

**STATEMENT OF CONFORMANCE
MULTIPLE SPECIES CONSERVATION PROGRAM
For Levie TPM 21065
ER 07-08-005
APN (s) 267-132-10**

December 8, 2009

I. Introduction

The proposed 5.9-acre Levie TPM project site, Assessor's Parcel Number (APN) 267-132-10, is located in an unincorporated portion of northern San Diego County in the community of Rancho Santa Fe, California. The site is south of Del Dios Highway at 17403 Rancho Del Rio, in the San Dieguito Community Planning Group.

A small portion of the site, the northwest corner, is located within the Draft North County Multiple Species Conservation Program (MSCP). This portion is not designated for a preserve area. The central portion of the project site lies within the Metro-Lakeside-Jamul Segment of the MSCP. The southwestern portion of the project site, within the Metro-Lakeside-Jamul Segment, has been designated as a Pre-approved Mitigation Area (PAMA). The eastern edge of the project is located within the Lake Hodges Segment of the MSCP and is designated as a conserved area.

The 5.90 acre site proposes to subdivide the parcel into two residential lots. The entire 5.9-acre site was burned during the October 2007 wildfires, destroying all of the native vegetation as well as the single-family residence present on site. Prior to the wildfires, the property supported a mosaic of native vegetation along the steep slopes to the east, south, and west where lands are within hardline preserve and Pre Approved mitigation area (PAMA) in the Multiple Species Conservation Program (MSCP). The developed terrace supported ornamental landscaping, a single-family residence, a pool, and related utilities/infrastructure. While the developed terrace now consists of a bare, dirt pad with scattered ornamental species, the surrounding slopes are in a post-fire recovery state supporting low-growing herbaceous groundcover with remnant burned vegetation. The pre-fire biological conditions were analyzed.

The site consists primarily of non-sensitive lands: 3.06 acres of urban developed habitat. Two native plant communities were identified on site: Diegan coastal sage scrub (1.0 acre) and southern mixed chaparral (1.77 acres) which are considered sensitive by the County, California Department of Fish and Game and the U.S. Fish and Wildlife Service. Eucalyptus wetland (0.06 acre), open water (0.01 acre) and an intermittent stream channel (<0.01 acre) were also identified.

There were three sensitive plant found onsite: coast barrel cactus (*Ferocactus viridescens*), County List B; southwestern spiny rush (*Juncus acutus ssp. leopoldii*), County List D; and California adolphia (*Adolphia californica*), County List B. Results of the rare plant survey indicate that five coast barrel cactus, one southwestern spiny rush, and twenty-nine California adolphia plants were identified on site. Five California adolphia plants are located within the development footprint and would be directly impacted. The southwestern spiny rush and all coast barrel cactus on site are located within an area designated as open space. There were no sensitive wildlife species observed on site. Though California gnatcatcher (*Poliioptila californica californica*) were not detected onsite it is assumed that this species is present based on the presence of suitable habitat during pre-fire conditions. Therefore breeding season avoidance will be implemented as a mitigation measure that prevents brushing, clearing, and/or grading during the breeding season between March 1 and August 15.

A portion of a tributary from the San Dieguito River touches the western portion of the property. The native habitat in this drainage will not be removed by the project. A Biological Open Space Easement over the drainage and a buffer will be dedicated to the County as a condition of this project. All conditions are within the mitigated negative declaration.

To mitigate for loss of coastal sage scrub and southern mixed chaparral onsite habitat will be preserved and placed within a biological open space easement. Approximately 2.22 acres of land will be dedicated as open space upon project completion, including 0.67 acre of Diegan coastal sage scrub, 1.46 acres of southern mixed chaparral, 0.06 acre of eucalyptus wetland, 0.01 acre of open water, and 0.02 acre of developed land. To mitigate for the loss of 5 California adolphia plants onsite preservation of 83% and the purchase of 4 plants within the Deer Canyon Mitigation bank will occur.

