

## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
 SAN FRANCISCO, CA 94105-2219  
 VOICE (415) 904-5200  
 FAX (415) 904-5400  
 TDD (415) 597-5885



# F 12a

## STAFF REPORT AND RECOMMENDATION

### ON CONSISTENCY CERTIFICATION

Consistency Certification No.	CC-075-09
Staff	LJS-SF
File Date:	12/15/2009
3 Months:	3/15/2010
6 Months:	6/15/2010
Commission Meeting:	3/12/2010

**APPLICANT:** North County Transit District

**PROJECT LOCATION:** Railroad Mileposts 229.4 to 231.8 including the crossing of Agua Hedionda Lagoon, City of Carlsbad, San Diego County (**Exhibits 1 and 2**).

**PROJECT DESCRIPTION:** Construction of a second mainline railroad track, a second railroad bridge over Agua Hedionda Lagoon, related crossovers and signals, and improvements to railroad/highway at-grade intersections.

**SUBSTANTIVE FILE DOCUMENTS:** See Page 22

**STAFF RECOMMENDATION:** Concurrence Motion is on Pages 5 and 6

## **EXECUTIVE SUMMARY**

The North County Transit District (NCTD) has submitted a consistency certification for constructing a second mainline railroad track along an approximately 2.4-mile-long segment of railroad right-of-way in the City of Carlsbad, San Diego County. The second mainline track will be installed on the inland (east) side of the existing track. The project also includes construction of a second railroad bridge across Agua Hedionda Lagoon adjacent to the single-track railroad bridge constructed in 2006 by NCTD to replace an aging and deteriorating timber bridge (CD-055-05). The proposed bridge will be constructed immediately to the east of the existing bridge in the same footprint as the timber bridge removed in 2007. The new 213-foot-long and 22-foot-wide bridge will clear the Agua Hedionda Lagoon channel using two 4-foot-diameter concrete pilings installed on either side of the channel on the rock rip-rap channel banks. The four bridge columns will be placed in the same line along the channel banks as the two existing bridge columns. All construction activities and the project staging areas will occur within the existing NCTD or road rights-of-way. Construction is scheduled to commence in the spring of 2010 and is expected to last approximately 16 months. The purpose of the project is to improve operational flexibility of the passenger and freight rail systems, improve schedule and travel time reliability, and provide for future demand for rail services in the LOSSAN (Los Angeles – San Diego) rail corridor. The subject consistency certification is the latest in a series of consistency certifications submitted by NCTD for railroad bridge replacement and construction of sections of double tracking along the LOSSAN corridor in San Diego County.

Construction of the project would affect wetland habitat and triggers the three-part test of Section 30233(a) and the functional capacity and allowable use tests of Section 30233(c) of the Coastal Act. The project is consistent with the wetland fill alternatives and mitigation tests, but is not consistent with the allowable use tests of Sections 30233(a) and (c) of the Coastal Act because the project will, cumulatively and over time, serve to increase the capacity of the LOSSAN corridor. Therefore, the project can only be found consistent with the Coastal Act through the “conflict resolution” provision contained in Section 30007.5. The project is consistent with the functional capacity test of Section 30233(c) because the project will not lead to significant hydrologic changes to channel flows and will not adversely affect marine resources or terrestrial habitat.

The project includes commitments to protect water quality during and after construction, including preparation of a Storm Water Pollution Prevention Plan, implementation of best management practices, and post-construction revegetation to control soil erosion. The project is consistent with the water quality protection policies of the CCMP (Coastal Act Sections 30231 and 30232). The project, and the resulting improvements to public transportation in the LOSSAN corridor, will help to reduce energy consumption, reduce greenhouse gas emissions, and improve air quality, and is therefore consistent with the energy minimization policy of the CCMP (Coastal Act Section 30253(d)).

The proposed second railroad bridge over Agua Hedionda Lagoon is designed not to adversely affect any existing public access in the project area, and the public access protection

commitments NCTD made in CC-055-05 for construction of the existing railroad bridge at the lagoon apply as well to the proposed project. The project is consistent with the public access and recreation policies of the CCMP (Coastal Act Sections 30210, 30212, and 30252). The proposed bridge is similar in design to the existing concrete railroad bridge at this location and would not create any adverse effects on scenic public views to or along the shoreline. The project is consistent with the public view policy of the CCMP (Coastal Act Section 30251).

The proposed project creates a conflict between the allowable use test of the wetland policy on the one hand, and the public access and transit, water quality, air quality, and energy conservation policies of the Coastal Act on the other. Having established a conflict among Coastal Act policies, Section 30007.5 requires the Commission to resolve the conflict in manner that is on balance most protective of coastal resources. In this case, the proposed project will result in the fill of 64 square feet of coastal waters. The affected habitat is adjacent to the existing rail line, is unvegetated rock rip-rap channel bank, and adequate on-site mitigation is being provided by NCTD to compensate for the loss of coastal waters. On the other hand, objecting to this consistency certification would result in conditions that would be inconsistent with the access and transit policies (Sections 30210 and 30252), would result in adverse effects to coastal waters and the coastal air basin, and would be inconsistent with the achievement of water quality, air quality, energy conservation, and reductions in vehicle miles traveled goals expressed in Sections 30231 and 30253(d). In resolving the Coastal Act conflict raised, the impacts on coastal resources from not constructing the project would be more significant and adverse than the project's coastal waters impacts, which would, as designed by NCTD, be adequately mitigated. Concurring with this consistency certification would, on balance, be most protective of coastal resources, and the project is consistent with the conflict resolution policy of the CCMP (Coastal Act Section 30007.5).

## **STAFF SUMMARY AND RECOMMENDATION:**

### **I. STAFF SUMMARY.**

**A. Project Description.** The North County Transit District (NCTD) proposes to construct a second mainline track along an approximately 2.4-mile-long segment of railroad right-of-way (Milepost (MP) 229.4 to MP 231.8) in the City of Carlsbad in San Diego County (**Exhibits 1 and 2**). The second mainline track will be installed on the inland (east) side of the existing track. The project also includes construction of a second railroad bridge across Agua Hedionda Lagoon adjacent to the single-track railroad bridge constructed in 2006 by NCTD to replace an aging and deteriorating timber bridge (CD-055-05). The proposed bridge will be constructed immediately to the east of the existing bridge in the same footprint as the timber bridge removed in 2007. The new 213-foot-long and 22-foot-wide bridge will clear the Agua Hedionda Lagoon channel using two 4-foot-diameter concrete pilings installed on either side of the channel on the rock rip-rap channel banks. The four bridge columns will be placed in the same line along the channel banks as the two existing bridge columns (**Exhibits 3-5**). All construction activities and the project staging areas will occur within the existing NCTD or road rights-of-way. Construction is scheduled to commence in the spring of 2010 and is expected to last approximately 16 months.

The following are the proposed second track project elements, moving from north to south along the rail corridor:

- Install a power turnout at MP 229.46 to initiate the connection to the new second track.
- Install a new chain link fence between MP 229.4 and MP 230.0 along the west side of the existing track along the NCTD right-of-way.
- Improve the existing at-grade crossing at Tamarack Avenue, MP 230.10.
- Relocate a concrete drainage channel located between MP 230.26 and MP 230.41.
- Install a new 213-foot-long bridge at MP 230.6 across Agua Hedionda Lagoon immediately east of the existing railroad bridge.
- Install a retaining wall between the new and existing track between MP 230.72 and MP 231.29.
- Improve the existing at-grade crossing at Cannon Road, MP 231.4.
- Construct the north crossover between the proposed track and the existing double track, between MP 231.73 and MP 231.62.
- Modify the existing Main Track #1 by raising the elevation approximately six inches, between MP 231.5 and MP 231.8.
- Install the south crossover between Track #2 and Track #1 between MP 231.6 and MP 231.5.

