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## STAFF REPORT: REGULAR CALENDAR

**Consistency Certification No.:** CC-0003-15

**Applicant:** San Diego Association of Governments

**Location:** San Diego River Railroad Bridge, City of San Diego, San Diego County (**Exhibits 1 and 2**)

**Project Description:** Replace existing single-track railroad bridge with a new 918-foot-long double-track bridge over the San Diego River at Mile Post (MP) 263.8, add a 0.9 mile-long-segment of second main track between MP 263.2 and MP 264.1, and construct signal, utility, and drainage improvements between MP 262.3 and 265.2.

**Staff Recommendation:** Concurrence

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## SUMMARY OF STAFF RECOMMENDATION

The San Diego Association of Governments (SANDAG) has submitted a consistency certification to add a 0.9-mile segment of double-track to the existing Los Angeles to San Diego (LOSSAN) railroad corridor between mile posts 263.2 and 264.1 in San Diego, and replace the existing single-track Bridge 263.8 over the San Diego River with a 918-foot-long double-track bridge. The proposed project would connect existing double-track segments to the north and south of the project location. Project elements include the double-track segment, the new double-track bridge, temporary realignment during bridge construction of the Ocean Beach bicycle path,

and railroad signal, utility, and drainage improvements. Construction would commence in October 2015 and last approximately two years.

The project site contains wetland habitat. A portion of the project would involve fill of wetlands, triggering the three-part test of Section 30233(a) of the Coastal Act. Project activities would not permanently affect wetland habitat but would create temporary impacts to 2.04 acres of wetland habitat. The project includes on-site mitigation by restoring and enhancing wetland habitat, and monitoring, maintenance, success criteria, and reporting requirements. The project is consistent with the wetland fill alternatives and mitigation tests but is not consistent with the allowable use test of Section 30233(a) because the project would, cumulatively and over time, increase the capacity of the LOSSAN corridor (and thus is not an incidental public service). Therefore, the project can only be found consistent with the Coastal Act through the “conflict resolution” provision contained in Section 30007.5.

The project includes adequate measures to protect water quality and would reduce automobile congestion, miles traveled, energy consumption, air emissions, and non-point source pollutants into nearby water bodies. The proposed project would maintain and enhance public access by expanding the rail line used by SANDAG and other rail services, which in turn helps to reduce automobile traffic on I-5 in an area where this freeway supports public access and recreation. Therefore, the project is consistent with the water quality, air quality, energy conservation, and public access policies of the Coastal Act (Sections 30231, 30232, 30253, 30210, 30213, and 30252).

The proposed project creates a conflict between the allowable use test of the wetland policy and the public access and transit, water quality, air quality, and energy conservation policies of the Coastal Act. The project is similar to a number of previous SANDAG double tracking projects which the Commission determined could be concurred with using the conflict resolution section of the Coastal Act. Staff is recommending a similar approach in this case, recommending that Commission concur with this consistency certification because the project would, on balance, be most protective of significant coastal resources. Therefore, the project is consistent with the conflict resolution policy of the Coastal Act (Section 30007.5).

Commission staff recommends **concurrence** with CC-0003-15. The motion to implement this recommendation is found on Page 4, below.

## TABLE OF CONTENTS

<b>I. APPLICANT’S CONSISTENCY CERTIFICATION.....</b>	<b>4</b>
<b>II. MOTION AND RESOLUTION.....</b>	<b>4</b>
<b>III. FINDINGS AND DECLARATIONS.....</b>	<b>4</b>
A. PROJECT DESCRIPTION.....	4
B. COASTAL COMMISSION JURISDICTION AND STANDARD OF REVIEW.....	6
C. OTHER AGENCY APPROVALS.....	7
D. WETLAND HABITAT AND WATER QUALITY.....	7
E. PUBLIC ACCESS, RECREATION, AND TRANSIT.....	14
F. AIR QUALITY AND ENERGY CONSUMPTION.....	15
G. CONFLICT BETWEEN COASTAL ACT POLICIES.....	17

### APPENDICES

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS.....	19
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### EXHIBITS

- Exhibit 1 – Regional Map
- Exhibit 2 – Project Area Map
- Exhibit 3 – Project Footprint
- Exhibit 4 – Impacts to Biological Resources
- Exhibit 5 – Impacts to Jurisdictional Wetlands
- Exhibit 6 – Revegetation and Enhancement Areas

## I. APPLICANT'S CONSISTENCY CERTIFICATION

The San Diego Association of Governments (SANDAG) has certified that the proposed activity complies with the California Coastal Management Program and will be conducted in a manner consistent with that program.

