- Outside PAMA
- Outside Permit Area**
- Gregory Canyon Landfill
- Ecologically Important Lands (Special Districts and Caltrans Right-of-Way)
- Other Special Districts
- US Forest Service
- Tribal Lands (In Trust)

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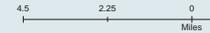
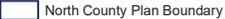
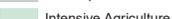
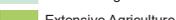
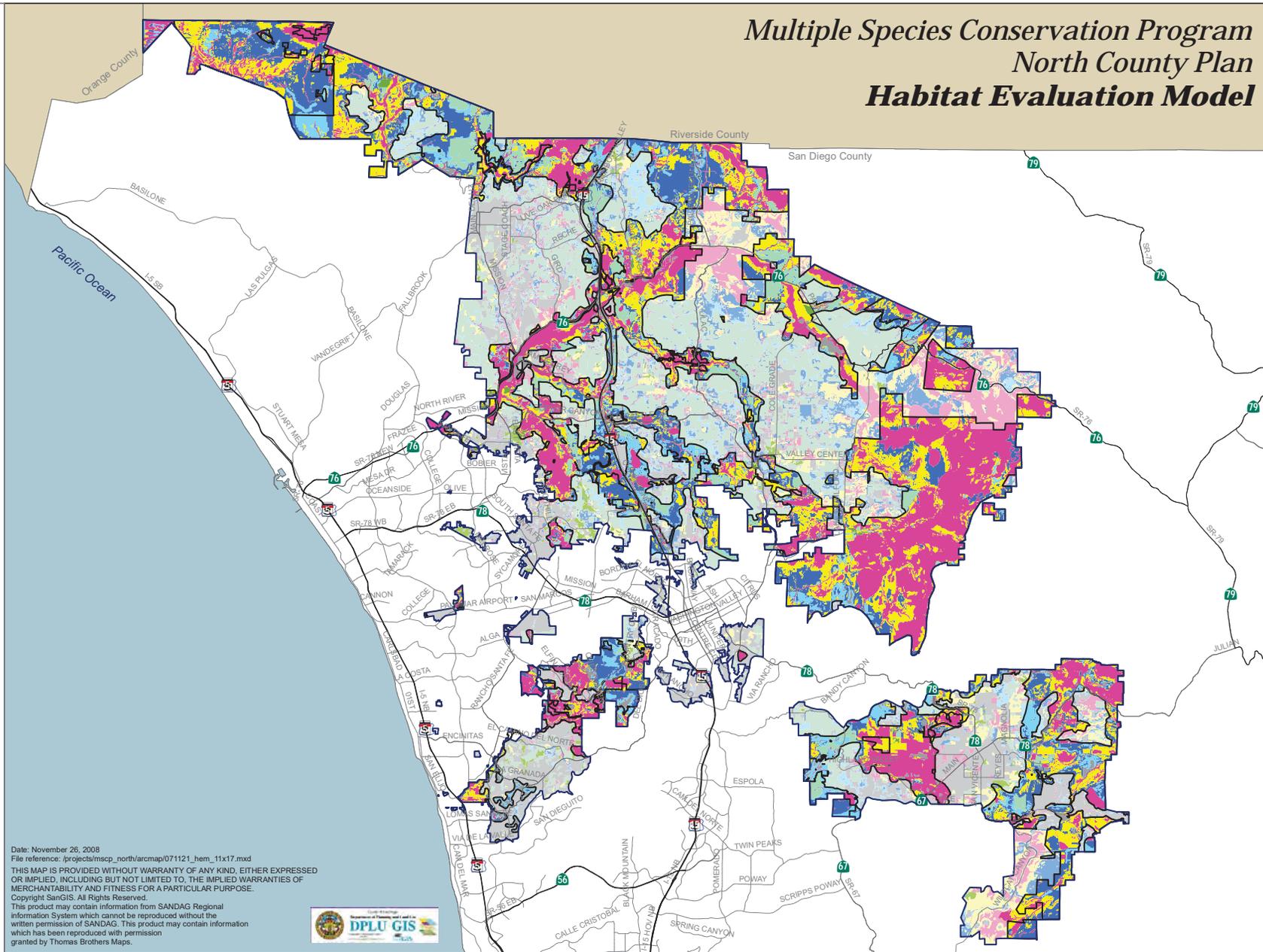


EXHIBIT G

Multiple Species Conservation Program North County Plan Habitat Evaluation Model

-  North County Plan Boundary
-  Pre-Approved Mitigation Area (PAMA)
- Habitat Evaluation Model Results**
- Within Pre-Approved Mitigation Area (PAMA)**
-  Very High
-  High
-  Moderate
-  Low
-  Developed
-  Intensive Agriculture
-  Extensive Agriculture
- Habitat Evaluation Model Results**
- Outside Pre-Approved Mitigation Area (PAMA)**
-  Very High
-  High
-  Moderate
-  Low
-  Developed
-  Intensive Agriculture
-  Extensive Agriculture



Date: November 26, 2008
 File reference: j:\projects\mscp_north\arcmap\071121_hem_11x17.mxd
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EXHIBIT H

MERRIAM MOUNTAINS SPECIFIC PLAN

APPENDIX V

HARDLINE POINTS OF AGREEMENT

GPA 04-06; SP 04-006; R04-013; VTM5381; S04-035, S04-036, S04-037,
S04-038; Log No. 04-08-028; SCH No. 2004091166

for the

DRAFT ENVIRONMENTAL IMPACT REPORT

August 2007

MERRIAM MOUNTAINS SPECIFIC PLAN

HARDLINE POINTS OF AGREEMENT

September 2005



Life | Land | Community

**Points of Agreement of September 20, 2005
For the Merriam Mountains Project (SP04-006, FWS/CSFG-SDG-4514.1)**

A meeting was held on September 20, 2005 to discuss and agree to basic project and preserve designs and MSCP hardlines for the Merriam Mountains project ("Merriam" or "Project"), including the Specific Plan and any approvals required to implement the Specific Plan. The applicant, NNP-Stonegate Merriam, LLC ("Stonegate"), presented a draft alternative referred to as the September 20, 2005 "All South" development plan ("All South Plan"), for review by the U.S. Fish and Wildlife Service, Department of Fish and Game (collectively, "Wildlife Agencies"), and County of San Diego staff ("County Staff") and to facilitate discussion and concurrence on the following Points of Agreement.

Summary of Fundamental Points of Agreement

- A. County Staff and the Wildlife Agencies concur with the hardlines presented in the All South Plan, including location of a portion of the Merriam trail system in the preserve area to be described in the Merriam habitat management plan;
- B. The Wildlife Agencies agree to consider the Captains' Associates parcel as adequate MSCP mitigation for CSS impacts resulting from the All South Plan;
- C. County Staff and the Wildlife Agencies agree to cooperate in processing an HLP, if necessary, that will not require further avoidance of CSS habitat impacts currently shown on the All South Plan; and
- D. County Staff agrees to address the County RPO in a way that allows the All South Plan to proceed as proposed in the interest of creating an ecologically superior plan.

Specifically, the Wildlife Agencies and County Staff agree to the following points:

MSCP/4(d) Compliance

- 1. County Staff and the Wildlife Agencies concur with the All South Plan as the agreed-upon hardline for Project and agree to proceed with the MSCP analysis using the hardline shown on the All South Plan;
- 2. County Staff and the Wildlife Agencies concur that a portion of the Merriam trail system may be located within designated biological open space (the MSCP preserve) and is a compatible use within the MSCP. The trail system will be designed to County joint use standards and will be presented to County Staff and the Wildlife Agencies for review;
- 3. Impacts to California gnatcatchers on the southeastern portion of the Project will be fully mitigated by purchase of the offsite Captains' Associates property as referenced in the Wildlife Agencies' July 13, 2005 letter; and



4. Should the Project be approved prior to issuance of MSCP permits, the County and the Wildlife Agencies will process an HLP to be included as a discretionary action in the Merriam EIR (with HLP findings included in the EIR). While it is understood that the Service cannot provide pre-decisional permit assurances as it pertains to 4(d) or Section 7 processes, the Wildlife Agencies will take into consideration that the Captains' Associates property satisfies mitigation requirements for impacts to CSS under the MSCP. The Wildlife Agencies further agree not to require further avoidance of CSS habitat other than that shown in the All South Plan.

