



County of San Diego

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PLEASE NOTE THAT A FORMAL APPLICATION FOR A HABITAT LOSS PERMIT HAS NOT BEEN FILED AT THIS TIME. THE FOLLOWING IS A DRAFT FORM OF DECISION FOR A HABITAT LOSS PERMIT SHOWING THE FORMAT AND POSSIBLE CONDITIONS FOR A FUTURE HABITAT LOSS PERMIT. BECAUSE A FORMAL APPLICATION HAS NOT BEEN FILED, CERTAIN DATES, FINDINGS AND OTHER INFORMATION IS ABSENT FROM THE DRAFT FORM OF DECISION, THIS INFORMATION WILL BE INCLUDED IN THE FINAL FORM OF DECISION.

DATE (To Be Determined)

WHP Warner Ranch, LP
Mark Hayden
1545 Faraday Avenue
Carlsbad, CA 92008

DRAFT Habitat Loss Permit

APPLICATION NUMBER: HLP XX-XXX; PDS2006-3910-06-02-020

ASSOCIATED PERMIT(S): PDS2006-3810-06-002 (SP), PDS2006-3800-06-009 (GPA), PDS2006-3600-06-011 (REZ), PDS2006-3100-5508 (TM), PDS2006-3500-11-007 (S), PDS2006-3000-06-040 (AD)

NAME OF APPLICANT: WHP Warner Ranch, LP

DESCRIPTION/LOCATION OF LOSS:

The proposed Warner Ranch Project consists of 513.5 acres located in the unincorporated area in the northwestern portion of San Diego County, approximately five miles east of Interstate 15 on Pala Road (SR 76). It is located just west of Pala Temecula Road in the Pala Pauma Subregional Planning Area (Assessor Parcel Numbers 100-021-32-00, 110-090-18-00, 110-021-10-00, 110-040-22-00, 110-090-17-00, and 110-090-10-00). The proposed project

includes 780 residential units consisting of 534 single-family detached, 30 attached, and 216 multi-family townhomes. There are approximately 7.7 acres of proposed private community parks and a clubhouse, 14.4 acres of landscape areas, 2.7 miles of public and private trails, a new 10,000 square foot on-site fire station and 359 acres of open space. On-site grading would be balanced on-site with approximately 2.3 million cubic yards (CY) of cut and 2.3 million CY of fill. Off-site improvements would include frontage improvements and a signalized intersection at the project entry and SR 76, as well as signalized improvements to the existing SR 76 and Cole Grade Road intersection. In order to provide the water reservoir on site, approximately 3,000 linear feet of 8-inch-diameter pipeline would be constructed from the terminus of the existing line in Jeremy Way to the property's northern boundary line. Additionally, a 6-inch force sewer main would run from a new pump station on the southwestern boundary of the site, to the west within the right-of-way for SR 76, where it would ultimately connect to another new pump station to be provided by the Rainbow Municipal Water District.

This project was discussed at the June 21, 2012, and March 21, 2013 Batching Meetings and on April 11, 2013, the County, CDFW, and the applicant conducted a site visit. Finally, on April 16, 2013, the County, USFWS, and client met to discuss the analysis of potential golden eagle use on the project area.

The project area is located within the draft North County Multiple Species Conservation Program (MSCP) Subarea Plan and a portion of the site occurs within a Draft Pre-Approved Mitigation Area (PAMA). Federal critical habitat occurs in the project area for California gnatcatcher and arroyo toad. Critical habitat for least Bell's vireo and southwestern willow flycatcher is present in the San Luis Rey River to the south of the project area, but does not occur in the project area. Upland vegetation present onsite includes Diegan coastal sage scrub (including disturbed) (CSS), non-native grassland, granitic and mafic southern mixed chaparral (including disturbed), southern cactus scrub, scrub oak chaparral, and valley needlegrass grassland. Riparian and wetland vegetation communities present include southern coast live oak riparian forest (including disturbed), mulefat scrub, non-vegetated channel, sycamore alluvial woodland, and southern cottonwood-willow riparian forest. Disturbed habitat, orchards, developed, and agricultural lands are present in the project area as well.

The proposed project will impact 35.9 acres (35.8 onsite and 0.1 offsite) of coastal sage scrub (including southern cactus scrub) and no pairs of gnatcatchers associated with the Warner Ranch project as shown on the attached Habitat Loss Exhibit.

Vegetation mapping, jurisdictional wetland delineation determinations, rare plant surveys, and focused surveys for California gnatcatcher (*Polioptila californica*), least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), and arroyo toad (*Anaxyrus (=Bufo) californicus*) were performed within the 513-acre project area; as well as a Hermes copper (*Hermelycaena [Lycaena] hermes*) habitat assessment; golden eagle (*Aquila chrysaetos*) nest and foraging surveys; and other focused biological surveys, including surveys for southern steelhead trout (*Oncorhynchus mykiss irideus*), Stephens' kangaroo rat (*Dipodomys stephensi*), and Quino checkerspot butterfly (*Euphydryas editha quino*).

Seven special-status plant species were detected in the project area: rainbow manzanita (*Arctostaphylos rainbowensis*), Parry's tetracoccus (*Tetracoccus dioicus*), graceful tarplant (*Holocarpha virgata* ssp. *elongata*), rush-like bristleweed (*Xanthisma junceum*), Palmer's

grappling hook (*Harpagonella palmeri*), Engelmann oak (*Quercus engelmannii*), and prostrate spineflower (*Chorizanthe procumbens*).

Fifteen special-status wildlife species were detected: Southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*), Cooper's hawk (*Accipiter cooperii*), sharp-shinned hawk (*Accipiter striatus*), great blue heron (*Ardea herodias*), red-shouldered hawk (*Buteo lineatus*), turkey vulture (*Cathartes aura*), northern harrier (*Circus cyaneus*), coastal cactus wren (*Campylorhynchus brunneicapillus sandiegensis*), yellow warbler (*Dendroica petechia brewsteri*), white-tailed kite (*Elanus leucurus*), northern red-diamond rattlesnake (*Crotalus ruber*), coastal western whiptail (*Aspidoscelis tigris stejnegeri*), Blainville's horned lizard (*Phrynosoma blainvillei*), northwestern San Diego pocket mouse (*Chaetodipus fallax*), and San Diego woodrat (*Neotoma lepida intermedia*).