## II. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **concur** with consistency certification CC-0003-15.*

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 a majority of the Commissioners present is required to pass the motion.

### Resolution:

*The Commission hereby **concurs** with consistency certification CC-0003-15 by SANDAG on the grounds that the project is fully consistent with the enforceable policies of the California Coastal Management Program.*

## III. FINDINGS AND DECLARATIONS

### A. PROJECT DESCRIPTION

The San Diego Association of Governments (SANDAG) proposes to add a 0.9 mile segment of double-track to the existing Los Angeles to San Diego (LOSSAN) corridor between mile posts 263.2 and 264.1 in San Diego, and replace the existing single-track Bridge 263.8 over the San Diego River with a 918-foot-long double-track bridge (**Exhibits 1 and 2**). The proposed project would connect existing double-track segments to the north and south of the project location. The track segment north of the San Diego River and the bridge crossing of the river are located within the coastal zone, and the approximate 1,200-foot-long track segment south of the river is outside the coastal zone.<sup>1</sup> SANDAG forecasts train operations through this segment of the LOSSAN corridor to increase by an additional 51 trains on an average weekday by the year 2030. SANDAG states that upon completion the project will alleviate schedule delays that occur immediately north and south of the project site, provide on-time performance benefits, reductions in total trip time for passenger and freight service, reduced maintenance costs, and creation of additional operational flexibility along the LOSSAN corridor.

The proposed project includes the following elements:

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<sup>1</sup> The coastal zone boundary runs along the eastern edge of the railroad ROW to a point south of the San Diego River crossing; it then turns to the west and parallels the southern ROW of the Interstate 8 freeway. However, the subject consistency certification covers the entire project length.

Track Improvements. A 0.9 mile segment of second main line track will be constructed, along with track improvements and realignment of the existing track, grading, drainage improvements, and retaining walls (**Exhibit 3**).

Bridge Replacement. The existing single-track Bridge 263.8 will be removed and replaced with a 918-foot-long double-track bridge with parallel superstructures, each comprised of seven steel spans supported on two-pile substructure piers (**Exhibit 3**). This configuration allows for staged, on-alignment construction while maintaining single track train service during construction. A temporary trestle will span the San Diego River active channel for construction access, staging, and assembly of the new railroad bridge.

Ocean Beach Bicycle Path. To comply with Caltrans vertical clearance requirements for the new bridge girder structure (southern abutment), the existing Ocean Beach Bicycle Path is required to be lowered by approximately one foot and six inches. As a result, the portion of the Ocean Beach Bicycle Path in the project area will be temporarily detoured, as a safety precaution, to protect cyclists from heavy construction related to the southern abutment and piles (**Exhibit 3**). The existing bike path alignment will be temporarily realigned in the same general vicinity to sweep north away from the southern abutment and piles. This bike path realignment will occur along portions of an existing dirt maintenance road in the San Diego River floodplain, and a small trestle structure will be constructed to span a storm drain channel on the southern bank of the river.

Signal Improvements. The project will require railroad signal modifications between mileposts 262.3 and 265.2, including new signals, new warning systems, new Positive Train Control components, new signal houses near the Taylor Street at-grade crossing and at the south end of the Old Town Transit Center, and a new Advanced Train Control System communication antenna.

Utility and Drainage Improvements. Relocation of electric and telecommunication lines, improvements to trackside drainage works, and extension of existing storm drains and culverts.