NCTD states in the consistency certification that there are three primary reasons for the proposed double track project:

1. *Operational Flexibility. The proposed project will extend an existing double track segment. By completing this project, freight and passenger trains would be able to operate on double main line tracks for approximately 5.0 miles. The new universal crossover at CP Farr will permit much greater flexibility in train operations, as scheduling and dispatching train meets on the new segment of double track will be greatly facilitated.*
2. *Schedule Reliability/Travel Time. Freight and passenger trains currently operate on a single track through the project area, as well as on other segments of the corridor. This often leads to delays, which directly impact on-time performance . . . Double tracking this segment would eliminate the delays associated with trains waiting on a passing track for other trains to clear a single-tracked section. Eliminating sections of single track on this corridor would provide for more consistent operating and schedule reliability.*

3. *Future Growth and Travel Demand. It is a critical objective for BNSF, Amtrak, NCTD, and SANDAG to increase the efficiency of this rail corridor not only to accommodate existing train volumes, but also to provide for future demand for rail services on the corridor. Double tracking this segment directly supports this objective. Without increasing the amount of double tracking on the corridor, increases in either freight and/or passenger train service will not be possible without degradation in overall service reliability.*

The subject consistency certification is the latest in a series of consistency certifications submitted by NCTD for railroad bridge replacement and construction of sections of double tracking along the LOSSAN corridor in San Diego County. The Commission previously concurred with: (1) the 2.6-mile-long Pulgas to San Onofre double tracking at the north end of Camp Pendleton (CC-086-03); (2) the 2.9-mile-long Santa Margarita River double tracking project at the south end of Camp Pendleton (CC-052-05); (3) replacement of the railroad bridge over Agua Hedionda Lagoon (CC-055-05); (4) the 2.7-mile-long O'Neill to Flores double track project in central Camp Pendleton (CC-004-05); (5) the 1.2-mile-long extension of passing track and construction of one replacement and one new railroad bridge over Loma Alta Creek in Oceanside (CC-008-07); and (6) the replacement of three timber railroad bridges over Los Penasquitos Lagoon in San Diego (CC-059-09).

**B. Procedures – Permitting Issues.** The project triggers federal consistency review because it needs a U.S. Army Corps of Engineers (“Clean Water Act Section 404”) permit. The Commission also believes the project is subject to the permitting requirements of the Coastal Act; however, the North County Transit District (NCTD) disagrees with this position. Notwithstanding this disagreement about whether a coastal development permit is needed, the Commission concurs with this consistency certification because it is consistent with the Coastal Act. The Commission further notes that the NCTD has applied for a number of permits for its rail improvement activities in other sections of the coast, including CDP’s No.: 6-03-102-G (Agua Hedionda emergency repairs), 6-02-152 (San Luis Rey River bridge repair), 6-02-151 (Agua Hedionda bridge), 6-02-102 (Del Mar drainage outlets), 6-02-80 (Santa Margarita Bridge repair), 6-01-64 (Balboa Avenue), 6-01-108 (Tecolote Creek), 6-93-60 (Del Mar), 6-94-207 (Solana Beach), 6-93-106 (Carlsbad), and 6-93-105 (Camp Pendleton).

**C. Applicant’s Consistency Certification.** North County Transit District has certified that the proposed activity complies with California’s approved coastal management program and will be conducted in a manner consistent with such program.

## **II. STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following motion:

**Motion:** I move that the Commission **concur** with North County Transit District’s consistency certification CC-075-09 that the project described therein is

fully consistent with the enforceable policies of the California Coastal Management Program.

**Staff Recommendation:**

The staff recommends a **YES** vote on the motion. Passage of this motion will result in an agreement with the certification and adoption of the following resolution and findings. An affirmative vote of the majority of the Commissioners present is required to pass the motion.

**Resolution to Concur with Consistency Certification:**

The Commission hereby **concurs** with the consistency certification made by the North County Transit District for the proposed project, finding that the project is consistent with the enforceable policies of the California Coastal Management Program.

**III. Findings and Declarations:**

The Commission finds and declares as follows:

**A. Wetlands and Environmentally Sensitive Habitat.** The Coastal Act provides the following:

*Section 30233(a). The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

...

*(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines*

...

*(c) In addition to the other provisions of this section, diking, filling, or dredging in existing wetlands and estuaries shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the California Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study . . . if otherwise in accordance with this division.*

Section 30240.

*(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

*(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

A *Biological Survey Report* (December 2009) for the Carlsbad double tracking project was prepared for NCTD as an element of the environmental review process undertaken by Amtrak, the delegated federal authority to evaluate the potential effects along the 2.4-mile-long segment of the railroad corridor. The *Biological Survey Report* states that all project construction will occur within the existing NCTD railroad right-of-way or road rights-of-way and that:

*The vast majority of the area adjacent to the track along the proposed double tracking segment is highly disturbed and does not support native plant communities and is not likely to support [sensitive plant and animal] species . . . Railroad ROWs are largely maintained vegetation-free in accordance with the federal regulations to minimize conflicts with rail operations.*

*Because there are no listed species within the proposed double-track area, and the site is not located within designated critical habitat, formal consultation with the USFWS or the National Marine Fisheries Service is not likely to be required as this project will not adversely affect these species.*

*Although there were no listed species observed within the project area, Agua Hedionda Lagoon has been infested with the noxious algae species *Caulerpa*. A focused survey for this species has been completed, and the result of this survey is that there was no *Caulerpa* found within the project APE [Area of Potential Effect] where it crosses the entrance to Agua Hedionda Lagoon. The results of this survey are listed in a separate report which is attached as Appendix C.*

In addition, the project includes construction of a new bridge over the Agua Hedionda Lagoon channel and will require the permanent fill of approximately 64 square feet and temporary fill of approximately 39 sq.ft. in the upper tidal area of the channel. The Commission agrees with the findings in the Biological Survey Report that the only environmentally sensitive habitat that would be adversely affected by construction of the double track project is the Agua Hedionda Lagoon channel, due to the placement of four bridge pilings in the upper rip-rap margin of the tidal channel. The project triggers the three-part test of Coastal Act Section 30233(a), as well as the functional capacity and allowable use tests of Section 30233(c), because the project includes temporary and permanent fill in wetlands and coastal waters, and because Agua Hedionda Lagoon is one of the “priority wetlands” identified in Section 30233(c). The Commission

therefore needs to analyze the project's consistency with the allowable use, alternatives, and mitigation tests of Section 30233(a), as well as the tests of Section 30233(c).

**1. Allowable Use.** Under the first of these tests, a project must qualify as one of the seven stated uses under Section 30233(a). The Commission has considered minor expansions of existing roads, an airport runway (City of Santa Barbara, CC-058-02), and NCTD double tracking projects (CC-086-03, CC-052-05) in certain situations to qualify as "incidental public service purposes," and thus allowable under Section 30233(a)(4), but only where no other feasible less damaging alternative exists and the expansion is necessary to maintain existing traffic capacity.

The Court of Appeal has recognized this definition of incidental public service as a permissible interpretation of the Coastal Act. In the case of *Bolsa Chica Land Trust et al., v. The Superior Court of San Diego County* (1999) 71 Cal.App.4<sup>th</sup> 493, 517, the Court found that:

*. . . we accept Commission's interpretation of sections 30233 and 30240 . . . In particular we note that under Commission's interpretation, incidental public services are limited to temporary disruptions and do not usually include permanent roadway expansions. Roadway expansions are permitted only when no other alternative exists and the expansion is necessary to maintain existing traffic capacity.*

NCTD states in the subject consistency certification that the purposes of the proposed project are to improve the reliability and on-time performance of Amtrak's intercity rail passenger services and Coaster Commuter rail services, and to enhance ridership, passenger train service flow, efficiency and flexibility of train movement, and safety of railroad operations. NCTD also states that:

*The track improvements at Carlsbad are not being implemented to allow for expanded railway traffic. Although a future increase in the number of trains may occur as a result of commercial demand, and such increase will occur regardless of whether this project is implemented or not.*

The Commission has accepted the assertion that double track projects are an incidental public service in two previous concurrences with NCTD double track construction projects in northern San Diego County which involved fill of coastal waters and wetlands (CC-086-03 and CC-052-05). The Commission found in CC-052-05 that:

*Allowable Use Test - Coastal Act Section 30233(a). Section 30233(a) does not authorize wetland fill unless it meets the "allowable-use" test. Similar to the Commission decision regarding safety improvements at the Santa Barbara Airport (CC-58-01), the proposed project is an allowable use as an incidental public service because it is necessary to maintain existing passenger service. The second main track project is being proposed to streamline service for existing trains, and would not result in an increase in the number of trains (capacity) utilizing the tracks. Rather, the proposed project would improve mass transit services by providing more efficient services, thereby increasing the incentive for travelers to choose this mass transit option instead of personal automobiles.*