Impacts from the proposed project include potential impacts to arroyo toad and arroyo toad critical habitat; impacts to suitable habitat for southwestern willow flycatcher and least Bell's vireo; impacts to California gnatcatcher critical habitat; habitat loss for one pair of cactus wren; habitat loss for Southern California rufous-crowned sparrow; foraging habitat loss for special status raptors including golden eagle; habitat loss and potential impacts to County Group 1 species; direct impacts to County Group 2 special-status reptiles; significant direct impacts to vegetation communities (see Table 1 below) and jurisdictional waters nesting birds protected under the Migratory Bird Treaty Act; and traffic-related wildlife movement impacts. Significant indirect impacts could occur to vegetation communities, jurisdictional waters, special-status plant species, special-status wildlife species, and nesting birds.

Mitigation measures needed to reduce these impacts to less than significant include the preservation of on-site open space by establishing an open space easement and implementing a resource management plan (RMP), establishing a limited building zone (LBZ) easement, implementing on-site cactus scrub creation or off-site cactus scrub conservation; creation and enhancement of wetlands habitat in the project area or off site; implementation of traffic signal control and adaptively managed wildlife directive fencing; and implementation of pre-construction surveys, biological construction monitoring, and avoidance measures. The conditions of approval which would implement these mitigation measures are detailed below in the section entitled "Conditions of Approval".

Table 1

Habitat Types/Vegetation Communities	Existing Acreage	Total Impacts (Ac.) ¹	Mitigation Ratio	Mitigation Required (Ac.)	Biological Open Space Mitigation (Ac.)	Impact Neutral Open Space (Ac.)
Southern cactus scrub	4.6	2.7	2:1	5.4	1.9	—
Diegan coastal sage scrub	149.1	27.0	2:1	54.0	114.0	8.1
Disturbed Diegan coastal sage scrub	31.0	6.1	2:1	12.2	24.0	0.9
<i>Subtotal</i>	<i>184.7</i>	<i>35.8</i>	—	<i>71.6</i>	<i>139.9</i>	<i>9.0</i>
Scrub oak chaparral	7.9	—	—	—	5.7	2.3
Granitic southern mixed chaparral	85.9	2.3	0.5:1	1.1 ²	73.0	10.6
Mafic southern mixed chaparral	30.2	—	—	—	30.2	—
Coast live oak woodland	0.4	—	—	—	0.2	0.2
Disturbed southern mixed chaparral	0.2	—	—	—	0.2	—
<i>Subtotal</i>	<i>124.6</i>	<i>2.3</i>	—	<i>1.1</i>	<i>109.3</i>	<i>13.1</i>
Valley needlegrass grassland	1.2	—	—	—	1.2	—

Habitat Types/Vegetation Communities	Existing Acreage	Total Impacts (Ac.) ¹	Mitigation Ratio	Mitigation Required (Ac.)	Biological Open Space Mitigation (Ac.)	Impact Neutral Open Space (Ac.)
Non-native grassland	27.6	20.3	0.5:1	10.2	3.5	3.8
<i>Subtotal</i>	28.8	20.3	—	10.2	4.7	3.8
Agriculture (Intensive)	17.4	17.3	None	—	<0.01	<0.01
Agriculture (Extensive)	58.8	50.0	0.5:1	25.0	1.9	7.0
Developed	2.5	2.4	None	0	<0.01	<0.01
Disturbed	4.5	2.1	None	0	1.9	0.3
Orchard	68.3	24.0	None	0	42.0	2.2
<i>Subtotal</i>	151.5	96.0	—	25.0	45.9	9.5
Total Non-jurisdictional Vegetation Communities	489.6	154.4	—	107.9	299.7	35.4
Mulefat Scrub	1.27	—	—	—	—	1.27
Southern coast live oak riparian forest	0.47	—	—	—	—	0.47
Southern cottonwood-willow riparian forest	6.85	—	—	—	—	6.85
Non-vegetated channel	0.04	—	—	—	—	0.03 ³
<i>Subtotal</i>	8.63	—	—	—	—	8.62
Non-wetland drainage ⁴	0.86	—	—	—	0.66	0.20
Mulefat Scrub	0.42	—	—	—	—	0.42
Disturbed southern coast live oak riparian forest	0.72	—	—	—	—	0.72
Southern coast live oak riparian forest	9.90	0.10	3:1	0.30 ²	—	9.80
Sycamore alluvial woodland	4.26	—	—	—	—	4.26
<i>Subtotal</i>	15.30	0.10	—	0.30	0.66	15.20
Non-wetland drainage ⁴	0.28	0.03	1:1	0.03	0.23	0.02
Total Jurisdictional Wetland and Waters	23.93	0.13	—	0.33	0.89	23.83
Oak Root Zone	32.9 ⁵	0.4	3:1	1.2	N/A	N/A
TOTAL	513.5	154.4	—	109.1	299.7	59.3

¹ Totals may not add due to rounding.

² Required mitigation for the portions of this vegetation community located in the oak root zone category is included in the mitigation for the oak root zone, which requires an equal to or higher mitigation ratio.

³ 0.01 acre of non-vegetated channel is located within the fire buffer and is not counted toward open space.

⁴ Non-wetland drainages are mapped as an overlay in relation to the vegetation community mapping and therefore are not added in the cumulative total acreages of the site.

⁵ This layer is mapped as an overlay in relation to the vegetation community mapping is not counted toward the total acreage.

DECISION:

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

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

with the Southern California CSS NCCP Process Guidelines or any approved subregional mitigation guidelines.

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

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

CONDITIONS OF APPROVAL:

The following conditions are being placed on the Warner Ranch project. For the final Habitat Loss Permit, the list of conditions will be modified to require satisfaction of all conditions prior to use and reliance on the HLP.

