



# County of San Diego

## DEPARTMENT OF PARKS AND RECREATION

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### MITIGATED NEGATIVE DECLARATION

April 23, 2009  
Revised May 27, 2009

Project Name: Oak Country II Trails Project

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

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

- a. Initial Study Form
  - b. Environmental Analysis Form and attached extended studies for Biological Resources and Cultural Resources
1. California Environmental Quality Act Mitigated Negative Declaration Findings:

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



## 2. Required Mitigation Measures:

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

### **A. Biological Resources**

#### ***General Avoidance and Minimization Measures***

Trail routes were selected to avoid and minimize potential impacts to sensitive habitats, and plant and wildlife species to the maximum extent practicable. The existing trail (i.e., the old ranch road) was incorporated into the project to avoid additional project impacts. Additionally, the following design measures will be implemented prior to, and during, construction to avoid and minimize biological resource impacts:

1. Numerous standard storm water and flood control measures ~~contribute to the avoidance and minimization of impacts to habitat occupied by San Diego fairy shrimp, western spadefoot, and arroyo toad.~~ These include will be implemented including:
  - a. Installation of silt fencing prior to land disturbance at the proposed staging area and culvert installation location;
  - b. Utilization of natural topography when locating the staging area and trails to avoid erosion potential;
  - c. Natural vegetation swales will be retained within the staging area; and
  - d. Soil-tracking Best Management Practices (BMPs) will be implemented to limit off-site transport of sediment from construction areas by implementing tire-cleaning measures such as stabilized construction entrance/exit designs at access points.
2. All erosion and sediment control measures will be inspected/maintained to ensure proper integrity and function during the entire construction period. All stabilization and structural controls will be inspected at least monthly or after any significant storm event for the duration of the construction activities and will be repaired or maintained for optimum performance.
3. Prior to construction activities, but after exclusionary fencing has been installed, at least three surveys for arroyo toads will be conducted within the fenced area by a Service-approved biologist<sup>1</sup>. Surveys will be conducted during appropriate climatic conditions during the appropriate time of day or night to maximize the likelihood of encountering arroyo toads. If climatic conditions are not appropriate for arroyo toad movement during the surveys,

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<sup>1</sup> A Service-approved biologist will be able to identify arroyo toads visually and vocally and will have a minimum of 20 hours of survey experience for this species. To receive approval, the biologist will submit his/her resume and references to the Service for review and approval at least 30 days prior to initiation of project-related activities.

- the biologist may attempt to illicit a response from the arroyo toads, during nights (i.e., at least one hour after sunset) with temperatures above 50 degrees Fahrenheit, by spraying the project area with water to simulate a rain event. If an arroyo toad is found within the project site during the surveys or the construction activities, all work will cease and a formal section 7 consultation will be initiated with the Service. Work will continue once a biological opinion is issued by the Service that addresses adverse effects to the arroyo toad.
4. The Service-approved biologist will conduct a training session for all project personnel prior to proposed construction activities. At a minimum, the training will include a description of the arroyo toad and gnatcatcher, the general provisions of the Act, the need to adhere to the provisions of the Act, the penalties associated with violating the Act, the general measures that are being implemented to avoid and minimize impacts to listed species, and construction activity boundaries.
  5. A Service-approved biologist will be present during initial ground disturbing activities and habitat disturbance to monitor the site for arroyo toads and gnatcatchers. After this time, the contractor or permittee will designate a person to monitor on-site compliance with all minimization measures. The project biologist will be empowered to halt work activity if necessary and to confer with staff from the Service to ensure proper implementation of species and habitat protection measures. If during project implementation an arroyo toad or gnatcatcher is found within the project site, all work will be halted and formal section 7 consultation will be initiated with the Service. Work will continue once a biological opinion is issued by the Service that addresses adverse effects to the arroyo toad and/or gnatcatcher.
  6. "Stay on Trail" signage will be placed throughout the trail to avoid and minimize potential effects to listed and sensitive species utilizing habitats adjacent to the trail. In addition, fencing will be placed around the boundaries of the proposed staging area.
  7. The County proposes to fence the staging area and to manage the trail within the Preserve in accordance with a Resource Management Plan that will be prepared by the County. Ongoing adaptive management of the Preserve will identify unauthorized trail use or other adverse effects associated with increased human use (e.g., trash, off-road activity) or domestic animals. Such issues will be addressed through construction of fence segments, maintenance of trash receptacles, or other means to prevent impacts resulting from increased human use on the site.