*Therefore, any increase in utilization of the train service would be related to an increase in number of passengers aboard, rather than an expansion of train services.*

However, the Commission found more recently in CC-004-05 (NCTD, O'Neil to Flores double track) that:

*In finding those projects [CC-086-03 and CC-052-05] "limited expansions" and "necessary to maintain existing capacity," and thus an allowable use as an incidental public service under Section 30233(a)(5) [now (a)(4)], the Commission reserved the concern over future double tracking proposals, stating that they would not necessarily continue to qualify under this section, because at some point with increasing numbers of double tracking proposals, the double tracking: (a) will no longer be limited; and (b) will contain enough length of a second set of tracks to in fact constitute an increase in capacity. However, at that time and in those locations the Commission found that the double tracking projects did not meet either of these thresholds that would render the projects ineligible for consideration as an incidental public service.*

*The piecemeal nature of NCTD's submittals has faced the Commission with a continuum of improvements, rather than a single unified project, which has made the determination of when increases in capacity are triggered a difficult one. To assist in this determination the Commission staff has requested information both about future double tracking proposals NCTD (or other proponents) are considering or planning for, and about documenting the public access benefits of improving public transit. On the first request, NCTD states future double-tracking proposals on Camp Pendleton would likely only be part of more comprehensive transportation improvement programs such as Los Angeles-San Diego Rail Corridor Agency (LOSSAN) and/or California High Speed Rail Authority projects. NCTD states:*

*Currently, no additional future double-track projects have been identified by NCTD to be constructed within the Camp Pendleton area. It should be noted, however, that NCTD performs railroad maintenance-of-way activities on a continuous basis, is required to respond promptly to emergency situations as they may occur along the railroad right-of-way, and is mindful of pursuing potential opportunities that may improve railroad operations. As such, it is possible that double-tracking projects may arise in the future as individual projects or as part of comprehensive transportation improvement programs, such as LOSSAN and/or the California High Speed Rail Authority.*

*On the second request for individual and cumulative benefits, NCTD has provided the detailed discussion . . . which establish that the project will benefit public access. This discussion, combined with the programmatic operational discussion contained in the Fish and Wildlife Service's Biological Opinion . . . make it clear that the numbers and speeds of trains are going to increase, if not individually from this project, then certainly cumulatively based on currently planned improvements, leading the Commission to conclude that the project is likely to increase capacity. If it increases capacity, it does not qualify as an allowable use under Section 30233(a) as an incidental public service, and none of the other*

*eight allowable uses in Section 30233 apply. Therefore, as discussed in the previous section of this report (Section B, and with elaboration in Section F), the only way the Commission could find the project consistent with the Coastal Act would be through the “conflict resolution” provision (Section 30007.5).*

As a result, while the Commission concurred with CC-004-05, it found that the project was not an allowable use under Section 30233(a). However, the Commission found that the impacts on public access, water and air quality, and energy conservation from not constructing the project would be more significant and adverse than the project’s wetland habitat impacts (as mitigated). Using the “conflict resolution” provision of Section 30007.5 of the Coastal Act, the Commission concluded that concurrence with the consistency certification would, on balance, be most protective of coastal resources.

Subsequent to that action, the Commission adopted similar findings in NCTD’s consistency certification CC-008-07 for 1.2 miles of double tracking and a second bridge over Loma Alta Creek in the City of Oceanside:

*The Commission previously determined in CC-004-05 that the programmatic railroad operational discussion contained in the U.S. Fish and Wildlife Service’s 2005 Programmatic Biological Opinion made it clear that the numbers and speeds of trains in the corridor are going to increase over time (if not individually from the CC-004-05 project then certainly cumulatively based on planned trackway improvements) and that the CC-004-05 project would likely increase capacity in the LOSSAN corridor. Given that finding for the third double-tracking project in the corridor reviewed by the Commission, and given that the proposed project will add an additional 1.2 miles of double-tracking in the corridor, the Commission therefore reaches the same conclusion in this, the fourth, double-tracking project. The proposed Oceanside passing track extension will, cumulatively, serve to increase the capacity of the LOSSAN corridor.*

The Commission concluded that Oceanside project also was not an allowable use under Section 30233(a) and that the only way the Commission could find that project consistent with the Coastal Act was through the “conflict resolution” provision of Section 30007.5.

As of June 2007, the Commission had determined that the two most recent double tracking projects that involved fill of coastal waters or wetlands (CC-004-05 and CC-008-07) were not allowable uses under Section 30233(a) due to the likely increase in rail line capacity arising from the cumulative effect of those two projects and previously-approved double tracking projects.

Subsequent to those Commission decisions, a July 2009 report prepared for the California Department of Transportation and the Rail Prioritization Working Group, the *San Diego – LOSSAN Corridor Project Prioritization Analysis*, analyzed and prioritized potential rail investments in the San Diego County portion of the LOSSAN (Los Angeles-San Diego) corridor to support phased expansion of rail capacity. This report identified forty rail improvement projects for evaluation and prioritization, and included double tracking, tunnels, grade separations, and station improvements:

- For **near-term** service expansion, eight low-cost track projects are recommended to provide increased operational flexibility near several stations and double track configuration at some key choke points. These projects will result in 9.9 additional miles of double track.
- For **mid-term** service expansion, four additional track projects are recommended to provide continuous double track configuration from Carlsbad northward to CP Songs and for a ten-mile stretch south of University Town Center. These projects will result in 5.7 additional miles of double track.
- For **long-term** service expansion, five additional double track projects are recommended to provide continuous double track configuration except through Del Mar and Los Penasquitos Lagoon. These projects will result in 7.4 additional miles of double track.

The report also noted that the prioritization process produced project groups that were keyed to three service scenarios in the San Diego County portion of the LOSSAN corridor. These service scenarios represent the following progressive expansion of passenger and freight rail service over time:

- **Near-term** service expansion, which equates roughly to year 2015, would expand service to 79 trains each weekday. This expansion would provide 6 to 14 more trains per day compared to 2008, with most service expansion for peak period COASTER operations and AM and mid-day Amtrak operations.
- **Mid-term** service expansion, which equates roughly to year 2025, would expand service to 93 trains each weekday. This expansion would provide 20 to 28 more trains than 2008, with more service throughout the day for all operators except Metrolink. COASTER trains would run about every 25 minutes in the peak direction, and about every 90 minutes in the mid-day and evenings. Amtrak would have consistent hourly service in both directions throughout the day. BNSF would add a second manifest train in the mid-day.
- **Long-term** service expansion, which equates roughly to year 2030, would expand service to 119 trains each weekday. This expansion would provide about 50 more trains than 2008, with more service throughout the day for all operators except BNSF. As envisioned in the SANDAG 2020 RTP, COASTER trains would run about every 20 minutes in the peak direction, and about every 60 minutes in the mid-day and evenings. Amtrak would have consistent hourly service in both directions, with additional trips in peak intercity travel hours.

The proposed Carlsbad double tracking and Agua Hedionda Lagoon second bridge project is one of the listed near-term service expansion projects examined in the *San Diego – LOSSAN Corridor Project Prioritization Analysis* report. The information in this new report supports the Commission's previous determinations that the double tracking projects in CC-004-05 and CC-

008-07 would cumulatively support an expansion of capacity in the LOSSAN rail corridor, and further supports the Commission's finding in the subject consistency certification that Carlsbad double tracking project will, cumulatively and over time, serve to increase the capacity of the LOSSAN corridor.

As explained previously in this report, if a transportation project increases capacity, it does not qualify as an allowable use under Sections 30233(a)(4) and 30233(c) as an incidental public service, and none of the other allowable uses in Section 30233 apply. Therefore, the proposed project is not an allowable use under Section 30233(a) and (c) and, as discussed below in Section III.F of this report, the only way the Commission could find this project consistent with the Coastal Act would be through the "conflict resolution" provision of Section 30007.5.