COA BIO No. 1 Biological Easement. In order to protect sensitive biological resources, pursuant to the RPO and CEQA, a biological open space easement will be granted over 359.0 acres, as shown on the Tentative Map. This easement will be granted to the County of San Diego and prohibits all of the following: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. Granting of this open space authorizes the County and its agents to periodically access the land to perform management and monitoring activities for the purposes of species and habitat conservation. The exceptions to this prohibition are: 1) Vegetation clearing by hand by written order of the fire authority for reducing an identified fire hazard; 2) Activities conducted pursuant to an approved revegetation or resource management plan; 3) Vector control by written order of the County; and 4) Construction, use, and maintenance of approved multiuse, non-motorized trails.

COA BIO No. 2 Resource Management Plan (RMP). In order to provide for the long-term management of the proposed open space preserve, the RMP will be prepared and implemented. The final RMP will be completed to the satisfaction of the Director of the Department of Planning and Development Services (PDS) or DPR, as follows: 1) The plan will be prepared and approved pursuant to the most current version of the County of San Diego Biological Report Format and Content Requirements; 2) The habitat land to be managed will be owned by a land conservancy or equivalent; 3) Open space easements will be dedicated in perpetuity; 4) A resource manager will be selected and approved, with evidence provided demonstrating acceptance of this responsibility, 5) The RMP funding mechanism will be identified and adequate to fund annual costs for implementation; and 6) A contract between the applicant and County will be executed for the implementation of the RMP, and funding will be established with the County as the third party beneficiary.

COA BIO No. 3 Resource Avoidance Areas/Preconstruction Survey – Arroyo Toad. In order to minimize impacts to listed species pursuant to the RPO and Endangered Species Act (ESA), preconstruction surveys will occur to define Resource Avoidance Areas (RAA) on the grading plans, or to define the need for ESA Take Permits, if necessary. The following surveys are required prior to approval of each phase of grading: 1) A qualified arroyo toad biologist will examine the impact areas to determine if any portions of the impact area have suitable habitat for occupation by arroyo toad and will prepare a survey report. Upon written agreement with USFWS, a protocol survey may or may not be required. If it is determined that the site is occupied, the RAA will be defined and marked on all plans. If the project requires a “take,” evidence that an ESA Take Permit will be submitted to the Director of Planning and Development Services. 2) There will be no brushing, clearing, and/or grading allowed within arroyo toad RAAs year-round unless the Director of Planning and Development Services waives this condition through written concurrence from the USFWS, provided that no arroyo toads are present in the vicinity of the brushing, clearing, or grading based on implementation of a relocation plan approved by the USFWS. The plan will require the details of installation of exclusionary fencing after it may reasonably be assumed that all toads are outside of the project boundaries (after first substantial rain of the season [greater than 0.5 inch] after February, unless it can be shown that arroyo toad are active earlier in the vicinity).

COA BIO No. 4 Oak Woodland, Oak Riparian Forest, and Non-wetland Drainage Restoration. Mitigation required for impacts to oak root zone, southern coast live oak riparian forest, and non-wetland drainage will be provided via one of the options below.

Option 1: A Revegetation Plan is attached and evaluates the option of creation/enhancement of 1.0 acre of oak woodland, including 0.3 acre of southern coast live oak riparian forest and 0.7 acre of oak woodland on the project site; and creation, enhancement, or restoration of 0.03 acre of non-wetland drainage. On-site areas of potential wetlands creation/ enhancement are identified in Appendix O of the Biological Technical Report, which is included as Appendix E to the EIR. The Revegetation Plan shall conform to the most current version of the County of San Diego Report Format and Content Requirements for Revegetation Plans. In order to assure project completion and success of the Revegetation Plan, a surety shall be provided and an agreement shall be executed with the County of San Diego and consist of a letter of credit, bond, or cash for 100 percent of the estimated costs associated with the implementation of the Revegetation Plan and a 10 percent cash deposit of the cost of all improvements (no less than \$3,000.00; no more than \$30,000.00). The surety shall be released upon completion of the Revegetation Plan provided the installed vegetation is in a healthy condition and meets the plan’s success criteria.

Option 2: If purchasing Mitigation Credit, the mitigation bank shall be approved by the CDFW. The following evidence of purchase shall include the following information to be provided by the mitigation bank:

1. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
2. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.

3. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
4. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.

Option 3: If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation of habitat of the same amount and type of land located in San Diego County as indicated below:

The type of habitat and the location of the proposed mitigation, should be pre-approved by PDS before purchase or entering into any agreement for purchase.

A RMP shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the off-site mitigation is proposed to be owned and/or managed by DPR, the RMP shall also be approved by the Director of DPR.

In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land. Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

Documentation: The applicant shall purchase the off-site mitigation credits and provide the evidence to the PDS for review and approval. If the off-site mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the PDS that DPR agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the PDS, for a pre-approval. If an RMP is going to be submitted in-lieu of purchasing credits, then the RMP shall be prepared and an application for the RMP shall be submitted to the PDS.

Timing: Prior to the approval of the map and prior to the approval of any plan and issuance of any permit, the mitigation shall be completed.

Monitoring: The PDS shall review the mitigation purchase for compliance with this condition. Upon request from the applicant PDS can preapprove the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the PDS shall accept an application for an RMP, and PDS shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

Option 4: Impacts to 0.1 acre of southern coast live oak riparian forest from the waterline shall be avoided, which would reduce impacts associated with oak woodland impacts and reduce required mitigation from 1.0 acre to 0.7 acre. Evidence of avoidance shall be provided and approved by PDS and substantiated through a biological monitoring compliance report submitted to PDS.

COA BIO No. 5 Resource Avoidance Areas/Preconstruction Survey – California gnatcatcher. In order to minimize impacts to listed species pursuant to RPO and the NCCP,

RAAs will be established on the grading plans. There will be no brushing, clearing, and/or grading allowed within California gnatcatcher RAA (coastal sage scrub) during the breeding season, defined as between February 15 and August 31, unless it can be shown that portions of the RAA are not occupied by California gnatcatcher, or the Director of PDS waives this condition, through written concurrence from the USFWS and the CDFW and provided that no California gnatcatcher nests are within 300 feet of the brushing, clearing, or grading.