Table 1. Impacts to Habitat and Required Mitigation

Vegetation Community/ Land Cover Type	Existing (acres)	Development Impacts (acres)	Mitigation Ratio	Mitigation Required (acres)	Preserved On-Site (acres)
Developed Land (Tier IV)	3.06	3.04	0:0	0	0.02
Diegan Coastal Sage Scrub (Tier II)	1.00	0.33	1.5:1	0.50	0.67
Eucalyptus Wetland (Tier IV)	0.06	—	2:1	—	0.06
Open Water (Tier I)	0.01	—	2:1	—	0.01
Intermittent Stream Channel (Tier I)	<0.01	—	2:1	—	<0.01
Southern Mixed Chaparral (Tier III)	1.77	0.31	1:1	0.31	1.46
Total *	5.90	3.68	—	0.81	2.22

The findings contained within this document are based on County records and staff field site visit in July 2007. The information contained within these Findings is correct to the best of staff's knowledge at the time the findings were completed. Any subsequent environmental review completed due to changes in the proposed project or changes in circumstance shall need to have new findings completed based on the environmental conditions at that time.

The project has been found to conform to the County's Multiple Species Conservation Program (MSCP) Subarea Plan, the Biological Mitigation Ordinance (BMO) and the Implementation Agreement between the County of San Diego, the CA Department of Fish and Game and the US Fish and Wildlife Service. Third Party Beneficiary Status and the associated take authorization for incidental impacts to sensitive species (pursuant to the County's Section 10 Permit under the Endangered Species Act) shall be conveyed only after the project has been approved by the County, these MSCP Findings are adopted by the hearing body and all MSCP-related conditions placed on the project have been satisfied.

II. Biological Resource Core Area Determination

The impact area and the mitigation site shall be evaluated to determine if either or both sites qualify as a Biological Resource Core Area (BRCA) pursuant to the BMO, Section 86.506(a)(1).

A. Report the factual determination as to whether the proposed Impact Area qualifies as a BRCA. The Impact Area shall refer only to that area within which project-related disturbance is proposed, including any on and/or off-site impacts.

The area of impact qualifies as a BRCA because the eastern side of the site is located in hardline preserve and the southwestern corner of the site is a pre-approved mitigation area (PAMA), it is located within a potential wildlife corridor that links significant areas of habitat, is mapped as high habitat value along the San Dieguito River that runs north to south adjacent to the site, and the site connects with a large area (500+ acres) of undeveloped and diverse habitat.

B. Report the factual determination as to whether the Mitigation Site qualifies as a BRCA.

Mitigation is proposed on site and meets the criteria for a BRCA as described above in Section A. All proposed open space encompasses the hardline preserve area and the majority of the PAMA designated lands.

As a Biological Resource Core Area, the open space resulting from this project is considered part of the regional MSCP preserve system. As such, all of the requirements relating to the "Preserve" outlined in the County's Subarea Plan, the Implementation Agreement and the Final MSCP Plan apply to this open space.

III. Biological Mitigation Ordinance Findings

A. Project Design Criteria (Section 86.505(a))

The following findings in support of Project Design Criteria, including Attachments G and H (if applicable), must be completed for all projects that propose impacts to Critical Populations of Sensitive Plant Species (Attachment C), Significant Populations of Narrow Endemic Animal Species (Attachment D), Narrow Endemic Plant Species (Attachment E) or Sensitive Plants (San Diego County Rare Plant List) or proposes impacts within a Biological Resource Core Area.

1. Project development shall be sited in areas to minimize impact to habitat.

The project is located within an existing development footprint. No development impacts are proposed within the hardline preserve designation and minimal impacts will take place within the pre approved mitigation area (PAMA).

2. Clustering to the maximum extent permitted by County regulations shall be considered where necessary as a means of achieving avoidance.

There is only one additional lot proposed located within in area already previously disturbed by the existing residence. There is only a total of 0.64 acres of impacts to native habitat.

3. Notwithstanding the requirements of the slope encroachment regulations contained within the Resource Protection Ordinance, effective October 10, 1991, projects shall be allowed to utilize design that may encroach into steep slopes to avoid impacts to habitat.

No steep slope encroachment is needed the proposed development area is already on flat disturbed area.