**2. Alternatives.** During project design for the existing concrete railroad bridge at Agua Hedionda Lagoon (concluded with by the Commission in CC-055-05), NCTD examined the alternative of constructing a free-span bridge to avoid placing bridge columns in any part of the lagoon channel, including the rip-rap banks. NCTD determined that this alternative was infeasible from a cost standpoint (it would add \$500,000 to the estimated \$2 million project) and from an engineering standpoint. NCTD states:

*The Lagoon Span Bridge Design Alternative would feature a minimum center span length of 126 ft. in order for the columns to clear the OHWM [Ordinary High Water Mark] zone, and secure into abutments outside the OHWM on the northern and southern edges of the lagoon. This alternative would meet the purpose and need of the Project. However, this option would require excessively deep and costly piers to withstand the American Railway Engineering and maintenance-of-Way Association (AREMA) loading criteria. Furthermore, this bridge structure would require that the weight of the end spans resist the bending load when a train in the center span, so that the end spans do not lift up off the abutments when a train is in the center of the bridge. The bridge would need to be lengthened by at least 25 percent to avoid such "uplift" at the abutments. Historically, the railroad has preferred a series of "simple" spans to longer spans for maintenance purposes. As a point of comparison, the longest span designed for the BNSF Railroad to date using pre-cast concrete girders is 90 feet, currently under construction in San Bernardino.*

The proposed bridge uses the same design except that there will be two 4-foot-diameter columns at each end of the bridge rather than one 5.5-foot diameter column at each end, as was used on the existing bridge. The proposed project minimizes fill of coastal waters to the extent feasible and is designed to mirror the existing bridge in length, width, height, and function. NCTD states that the previous alternatives analysis holds true for the proposed bridge and the Commission agrees that there is no feasible less environmentally damaging alternative to the proposed second railroad bridge over the Agua Hedionda Lagoon channel.

**3. Mitigation.** Concerning mitigation for the proposed wetland fill, the removal in 2006 of the original timber railroad bridge at this location resulted in the removal of 165 sq.ft. of fill from the lagoon channel due to the removal of 42 timber pilings and three concrete encasements. The

construction of the replacement bridge in 2007 resulted in 47.5 sq.ft. of fill in the channel from two concrete bridge support columns. As a result, there was a 117.5 sq.ft. net reduction in wetland fill from the bridge replacement project. The four concrete support columns for the proposed second railroad bridge will fill 64 sq.ft. of the channel, resulting in a revised 53.5 sq.ft. net reduction in wetland fill. In addition, NCTD will remove a 2-foot-wide by 40-foot-long strip of rock rip-rap just upstream of the proposed bridge at the bottom of the existing rip-rap slope on both sides of the channel (160 sq.ft. total area), resulting in a final revised 213.5 sq.ft. net reduction in wetland fill. Because the proposed project will result in a permanent reduction of wetland fill when compared to the amount of fill associated with the original timber bridge at this location, the Commission finds that no additional mitigation for the proposed wetland fill associated with the four bridge columns is required under Coastal Act Section 30233(a).

**4. Functional Capacity.** NCTD states that the four proposed concrete columns will be placed at the same place in the channel sides as the existing bridge columns and that hydrologic changes to channel flows associated with the new columns would be negligible. The proposed bridge will introduce increased shading of the lagoon channel. However, the majority of the biological resources within the rock rip-rap channel underneath and to either side of the bridge are benthic organisms and shading will not create negative effects on these organisms. No sensitive marine resources are located in the area of project construction activity. The rip-rap channel banks do not support any vegetation and the swift water currents in the narrow channel during tidal inflow and outflow do not provide suitable resting habitat for fish species that inhabit the larger lagoon areas. The endangered tidewater goby is known to occur in Agua Hedionda Lagoon, but the project channel area is characterized by mussel beds, saline water, and swift water currents, all of which make this area unsuitable as habitat for the goby. As noted earlier in this section, a survey for the noxious algae species *Caulerpa* was completed in August 2009 and no *Caulerpa* was found within the project area. As a result, the proposed bridge will not adversely affect and will maintain the functional capacity of Agua Hedionda Lagoon and is therefore consistent with the functional capacity test of Coastal Act Section 30233(c).

**5. Upland Habitat.** As described previously in this report, the proposed double tracking will be constructed within existing and disturbed railroad and road crossing rights-of-way. The project *Biological Survey Report* describes the setting as follows:

*The Federal Railroad Authority dictates that rail structures and bridges be kept clear of vegetation, therefore the vast majority of the proposed track alignment is unvegetated and disturbed. The vegetation that does occur along the existing railroad track is characterized by non-native weedy species such as Storks bill (Erodium cicutarium), brome grasses (Bromus sp.), and Tumbleweed (Salsola tragus). There are some areas with remnant shrubs and subshrubs. This area is a strip that is approximately 40 feet wide and is surrounded by the active railroad corridor to the west, and industrial development to both the east and west. This area supports a mixture of native and non-native species including buckwheat, eucalyptus, tobacco tree and sumac.*

No federally listed species or environmentally sensitive habitat areas are present in the railroad right-of-way or upland project construction areas north and south of the lagoon channel bridge

(including the new embankments that will be constructed to the east of the existing track to support the second trackway), and as a result no such habitat areas will be adversely affected by the project. However, NCTD has committed to removing invasive vegetation from the drainage detention area located north of the lagoon channel, and the disturbed slopes at this location will be hydroseeded with a seed mixture approved by the San Diego Regional Water Quality Control Board and/or the U.S. Army Corps of Engineers. This approximately 600 sq.ft. area will also be planted with native upland species as a part of the enhancement effort. An additional 600 sq.ft. area on the west side of the existing railroad track north of the lagoon channel will also be weeded and hydroseeded with the aforementioned approved seed mixture.

The Commission agrees with NCTD that with the above measures incorporated into the project, combined with the water quality measures described in the following section of this report, the project is designed to prevent significant adverse impacts to upland habitats within and adjacent to the double tracking project area. The Commission therefore finds the project consistent with the habitat protection policies of Section 30240 of the Coastal Act.

**6. Conclusion.** The Commission finds that the proposed Carlsbad double tracking and Agua Hedionda Lagoon bridge project is consistent with the wetland fill alternatives and mitigation tests, but is not consistent with the allowable use tests of Section 30233(a) and (c) of the Coastal Act for the reasons described above. Therefore, the only way the Commission could concur with this consistency certification would be if it finds the project consistent with the Coastal Act through the “conflict resolution” provision contained in Section 30007.5. As discussed in Sections III.B, III.C, and III.D of this report, not approving the project would be inconsistent with the water quality, air quality/energy consumption, and public access and recreation policies of the Coastal Act, because it would eliminate the project benefits to coastal resources from improving existing and future public access, reducing vehicle miles traveled, and improving air and water quality by reducing traffic congestion. Thus, the project creates a conflict between the allowable use test of the wetlands policy of the Coastal Act (Section 30233(a)) on the one hand, and the water quality, public access, and energy conservation policies of the Coastal Act (Sections 30231, 30232, 30210, 30212, 30252, and 30253) on the other. In the concluding section of this report (Section F) the Commission will resolve these conflicts and determine that concurrence with this consistency certification would, on balance, be most protective of significant coastal resources.

**B. Water Quality.** The Coastal Act provides the following:

*Section 30231. The biological productivity of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

*Section 30232. Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

NCTD has included in its consistency certification commitments for water quality protection for the proposed double track and bridge project, in particular the development of a Storm Water Pollution Prevention Plan (SWPPP):

*The construction contractor shall prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) which specifies Best Management Practices that shall be implemented to prevent construction pollutants from contacting storm water with the intent of keeping all products of erosion from moving offsite. The SWPPP shall be developed with the goal of achieving a reduction in pollutants to the “maximum extent practicable” both during and following construction to control urban runoff. The SWPPP and the monitoring program for the construction projects shall be consistent with the requirements of the latest version of the State’s General Construction Activity Storm Water Permit and NPDES Permit. The following items shall be considered for inclusion in the SWPPP/SUSMP design Best Management Practices:*

- *Measures such as the use of straw bales, sandbags, silt fencing, or detention basins shall be used to capture and hold eroded material for future cleanup.*
- *Rainfall shall be prevented from entering material and waste storage areas and pollution-laden surfaces.*
- *Construction-related contaminants shall be prevented from leaving the site and polluting waterways.*
- *A spill prevention control and remediation plan to control release of hazardous substances.*

The consistency certification also states that:

*Amtrak and NCTD will employ California Department of Transportation BMPs as mitigation and will ensure the SWPPP is implemented to protect local water quality from being substantially degraded, including activities associated with construction of the bridge. Based on the implementation of the required BMPs and the onsite drainage system, no substantial adverse exposure to flood hazards will occur from implementing the proposed project; the project is not forecast to increase storm water runoff by any substantial amount; and no substantial degradation of water quality, either from storm water runoff or in the adjacent ocean or lagoon, will result from installing and implementing the proposed Carlsbad Double Track Project.*

The BMPs that NCTD would implement in the project area would generally comply with the latest edition of the California Construction Handbook, including:

- Filter Fabric Fencing;
- Hay Bales;
- Sand Bags;
- Stabilized Construction Entrances;
- Construction Road Stabilization;
- Dust Control;
- Construction Area Limits Fencing and Inspection;
- Access Controls;
- Staging Area Controls;
- A Spill Prevention and Containment Plan;
- Vehicle & Equipment Maintenance, Fueling and Fuel Storage Requirements; and,
- Trash and Sanitation Controls.