Construction vehicle and equipment access to the project site will be provided via Pacific Highway and Anna Avenue on the west side of the railroad ROW, and along Anna Avenue and West Morena Boulevard on the east side of the ROW. The San Diego River will be accessed from Friars Road through the floodway berm located south of Friars Road. SANDAG states that construction vehicles will drive on the floodplain within a temporary impact area, and that a temporary trestle will span the San Diego River active channel during construction of the replacement railroad bridge. The trestle locations are planned west of the existing bridge for Phase 1 bridge construction and east of the existing bridge for Phase 2 construction.

SANDAG expects Phase 1 construction to begin in mid-October 2015 and last one year. Phase 1 includes vegetation clearing, utility relocations, Ocean Beach Bicycle Path realignment and detour, lowering the bicycle path, and construction of the western spans of the new San Diego

River double-track bridge, retaining walls, and the second main line track. Phase 2 would begin after completion of Phase 1 work and also last approximately one year. Phase 2 includes replacement of the existing main line track, removal of Bridge 263.8, and construction of the eastern spans of the new bridge.

The subject consistency certification is the latest in a series of consistency certifications submitted by SANDAG and NCTD and concurred with by the Commission 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 2.7-mile-long O'Neill to Flores double-track project in central Camp Pendleton (CC-004-05); (3) the 2.9-mile-long Santa Margarita River double-tracking project at the south end of Camp Pendleton (CC-052-05); (4) replacement of the railroad bridge over Agua Hedionda Lagoon (CC-055-05); (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); (6) the replacement of three timber railroad bridges over Los Penasquitos Lagoon in San Diego (CC-059-09); (7) the construction of a 2.4-mile-long segment of second mainline railroad track and second railroad bridge over Agua Hedionda Lagoon in the City of Carlsbad (CC-075-09); (8) construction of a 1.2-mile-long segment of second mainline railroad track and replacement of a single-track bridge in the Sorrento Valley in San Diego (CC-052-10); (9) construction of a one-mile-long segment of second mainline railroad track and replacement of three single-track bridges in Sorrento Valley in San Diego (CC-056-11); and (10) construction of a 4.3-mile-long segment of second mainline railroad track south of San Onofre in San Diego County (CC-009-12).

## **B. COASTAL COMMISSION JURISDICTION AND STANDARD OF REVIEW**

The project triggers federal consistency review because it needs a federal Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers. The Commission also believes the project is subject to the permitting requirements of the Coastal Act; SANDAG and the North County Transit District (NCTD) disagree with this position. Those agencies believe that based on a decision by the federal Surface Transportation Board, they are not required to obtain coastal development permits for track improvements and are only subject to federal consistency review for such projects. However, the Commission still holds to its long-standing position that railroad projects in the LOSSAN corridor sponsored by SANDAG and NCTD, especially if affecting mass transportation, including the proposed project, are subject to the permitting requirements of the Coastal Act. The Commission further notes that NCTD has previously applied for a number a 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). Notwithstanding this disagreement about whether a coastal development permit is needed, there is no dispute that the project is subject to the Commission's federal consistency review authority, which involves a similar standard of review, and employing that standard, the Commission concurs with this consistency certification based on its finding that the project is consistent with the Coastal Act.

## C. OTHER AGENCY APPROVALS

### U.S. Army Corps of Engineers (USACE)

The USACE received an application from SANDAG for a federal Clean Water Act Section 404 permit and anticipates that the proposed project will be covered under Nationwide Permit No. 14 – Linear Transportation Projects.

### San Diego Regional Water Quality Control Board (RWQCB)

The RWQCB received an application from SANDAG for a Clean Water Act Section 401 Water Quality Certification.

### Federal Transit Administration (FTA)

The FTA will fund the project and will also serve as the lead agency for informal consultation under Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act.

## D. WETLAND HABITAT AND WATER QUALITY

Coastal Act Section 30231 states:

*The biological productivity and the quality 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.*

Coastal Act Section 30232 states:

*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.*

Coastal Act Section 30233(a) states in part:

*(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*

....