4. The County shall consider reduction in road standards to the maximum extent consistent with public safety considerations.

The existing private road on the western side of the project is already designed at the minimum private road standards. Reducing the road width would not result in more open space or less habitat impacts, the road already exists.

5. Projects shall be required to comply with applicable design criteria in the County MSCP Subarea Plan, attached hereto as Attachment G (Preserve Design Criteria) and Attachment H (Design Criteria for Linkages and Corridors).

Findings in accordance with Attachments G and H are provided below.

B. Preserve Design Criteria (Attachment G)

In order to ensure the overall goals for the conservation of critical core and linkage areas are met, the findings contained within Attachment G shall be required for all projects located within Pre-Approved Mitigation Areas or areas designated as Preserved as identified on the Subarea Plan Map.

- 1. Acknowledge the “no net loss” of wetlands standard that individual projects must meet to satisfy State and Federal wetland goals, policies, and standards, and implement applicable County ordinances with regard to wetland mitigation.**

The project will not result in impacts to Army Corps of Engineers or California Department of Fish and Game jurisdictional resources. The area adjacent to the San Dieguito River will be maintained as natural open space and as a floodplain buffer zone. Therefore, there will be no net loss of wetlands due to this project.

- 2. Include measures to maximize the habitat structural diversity of conserved habitat areas, including conservation of unique habitats and habitat features.**

The project will preserve 2.22 acres of onsite open space including Tier-I, II, III sensitive habitat. The open space will consist of 0.67 acre of Diegan coastal sage scrub, 1.46 acres of southern mixed chaparral, 0.06 acre of eucalyptus wetland, 0.01 acre of open water, and 0.02 acre of developed land. There were three sensitive plant found onsite: coast barrel cactus (*Ferocactus viridescens*), County List B; southwestern spiny rush (*Juncus acutus ssp. leopoldii*), County List D; and California adolphia (*Adolphia californica*), County List B. Results of the rare plant survey indicate that five coast barrel cactus, one southwestern spiny rush, and twenty-nine California adolphia plants were identified on site. All of the southwestern spiny rush and coast barrel cactus on site are located within an area designated as open space, there will also be 24 California adolphia species preserved in open space.

- 3. Provide for the conservation of spatially representative examples of extensive patches of Coastal sage scrub and other habitat types that were ranked as having high and very high biological value by the MSCP habitat evaluation model.**

The project will be conserving 67% of coastal sage scrub found onsite. The project will also avoid developing in areas designated as high habitat value.

- 4. Create significant blocks of habitat to reduce edge effects and maximize the ratio of surface area to the perimeter of conserved habitats. Subsequently, using criteria set out in Chapter 6, Section 6.2.3 of the MSCP Plan, potential impacts from new development on biological resources within the preserve that should be considered in the design of any project include access, non-native predators, non-native species, illumination, drain water (point source), urban runoff (non-point source) and noise.**

The onsite open space will connect to undeveloped land to the east and south. There are no edge effects anticipated in these directions. To reduce edge effects from the proposed additional residential lots created by this project, a 100-foot wide Limited Building Zone Easement, temporary fencing (during grading), permanent fencing, and permanent signage will be required adjacent to the Open Space. The Limited Building Zone Easement will prohibit the construction of any habitable structures within 100 feet of the Open Space Easement, therefore precluding the need for future fire-clearing in the Open Space and reducing the noise and lighting levels in the preserve. This easement will not only prevent fire clearing, but in effect provides a buffer to lessen the likelihood that lighting and excessive noise will extend into the preserved areas. Stormwater runoff shall be regulated by the County's Watershed Protection Ordinance, which requires engineering measures to prevent polluted runoff (installation of all BMP measures must be completed prior to grading, clearing and/or final recordation of a map).

- 5. Provide incentives for development in the least sensitive habitat areas.**

The project will develop in the least sensitive areas on the site. The project is keeping the majority of development in the existing development footprint. There are only 0.64 acres of impacts to sensitive habitats.