COA BIO No. 6 Resource Avoidance Areas/Preconstruction Survey. In order to minimize impacts to sensitive species pursuant to the RPO and CEQA, RAAs will be established on the grading plans. There will be no brushing, clearing, and/or grading allowed within Coastal cactus wren breeding habitat RAAs (southern cactus scrub) during the breeding season, defined as between February 15 and August 15, unless the Director of PDS waives this condition through written concurrence from the USFWS and the CDFW, provided that no cactus wren nests are within 300 feet of the brushing, clearing, or grading.

COA BIO No. 7 Biological Monitoring Contract. In order to prevent inadvertent disturbance to sensitive biological resources, a County-approved "Biological Monitor," shall be contracted to perform biological monitoring during grading, clearing, grubbing, trenching, and construction activities. A contract shall be provided to the County demonstrating the work to be completed, and a Memorandum of Understanding (MOU) between the biological consulting company and the County of San Diego shall be executed. The contract shall include a cost estimate for the monitoring work and reporting. The cost of the monitoring shall be added to the grading bonds that will be posted with the Department of Public Works or bond separately with the PDS.

COA BIO No. 8 Biological Monitoring Prior to Construction. In order to prevent inadvertent disturbance to sensitive biological resources, pre-grading work will include duties pursuant to the most current version of the County of San Diego Biological Report Format and Requirement Guidelines. The Biologist shall attend the preconstruction meetings and other meetings to discuss construction requirements. Such meeting shall include the PDS Permit Compliance Section. The Biological Monitor will verify that the limits of each phase of project construction have been clearly delineated with temporary fencing by a survey crew. On site, the temporary fencing shall be required when grading is proposed within 300 feet of open space. Off-site, temporary fencing shall be installed to indicate the allowable limits of grading, clearing, and staging areas. Construction access shall utilize existing developed areas or be within the identified construction area and be clearly marked (i.e., flagged and/or staked). The Biological Monitor will also verify that any security lighting around staging or storage areas are motion censored.

Construction staging areas, equipment refueling areas, and other areas for equipment and materials storage shall be located within the identified construction area and displayed on the project plans. The Biological Monitor will supervise and verify placement of temporary fencing of open space easements. The placement of such fencing shall be approved by the PDS, Permit Compliance Section. For each grading phase, these items shall be checked by the Biological Monitor before initiation of clearing or construction. The Biological Monitor shall submit a letter to the County indicating compliance and the readiness for work to commence.

COA BIO No. 9 Biological Monitoring During Construction. In order to prevent inadvertent disturbance to sensitive biological resources, grading generally located within 300 feet of proposed open space, within 100 feet of RAAs, or within natural and naturalized habitats as determined by the Biological Monitor shall be monitored, and the work will include monitoring

duties before, during, and after construction pursuant to the most current version of the County of San Diego Biological Report Format and Requirement Guidelines. The Biological Monitor shall supervise and monitor grading activities to ensure against damage to biological resources that are intended to be protected and preserved. The Biological Monitor shall perform the following duties, as necessary 1) prepare a California gnatcatcher- and arroyo toad-monitoring program to the satisfaction of PDS Permit Compliance Section and the Wildlife Agencies; 2) perform weekly inspection of fencing and erosion control measures (daily during rain events) near proposed preservation areas and report deficiencies immediately to the DPW Construction Inspector; 3) periodically monitor the work area for excessive dust generation in compliance with the County grading ordinance and report deficiencies immediately to the DPW Construction Inspector; 4) conduct training for contractors and construction personnel for the purpose of resource protection (description of endangered species, habitat, and conservation measures); 5) monitor construction-related lighting (lowest intensity allowed for safety, shielded, and directed away from preserved habitat); 6) monitor equipment maintenance, staging, and fuel dispensing areas to ensure there is no runoff to waters of the United States; 7) stop or divert all work when deficiencies require mediation and notify DPW Construction Inspector and PDS Permit Compliance Section within 24 hours; 8) produce periodic (monthly during grading) and final reports and submit to PDS (final report will release bond); 9) confer with the Wildlife Agencies and PDS Permit Compliance Coordinator within 24 hours any time protected habitat, gnatcatchers, toads, or raptors are being affected by construction; 10) attend construction meetings and other meetings as necessary; and 11) prepare and submit a final letter report substantiating the monitoring and that grading did not impact the project open space areas or other sensitive biological resources (include photos of temporary fencing prior to grading and of the site after clearing and grading, monitoring logs).

COA BIO No. 10 Temporary Fencing. In order to prevent inadvertent disturbance to sensitive biological resources, temporary construction fencing shall be installed. Temporary fencing is required in all locations of the project where proposed grading or clearing is within 300 feet of an open space easement boundary or within 100 feet of an area that is designated as a RAA. The placement of such fencing shall be approved by the PDS, Permit Compliance Section. Upon approval, the fencing shall remain in place until the conclusion of grading activities after which the fencing shall be removed.

COA BIO No. 11 Limited Building Zone Easement. In order to protect sensitive biological resources in the adjacent biological open space easement, pursuant to the RPO and CEQA, a Limited Building Zone Easement will be granted to the County, as shown on the Tentative Map. The purpose of this easement is to limit the need to clear or modify vegetation for fire protection purposes within the adjacent biological open space easement, restrict unauthorized access, prohibit landscaping with exotic pest plants that may invade the open space easement, and prohibit artificial lighting and focal use areas that would alter wildlife behavior in the open space easement. This easement requires the landowner to maintain permanent fencing and signage. The easement precludes 1) placement, installation, or construction of habitable structures, including garages or accessory structures designed or intended for occupancy by humans or animals, 2) landscaping with exotic pest plants, 3) artificial lighting except low pressure sodium fixtures shielded and directed away from the open space easement, 4) focal use areas including arenas, pools, and patios. In addition, landscape plans shall have a prohibition of street trees or shrubs (native or non-native) in landscaping adjacent to preserved open space areas where cactus wren are located to minimize perching from avian predators, and require all lighting be shielded and or directed downward to not shine on any adjacent open space.

COA BIO No. 12 Open Space Signage. In order to protect the proposed open space easement from entry, informational signs will be installed, where appropriate, along all open space edges where open space is adjacent to residential uses, along internal streets, and as indicated in the final RMP for pathways and trails. The signs must be corrosion resistant, a minimum of 6 inches by 9 inches in size, on posts not less than three (3) feet in height from the ground surface, and state "Sensitive Environmental Resources Protected by Easement. Entry without express written permission from the County of San Diego is prohibited."