Concerning hazardous materials, NCTD states in the consistency certification that:

*Contractor operations are not anticipated to use or generate any unusual or significant amounts of hazardous wastes. All wastes generated will be disposed of at an approved disposal site. Hazardous materials temporarily held on-site will be stored in secure areas and in properly placarded containers. No hazardous materials will be stored within 50 feet of sensitive areas (i.e., Agua Hedionda Lagoon). Potentially hazardous materials, which may be present on-site during construction of the project, are those generally associated with the operation and maintenance of vehicles and equipment. Though those potentially hazardous materials may be present on-site, the amount of material will be limited due to the mobile nature of the installation activities. The Contractor will develop a Spill Prevention Containment and Countermeasure (SPCC) Plan before construction begins.*

In previous reviews of NCTD passing track projects, the Commission also concurred with NCTD's determination that:

*Passenger rail vehicles are much cleaner than highway vehicles with respect to oil and grease drips. This is partially attributed to the fact that any drips from rail vehicles fall into a ballasted ROW, where gravel and soil act as a filter to prevent runoff from moving contaminants and because rail transportation involves less oil, grease, and other hydrocarbons than automobiles. On the other hand, automobiles are a significant source of hydrocarbons, which are then flushed by runoff from the Interstate 5 area into nearby water bodies. The proposed project will provide improved public transportation service and freight service, which will help reduce automobile congestion and reduce automobile vehicle miles traveled and the corresponding non-point source emissions.*

As noted in a previous section of this report, erosion controls will also include post-construction revegetation activities. With the above measures, the Commission finds that the proposed



project would not cause significant adverse water quality impacts at and adjacent to the project area and would be consistent with the water quality protection policies of the CCMP (Coastal Act Sections 30231 and 30232).

**C. Air Quality and Energy Consumption.** Section 30253(d) provides that new development shall “minimize energy consumption and vehicle miles traveled.” In reviewing NCTD’s proposal for Oceanside-Escondido Rail Project (CC-029-02), the Commission noted that the public transit project: (a) would reduce auto-related air emissions, thereby contributing to the improvement of regional air quality; (b) as part of a regional public transportation system, including bus service, light-rail and commuter trains, and trolleys, the project would increase acceptance of public transit as a desirable mode of transportation; and (c) as its acceptance and use increases, public agencies may be motivated to further improve the public transit system and these improvements will result in corresponding reductions in traffic congestion. The Commission noted:

*The air quality benefits [cited in that project’s EIR] are partially offset by increased pollution caused by the train’s use of diesel fuel. However, as described in the Access Section above, the proposed project will probably have significant VMT reductions as the regional mass transit program expands and as public transit becomes a more accepted mode of transportation. As the percentage of traffic accommodated by mass transit grows, there will be a corresponding reduction in air pollution from automobiles. However, there will not be a corresponding increase in air pollution as ridership of the rail system grows. As ridership grows there will be more reductions in air quality impacts from automobiles.*

*In conclusion, the Commission finds that the proposed project will reduce energy consumption and improve air quality.... Therefore, the Commission finds that the project is consistent with Section 30253 of the Coastal Act, and thus with the energy consumption and air quality policies of the CCMP.*

The proposed project’s air quality benefits include reduced idling time by automobiles on highways and train locomotives in the LOSSAN corridor and will lead to reduced emissions of air pollutants. In addition, the anticipated operational efficiency improvements arising from construction of additional segments of double tracking are expected to increase ridership on existing passenger trains in the corridor and to correspondingly reduce automobile trips and vehicle miles traveled in the corridor. These project benefits are also consistent with recent Commission actions (e.g., CC-079-06, BHP Billiton LNG International, Inc., Ventura and Los Angeles Counties) to protect coastal resources that would be directly affected by global climate change resulting from increases in greenhouse gas emissions. Potential adverse effects on coastal resources associated with global climate change include sea level rise, increased coastal flooding and erosion, inundation of developed areas and public access and recreation areas, alterations to existing sensitive habitat areas, ocean warming, changes in marine species diversity, distribution, and productivity, and increased ocean acidification. Numerous Coastal Act policies provide a basis for Commission action to reduce greenhouse gases and to protect coastal resources at risk from the adverse effects of global warming, including the air quality and energy minimization policies (Section 30253). The Commission finds that the proposed double

tracking and bridge project, and the resulting improvements to public transportation in the LOSSAN corridor, will help to reduce energy consumption, reduce greenhouse gas emissions, and improve air quality, and is therefore consistent with the energy minimization policy of the CCMP (Coastal Act Section 30253(d)).

**D. Public Access, Recreation, and Transit.** Section 30210 of the Coastal Act provides:

*Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30212 provides that access should not be provided where it would be inconsistent with public safety, military security needs, or the protection of fragile coastal resources. Section 30252 encourages public transit and identifies reducing traffic congestion as a coastal access benefit, providing, in part, that:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service . . .*

In reviewing several past actions involving mass transit improvements in San Diego County, including construction in 2006 of the existing concrete railroad bridge over Agua Hedionda Lagoon (CC-055-05), the Commission has considered traffic congestion to constitute a constraint on public recreation and access to the shoreline. Increased traffic on highways such as I-5, which is a major coastal access thoroughfare in San Diego County, reduces the ability of the public to attain access to coastal recreation areas and makes it more difficult for the public to get to the beach. Section 30252 of the Coastal Act recognizes the importance of improving public access through, among other things, improvements in public transit. Maintaining existing public transit is equally important and beneficial to public access.

The proposed project will not cause any significant adverse temporary or permanent public access impacts. The project includes provisions for a traffic management plan to address temporary construction impacts from roadway/railroad intersection improvements. NCTD states:

*Finally, for short periods (up to 48 hours) during the installation of new track and road crossings at the two roads that cross the tracks within the project area, closure of at least one direction of traffic will be required. Either traffic controls at the roadway/railroad intersection will be implemented, or a detour route will be implemented to control local traffic during construction. A traffic management plan will be coordinated with the City of Carlsbad to minimize this unavoidable, short-term circulation system impact.*

NCTD will submit a copy of the traffic management plan to the Commission staff prior to the start of project construction.

The aforementioned consistency certification CC-055-05 addressed: (1) the potential public access impact from construction of the proposed replacement bridge (completed in 2006) across the Agua Hedionda Lagoon channel; (2) the potential impact on planning for the coastal rail trail, a region-wide bicycle and pedestrian trail linking the San Diego County shoreline region and which contemplates a lagoon crossing in this middle lagoon portion of Agua Hedionda Lagoon; and (3) the potential impact on other regional trails, including the City of Carlsbad's proposed trail along the north shore of the lagoon, which might cross underneath the proposed (and now completed) bridge if the existing (to the west) and proposed (to the east) trail segments on either side of the bridge were to be connected.