- 6. Minimize impacts to narrow endemic species and avoid impacts to core populations of narrow endemic species.**

None of the sensitive species identified on the site are classified as Narrow Endemic species in the MSCP/BMO.

- 7. Preserve the biological integrity of linkages between BRCAs.**

The project has been designed to maintain connectivity between off-site BRCAs. Because to the proposed project is located within the existing developed areas, wildlife movement would not be expected to use the developed areas either as the existing or proposed. Approximately 2.2 acres of open space is proposed along the eastern and southern boundaries of the site which provides suitable coastal sage scrub and southern mixed chaparral habitat that can be used by transient wildlife. Large and small mammals, including coyote, deer, and raccoon, birds, and reptiles are expected to utilize this area for movement. The

site has not been identified as a regional linkage area by the MSCP Subarea Plan maps. The project will enhance areas designated as hardline preserve and PAMA by placing biological open space over these areas it gives further biological protection.

8. Achieve the conservation goals for covered species and habitats (refer to Table 3-5 of the MSCP Plan).

Three species detected on the site are covered by the MSCP, including coast barrel cactus (*Ferocactus viridescens*), County List B; southwestern spiny rush (*Juncus acutus ssp. leopoldii*), County List D; and California adolphia (*Adolphia californica*), County List B. There were no sensitive wildlife species observed on site. Though California gnatcatcher (*Poliioptila californica californica*) was not detected onsite it is assumed that this species is present based on the presence of suitable habitat during pre-fire conditions.

The project will preserve the majority of the habitat suitable for these species (77% of the native habitat onsite), thereby satisfying the first priority for conservation of these species. In addition to avoidance, Table 3-5 outlines other goals and requirements applicable to individual covered species. Most of these relate to the County's obligations for its Framework Management Plan (which outlines preserve management). However, Table 3-5 also includes management directives for individual projects affecting each of these species, including the directive to conform to the same design criteria addressed by the findings in this document, such as preserving linkages and large blocks of habitats. The design requirement specifically referred to for all five covered species on this site was to minimize edge effects. The only further requirement is to restrict grading and clearing during the breeding season of the California gnatcatcher. As described in various findings throughout this document, the project will implement all of these requirements outlined in Table 3-5 for the three covered species found on the site.

IV. Subarea Plan Findings

Conformance with the objectives of the County Subarea Plan is demonstrated by the following findings:

1. The project will not conflict with the no-net-loss-of-wetlands standard in satisfying State and Federal wetland goals and policies.

See above B.1.

2. The project includes measures to maximize the habitat structural diversity of conserved habitat areas including conservation of unique habitats and habitat features.

See above B.2.

- 3. The project provides for conservation of spatially representative examples of extensive patches of Coastal sage scrub and other habitat types that were ranked as having high and very high biological values by the MSCP habitat evaluation model.**

See above B.3.

- 4. The project provides for the creation of significant blocks of habitat to reduce edge effects and maximize the ratio of surface area to the perimeter of conserved habitats.**

The project has been designed to create one main contiguous block of habitat that follows the exiting hardline and PAMA designations. The habitat proposed for preservation will be contained within Lot 1 and 2, as backyard open space. The areas proposed for open space contain steep slopes adjacent to the San Dieguito River so human disturbances should be limited. However, this open space is still considered valuable for its avoidance and buffering development from the San Dieguito River than runs north south adjacent to the eastern side of the property.

- 5. The project provides for the development of the least sensitive habitat areas.**

See above B.5.

- 6. The project provides for the conservation of key regional populations of covered species, and representations of sensitive habitats and their geographic sub-associations in biologically functioning units.**

The project will preserve 2.22 acres of onsite open space including Tier-I, II, III sensitive habitat. The open space will consist of 0.67 acre of Diegan coastal sage scrub, 1.46 acres of southern mixed chaparral, 0.06 acre of eucalyptus wetland, 0.01 acre of open water, and 0.02 acre of developed land. There were three sensitive plant found onsite: coast barrel cactus (*Ferocactus viridescens*), County List B; southwestern spiny rush (*Juncus acutus ssp. leopoldii*), County List D; and California adolphia (*Adolphia californica*), County List B. Results of the rare plant survey indicate that five coast barrel cactus, one southwestern spiny rush, and twenty-nine California adolphia plants were identified on site. All of the southwestern spiny rush and coast barrel cactus on site are located within an area designated as open space, there will also be 24 California adolphia species preserved in open space.