COA BIO No. 13 Open Space Fence/Wall. In order to protect the proposed open space easement from entry, an open space fence or wall will be installed along all open space edges where open space is adjacent to residential uses, along internal streets, and as indicated in the final RMP for pathways and trails. The barrier must be a minimum construction of vertical metal fencing, but may be other suitable construction material, as approved by PDS. Split-rail fencing will be installed along the trail where parallel to the Gomez Creek corridor.

COA BIO No. 14 Placement of Open Space Fencing and Signage. Prior to completion of grading, the fencing and signage shall be installed as approved on the Conceptual Grading and Development Plan.

COA BIO No. 15 Easement Avoidance. Prior to completion of grading, the Biological Monitor will prepare and submit a final letter report substantiating that the clearing, grading, and construction did not impact the project open space areas, pursuant to County Grading Ordinance Section 87.112. The easements indicated on the grading plans are for the protection of sensitive environmental resources and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. It is unlawful to grade or clear within the open space easements. Any disturbance shall constitute a violation of the County Grading Ordinance Section 87.112 and will result in enforcement action and restoration.

COA BIO No. 16 If installation of the waterline along Jeremy Way occurs during the period of February 15 to August 31 (California gnatcatcher breeding season) or if installation of the sewer line along the SR 76 right-of-way occurs during the period of March 15 through August 31 (least Bell's vireo breeding season), a County-approved biologist shall conduct pre-construction surveys in suitable nesting habitat adjacent to the construction area to determine the location of any active nests in the area. If the habitat is suitable for raptors, the survey area shall extend to 500 feet from the impact area, and if the habitat is suitable only for nesting by non-listed and non-raptor avifauna, the survey area shall extend 50 to 300 feet from the impact area, depending on the habitat type. The survey shall begin not more than 3 days prior to the beginning of construction activities. If nesting birds are detected by the biologist, the following buffers would be established: 1) no work within 50 feet of a non-listed and non-raptor avifauna nest; 2) no work within 300 feet of a federally or state-listed species, such as southwestern willow flycatcher or least Bell's vireo; and 3) no work within 500 feet of a raptor nest. The buffer will be flagged in the field and mapped on the construction plans. To the extent possible, the non-construction buffer zones will be avoided until the nesting cycle is complete. However, it may be reasonable for the County to reduce these buffer widths depending in the project area-specific conditions (e.g., the width and type of screening vegetation) or the existing ambient level of activity (e.g., existing level of human activity within the buffer distance). If construction

must take place within these buffer widths, the project applicant should contact the County to determine how to best minimize impacts to nesting birds.

COA BIO No. 17 Revegetation Plan or Off-Site Conservation. In order to mitigate for impacts to 2.7 acres of southern cactus scrub, which are sensitive biological resources pursuant to the RPO and CEQA, revegetation or offsite conservation shall occur. On-site areas of potential cactus scrub creation/enhancement are identified in Appendix O of the Biological Technical Report, which is included as Appendix E to the EIR.

Option 1: Revegetation of 3.5 acres of cactus scrub habitat benefitting cactus wren shall be created by implementation of a Revegetation Plan to be submitted and approved prior to approval of the (first) Final Map. The Revegetation Plan shall focus on the following locations in order of importance: a) the on-site southeastern border in and adjacent to fuel management areas to provide connectivity with existing suitable cactus wren habitat, b) suitable south-facing slopes in the project area, c) suitable RPO wetland buffers, and d) created and conserved in an off-site preserve benefitting cactus wren (see mapped locations in the Conceptual RMP). The Revegetation Plan shall be prepared in conformance with County Requirements for Revegetation Plans, in accordance with the specifics included in the Conceptual RMP, and implemented prior to impacts of grading for the phase of development which includes cactus wren habitat. This timing would allow on-site cactus scrub revegetation to be installed and managed/monitored before the occupied areas would be impacted and so that appropriate restored habitat for cactus wren would be available in the on-site open space for dispersal. A Preliminary Revegetation Memo is attached to this report and discusses the options for creation/enhancement of 3.5 acres of cactus scrub on the project site including salvaging on-site cacti and clustering of mature cacti within the revegetation areas. Due to conservation of one pair of cactus wren within the project open space; the additional 3.5 acres of cactus scrub revegetation would be considered occupied habitat. The Revegetation Plan will also include creation/ enhancement options for riparian vegetation and RPO buffer enhancement.

In order to assure project completion and success of the Revegetation Plan, a surety shall be provided and an agreement shall be executed with the County of San Diego and consist of a letter of credit, bond, or cash for 100 percent of the estimated costs associated with the implementation of the Revegetation Plan and a 10 percent cash deposit of the cost of all improvements (no less than \$3,000.00; no more than \$30,000.00). The surety shall be released upon completion of the Revegetation Plan provided the installed vegetation is in a healthy condition and meets the plan's success criteria.

The type of habitat and the location of the proposed revegetation, should be pre-approved by PDS before initiating revegetation implementation. The habitat shall support at least one pair of cactus wren and provide an equal or greater benefit to the species when compared with the habitat impacted by the project.

Option 2: If purchasing Mitigation Credit, the mitigation bank shall be approved by the CDFW and is expected to be located in an area which benefits the conservation of cactus wren in San Luis Rey River Valley east of I-15 or in the vicinity of Valley Center (i.e., within the presumed corridor between the San Luis Rey River and San Pasqual Valley). The following evidence of purchase shall include the following information to be provided by the mitigation bank:

1. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.

2. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
3. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
4. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project, and the amount remaining after utilization by this project.

The type of habitat and the location of the proposed mitigation should be pre-approved by PDS before purchase or entering into any agreement for purchase. The habitat shall support at least one pair of cactus wren and provide an equal or greater benefit to the species when compared with the habitat impacted by the project and potential benefits of on-site revegetation.