The Commission's adopted findings for consistency certification CC-055-05 noted that the public had historically crossed underneath the railroad bridge at Agua Hedionda Lagoon, and also included the following NCTD's statements regarding public access at this location:

*Historically, unauthorized use of NCTD's right-of-way has occurred by members of the public. These uses include walking, running, and access to some portions of Agua Hedionda Lagoon . . . The proposed project conforms with the public access objectives of the California Coastal Act because it does not propose any changes to existing public coastal accessways . . . The project will neither facilitate nor restrict local access . . . the newly constructed railroad bridge will improve upon the status quo of what currently exists regarding coastal access that may be present in the vicinity of Railroad bridge 230.6.*

The Commission's adopted public access and recreation findings for CC-055-05 concluded as follows:

*In other words, NCTD's position is that while it does not encourage access under the bridge, it does not actively pursue violations and in fact the public does sometimes cross under the bridge. In addition, the proposed bridge replacement design will provide for increased vertical clearance and the removal of bents (cross-bracing)(Exhibits 4-5). NCTD states that: "Such design does not include the construction of fences or trespassing-control barriers in the area underneath the railroad bridge" and that NCTD ". . . will continue to work with the City in good faith via the plan review process that is currently in place regarding all proposed third-party projects that may affect the railroad right-of-way." With this commitment, the Commission agrees with NCTD and finds that the project: (1) would not adversely affect any existing public access opportunities; (2) would not preclude options, and may even help facilitate trail access along the north shore of the lagoon and underneath the bridge, if that is ultimately selected as the desired trail link; and (3) would improve public access by maintaining the rail line, which reduces automobile traffic on I-5, in an area where the highway supports public access and recreation . . . .*

In the subject consistency certification, NCTD confirms that the proposed second railroad bridge over Agua Hedionda Lagoon is designed not to adversely affect any existing public access in the

project area, and that the above-referenced commitments it made in CC-055-05 apply as well to the proposed project. However, NCTD does note that during the bridge construction period, public access along the lagoon shoreline will be affected and in many cases prohibited due to public safety concerns. This would be a temporary interruption, would be allowed under Section 30212 as necessary for public safety, and once the new bridge is in place the construction restrictions on public access at this location would be lifted. The Commission therefore finds that the proposed project is consistent with the public access and recreation policies of the CCMP (Coastal Act Sections 30210, 30212, and 30252).

**E. Public Views.** Section 30251 of the Coastal Act provides:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.*

The proposed railroad bridge is similar in design to the existing concrete railroad bridge that spans the Agua Hedionda Lagoon channel immediately to the west. The Commission approved that bridge in its concurrence with consistency determination CD-055-05 in July 2005. The Commission found that the project would not adversely affect public views and would be consistent with the character of surrounding highway and bridge structures. The location of the proposed railroad bridge immediately next to the existing bridge would essentially give the impression of a single structure when viewed from either I-5 to the east, Carlsbad Boulevard to the west, or from the waters of Agua Hedionda Lagoon. The proposed bridge would not create any adverse effects on scenic public views to or along the shoreline. The proposed segment of double track is located within the existing NCTD right-of-way and it would not introduce adverse visual effects along this section of the rail corridor. The Commission therefore finds that the proposed project is consistent with the public view policy of the CCMP (Coastal Act Section 30251).

**F. Conflict Between Coastal Act Policies.** Section 30007.5 of the Coastal Act provides the Commission with the ability to resolve conflicts between Coastal Act policies:

*The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner that on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.*

**1) Conflict.** In order for the Commission to consider balancing Coastal Act policies, it must first establish that there is a conflict between these policies. The fact that a project is consistent with one policy of the Coastal Act and inconsistent with another policy does not necessarily result in a

conflict. Rather, to identify a conflict, the Commission must find that to object to the project based on the policy inconsistency would result in coastal zone effects that are inconsistent with the Coastal Act.

As discussed previously in Section III.A, above, because the project would increase railway capacity, it does not qualify as an incidental public service under Section 30233(a)(4), Commission interpretations of which historically only allow transportation projects in wetlands and open coastal waters where they are necessary to maintain *existing* capacity, nor does it qualify as an incidental public facility under Section 30233(c). Therefore, because the project is not an allowable use, the only way the Commission could find the project consistent with the Coastal Act would be through the “conflict resolution” provision (Section 30007.5).

As described in the access section above (Section III.D), one of the project purposes/benefits is reduced traffic congestion on area highways. NCTD has provided evidence in previous consistency certifications that double-tracking projects provide significant public access and recreation benefits, both through reducing traffic congestion along and improving public access to the coast. NCTD has reiterated that finding in its subject consistency certification. The Commission finds that traffic congestion interferes with access to the coastal recreational opportunities within northern San Diego County (including travelers from Los Angeles and Orange Counties). As traffic congestion increases with expected growth of the region, these access impacts will worsen, and when congestion increases, non-essential trips such as those for recreational purposes tend to be among the first to be curtailed. Thus, as the traffic increases, the ability for the public to get to the coast will become more difficult, which would result in a condition that would be inconsistent with the access policies of the Coastal Act.

As discussed in Sections III.B and III.C above, traffic increases that would occur if this project is objected to would also degrade water and air quality. This would result in conditions that are inconsistent with the water and air quality policies of the Coastal Act, because they would adversely affect already impaired coastal water bodies and exacerbate non-attainment status of the coastal air basin. Section 30231 of the Coastal Act requires the maintenance and restoration of coastal water quality. Section 30253(d) provides for improved air quality and reductions in energy consumption and vehicle miles traveled. Section 30252 articulates that one of the Coastal Act’s access goals is encouraging maintenance and enhancement of public access through facilitating the provision or extension of transit service. Thus, not only would objecting to this consistency certification be inconsistent with the access policies, but it would also result in adverse effects to coastal waters and the air basin, and be inconsistent with the achievement of water quality, air quality, energy conservation, reductions in vehicle miles traveled, and transit goals expressed in Sections 30231, 30253(d), and 30252. The Commission therefore finds that the proposed project creates a conflict between allowable use test of the wetland policies (Section 30233(a) and (c)) on the one hand, and the water quality/air quality/energy conservation/reductions in vehicle miles traveled/public access and transit policies (Sections 30231/30253(d)/30252) on the other.

**2) Conflict Resolution.** Having established a conflict among Coastal Act policies, Section 30007.5 requires the Commission to resolve the conflict in manner that is on balance most

protective of coastal resources. In this case, the proposed project will result in the fill of 64 square feet of coastal waters. The affected habitat is adjacent to the existing rail line, is unvegetated rock rip-rap channel bank, and adequate on-site mitigation is being provided by NCTD to compensate for the loss of coastal waters. On the other hand, as stated above, objecting to this consistency certification would result in conditions that would be inconsistent with the access policies (Section 30210), and would result in adverse effects to coastal waters and the coastal air basin, and would be inconsistent with the achievement of water quality, air quality, energy conservation, and reductions in vehicle miles traveled goals expressed in Sections 30231, 30253(d), and 30252. In resolving the Coastal Act conflict raised, the Commission finds that the impacts on coastal resources from not constructing the project would be more significant and adverse than the project's coastal waters impacts, which would, as designed by NCTD, be adequately mitigated. The Commission therefore concludes that concurring with this consistency certification would, on balance, be most protective of coastal resources, and that the project is consistent with Coastal Act Section 30007.5.

#### **Substantive File Documents.**

1. CC-086-03 (NCTD, Pulgas to San Onofre double tracking at the north end of Camp Pendleton)
2. CC-052-05 (NCTD, Santa Margarita River double tracking project at the south end of Camp Pendleton)
3. CC-055-05 (NCTD, replacement of the railroad bridge over Agua Hedionda Lagoon)
4. CC-004-05 (NCTD, O'Neill to Flores double track project in central Camp Pendleton)
5. CC-008-07 (NCTD, extension of passing track and construction of one replacement and one new railroad bridge over Loma Alta Creek in Oceanside)
6. CC-059-09 (NCTD, replacement of three railroad bridges over Los Penasquitos Lagoon, San Diego)
7. NCTD CDP's No.: 6-03-102-G (Agua Hedionda emergency repairs), 6-02-152 (San Luis Rey River bridge repair), 6-02-151 (Agua Hedionda bridge), 6-02-102 (Del Mar drainage outlets), 6-02-80 (Santa Margarita Bridge repair), 6-01-64 (Balboa Avenue), 6-01-108 (Tecolote Creek), 6-93-60 (Del Mar), 6-94-207 (Solana Beach), 6-93-106 (Carlsbad), and 6-93-105 (Camp Pendleton).