Mitigation for Impacts to Biological Resources

1. MSCP/4(d) compliance will constitute full mitigation for direct, indirect and cumulative impacts with respect to sensitive habitats, sensitive species, and preserve design; and
2. The Wildlife Agencies will acknowledge in writing their acceptance of the All South Plan preserve design as full mitigation for all biological impacts and will not propose or recommend additional avoidance or minimization of impacts to wetland (jurisdictional) or other resources when future wetland permits (CDFG Streambed Alteration Agreement, ACOE 404, RWQCB 401) are submitted and processed for the Project. The Department of Fish and Game agrees specifically not to require further avoidance measures during processing of a 1602 Streambed Alteration Agreement for the Project.

RPO Compliance

1. County Staff and the Wildlife Agencies agree that the All South Plan is not feasible to implement if the County RPO is strictly applied to areas outside of the designated biological open space (the MSCP preserve). Amendment of the RPO or allowance of an exemption for the Project is necessary to implement the All South Plan.
2. County Staff will support amendment of the RPO to allow impacts to RPO jurisdictional features (sensitive habitat, wetlands, slopes, cultural resources, floodplains) when such impacts allow a design that provides ecological benefits superior to a design that strictly complies with the RPO.
3. County Staff will support findings that impacts to RPO jurisdictional features resulting from the All South Plan are necessary to enhance the overall conservation values of the Project and to provide superior ecological benefits;
4. County Staff will submit the proposed amendment to the RPO for formal review and approval as soon as possible after execution of this Agreement.

GP 2020

1. County Staff concur that the All South Plan, including dwelling units, density, and proposed commercial uses, is consistent with GP 2020 and will be incorporated into the Staff Alternative of the GP 2020 Working Copy;
2. Project processing will not be delayed during preparation of GP 2020; and

3. County Staff and the Wildlife Agencies will not support any reduction in density or intensity in the All South Plan without a corresponding reduction in the size of the biological open space.

Wildlife Agencies' Requests

1. A fire management plan for the Project, including amount and location of fire management buffers, will be presented to County Staff and the Wildlife Agencies once the plan is approved by the Fire Marshall; and
2. The Wildlife Agencies recognize and accept the fire roads through the biological preserve as proposed, but strongly encourage the County to develop a biologically superior access plan utilizing existing private roads through the private property to the west of the All South Development Area and to also eliminate the access to Lawrence Welk Drive.

If, by November 15, 2005, the County is successful in obtaining the necessary access rights, the alternative plan is acceptable to the Deer Springs Fire District Fire Marshall and the San Diego County Fire Marshall, and the costs to permit and construct the alternative road are not increased from the currently proposed road, the applicant agrees to amend its plan and construct the access along this alternative route.

Meeting Participants

Therese O'Rourke, Susan Wynn, U.S. Fish and Wildlife Service; Larry Eng, David Mayer, Department of Fish and Game; Tom Oberbauer, County of San Diego; Joe Perring, Stonegate Development; June Collins, Elizabeth Candela, Dudek; Eric Armstrong, Bob Chase, Fuscoe Engineering; Brice Bossler, The Bossler Group; Michael McCollum, McCollum Associates.

Concurrence Initials

COUNTY OF SAN DIEGO

By: _____

Date: _____

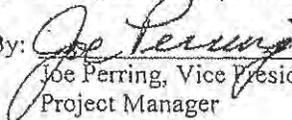
U. S. FISH & WILDLIFE SERVICE

By: _____

Date: _____

NNP-STONEGATE MERRIAM, LLC

By: Stonegate Merriam Mountains, LLC

By:  _____
Joe Perring, Vice President
Project Manager

Date: _____

DEPARTMENT OF FISH & GAME

By: _____

Date: _____

Points of Agreement
Merriam Specific Plan
September 27, 2005
Page 3

- 2. Project processing will not be delayed during preparation of GP 2020; and
- 3. County Staff and the Wildlife Agencies will not support any reduction in density or intensity in the All South Plan without a corresponding reduction in the size of the biological open space.

Wildlife Agencies' Requests

- 1. All fire management buffers for the Project will be located outside the biological open space. The fire management plan, including amount and location of fire management buffers within the development area, will be presented to County Staff and the Wildlife Agencies once the plan is approved by the Fire Marshall; and
- 2. The Wildlife Agencies recognize and accept the fire roads through the biological preserve as proposed, but strongly encourage the County to develop a biologically superior access plan utilizing existing private roads through the private property to the west of the All South Development Area and to also eliminate the access to Lawrence Welk Drive.

If, by November 15, 2005, the County is successful in obtaining the necessary access rights, the alternative plan is acceptable to the Deer Springs Fire District Fire Marshall and the San Diego County Fire Marshall, and the costs to permit and construct the alternative road are not increased from the currently proposed road, the applicant agrees to amend its plan and construct the access along this alternative route.

Meeting Participants

Therese O'Rourke, Susan Wynn, U.S. Fish and Wildlife Service; Larry Eng, David Mayer, Department of Fish and Game; Tora Oberbauer, County of San Diego; Joe Perring, Stonegate Development; June Collins, Elizabeth Candela, Dudek; Eric Armstrong, Bob Chase, Fuscoe Engineering; Eric Bossler, The Bossler Group; Michael McCollum, McCollum Associates.

Concurrence Initials

COUNTY OF SAN DIEGO

By: _____

Date: _____

U. S. FISH & WILDLIFE SERVICE

By: Therese O'Rourke

Date: October 12, 2005

NNP-STONEGATE MERRIAM, LLC

By: Stonegate Merriam Mountains, LLC

By: Joe Perring
Joe Perring, Vice President
Project Manager

Date: October 10, 2005

DEPARTMENT OF FISH & GAME

By: _____

Date: _____

Points of Agreement
Merriam Specific Plan
September 27, 2005
Page 3

- 2. Project processing will not be delayed during preparation of GP 2020; and
- 3. County Staff and the Wildlife Agencies will not support any reduction in density or intensity in the All South Plan without a corresponding reduction in the size of the biological open space.

Wildlife Agencies' Requests

- 1. All fire management buffers for the Project will be located outside the biological open space. The fire management plan, including amount and location of fire management buffers within the development area, will be presented to County Staff and the Wildlife Agencies once the plan is approved by the Fire Marshal; and
- 2. The Wildlife Agencies recognize and accept the fire roads through the biological preserve as proposed, but strongly encourage the County to develop a biologically superior access plan utilizing existing private roads through the private property to the west of the All South Development Area and to also eliminate the access to Lawrence Weik Drive.

- If, by November 15, 2005, the County is successful in obtaining the necessary access rights, the alternative plan is acceptable to the Deer Springs Fire District Fire Marshall and the San Diego County Fire Marshall, and the costs to permit and construct the alternative road are not increased from the currently proposed road, the applicant agrees to amend its plan and construct the access along this alternative route.

Meeting Participants

Therese O'Rourke, Susan Wynn, U.S. Fish and Wildlife Service; Larry Eng, David Mayer, Department of Fish and Game; Tom Oberbauer, County of San Diego; Joe Perring, Stonegate Development; June Collins, Elizabeth Candela, Dudek; Eric Armstrong, Bob Chase, Fuscoe Engineering; Brice Bossler, The Bossler Group; Michael McCollum, McCollum Associates.

Concurrence Initials

COUNTY OF SAN DIEGO

By: _____

Date: _____

U. S. FISH & WILDLIFE SERVICE

By: _____

Date: _____

NNP-STONEGATE MERRIAM, LLC
By: Stonegate Merriam Mountains, LLC

By: Joe Perring
Joe Perring, Vice President
Project Manager

Date: October 12, 2005

DEPARTMENT OF FISH & GAME

By: _____

Date: _____

Joe Perring

From: Michael McCollum [mccollum@mccollum.com]
Sent: Wednesday, October 12, 2005 12:34 PM
To: Larry Eng
Cc: Joe Perring
Subject: Merriam Points of Agreement

Larry:

To further clarify the language in the Points of Agreement of September 20, 2005, on page 2, under the heading "Mitigation for Impacts to Biological Resources", bullet 2:

It is the intent of this language that any mitigation measures associated with the 1602 agreement process, not result in moving roads, units, or facilities, or any other avoidance or minimization measure that results in the need to redesign the project. We acknowledge that normal mitigation measures will be required to achieve no net loss of Department jurisdictional wetland resources resulting from any project impacts, including, as appropriate, recognition of preserved wetlands within the biological open space.

We prefer not to make changes to the Points of Agreement, since the Service and my client have already signed it, and we believe the existing language speaks only to the avoidance issue, not specific mitigation for impacts; however, this message will make it clear of the agreement's intent.

I would appreciate it if you would fax back to me today the signature page with your signature, and send your original signature to me via U.S. Mail at your convenience.

Thank you for your assistance in concluding this process.