Option 3: If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation of habitat of the same amount and type of land located in an area which benefits the conservation of cactus wren in San Luis Rey River Valley east of I-15 or in the vicinity of Valley Center (i.e., within the presumed corridor between the San Luis Rey River and San Pasqual Valley) as indicated below:

The type of habitat and the location of the proposed mitigation, should be pre-approved by PDS before purchase or entering into any agreement for purchase. The habitat shall support at least one pair of cactus wren and provide an equal or greater benefit to the species when compared with the habitat impacted by the project and potential benefits of on-site revegetation.

An RMP shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS and CDFW. If the off-site mitigation is proposed to be owned and/or managed by DPR, the RMP shall also be approved by the Director of DPR.

In lieu of providing a private habitat manager, the applicant may contract with a federal, state, or local government agency with the primary mission of resource management to take fee title and manage the mitigation land. Evidence of satisfaction must include a copy of the contract with the agency and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like-functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

Documentation: The applicant shall purchase the off-site mitigation credits and provide the evidence to the PDS for review and approval. If the off-site mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the PDS that DPR agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the PDS, for a pre-approval. If an RMP is going to be submitted in-lieu of purchasing credits, then the RMP shall be prepared, and an application for the RMP shall be submitted to the PDS.

Timing: Prior to the approval of the map and prior to the approval of any plan and issuance of any permit, the mitigation shall be completed.

Monitoring: The PDS shall review the mitigation purchase for compliance with this condition. Upon request from the applicant, PDS can preapprove the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option No. 2, then the PDS shall accept an application for an RMP, and PDS shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

COA BIO No. 18 Resource Avoidance Areas/Preconstruction Survey. In order to minimize impacts to sensitive species pursuant to RPO and CEQA, RAAs will be established on the grading plans. There will be no brushing, clearing, and/or grading allowed within raptor breeding habitat RAA (suitable trees) during the breeding season, defined as between February 1 and June 1, unless the Director of PDS waives this condition through written concurrence from the USFWS and the CDFW, provided that no raptor nests are within 500 feet of the brushing, clearing or grading.

COA BIO No. 19 To comply with the state and federal regulations for impacts to “waters of the United States and state,” the following agency permits are required, or verification that they are not required shall be obtained.

1. The following permit and agreement shall be obtained, or provide evidence from the respective resource agency satisfactory to the director of Planning and Development Services that such an agreement or permit is not required:
 - a. A Clean Water Act, Section 401/404 permit issued by the California RWQCB and the ACOE for all project-related disturbances of waters of the United States and/or associated wetlands.
 - b. A Section 1602 Streambed Alteration Agreement issued by the CDFW for all project-related disturbances of any streambed.
2. Documentation: The applicant shall consult each agency to determine if a permit or agreement is required. Upon completion of the agency review of this project, the applicant shall provide a copy of the permit(s)/agreement(s), or evidence from each agency that such an agreement or permit is not required to the PDS for compliance.
3. Timing: Prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits.

Monitoring: The PDS shall review the permits/agreement for compliance with this condition. Copies of these permits should be transmitted to the Department of Public Works (DPW) for implementation on the grading plans.

COA BIO No. 20 As part of the Revegetation Plan (described in COA BIO No. 17), extensive agriculture areas within the RPO wetland buffer will be revegetated with a combination of transitional riparian species and upland native shrubs in order to enhance the Gomez Creek corridor for wildlife movement. The Revegetation Plan must demonstrate, to the satisfaction of PDS, that the net result of the revegetation is that the reduced but revegetated buffer along Gomez Creek provides an equal or greater benefit to species that utilize that corridor compared with a 100' foot buffer that lacks the revegetation proposed.

COA BIO No. 21 If mass grading occurs during the period of March 15 through August 31, a County-approved biologist shall conduct pre-construction surveys in suitable nesting habitat adjacent to the construction area to determine the location of any active nests in the area. If the habitat is suitable for raptors, the survey area shall extend to 500 feet from the impact area and if the habitat is suitable only for nesting by non-listed and non-raptor avifauna, the survey

area shall extend 50 to 300 feet from the impact area, depending on the habitat type. The survey shall begin not more than 3 days prior to the beginning of construction activities. If nesting birds are detected by the biologist, the following buffers would be established: 1) no work within 50 feet of a non-listed and non-raptor avifauna nest; 2) no work within 300 feet of a federally or state-listed species, such as southwestern willow flycatcher or least Bell's vireo; and 3) no work within 500 feet of a raptor nest. The buffer will be flagged in the field and mapped on the construction plans. To the extent possible, the non-construction buffer zones will be avoided until the nesting cycle is complete. However, it may be reasonable for the County to reduce these buffer widths depending in the project area-specific conditions (e.g., the width and type of screening vegetation) or the existing ambient level of activity (e.g., existing level of human activity within the buffer distance). If mass grading must take place within these buffer widths, the project applicant should contact the County to determine how to best minimize impacts to nesting birds.

COA BIO No. 22 A traffic signal light shall be installed at the main entrance to the project thereby reducing vehicle speeds along SR 76 at the Gomez Creek crossing and reducing the likelihood of wildlife-vehicle collisions. Additionally, a permanent 8-foot tall woven-mesh or welded wire game management (wildlife damage control) fence shall be installed on both sides of Gomez Creek along the lower approximately 1,000 feet on site, such that wildlife are directed toward the undercrossing at Pala Road. The mesh will include approximate 7-inch tall grids along the top half, gradating down to 3-inch mesh in the lower quarter. This will provide visual and physical deterrence for larger wildlife and physical deterrence for smaller wildlife while maintaining material weight and cost efficiency. Fencing will be joined to the box culverts at SR 76 or will be directly adjacent to the culvert opening such that wildlife may not squeeze through or past the joint (intersection of the two). For monitoring purposes, a digital game motion/heat triggering camera station will be established such that continual coverage of the undercrossing is achieved. If feasible, the station will include a solar cell to provide power and recharge batteries and a cellular transmitter to relay photographs to an off-site repository. Monitoring will begin at least 3 months prior to construction, continue through construction, as a condition of the grading plans, and be maintained in place for at least a period of 5 years following buildout of the project.

Photos will be evaluated and reported to PDS on a quarterly basis. As part of the Resource Management Plan, an annual report will provide a summary of monitoring results and any proposed adaptive management measures related to the directive fencing. Monitoring may continue at the discretion of the open space land manager, as deemed necessary to provide information for adaptive management.