- 7. Conserves large interconnecting blocks of habitat that contribute to the preservation of wide-ranging species such as Mule deer, Golden eagle, and predators as appropriate. Special emphasis will be placed on conserving adequate foraging habitat near Golden eagle nest sites.**

The project will preserve approximately 77% of the native habitat onsite. Though the open space is small totaling 2.22 acres it will be directly contiguous to off-site preserved lands, thereby contributing to a large interconnected block of habitat suitable for wide-ranging species. Although none of the larger wide ranging species were detected onsite it is likely that large and small mammals, including coyote, deer, and raccoon, birds, and reptiles are expected to utilize the offsite San Dieguito River as an area for movement. Golden eagles would not be expected to forage over this site due to the general lack of high quality foraging ground. The mature coastal sage scrub found on this probably tends to have a denser canopy than that preferred by eagles and most other raptors.

- 8. All projects within the San Diego County Subarea Plan shall conserve identified critical populations and narrow endemics to the levels specified in the Subarea Plan. These levels are generally no impact to the critical populations and no more than 20 percent loss of narrow endemics and specified rare and endangered plants.**

No Narrow Endemic species or Critical Populations were identified on this site during the numerous biological surveys completed.

- 9. No project shall be approved which will jeopardize the possible or probable assembly of a preserve system within the Subarea Plan.**

The project does not jeopardize the assembly of the preserve as the proposed development is located within areas designated outside the hardline preserve and

- 10. All projects that propose to count on-site preservation toward their mitigation responsibility must include provisions to reduce edge effects.**