Mike

--
McCollum Associates
10196 Clover Ranch Drive
Sacramento, CA 95829-6574
(916) 688-2040 * Fax (916) 688-7436
www.mccollum.com

TRI Commercial Real Estate Services
www.mccollum.com/tri

GARY L. PRYOR
DIRECTOR



County of San Diego

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017

SAN MARCOS OFFICE
338 VIA VERA CRUZ - SUITE 201
SAN MARCOS, CA 92069-2820
(760) 471-0730

EL CAJON OFFICE
200 EAST MAIN ST. - SIXTH FLOOR
EL CAJON, CA 92020-3912
(619) 441-4030

November 1, 2005

Mr. Joseph Perring
27071 Cabot Road, Suite 106
Laguna Hills, California 92653

Dear Mr. Perring:

This letter is in regards to your request to establish a "hard-line" area within the North County Multiple Species Conservation Plan (MSCP) for the Merriam Project.

For MSCP purposes, the Department of Planning and Land Use supports your current proposal to eliminate the northern development node. This represents a significant step forward in implementing the North County Plan. Furthermore, DPLU will continue to work cooperatively and aggressively with the wildlife agencies to address any remaining issues in the southern portions of the site and complete the "hard-line" approval.

We look forward to continuing to work with you and your team on this project.

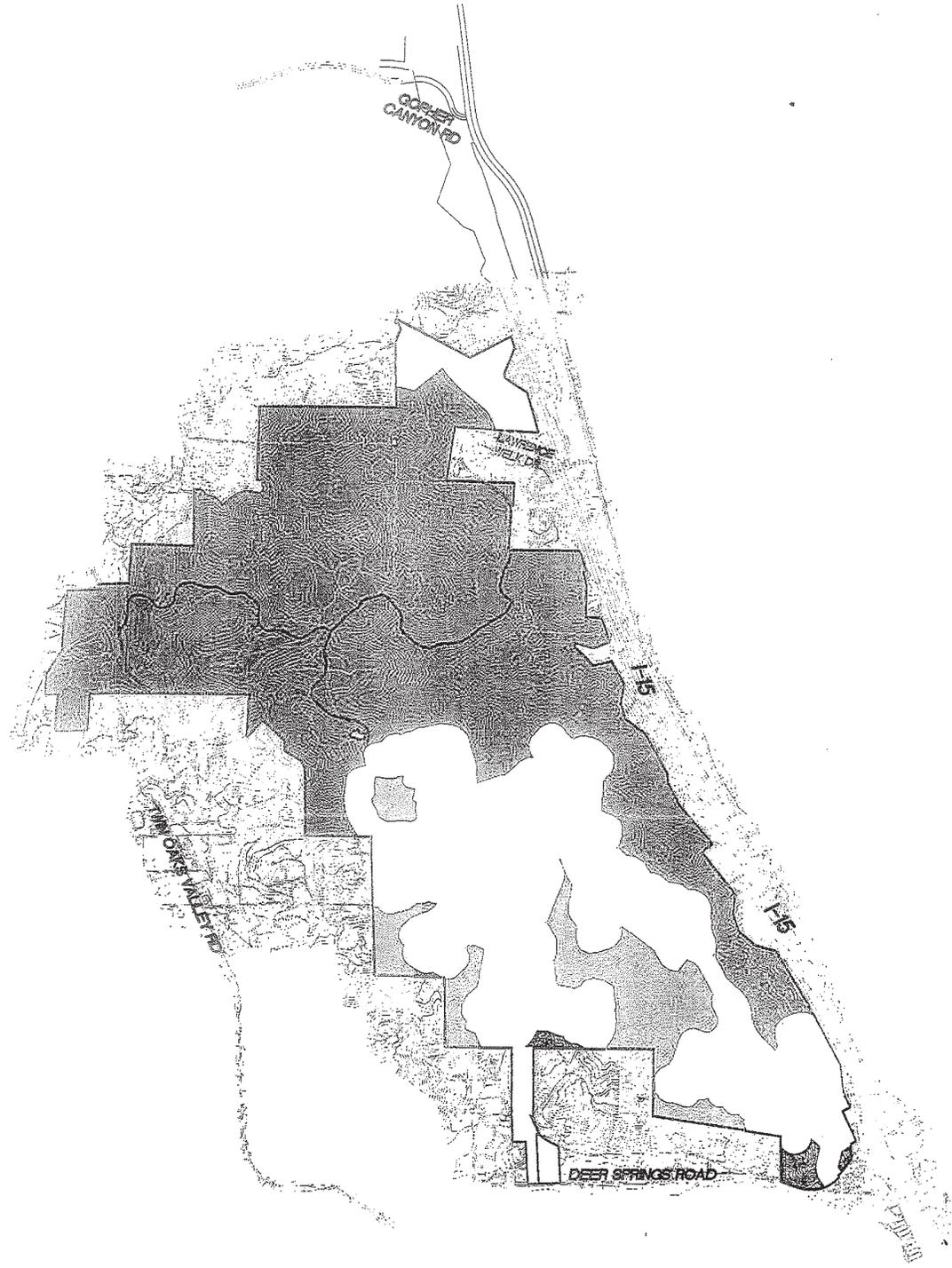
Sincerely,

A handwritten signature in black ink, appearing to read "Ivan Holler".

IVAN HOLLER, Deputy Director
Department of Planning and Land Use

IH:clc

cc: File



-  BIOLOGICAL OPEN SPACE - 1305 AC
-  OTHER OPEN SPACE - 178 AC
-  NATURAL PARK - 14 AC



**DRAFT ALL-SOUTH ALTERNATIVE
PRELIMINARY HARDLINE EXHIBIT
MERRIAM MOUNTAINS**

SEPT 20, 2005

EXHIBIT I

Honoring the MSCP:

Correcting the Record

Endangered Habitats League (EHL) wishes to respond to a matrix titled *Honoring the MSCP*, which was submitted to the US Fish and Wildlife Service and enumerates perceived problems in how the Carlsbad Field Station is handling matters relating to the MSCP. EHL has been a stakeholder from the outset in this precedent setting effort.

We believe that the authors of this matrix – also long-term stakeholders – share a mutual commitment to the MSCP and its successful implementation. That said, we are compelled to correct the many factual errors in its assertions.

More troubling to us than the factual errors is the ascribing of bad motives to Carlsbad, through the use of terms such as “bad faith,” “disingenuous,” “undermine,” “anti-growth agenda,” and “pretext.” Based upon our decades of close work with the Carlsbad personnel, we categorically reject these characterizations. While all parties will at times disagree with FWS judgments or methods—and the need for self examination and improvement is universal among us—we instead find at Carlsbad same mutual commitment to the MSCP as well as honest collaboration.

There is no question that we collectively face challenges to the MSCP, in all the locations referenced. We call for a new round of creative problem solving by stakeholders and agencies alike—the same successful problem solving that led to MSCP adoption over 20 years ago.

This response will track the original matrix.

Honoring assurances

V13/Golden Eagle

See below

V14

Assertions are false: The MSCP anticipates and indeed *requires* FWS to use the CEQA process to comment on MSCP-related projects. In numerous sections (e.g., 1.15, 1.4, 4.2.3) CEQA is specified as a vehicle for notice and comment. CEQA is therefore a *fully* appropriate venue for the FWS to provide input on MSCP consistency. Furthermore, from the public’s perspective, the CEQA process is the *only* accountable and publicly available way to access and participate in MSCP implementation. Continued such use of CEQA by the wildlife agencies is essential. Specific sections of the Subarea Plan follow:

4.3.1. The Process for County Review and Mitigation Within the Metro-Lakeside-Jamul Segment

The Wildlife Agencies shall fulfill their responsibilities to comment on projects as specified under CEQA and pursuant to their statutory authority under the Federal and State Endangered Species Acts and other applicable state and federal laws and regulations.

Section 4.3.2.1 Wildlife Agencies' Role in Project Compliance

The Wildlife Agencies intend to provide comments on specific projects pursuant to their trustee responsibilities and to their statutory authority under the State and Federal laws during the CEQA process.

Regarding the golden eagle, FWS has constructively sought the cooperation of the County and landowners in scientifically examining MSCP adaptive management monitoring data collected by USGS. We are disappointed that these other parties have not, to our knowledge, reciprocated in kind. More specifically, FWS has repeatedly stated that *no determination* has been made as to whether eagle coverage under the MSCP remains biologically valid in light of the monitoring data. It is also important to note that the V14 applicant has proposed not honoring the terms of the Baldwin Agreement, which is part of the MSCP Subarea Plan and Otay Ranch development agreements (and which FWS has respected numerous times where it benefits development interests).