### ***Species Specific Avoidance and Minimization Measures***

8. No construction activities will take place during the arroyo toad breeding season (March 15 - July 31) within suitable arroyo toad breeding habitat.

9. Access to the sites will be via preexisting access routes to the greatest extent possible. Project-related vehicle travel will be limited to daylight hours as arroyo toads use roadways primarily during nighttime hours.
10. Activities that attract small insects (e.g., ants) and toad predators will be minimized by keeping the project site as clean as possible. All food-related trash will be placed in sealed bins or removed from the site regularly.
11. Dust control (i.e., water truck spraying) will be performed in a manner that does not attract toads into the action areas by performing when toad exclusion fence is up and minimizing overspray.
12. ~~Prior to construction, To preclude arroyo toads from the proposed staging area and culvert installation work sites,~~ arroyo toad exclusionary fencing will be installed around the ~~perimeter of all work areas within potential arroyo toad upland habitat where active trail construction is taking place~~ proposed staging area and culvert installation location prior to implementation of construction activities. ~~Work on the trail will be broken up into segments of the total four-mile trail, so fenced active work areas will be confined to smaller portions of the proposed trail. The purpose of the fence is to exclude arroyo toads from the active work sites. Such~~ The fencing will consist of woven nylon netting fabric or plastic at least approximately two feet in height high, attached to wooden stakes ~~staked~~ firmly to the ground with the lower one foot of material stretching outward along the ground and secured with a continuous line of gravel bags. ~~Prior to installing the fencing, a narrow trench approximately one to two inches in depth will be excavated and the fence buried, to prevent burrowing beneath the fence. No digging or vegetation removal will be associated with the installation of this fence and~~ A ~~all~~ fencing materials (i.e., mesh, stakes, etc.) will be removed following construction within the work area ~~when the Project is complete.~~ Ingress and egress of equipment and personnel will use a single access point to the site. This access point will be as narrow as possible and will be closed off by exclusionary fencing when personnel are not on the project site.
13. Excavations will be properly covered to prevent toads from entering any open pits.
14. The Service-approved biologist will be on call and available as needed in the event that a toad is encountered during the activities. The project biologist will be present on-site full-time, for two to three days, following any measurable rainfall.
15. Brushing, clearing, and/or grading will not occur within 300 feet of suitable habitat, including buckwheat scrub habitat, during the breeding season of the California gnatcatcher (February 15 - August 31). This condition can be waived by the CDFG and the USFWS Service if surveys described below determine that no active nests occur on-site.
  - a. Within one week of commencement of clearing or activities associated with project construction, a qualified biologist shall conduct a preconstruction survey for California gnatcatcher. If the biologist finds any evidence of an

- active nest, the biologist shall (a) notify the County, and (b) ensure that no clearing or construction activities occur within 300 feet of an active nest.
16. Brushing, clearing, and/or grading will not occur within 500 feet of suitable habitat, including coast live oak woodland and non-native grassland habitat, during the raptor breeding season (February 1 - July 15). This condition can be waived by the CDFG and the USFWS Service if surveys described below determine that no active nests occur on-site.
- a. Within one week of commencement of clearing or activities associated with project construction, a qualified biologist shall conduct a preconstruction survey for nesting raptors. If the biologist finds any evidence of an active nest, the biologist shall (a) notify the County, and (b) ensure that no clearing or construction activities occur within 500 feet (800 feet for ground dwelling raptors) of an active nest.
  - b. If an active bird nest is present, the condition may still be waived if additional clearing mitigation measures are implemented as specified in writing by the Wildlife Agencies.
17. The permittee will ensure that the following conditions are implemented during construction activities:
- a. Pets of project personnel will not be allowed on the project site;
  - b. Disposal or temporary placement of excess fill, brush or other debris will not be allowed in waters of the United States or their banks;
  - c. All equipment maintenance, staging or any other such activities will occur in designated areas outside of waters of the United States within the fenced project impact limits. These designated areas will be located in previously compacted and disturbed areas to the maximum extent practicable in such a manner as to prevent any runoff from entering waters of the United States, and will be shown on the construction plans. Fueling of equipment and dispensing of oil coolant or other such activities will take place offsite. Contractor equipment will be checked for leaks prior to operation and repaired as necessary.