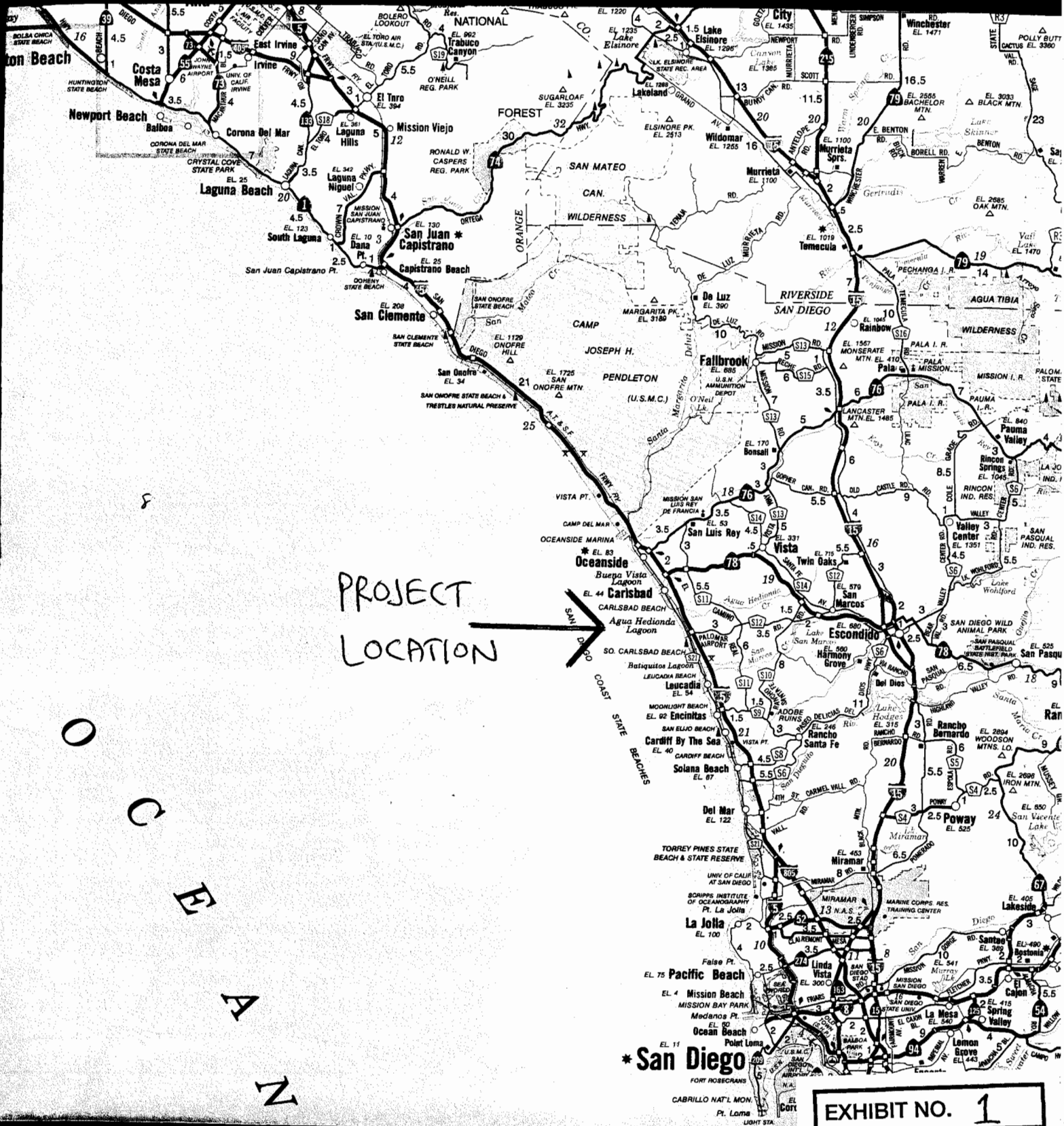
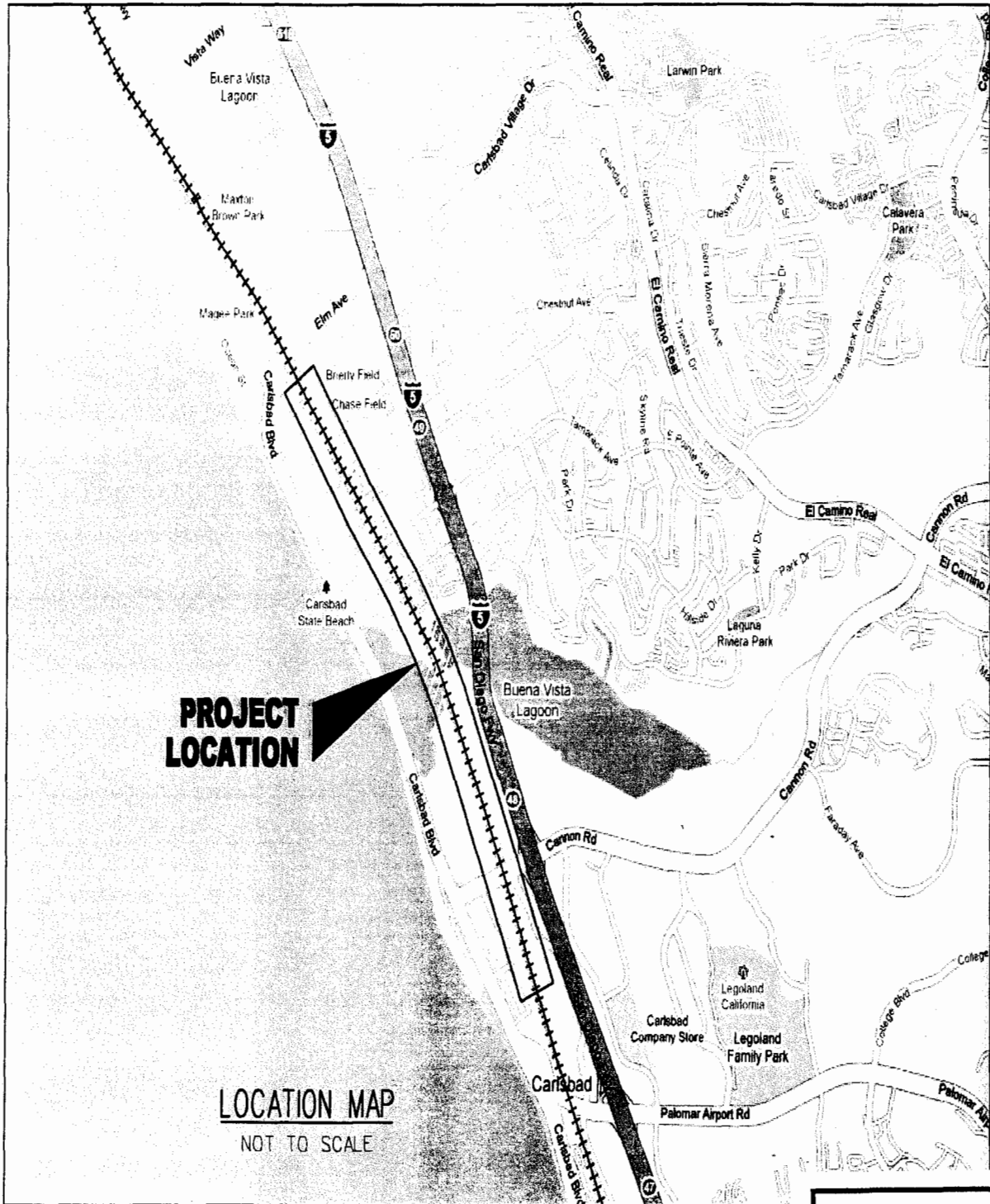