Newland Sierra

Assertions are false: There is no existing “hardline” for this project. When the former project on the Merriam Mountains site was denied by the Board of Supervisors, the site reverted to PAMA. This understanding between the County and the wildlife agencies is documented in draft meeting notes, dated January 23, 2014, as follows:

Background (Merriam Mountains Project)

- a. Mark Slovick summarized the project attributes and hardline that had been established for the Merriam Mountains project, which was denied by the Board of Supervisors in 2010.
- b. After denial, the project reverted to PAMA (Pre-approved Mitigation Area in the the draft NC Plan.

In addition, the fact that any subsequent hardline remained to be negotiated is documented in the NOP comments from the California Dept. of Fish and Wildlife (letter of March 11, 2015 to County of San Diego):

3. The County and the Wildlife Agencies have met multiple times to discuss the proposed Newland-Sierra Project site, formerly known as Merriam Mountains, including the following dates: January 23rd, 2014; March 27th, 2014 (Site Visit); April 3rd, 2014; July 29th, 2014 (Site Visit); November 19th, 2014; and, most recently on February 19th, 2015. Based on our past meetings with the County, the Department has provided the following tenets that will guide any hardlined agreement negotiations for the Project:

- a) Though this is a new project, it is very similar to the Merriam Mountains project; however, all parties agree that it will be evaluated independent of the previous Merriam Mountains Project;
- b) Potential hardline discussion will be based on current conditions at the project site, in the North County Plan area, and in the County as a whole, as conditions have changed;

Fanita Ranch

Assertions are false: Fanita’s prior hardline was mooted—*by the property owner*—when the Fanita Ranch ownership (American General) opted to sell the required Fanita Ranch offsite mitigation to the City of San Diego. Subsequent Fanita Ranch owners chose not to provide the alternative off site mitigation that FWS had offered as an alternative to the original (American General) mitigation package. No other hardline plan has ever been “approved” by the wildlife agencies. In addition, the most recent (Barrett American) project was rejected by the courts as a result of CEQA litigation, and the planning process restarted. In this context, it is our observation that all parties have been treating the site as a “clean slate” from which to re-plan both conservation and development.

Lack of good faith negotiations

Assertions are false: The Village 13 project *never* obtained an agreement, formal or informal, from FWS on the QCB. FWS CEQA comments make it abundantly clear that the footprint discussions were solely in the context of a *regional* quino plan rather than in the DEIR’s context of a stand-alone, project-specific proposal. The latter is far more limited in flexibility. The matrix neglects this vital distinction. In any case, from the public’s point of view, and as a legal matter, the DEIR presents alternatives for *comment and consideration* rather than final decisions.

Village 14 land exchange

Assertions are false: The applicant pursued a land exchange at its own risk. It was denied by the California Department of Fish and Wildlife rather than FWS *per se*. EHL’s scientific analysis showed the exchange was neither biologically sound nor advantageous to the golden eagle.

Newland Sierra

See above discussion.

Fanita Ranch

See above discussion.

Communications and actions in breach of MSCP

Villages 13 and 14

Assertions are false. See above discussion of CEQA comment responsibilities.

Newland Sierra

Assertions are false: The wildlife agencies have historically and appropriately met public trust responsibilities by commenting during the CEQA process. This is essential for a public process whose fundamental purpose is disclosure. Otherwise, decision-making occurs in a back room inaccessible to the public at large. Furthermore, the Planning Agreement for the North County MSCP specifically identifies formal CEQA comments from FWS as *one* means for FWS to provide input to the lead agency on plan conformity, mitigation, etc.

Exhibit B to the Planning Agreement for North and East County: Interim Review Process:

The Interim Review Process also ensures early review and consideration of proposed discretionary projects and annexations by the Wildlife Agencies. With respect to discretionary projects and annexations which may have the potential to preclude long-term preservation planning or impact the viability of biological resources, the Wildlife Agencies commit to meet with the County and/or project proponent at the earliest feasible point in the CEQA or NEPA process to review such projects. Early identification of potential impacts will assist in the preparation of environmental documents for the project and provide the opportunity to identify potential project alternatives and mitigation measures for consideration in compliance with Public Resources §21080.3(a).

The Wildlife Agencies will retain the right to provide further comments *during the formal public comment period* or may choose to entirely waive their comments during the Interim Review Process *and reserve them for the public comment period*. (Emphases added.)

Fanita Ranch

Assertions are false: The City of Santee's 4(d) benefits were properly ended by FWS when all its coastal sage scrub allocation was used up. (FWS did make an exception to

allow an assisted care facility to go forward by allowing the City of Santee to utilize available County 4(d.)

FWS provides full rationales for preserve recommendations rather than “arbitrary” conclusions (e.g. letter of Dec. 20, 2016). In this regard, the draft Santee Subarea Plan (SAP) requires that the wildlife agencies consider the subregional (MSCP) context when reviewing Santee SAP proposals.

Not honoring covered species and sidestepping new information provisions

Assertions are false: FWS has *appropriately* reviewed new information from the MSCP adaptive management and monitoring program. This is an essential responsibility of permit issuance. FWS has repeatedly clarified what coverage for the eagle means under the MSCP, referring to the Biological Opinion and MSCP Table 3.5, Conditions of Coverage. It has explained the relationship of BGEPA to the MSCP. It is the right of other parties to disagree, of course, but disagreement does not warrant the accusations leveled as to motivation.

No “threatening” letters have been sent regarding the golden eagle. Rather, as noted above, FWS has repeatedly stated that *no determination* has been made as to whether eagle coverage under the MSCP remains biologically valid in light of this information. Instead, it has repeatedly offered to sit down and work through the very real biological issues. Whether permittees themselves have honored golden eagle commitments is another matter, and in point of fact, management actions such as nest monitoring have not been performed.

Ignoring solutions inconsistent with agency agenda

Assertions are false: In regard to the vicinity of Warner Springs, scientific input is that the referenced areas do *not* provide a remedy for golden eagle issues for other parts of the County.

EXHIBIT J

Wildlife and Habitat Conservation Coalition

Dedicated to the sustained conservation of native animal and plant species in the Southwest Bioregion.



April 24, 2017

The Hon. Dianne Jacob, Chair
Board of Supervisors
San Diego County
1600 Pacific Highway, Room 335
San Diego, CA 92101

RE: Newland Sierra project and the North County Multiple Species Conservation Program

Dear Chairperson Jacob and Members of the Board:

The San Diego Wildlife Conservation Coalition writes to express its concern over how the Department of Planning and Development Services (DPDS) is treating the Newland Sierra proposed project in the context of the North County Multiple Species Conservation Program (NC MSCP). The Coalition consists of 16 San Diego conservation groups representing with over 25,000 members.

First, however, we wish to convey our appreciation to your Board for moving forward on the long delayed and important North County MSCP. Further, we believe that your staff is firm in its commitment to the plan and, at this time, our comments are limited to the Newland Sierra matter.

As a bit of background, earlier this year, DPDS released a list of development projects that would be placed into the draft NC MSCP and also placed into the plan's DEIR for analysis. This list of "private projects" **inappropriately** contained Newland Sierra, a massive proposed development and General Plan amendment (GPA) along I-15 near Twin Oaks. All other projects on this list have already been *approved* by your Board and have substantial concurrence from our partners in the NC MSCP, the state and federal wildlife agencies.

To the contrary, your Board has not approved Newland Sierra, and the site design – which staff would place into the draft plan – has been soundly rejected by the wildlife agencies in numerous letters, due to fragmentation of Pre-Approved Mitigation Area (PAMA) and loss of connectivity.

Our objections are two-fold. First, until such time as *your Board* chooses to amend the General Plan, staff should not effectively pre-judge a GPA and give a "leg up" through environmental analysis and incorporation into the draft NC MSCP. *The adopted General Plan merits a presumption of validity.* In this case, it is noteworthy that a similar project (Merriam Mountains) was actually denied by your Board, and the 2011 General Plan shows the site as Resource Conservation Area, denoting special protection. Especially given previous Board action, we ask that you direct your staff to respect the General Plan.

Dedicated to the sustained conservation of native animal and plant species in the Southwest Bioregion.

Second, when the former project on the Merriam Mountains site was denied, the planning process was restarted and the site reverted to PAMA. This understanding between the County and the wildlife agencies is documented in draft meeting notes, dated January 23, 2014, as follows:

“Background (Merriam Mountains Project)

- a. Mark Slovick summarized the project attributes and hardline that had been established for the Merriam Mountains project, which was denied by the Board of Supervisors in 2010.
- b. After denial, the project reversed to PAMA (Pre-approved Mitigation Area in the draft NC Plan.”