ENVIRONMENTAL FINDINGS:

A. CEQA Findings

TO BE PROVIDED

B. FINDINGS MADE IN SUPPORT OF THE ISSUANCE OF THE HABITAT LOSS PERMIT:

The following findings are made based upon all of the documents contained in the record for this project and pursuant to Section 86.104 of County of San Diego

Ordinance No. 8365 (N.S.) and Section 4.2.g of the CSS NCCP Process Guidelines (CDFW, November 1993):

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

The proposed project will impact 35.9 acres of coastal sage scrub (including southern cactus scrub) (CSS) and no pairs of California gnatcatcher (*Polioptila californica*). Approved coastal sage scrub losses as of the date of December 8, 2016 and including this approval, for the entire unincorporated County, outside the boundaries of the Multiple Species Conservation Program (MSCP), are presented in the following table:

Unincorporated Area Coastal Sage Scrub Cumulative Losses

Total loss allowed under five percent guideline:	2953.3 acres
Cumulative loss of Coastal sage scrub to date:	1188.6 acres
Net loss due to this project:	35.9 acres
Total cumulative loss:	1224.5 acres
Remaining loss under five percent guideline:	1728.8 acres

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

The 184.7 acres of coastal sage scrub (including southern cactus scrub) is of intermediate value as outlined by the flow chart in the NCCP Guidelines. The coastal sage scrub in the project area is mapped in 26 separate polygons, seven of which are disturbed coastal sage scrub, totaling 181.1 acres. The polygons are located throughout the undeveloped portions of the project area. The polygons of coastal sage scrub on the eastern side of the project area are located closer to residential areas and Pala-Temecula Road and the coastal sage scrub in the western portion of the ranch are located in undeveloped areas. The project site also contains 4.6 acres of southern cactus scrub located in the eastern portion of the project site. An additional 0.1 acres of CSS will be impacted by offsite improvements.

The proposed development has been concentrated in the southern portion of the project site, adjacent to a state highway and within the existing working horse ranch containing an estate and guesthouse as well avocado and citrus groves. A majority of the development footprint is within an area not designated as PAMA land in the draft North County MSCP while the onsite open space is identified for conservation, as Pre Approved Mitigation Area (PAMA) land in the draft North County MSCP. The project site also contains a portion of Gomez Creek and its channel tributaries on the western side of the property, as well as Pala Creek on the easternmost portion of the project area.

With the approximately 359 acres of open space preserved in the northern portion of the site, connectivity to large areas of native habitat will be maintained. In addition preservation in the northwestern portion of the project site will maintain connectivity of onsite areas designated as critical habitat for the gnatcatcher with offsite areas to the west also designated as critical habitat for the gnatcatcher. The onsite portions of Gomez Creek and Pala Creek will be conserved to maintain wildlife movement.

For the reasons stated above, the habitat loss will not preclude connectivity between areas of high habitat values.

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

Portions of the CSS habitat on-site are identified for conservation, as Pre Approved Mitigation Area (PAMA) land in the draft North County MSCP. Implementation of the Warner Ranch project will not adversely affect the ongoing MSCP planning process. The project has minimized the development footprint and concentrated development in the southern portion of the project that may generally be characterized as lower biological quality (working horse ranch with an estate, guesthouse, and avocado and citrus groves) and is adjacent to a state highway. A majority of the development footprint is within an area not designated as PAMA land in the draft North County MSCP. The approximately 359 acres of open space preserved in the northern portion of the site and containing approximately 149 acres of CSS will be within PAMA, and as such, will provide a valuable contribution to the regional biological preserve that is currently being planned. The project will not preclude the development of a regional preserve system or block any known regional movement corridor or habitat linkage.

Finding 1.d: The habitat loss has been minimized and mitigated to the maximum extent practicable in accordance with Section 4.3 of the NCCP Process Guidelines.

The CSS habitat on-site is considered of intermediate value, pursuant to the NCCP Logic Flow Chart. The project has minimized impacts to the core area habitat with the greatest potential for connectivity to the north and avoided the drainage in the western portion of the site. The project proposes measures to ensure that indirect impacts are minimized. As such, the loss of CSS will be mitigated to the maximum extent practicable in accordance with Section 4.3 the NCCP Process Guidelines. The following mitigation measures have been incorporated into the project:

- A biological open space easement over 359 acres of the project site.
- Preparation of a Resource Management Plan (RMP).
- Resource avoidance (breeding season avoidance).
- Oak Woodland, Oak Riparian Forest, and Non-wetland Drainage Restoration.
- Biological monitoring during grading, clearing and construction.
- Temporary fencing.
- Limited building zone easement.
- Open space fencing and signage.
- Southern cactus scrub revegetation or offsite conservation.

With design elements and mitigation measures incorporated into the project, it has been found that the area proposed for habitat loss has been minimized and mitigated to the maximum extent practicable. For additional details on the project's mitigation measures (conditions of approval), please see the section above entitled "Conditions of Approval".

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

Protocol surveys for the California gnatcatcher were performed in 2005 and 2010 with negative results. Fifteen sensitive wildlife species and seven sensitive plant species were detected onsite. There will be potential impacts to these sensitive species due to this project, but with the incorporation of mitigation, the proposed project will not appreciably reduce the likelihood of the survival and recovery of these species. To mitigate for the loss of CSS habitat due to the project, onsite preservation will be required at a 2:1 ratio equivalent to no less than 71.6 acres. The onsite open space easement will conserve approximately 149 acres of CSS within the approximately 359 acres of open space.

In addition onsite preservation through the dedication of biological open space, the HLP would require that the following activities occur for the benefit of survival and recovery of listed species in the wild prior to removal of habitat:

- Preparation of a Resource Management Plan (RMP).
- Resource avoidance (breeding season avoidance).
- Oak Woodland, Oak Riparian Forest, and Non-wetland Drainage Restoration.
- Biological monitoring during grading, clearing and construction.
- Temporary fencing.
- Limited building zone easement.
- Open space fencing and signage.
- Southern cactus scrub revegetation or offsite conservation.

Through these mitigation measures, the proposed project will not appreciably reduce the likelihood of the survival and recovery of listed species.