### ***Mitigation Measures***

Compensation for unavoidable direct impacts to all vegetation communities (including all habitat occupied by arroyo toad), totaling 3.29 acres, associated with the project will be mitigated for at the following recommended compensation ratios: 2:1 for coast live oak woodland (0.26 acre), 1:1 for nonnative grasslands (2.07 acres), 0.5:1 for southern mixed chaparral (0.53 acre), and 3:1 for riparian/wetlands (freshwater seep and disturbed wetland) (0.09 acre) for a total of 2.95 acres. The proposed mitigation for these impacts will consist of off-site conservation of 7.9 acres of in-kind habitats at the Rowan parcel of the County-owned Wilderness Gardens located along the San Luis Rey River. A Resource Management Plan for this site will be prepared and reviewed by the Wildlife Agencies prior to its approval.

## **B. Cultural Resources**

1. In order to discourage intrusion into significant site areas, permanent preventive fencing with signage (e.g., signs that read "Please Stay on Trail") shall be placed along both sides of the existing ranch road in locations where the road is adjacent to significant sites. The fencing shall be of a split rail construction (either concrete or wood).
2. All ground disturbing activities shall be monitored by a qualified archaeological monitor. Additionally, where there are previously known significant sites as depicted in confidential archaeology maps, a Native American monitor will also be present. In the event that previously unknown archaeological resources are discovered, a Native American monitor will be contacted to aid in identification and evaluation of these resources. ~~In~~ addition, the Both an archaeological monitor and Native American monitor will oversee the surface removal of artifacts along the existing ranch road prior to trail opening. All artifacts and associated records that may be discovered during monitoring shall be appropriately curated with an appropriate institution.
3. Critical Project Design Elements That Must Become Conditions of Approval:

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

## **Biological Resources**

- The areas proposed for development will completely avoid direct impacts to any portion of the following sensitive habitats: buckwheat scrub, disturbed coast live oak woodland, mulefat scrub, southern willow scrub, and nonvegetated channel.
- Trail alignment will avoid direct impacts to the County sensitive southern tarplant, graceful tarplant, and Engelmann oak observed within the proposed project area.
- Construction of the trail would not remove or otherwise affect mature oak trees or oak tree recruitment as trail impacts are considered minimal and all work through coast live oak woodland will be achieved by hand.

**Cultural Resources**

- The project design has avoided significant archaeological sites to the extent practicable and no direct impacts to cultural resources from construction of the trail and staging area are anticipated.

**Geology and Soils**

- The project will include Best Management Practices (BMPs) to ensure sediment does not erode from the proposed project site.

**Hydrology and Water Quality**

- The project design provides for minimal grading and will utilize the natural topography to maintain the existing drainage flow on site.
- Native vegetation surrounding the trail and staging area will remain undisturbed and will act as a natural biofilter. BMPs will include, but are not limited to, stabilized construction entrance/exit areas, permeable surfaces (no impervious surfaces proposed), and silt fencing. Silt fences and fiber rolls would be specified to minimize surface transport of sediments.

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

Board of Supervisors (Decision-Making Body)

on August 5, 2009 (10) (Date/Item #)

Megan Hamilton, Group Program Manager  
Department of Parks and Recreation