In addition, the fact that any subsequent hardline remained to be negotiated is documented in Notice of Preparation comments from the California Dept. of Fish and Wildlife (letter of March 11, 2015 to County of San Diego):

“3. The County and the Wildlife Agencies have met multiple times to discuss the proposed Newland-Sierra Project site, formerly known as Merriam Mountains, including the following dates: January 23rd, 2014; March 27th, 2014 (Site Visit); April 3rd, 2014; July 29th, 2014 (Site Visit); November 19th, 2014; and, most recently on February 19th, 2015. Based on our past meetings with the County, the Department has provided the following tenets that will guide any hardlined agreement negotiations for the Project:

- a) Though this is a new project, it is very similar to the Merriam Mountains project; however, *all parties agree that it will be evaluated independent of the previous Merriam Mountains Project;*
- b) Potential hardline discussion will be based on current conditions at the project site, in the North County Plan area, and in the County as a whole, as conditions have changed . . .” (Emphasis added.)

Given the failure of the parties to reach concurrence on a *new* site design, it is inappropriate for a project footprint that has been rejected by our wildlife agency partners as inconsistent with the NC MSCP preserve to be placed in the draft plan and its DEIR.

The rationale provided by DPDS is that the *former* project of a *former* developer had “hardline” status. However, because the site has clearly reverted to PAMA, no footprint should be prematurely advanced into environmental review. The proper course of action is to develop the NC MSCP and, when and if the project comes to your Board, assess at that time its compatibility with the NC MSCP (or its current draft) as part of your decision-making.

Again, we recognize and appreciate the overall progress the County is making toward completing the plan but wish to let you know of our concern that this good work could be undermined.

Dedicated to the sustained conservation of native animal and plant species in the Southwest Bioregion.

In closing, we request that the Board direct staff to remove the proposed project footprints in question from the NC MSCP draft plan and from the plan's DEIR, and to show those areas as PAMA.

Sincerely,

Joan Herskowitz, Buena Vista Audubon

George Courser, Sierra Club San Diego

Richard Fowler, Palomar Audubon Society

Pamela Heatherington, Environmental Center of San Diego

Frank Landis, California Native Plant Society, San Diego Chapter

Laura Hunter, Escondido Neighbors United

Dan Silver, Endangered Habitats League

Richard Fowler, Palomar Audubon Society

Jim Peugh, San Diego Audubon Society

Marco Gonzalez, Coastal Environmental Rights Foundation

Van K. Collinsworth, Preserve Wild Santee

cc.

Sarah Aghassi

Mark Wardlaw

Mary Kopaskie

Brian Albright

Peter Eichar

LeAnn Carmichael

Crystal Benham

EXHIBIT K

Merriam Mountains Wildlife Connectivity Review

April 18, 2017



Megan Jennings, Ph.D.
Research Ecologist
Assistant Adjunct Professor
San Diego State University

Importance of Connectivity for Wildlife

Current land management plans throughout the U.S. and Europe are designed to protect biodiversity by establishing a network of core habitat areas that are connected via linkages. The central principle of this large-scale conservation planning is that viable populations and natural communities can be supported by a connected landscape network (Beier *et al.* 2006, Crooks and Sanjayan 2006, Boitani *et al.* 2007, Barrows *et al.* 2011), particularly as the landscape becomes altered by anthropogenic features like roads and housing developments. Landscape connectivity allows for movement among patches of suitable habitat, reduces the chance of extinction and effects of demographic stochasticity on small populations (Brown and Kodric-Brown 1977), and maintains gene flow between populations in patchy landscapes (Simberloff *et al.* 1992) allowing more rapid recovery after events such as fire and disease outbreaks. Over longer time scales, and in the face of changing abiotic conditions, connectivity may also prove critical for range shifts in response to landscape changes caused by changing climate and altered disturbance regimes (Hannah *et al.* 2002, Heller and Zavaleta 2009). In southern California, this landscape-scale network approach has been adopted in response to the widespread habitat conversion and fragmentation that has resulted from development in the region (Riverside County 2003, County of San Diego 1998).

Connectivity is often considered from two different perspectives, physical and functional connectivity. **Physical connectivity** indicates whether there is structure connecting two patches of habitat, whereas **functional connectivity** accounts for how wildlife respond to that structure and the implications of those considerations for the species of concern (Taylor *et al.* 1993, Tischendorf and Fahrig 2000a, 2000b). The distinction between physical connectivity and functional connectivity in fragmented landscapes is critical when implementing conservation and mitigation measures to prevent irreversible habitat fragmentation. There are a variety of factors that can affect this response, including but not limited to, life history traits of the affected species, habitat configuration, degree of habitat fragmentation, and type of fragmenting features (*e.g.*, roads, houses). Furthermore, this response will differ among species with some demonstrating a greater sensitivity to these factors than others.

Wildlife Connectivity in the Merriam Mountains

The Merriam Mountains area is only one of two large habitat blocks that remain west of I-15 that are classified as Pre-Approved Mitigation Area (PAMA) with a goal of 75% conservation under the Draft North County Multiple Species Conservation Plan (NCMSCP). Given the remaining open spaces and known critical movement areas nearby (*i.e.*, the San Luis Rey River to the north), the Merriam Mountains area serves as a critical area for wildlife movement and connectivity at a local scale. The area offers drainages and ridgelines, features known to support wildlife movement, running in both east-west and north-south directions. Based on my research on connectivity in San Diego County (Jennings and Lewison 2013) and what prior research efforts have learned about wildlife movement and connectivity in the region (Crooks 2002, Lyren *et al.* 2009, 2008, 2006), it appears that the Merriam Mountains are situated in a critical location that currently allows it to serve as a stepping stone between habitat patches north of Escondido, San Marcos, and Vista to the Merriam and San Marcos Mountains, Moosa Canyon, and the San Luis Rey River.

Although east-west movement is undoubtedly challenged by Interstate 15 (I-15) to the east of the Merriam Mountains, some species may be able to cross through the concrete box culvert located under I-15 (Figure 1). The length and height of this structure¹ likely deter crossings by larger species like mountain lion (*Puma concolor*) and southern mule deer (*Odocoileus hemionus fuliginatus*), but smaller species may be able to traverse the crossing (Figure 2). A suite of small to medium mammals, such as raccoon (*Procyon lotor*), opossum (*Didelphis virginiana*), striped skunk (*Mephitis mephitis*), coyote (*Canis latrans*), bobcat (*Lynx rufus*), as well as a host of small mammals, may be most likely to use this structure. Furthermore, the location of this structure is such that connectivity could be enhanced with improvements to the structure design.

There are also locations to the north and south of the Merriam Mountains that allow for east-west movement past the freeway (*e.g.*, Moosa Canyon). North-south connectivity is likely more important for wildlife movement in the area. The quality of undeveloped lands in the area is high and the current development intensity and agricultural activities are not likely to be acting as an impediment to wildlife movement. In a recent update to the connectivity section of the Management Strategic Plan for Conserved Lands in Western San Diego County,² the San Diego Management and Monitoring Program identified the Merriam Mountains as a key area connecting core linkages to the north, south, east, and west (Figure 3). Additionally, the proposed designation of area to the north as PAMA under the NCMSCP will further enhance the importance of the open space in the Merriam Mountains and connectivity to and from this area that will serve as a stepping stone, provide source populations of many species, and support ecological resilience in this part of San Diego County.

From a broader regional perspective on connectivity, the connections available for wildlife to move through this area are crucial for maintaining connectivity to the Santa Ana Mountains. The Santa Ana-Palomar linkage is a wildlife corridor that has been highlighted in numerous connectivity studies to date (*e.g.*, South Coast Wildlands 2008, Spencer *et al.* 2010); however, this linkage remains unrealized due the difficulty in getting animals across the I-15 to the north in Temecula. Currently, one of the few areas where it is currently feasible for a movement corridor is in the vicinity of the Merriam Mountains. This is an especially important issue for mountain lions, which have experienced a decline in genetic diversity and led to inbreeding and concerns about long term persistence of the apex predator in the Santa Ana Mountains (Ernest *et al.* 2014), as well as additional effects to the San Diego population of mountain lions.

Without adequate habitat quality or structure, the effective distance³ among preserved lands in this part of San Diego County would more than double, as negotiating additional roads and development would limit the species that could successfully traverse the distance. By fragmenting this area, it may no longer serve as suitable habitat for viable populations of southern mule deer, key predators such as bobcats or coyotes (Crooks 2002), or as a critical stepping stone for dispersing mountain lions searching for larger blocks of suitable habitat. Furthermore, the type of stepping-stone connectivity that this area provides is critical for the

¹ Structure measures approximately 5 feet high x 7.5 feet wide x 900 feet long.

² https://portal.sdmmp.com/view_threat.php?threatid=TID_20160304_1454 (last accessed Apr. 17, 2017).