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

The project will require grading and improvement plans for development of the Warner Ranch project. The issuance of a Habitat Loss Permit by the County of San Diego, with the concurrence of the Department of Fish and Wildlife and U.S. Fish and Wildlife Service and approval by the County of San Diego of a Grading Permit, Clearing Permit, or Improvement Plan is required prior to the clearing of any coastal sage scrub supported on the project site. No state or federal permits other than those mentioned in the conditions above are identified as being required at this time. Construction and/or land use modification will not commence until all appropriate permits have been issued. The project has been found to be in conformance with Section 86.104 of the San Diego County Code. As such, the anticipated loss will be incidental to “otherwise lawful activities”.

NCCP FLOWCHART

1. Is natural vegetation present? **YES.**
2. Is Coastal sage scrub present? **YES.**
3. Is Coastal sage scrub the most dense in the subregion? **NO.**
4. Is the land close to high value district. **YES.**

5. Is the land located in a corridor between higher value districts. **NO.**
6. Does the land support high density of target species? **NO.**

Based on the NCCP Logic Flow Chart, the quality of habitat supported on the Warner Ranch project is defined as being "Intermediate Value."

MITIGATION MONITORING AND REPORTING PROGRAM:

The following shall be the Mitigation Monitoring or Reporting Program for this Habitat Loss Permit:

Public Resources Code Section 21081.6 requires the County to adopt a mitigation reporting or monitoring program for any project that is approved on the basis of a mitigated Negative Declaration or an Environmental Impact Report for which findings are required under Section 21081(a)(1). The program must be adopted for the changes to a project which the County has adopted, or made a condition of project approval, in order to mitigate or avoid significant effects on the environment. The program must be designed to ensure compliance during project implementation.

The mitigation monitoring program is comprised of all the environmental mitigation measures adopted for the project. The full requirements of the program (such as what is being monitored, method and frequency, who is responsible, and required time frames) are found within the individual project conditions. These conditions are referenced below by category under the mechanism which will be used to ensure compliance during project implementation.

- Subsequent Project Permits

Compliance with the following conditions is assured because specified subsequent permits or approvals required for this project will not be approved until the conditions have been satisfied:

COA BIO No. 1 through COA BIO No. 22

- Ongoing Mitigation

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

COA BIO No. 2, COA BIO No. 4, COA BIO No. 17, COA BIO No. 20, COA BIO No. 22

NOTICE: The issuance of this permit by the County of San Diego does not authorize the applicant for said permit to violate any federal, state, or county laws, ordinances, regulations, or policies, including but not limited to, the federal Endangered Species Act and any amendments thereto.

NOTIFICATION TO APPLICANT: Because your project has an effect on native biological resources, State law requires the payment of a \$3,070.00 (\$3,078.25 in 2017) fee to the California Department of Fish and Wildlife for their review of the Environmental Impact Report (Fish and Wildlife Code §711.4) and a \$50 administrative fee to the County (\$3,130 total;

\$3,138.25 total in 2017). If you made this payment at the time of public review of the environmental document pursuant to Administrative Code Section 362, Article XX, effective August 27, 1992, you have met this obligation. If the fee has not been paid, to comply with State law, the applicant should remit to the County Planning & Development Services, within two (2) working days of the effective date of this approval (the “effective date” being the end of the appeal period, if applicable). **The payment must be by certified check or cashier’s check payable to the “County of San Diego” and can be submitted to the cashier at the PDS office or directly to the County Clerk.** The fees (excluding the administrative fee) may be waived for projects that are found by the Planning & Development Services and the California Department of Fish and Wildlife to have a no effect impact on fish and wildlife resources. Failure to remit the required fee in full within the time specified above will result in County notification to the State that a fee was required but not paid, and could result in State imposed penalties and recovery under the provisions of the Revenue and Taxation Code. In addition, Section 21089(b) of the Public Resources Code, and Section 711.4(c) of the Fish and Wildlife Code, provide that no project shall be operative, vested, or final until the required filing fee is paid.

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

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

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

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

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

NOTICE: THE ISSUANCE OF THIS PERMIT BY THE COUNTY OF SAN DIEGO DOES NOT AUTHORIZE THE APPLICANT FOR SAID PERMIT TO VIOLATE ANY FEDERAL, STATE, OR COUNTY LAWS, ORDINANCES, REGULATIONS, OR POLICIES INCLUDING, BUT NOT LIMITED TO, THE FEDERAL ENDANGERED SPECIES ACT AND ANY AMENDMENTS THERETO.

DEFENSE OF LAWSUITS AND INDEMNITY: The applicant shall: (1) defend, indemnify and hold harmless the County, its agents, officers and employees from any claim, action or proceeding against the County, its agents, officers and employees to attack, set aside, void or annul this approval or any of the proceedings, acts or determinations taken, done or made prior to this approval; and (2) reimburse the County, its agents, officers or employees for any court costs and attorney's fees which the County, its agents, officers or employees may be required by a court to pay as a result of such approval. At its sole discretion, the County may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any obligation imposed by this condition. The County shall notify the applicant promptly of any claim or action and cooperate fully in the defense.

JUDICIAL REVIEW TIME LIMITATIONS: The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure Section 1094.6, which has been made applicable in the County of San Diego by San Diego County Code Section 11.120. Any petition or other paper seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision becomes final; however, if within 10 days after the decision becomes final a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the party, or the party's attorney of record. A written request for the preparation of the record of the proceedings shall be filed with the Director, Planning & Development Services, 5510 Overland Avenue, Suite 110, San Diego, California 92123.

The foregoing decision was approved by the Director of Planning & Development Services on TO BE DETERMINED. A copy of this decision, and the documentation supporting the decision, is on file in the Planning & Development Services office at 5510 Overland Avenue, Suite 110, San Diego, California.

PLANNING & DEVELOPMENT SERVICES
MARK WARDLAW, DIRECTOR

BY:

DARREN GRETHER, Assistant Director
Project Planning Division

Attachments

Habitat Loss Permit Exhibits
Vicinity Map (USGS Map)
Biological Resources Report (Appendix E of the Draft EIR)

cc: To be provided at issuance of Habitat Loss Permit