EXHIBIT NO. 1  
 APPLICATION NO.  
 CD-075-09

**FIGURE 2**  
**Site Location (Project Alignment)**



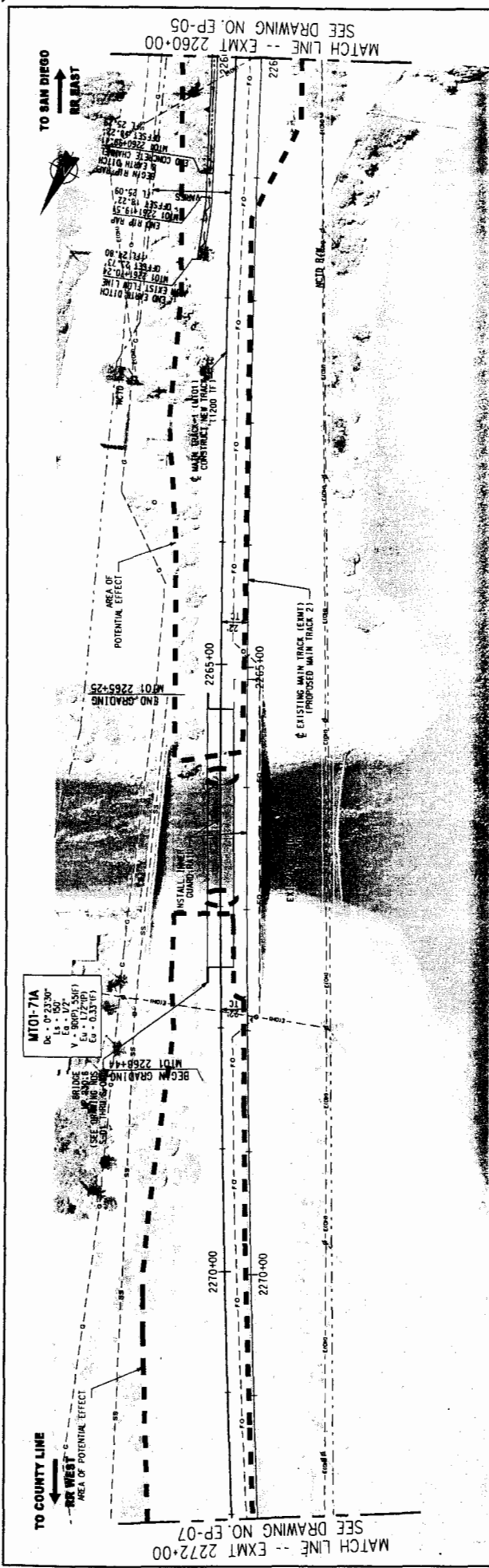
**PROJECT LOCATION**

**LOCATION MAP**  
 NOT TO SCALE

EXHIBIT NO. 2
APPLICATION NO.
CC-075-09

Tom  
 Ei





PLAN



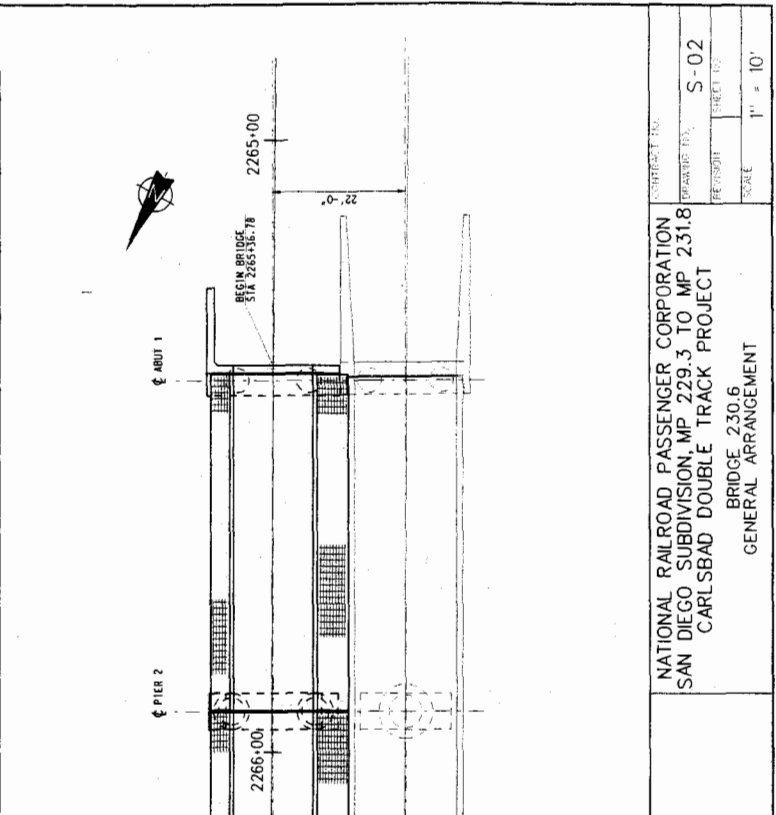
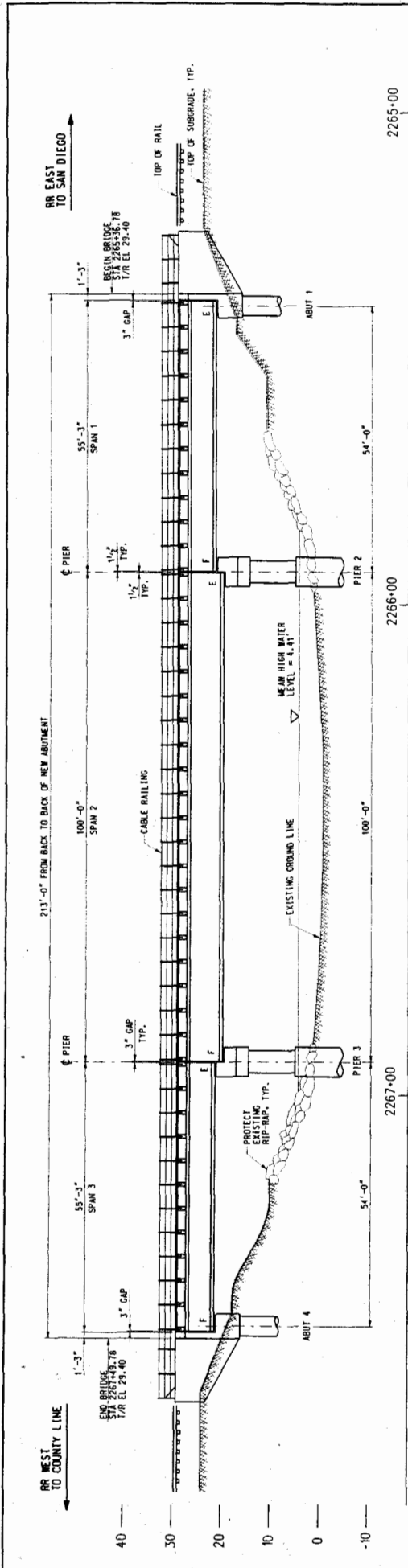
MATCH LINE -- EXMT 2260+00  
SEE DRAWING NO. EP-05

MATCH LINE -- EXMT 2272+00  
SEE DRAWING NO. EP-07

MT01-71A  
Dc = 0' 23.30"  
Ls = 177'  
V = 900' (554F)  
Ea = 177' (P)  
G = 0.33 (P)

	DESIGNED BY: [ ] DRAWN BY: [ ] CHECKED BY: [ ] APPROVED BY: [ ] DATE: OCTOBER 30, 2006				NATIONAL RAILROAD PASSENGER CORPORATION SAN DIEGO SUBDIVISION, MP 229.3 TO MP 231.8 CARLSBAD DOUBLE TRACK PROJECT TRACK PLAN AND PROFILE - SHEET 6 OF 11 EXMT 2260+00 TO EXMT 2272+00 MP 230.73 TO MP 230.50
	CONTRACT NO. [ ] DRAWING NO. EP-06 REVISION SHEET NO. [ ] SCALE AS SHOWN				

EXHIBIT NO. 3  
APPLICATION NO.  
60-560-77



**LEGEND:**  
 F = FIXED BEARING  
 E = EXPANSION BEARING

**ELEVATION**  
 SCALE: 1" = 10"

**PLAN**  
 SCALE: 1" = 10"

<b>3MITTAL</b>	DESIGNED BY: CH. BAO	APPROVED BY: H. SOLARTE	DATE: OCTOBER 30, 2009
	CHECKED BY: E. CLARK	PROJECTED BY: M. COLA	
<b>AMTRAK</b>	125 JOHN W. COUNTY RD BOSTON, MA 02111 ACCOUNTS: 617.624.8000		
<b>CH2M HILL</b>	10000 W. CENTRAL EXPRESSWAY DENVER, CO 80231 303.733.3000 WWW.CH2MHILL.COM		
NATIONAL RAILROAD PASSENGER CORPORATION SAN DIEGO SUBDIVISION, MP 229.3 TO MP 231.8 CARLSBAD DOUBLE TRACK PROJECT BRIDGE 230.6 GENERAL ARRANGEMENT			
CONTRACT NO.		SHEET NO.	
DRAWING NO.		SCALE	
S-02		1" = 10'	

**EXHIBIT NO. 4**

**APPLICATION NO.**

CC-075-09