³ Effective distance accounts for both the physical distance and the barriers and resistance of moving through the landscape.

movement of avifauna with limited dispersal abilities, such as the federally threatened California gnatcatcher (*Poliophtila californica californica*). Connectivity between suitable patches of coastal sage scrub habitat is necessary if the gnatcatcher is to not only persist, but recover in coastal southern California, particularly in San Diego County where coastal sage scrub habitats continue to be constrained at a rapid rate. The proposed development may result in the physical and genetic isolation of populations of mule deer, bobcat, coyote, and other species on either side of Deer Springs Road and west of I-15, a phenomenon that has been demonstrated in other areas of southern California where roads and development have fragmented habitats for these species in a similar fashion (Riley *et al.* 2006, Lee *et al.* 2012). These effects would result in cumulative impacts to connectivity and wildlife corridors in the area, and require that existing lands providing connectivity be considered more carefully in broader subregional and temporal contexts.

Wildlife Connectivity and the Proposed Newland-Sierra Development

Design Configuration

Although the proposed design configuration of the Newland Sierra project is intended to preserve the core habitat on Merriam Mountain, it will rather serve to further isolate that area and limit its function in providing habitat that will contribute to regional biodiversity. Even though the project design appears to incorporate a number of areas of open space, the configuration of those spaces is such that roughly only 400 hectares (<1,000 acres) will remain as suitable core habitat or a major movement corridor for those species. Reducing that block to an effective size less than 1,000 acres and cutting off movement to and from the east and south would substantially reduce its functionality as preserved lands under California's Natural Community Conservation Planning (NCCP) program.

The 2009 Draft Environmental Impact Report for the previously proposed project on this site notes that much of the evidence for wildlife movement on the site was observed along existing dirt roads and trails but assumed agricultural lands and dense chaparral would not be used by most species. The use of these dirt roads is not an indicator of unsuitability of the site, but rather of the adaptable nature of many of the medium to large mammals that are likely to occur on site. Furthermore, agricultural lands, particularly avocado orchards, are known to provide important habitat for mammalian carnivores (Nogeire *et al.* 2013) and should be considered an important component of the conservation design for this area of the County. Additionally, a review of aerial imagery of the proposed project area revealed that, although there are areas of dense chaparral on site, the density is not uniform across the project area, nor does that make it impenetrable to wildlife. As is common across the region, the south- and east-facing slopes of the project area are substantially less dense than north- and west-facing slopes. Further, ongoing disturbance (such as dirt roads and trails) throughout the project area have created many areas of lower density open patches among the chaparral. Finally, dense chaparral is not a barrier to movement for many species and provides important cover for many small and medium species.

The proposed configuration of the Newland Sierra Project focuses on providing opportunities for east-west movement between the Merriam Mountains and San Marcos Mountain. While connectivity to San Marcos Mountain to the west is an important habitat linkage to conserve and

manage, it is not the only critical wildlife corridor in the region. In fact, focusing only on that linkage could create a connectivity dead-end, limiting any movement to the east or south from the Merriam Mountains or into the area from the east and south. These east-west and north-south corridors (Figure 4) are critical for maintaining adequate wildlife movement and consequently, ecological functioning, in the western part of the North County. Furthermore, to adequately ensure there is functional connectivity for wildlife to move to and from the open space in the San Marcos Mountains, appropriately sited and designed wildlife crossing structures need to be installed along Twin Oaks Valley Road. These structures should consider a range of species from large to small and be placed along existing movement paths to encourage use and reinforced with directional fencing to limit at-grade crossing by wildlife, which can lead to increased wildlife-vehicle collisions.

Road Impacts

The proposed increase in the size of Deer Springs Road, the improvements to the I-15 interchange, as well as the expansion of the footprint of development in the immediate vicinity of the I-15 interchange would be exceptionally difficult to plan so that wildlife could continue to move through the area, particularly given the importance of north-south movement through this area. The increase in the size and traffic load along Deer Springs Road is a serious concern for both resident and migrating/dispersing wildlife moving through the area. In its current state, Deer Springs Road, a two-lane secondary road, is most likely a source of mortality for wildlife, but not a barrier to movement as the I-15 is for long stretches. Although it is certain that some proportion of animals that attempt to cross Deer Springs Road do not successfully make the crossing, the road currently only serves to reduce functional connectivity and affect the movement of individuals rather than having a barrier effect on entire populations. A wider and more heavily traveled road in this location would be more likely to impede wildlife movement and affect resident and dispersing populations in the area. Appropriately sized, spaced, sited, and designed structures must be included in the design of the road to allow for wildlife movement to avoid increasing the mortality effect of the road and limit the degree of the barrier effect that will occur when the road is widened. Furthermore, incorporating the addition of wildlife crossing structures along I-15 could facilitate movement for a suite of species, enhancing east-west connectivity.

Other roads of concern in the proposed project are Camino Mayor and the proposed section of Mesa Rock Road that would bisect the proposed central section of “open space”. These two roads would also need to incorporate appropriate wildlife crossing structures to limit the impacts of these roadways on habitat and movement. In particular, the design of these latter two roads lends itself to the greatest degree of wildlife-vehicle collisions as secondary roads often seem passable by wildlife but excessive speeds and limited sight distance can result in roadkill hotspots along roads that bisect natural areas as proposed in the Newland Sierra project.

Edge Effects

The areas designated as “open space” within the interior of the proposed development, notably the area identified as “Block 3” in some planning documents, cannot be considered core habitat nor movement corridors for wildlife as they will be impacted both directly and indirectly by the development and activities therein, once built and occupied by residents. This area of habitat will

be surrounded by roads on all sides and development on three sides with only a narrow opening to the south. Any wildlife present in this area will be susceptible to edge effects such as human-wildlife conflict, reduced habitat quality and quantity from fuels clearance, and exposure to a greater risk of predation, disease, and toxins from the human environment. In fact, lower probabilities of occurrence of wildlife species such as bobcats or gray fox has been documented at distances less than 1,500 to 2,000 meters (4,920 to 6,560 feet) from urban edges (Ordeñana *et al.* 2010) which would eliminate most, if not all, of “Block 3” as habitat for those species. Many smaller species are also likely to experience edge effects in a habitat patch less than 200 acres, such as “Block 3”. Species such as the red diamond rattlesnake (*Crotalus ruber*), which have demonstrated avoidance of roads and development in southern California (Tracey 2000), will be subject to persecution and removal when located next to homes and trails and may also experience higher mortality rates on surrounding roads. The San Diego coast horned lizard (*Phrynosoma coronatum blainvillii*) may also face increased mortality from roadkill, collection, and lack of food if Argentine ants (*Linepithema humile*) colonize the site (Fisher *et al.* 2002), displacing the native harvester ants (*Pogonomyrmex* spp.) the lizard’s primary food resource. When there are factors likely to introduce edge effects such as these into an area of core habitat, buffers and expanded core areas are the most appropriate mitigation for those effects. Buffers ranging from 230 to 300 meters (755 to 984 feet) have been recommended to mitigate these edge effects (Environmental Law Institute 2003). If such a buffer is applied, the remaining habitat in “Block 3” would equate to roughly 16 hectares (40 acres).

To the east, the swath of habitat remaining between the proposed development and I-15 should not be considered a suitable movement corridor as the barrier or deterrent effect of a road of that magnitude will be well beyond the immediate footprint. For example, in modeling movement habitat for bobcats in San Diego County based on GPS telemetry data, the effect of roads such as I-15 on the species occurs at as much as 1,000 meters (3,280 feet) away (Jennings, *unpublished data*). Effects of developed areas were strongest at 519 meters (1,703 feet), and in sparse or disturbed habitats, 1,000 meters. A functional wildlife corridor that would allow for north-south movement to the west of I-15 would need to be shielded from the freeway. The area with the highest probability of movement in this area is the first canyon to the west of I-15 where the commercial area and neighborhood access via Mesa Rock Road are proposed.

The proposed trail system throughout the open space would also contribute to edge effects, as human recreation in the form of dog walking, hiking, mountain biking, horseback riding, and bird watching all affect wildlife activity patterns (George and Crooks 2006, Reed and Merenlender 2008, Reed and Merenlender 2011). The design of the proposed trails in the 2016 Newland Sierra Specific Plan (Figure 62, p. 187) displays a number of dead-end or loop trails. These are likely to result in additional volunteer trails and off-site exploration. In addition, trails leading from the backs of the neighborhoods that are adjacent to the open space (*e.g.*, Summit and Mesa) are also likely. Furthermore, design features for the project such as the proposed Oak Grove Park (Figure 63, p. 189) may become an ecological trap for wildlife, drawing them in with shade, trees, and providing water sources but located adjacent to a major intersection and high levels of traffic that pose a danger to wildlife.