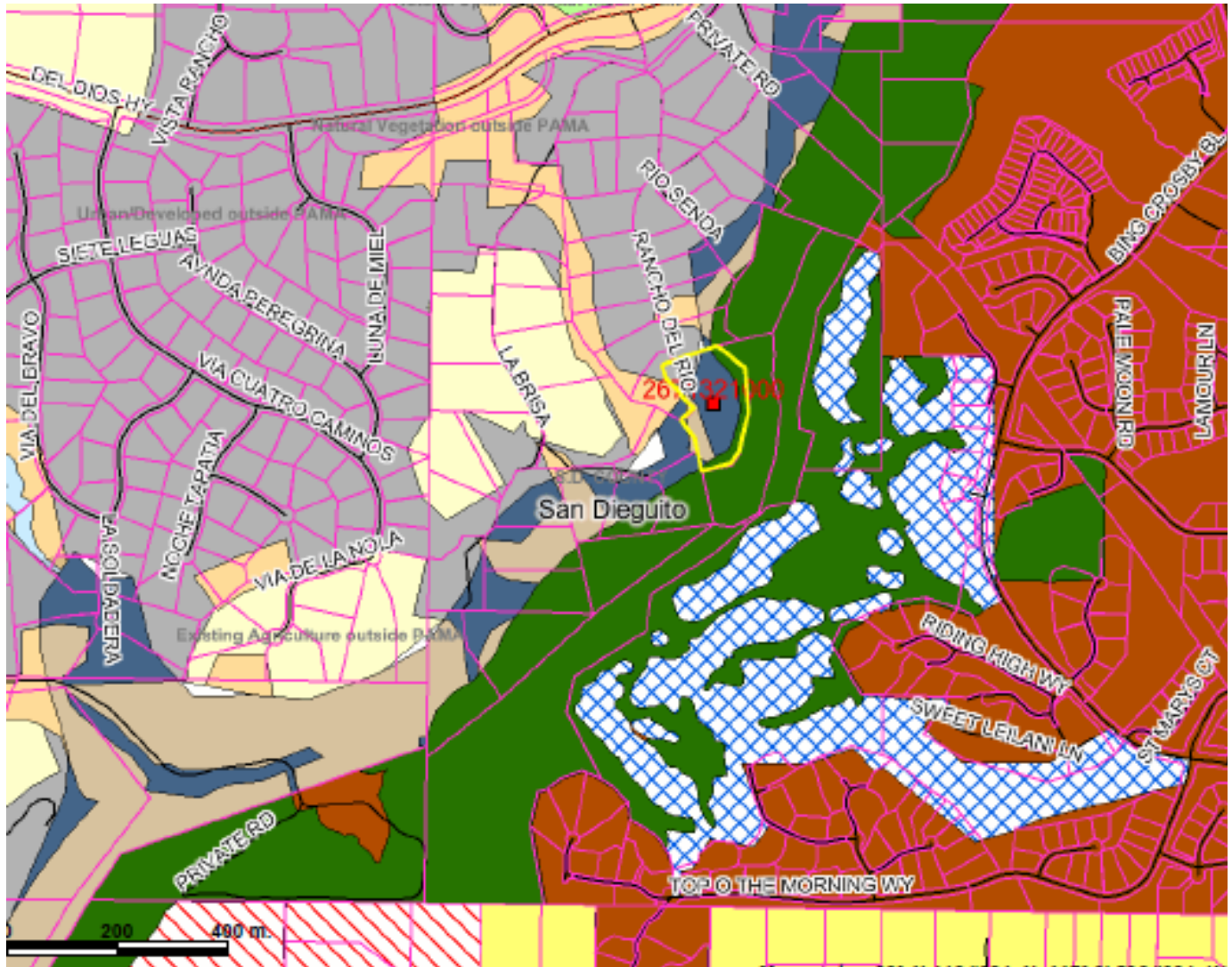
Edge effects on open space have been minimized through additional measures that will limit encroachment and lessen indirect impacts, such as noise, domestic pets, invasive plants, etc. Some of the measures include permanent signs along the edge of open space letting people know that the area is restricted. Permanent fencing will also be constructed along the open space boundary in Lots 1 and 2. Grading and clearing will be restricted to outside the breeding season of the California gnatcatcher to avoid disturbing nests (which will also prevent impacts to other species breeding between February 15 and August 30). A Limited Building Zone Easement will be dedicated to prevent the placement of structures too close to open space, such that fire clearing of preserved areas will be needed. This easement will not only prevent fire clearing, but in effect provides a buffer to lessen the likelihood that lighting and excessive noise will extend into the preserved areas. Stormwater runoff shall be regulated by the County's Watershed Protection Ordinance, which requires engineering measures to prevent polluted runoff (installation of all BMP measures must be completed prior to grading, clearing and/or final recordation of a map).

11. Every effort has been made to avoid impacts to BRCAs, to sensitive resources, and to specific sensitive species as defined in the BMO.

The project has been designed recognizing the importance of preserving the hardline preserve and PAMA areas located onsite. The majority of the native habitat onsite will be preserve. The proposed development is clustered to minimize impacts to the extent feasible. The configuration of open space was planned to create the maximum amount of connectivity between on and off-site lands while minimizing the perimeter to surface area ratio. The three sensitive species found on-site were mainly found within the areas now proposed for preservation. Therefore, given all of these facts, the project has made every effort to avoid impacts where possible to BRCAs, sensitive species and other sensitive resources.

Monica Bilodeau, Department of Planning and Land Use
December 8, 2009

MSCP Designation For Levie TPM TPM 21065, 07-08-005



<ul style="list-style-type: none"> Parcels Highways Freeways Streets Water Bodies Water Bodies MSCP_Designations - South Hardline Preserve Pre-Approved Mitigation Area (PAMA) Major Amendment Area Minor Amendment Area Minor Amendment Area Subject to Special Considerations 	<ul style="list-style-type: none"> Conserved Subject to Agreement with Wildlife Agencies Santa Fe Valley Open Space II Santa Fe Valley 'D' Designator Otay Ranch Areas Where No Take Permits will be Issued Take Authorized Area Unincorporated Land in Metro-Lakeside-Jamul Segment Other Community Planning Area
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