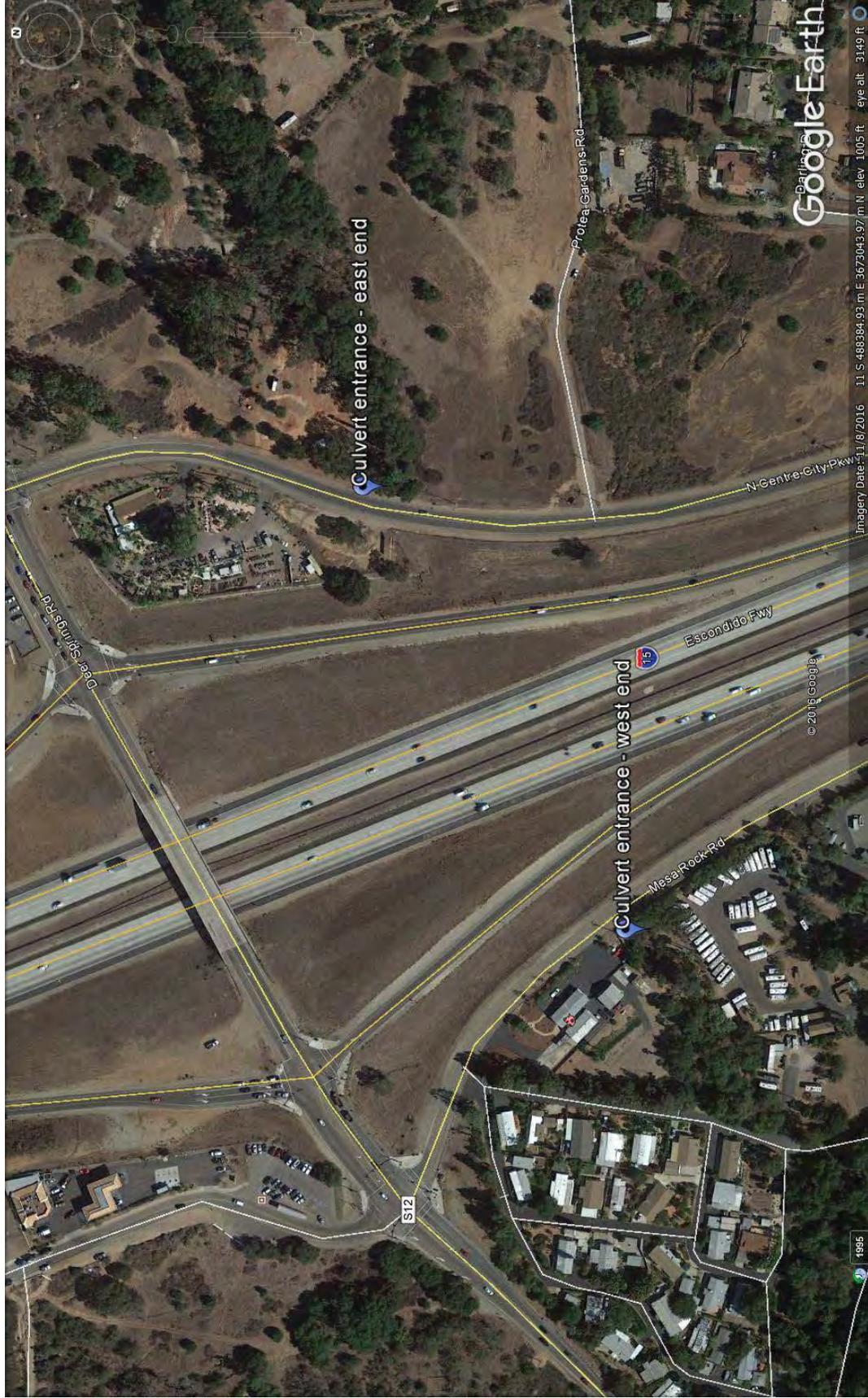


Figure 1. Box culvert location under Interstate 15.



Figure 2. Photographs of I-15 drainage culvert. Left: Creek on east side flowing into culvert; Upper right: east entrance to culvert; Lower right: View to west end of culvert from inside east end.

ArcGIS ▾ MSP Cores and Linkages



Figure 3. Map of Management Strategic Plan core areas and linkages in the vicinity of the Merriam Mountains.

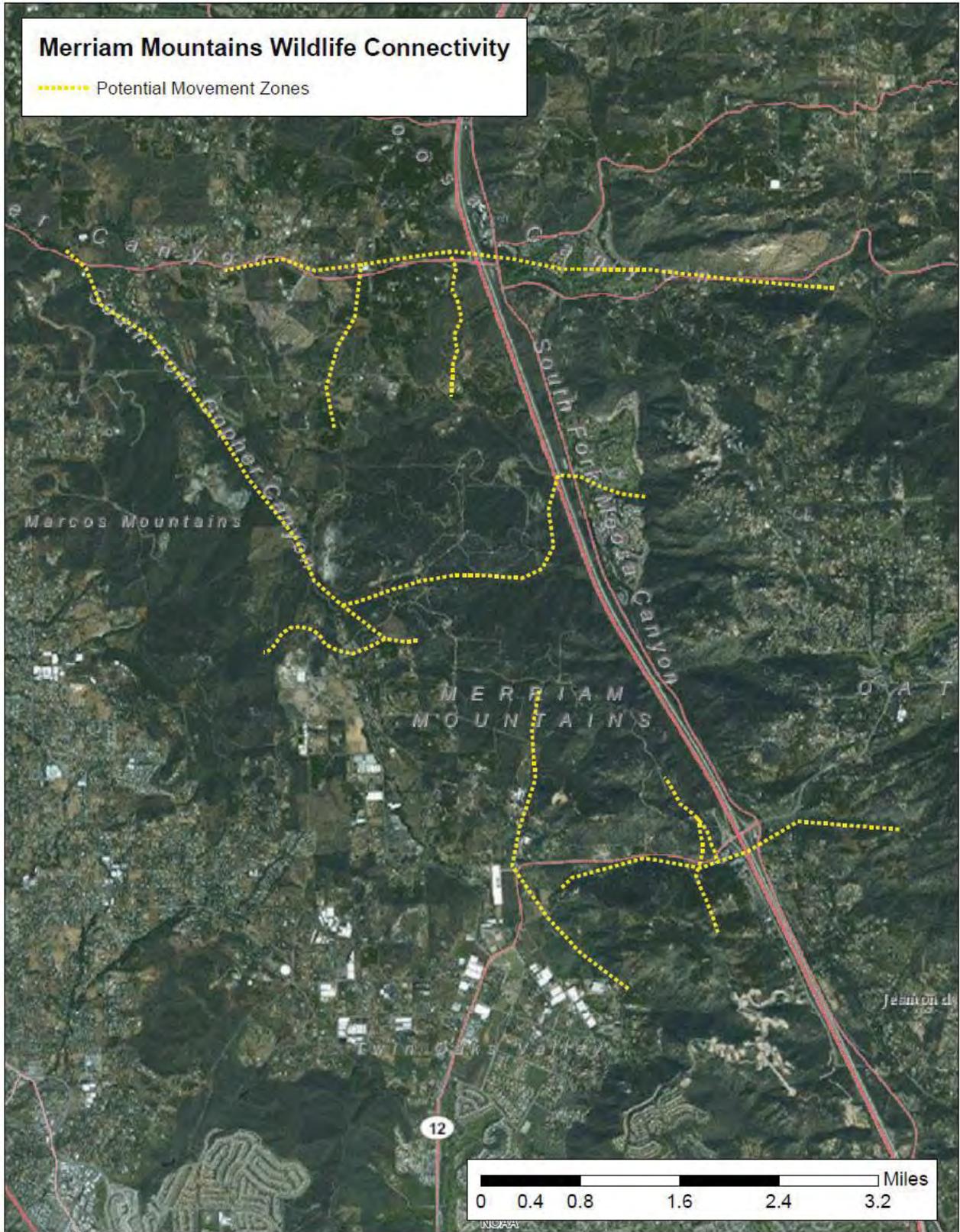


Figure 4. Putative movement zones in the vicinity of the Merriam Mountains

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Curriculum Vitae

Megan K. Jennings

mjennings@mail.sdsu.edu

<http://www.conservationecologylab.com/megan-jennings.html>

Professional Preparation

Dartmouth College	Environmental and Evolutionary Biology	B.A., 2000
University of California, Davis San Diego State University	Ecology	Ph.D., 2013
San Diego State University	Institute for Ecological Monitoring and Management (IEMM)	Postdoctoral Fellow, 2014-2016

Appointments

2016–present	Research Ecologist, Institute for Ecological Monitoring and Management, San Diego State University
2016–present	Adjunct Assistant Professor, San Diego State University
2016–present	Science Program Manager, Climate Science Alliance – South Coast
2014–2016	Postdoctoral Research Fellow, Institute for Ecological Management and Monitoring, San Diego State University
2013–2014	District Wildlife Biologist, Descanso Ranger District, Cleveland National Forest
2007–2013	Wildlife Biologist, Student Career Experience Program, Cleveland National Forest
2008–2010	Graduate Student Lecturer, San Diego State University, Experimental Ecology
2003–2007	Assistant Biologist, Cleveland National Forest, Palomar Ranger District

Selected Publications and Presentations

- Kalansky, J., **M. Jennings**, D. Cayan, R. Clemesha, A. Gershunov, K. Guirguis, D. Lawson, A. Pairis, D. Pierce, J. Randall, E. Stein, A. Syphard, and S. Vanderplank. 2017. San Diego County: The ecological impacts of climate change on a biodiversity hotspot. California Climate Summit (Poster)
- Jennings, M.K.** and R.L. Lewison. *In Review*. Why do animals cross the road?: Characterizing wildlife crossing structures. *Biological Conservation*.
- Jennings, M.K. *In Press*. Bobcat. In: S. Tremor, W. Spencer, and J. Diffendorfer (eds), *The San Diego County Mammal Atlas*.
- Jennings, M.K. *In Press*. Gray fox. In: S. Tremor, W. Spencer, and J. Diffendorfer (eds), *The San Diego County Mammal Atlas*.

Curriculum Vitae

- Jennings, M.K. *In Review*. Faunal diversity in chaparral ecosystems. In: E.C. Underwood, H.D. Safford, N. Molinari, J.E. Keeley, and J. Hooper (eds), *The Ecological Value of Chaparral Landscapes: Ecosystem Services and Resource Management*.
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- Jennings, M.** Planning for wildlife movement in a changing climate. 2016 Annual Meeting of the Western Section of The Wildlife Society. February 22-26, 2016. Pomona, CA.
- Carver, S., S. Bevins, M. Lappin, E. Boydston, L. Lyren, M. Alldredge, K. Logan, L. Sweanor, S. Riley, L. Serieys, R. Fisher, W. Vickers, W. Boyce, R. McBride, M. Cunningham, **M. Jennings**, J. Lewis, K. Crooks, S. VandeWoude. 2016. Pathogen exposure varies widely among sympatric populations of wild and domestic felids across the United States. *Ecological Applications* 26(2):367-381.
- Jennings, M.** and R. McCreary. 2016. An Overview of San Diego County's Ongoing Feral Pig Eradication Project. Proceedings of the 27th Vertebrate Pest Conference, Newport Beach, CA.
- Jennings, M.** and R. Lewison. 2013. Planning for connectivity under climate change: Using bobcat movement to assess landscape connectivity across San Diego County's open spaces. Technical Report.
- Jennings, M.** 2013. Landscape dynamics in southern California: Understanding mammalian carnivore response to fire and human development. Doctoral Dissertation
- Jennings, M.** R. Lewison, L. Lyren, E. Boydston. Assessing Connectivity in Ecological Networks: Effects of Land Use and Climate Change. 2014 Annual Meeting of the Western Section of The Wildlife Society. January 27-31, 2014. Reno, NV.

Synergistic Activities

1. International Urban Wildlife Conference 2017, Host Committee Member
2. Symposium Organizer – International Urban Wildlife Conference 2017: Connectivity in the Urban Environment; Natural Areas Conference 2016: Climate Change Impacts on Ecosystem Services and Climate Change Adaptation in Southern California
3. Climate Science Alliance – South Coast: Vision Team and Advisory Team Member, 2015 – present
4. California Landscape Conservation Cooperative: Stakeholder Committee Member (Representing Climate Science Alliance – South Coast), 2016 – present
5. San Diego State of the Science Assessment Team for California's 4th Climate Assessment: Co-organizer with Dan Cayan and Julie Kalansky (SIO), 2016 – present
6. Southern California Climate Adaptation Project: Stakeholder Advisory Committee Member, 2014 – 2016

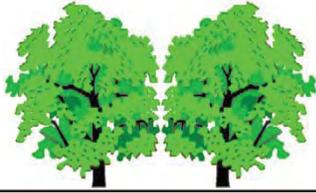
Curriculum Vitae

7. San Diego Monitoring and Management Program: Regular meeting attendee and workshop participant (Connectivity Strategic Plan Science Session, July 2014; Genetics for Monitoring and Management Workshop, December 2013; Fire and Wildlife Strategic Plan Workshop, March 2013)
8. Climate Kids: Featured scientist and developed Carnivores module for Climate Kids program in San Diego County, 2016 – present
9. National Center for Ecological Analysis and Synthesis: Open Science for Synthesis Training Participant, July – August 2014
10. San Diego Intergovernmental Feral Pig Working Group: Project Lead, 2013–2014
11. Invited lectures: Riparian Restoration Workshop – November 2016; Caltrans Connectivity Planning Workshop – January 2016; Buena Vista Audubon Society – January 2015; The 2nd Southern California Chaparral Symposium – June 2015; Fund for Animals Wildlife Center - November 2014; The Escondido Creek Conservancy – June 2014; San Diego Zoo Institute for Conservation Research - November 2013, May 2014; Friends of Hellhole Canyon – January 2014; Environmental Mitigation Program Working Group Meeting – November 2013, July 2015, November 2016; San Diego Tracking Team – September 2013; Torrey Pines Docent Association – June 2013; Friends of Los Peñasquitos Canyon – April 2013; San Diego Monitoring and Management Program – May 2012

Grants and Awards

- 2016-2019 California Department of Fish and Wildlife State Wildlife Grant – Climate Resilient Connectivity for the South Coast Ecoregion (\$180,000)
- 2016-2019 Wildlife Conservation Board – Climate Resilient Connectivity for the South Coast Ecoregion (\$250,000)
- 2016-2017 San Diego Association of Governments – SR-67 Connectivity Assessment (\$188,405)
- 2014-2017 California Department of Fish and Wildlife – Feral Pig Monitoring Grant (\$77,401)
- 2014-2015 Caltrans – Contract for Wildlife Monitoring of SR-67 (\$96,000)
- 2011-2012 Blasker-Miah-Rose Fund for Climate Change Research (\$68,000)
- 2010-2012 Achievement Rewards for College Scientists (ARCS) Scholar (\$14,000)
- 2009-2010 UC Davis School of Veterinary Medicine Wildlife Health Center Fellow (\$5,000)
- 2009-2010 San Diego State University – University Grants Program (\$9,970)
- 2008-2009 Collaborator funding, NSF – Emerging Infectious Disease Grant under co-PIs Dr. Kevin Crooks and Dr. Sue VandeWoude at Colorado State University (\$10,000)

EXHIBIT L



Twin Oaks Valley Community Sponsor Group

**P.O. Box 455
San Marcos, Ca. 92079**

Mr. Mark Wardlaw, Director
San Diego Co. Planning & Dev.
5510 Overland Ave. Suite 310
San Diego, CA 92123

Board of Supervisors
San Diego County Board of Supervisors
1600 Pacific Highway, Room 335
San Diego, CA 92101

April 22, 2017

RE: Multiple Species Conservation Program (MSCP)

Dear Director Wardlaw and Board of Supervisors,

The Twin Oaks Valley Sponsor Group would like the County to clarify the status of the proposed Newland Sierra development project in the North County (NC) MSCP. The Newland Sierra project is located in the Twin Oaks area and we have been told the draft EIR will be published soon. We have also attended recent meetings regarding the NC MSCP to better understand that planning process between the County and state and federal wildlife agencies. We have been told by County staff members that the Newland Sierra project will be part of the NC MSCP, but we have concerns that the project may be excluded as a private project. Please see the attached maps showing this.

At our regularly scheduled meeting on April 19, 2017, the sponsor group board voted unanimously (5-0-0) to send a letter to the County asking for clarification about this topic. We are formally asking if there are any pending or new private projects such as the Newland Sierra project and/or Lilac Hill Ranch project has been excluded from the NC MSCP? If yes for any project, what is the reasons why. Have the other agencies involved in the NC MSCP agreed with this? We would appreciate your clarification about the status of the Newland Sierra project and other development projects and the discussions between the agencies involved.

Thank you for looking into this topic. We look forward to your response.

Sincerely,

Tom Kumura, Chairman
Twin Oaks Valley Sponsor Group