The *Biological Technical Report* (July 2015) and the *Wetland Delineation Report* (July 2015) for the proposed project document the existing wetland and marine resources in and adjacent to the railroad corridor, the anticipated permanent and temporary impacts to those resources from the project, and the avoidance, minimization, and mitigation measures to be implemented. The project area supports several vegetation communities that provide suitable habitat for federally listed species. However, many of these communities have a limited diversity of native plants, are characterized by the presence of invasive, non-native plant species, and are subject to disturbance due to the presence of transient encampments. These disturbed communities provide at best marginal quality habitat for sensitive species. The *Wetland Delineation Report* states that there are 8.65 acres of Coastal Act wetlands located within the 178-acre project survey area, comprised of the railroad ROW and adjacent areas along either side of the 0.9-mile-long project corridor. The vast majority of the study area is classified as urban/developed land but the area also includes the following native vegetation communities classified as Coastal Act wetlands:

<u>Community</u>	<u>Acres</u>
Arundo-Dominated Riparian	0.06
Cismontane Alkali Marsh	1.14
Coastal and Valley Freshwater Marsh	0.50
Disturbed Habitat	0.32
Disturbed Southern Willow Scrub	1.07
Disturbed Wetland	3.63
Disturbed Wetland – Concrete-lined	0.11
Disturbed Wetland – Riprap	0.01
Mulefat Scrub	0.62
Non-Vegetated Channel or Floodway	0.76
Southern Willow Scrub	0.37
Urban/Developed	<u>0.06</u>
TOTAL	8.65

The *Biological Technical Report* states that the proposed bridge replacement and double-track project will permanently impact 0.06 acres of wetland habitat (0.01 acres of disturbed wetland, 0.01 acres of mulefat scrub, and 0.04 acres of seasonal depressions periodically covered with shallow water; **Exhibits 4 and 5**). However, the removal of the existing railroad bridge and the numerous bridge support piers located in the San Diego River will eliminate 0.11 acres of current wetland habitat fill. As a result, the proposed project will not create any permanent impacts to wetland habitat, but instead will yield a net increase of 0.05 acres of wetland habitat.

The project will temporarily affect 2.04 acres of wetland habitat (0.81 acres of disturbed wetland, 0.50 acres of mulefat scrub, 0.36 acres of disturbed southern willow scrub, 0.21 acres of freshwater marsh, 0.11 acres of southern willow scrub, and 0.05 acres of seasonal depressions periodically covered with shallow water). SANDAG will restore the southern willow scrub, freshwater marsh, and mulefat scrub habitats (totaling 0.82 acres) that will be temporarily impacted by project construction activities. In addition, to compensate for the temporal loss of wetland habitat during the two-year-long project construction period, SANDAG will in the project area enhance an additional 1.44 acres of wetland habitat: (1) enhance 0.06 acre of arundo-dominated (non-native invasive) riparian habitat by conversion to southern willow scrub

habitat; (2) enhance 0.52 acre of disturbed southern willow scrub habitat by conversion to southern willow scrub habitat; and (3) enhance 0.86 acre of disturbed wetland habitat<sup>2</sup> by conversion to a freshwater marsh/southern willow scrub/mulefat scrub mosaic.

The proposed project triggers the three-part test of Coastal Act Section 30233(a) because the project includes temporary and permanent fill in wetland habitat. The Commission therefore needs to analyze the project's consistency with the allowable use, alternatives, and mitigation tests of Section 30233(a).

### **Allowable Use**

Under the first of these tests, a project must qualify as one of the seven allowable uses listed under Section 30233(a). The only one that could arguably apply would be the "incidental public service purpose" use in Section 30233(a)(4). 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 Commission accepted the assertion that double-track railroad projects are an incidental public service in earlier concurrences with SANDAG and NCTD double-track construction projects in northern San Diego County which involved fill of coastal waters and wetlands. For example, the Commission found in CC-052-05 that a proposed segment of second main line track was an allowable use as an incidental public service because it was necessary to maintain existing passenger service. However, the Commission has found in more recent consistency certifications (e.g., CC-052-10 and CC-056-11) that double track projects are providing for increased passenger and freight capacity in the LOSSAN corridor. As a result, these projects did not qualify as an allowable use under Section 30233(a) as an incidental public service.

Therefore, the only way the Commission could find these projects consistent with the Coastal Act was through the "conflict resolution" provision of Section 30007.5 of the Coastal Act. The Commission found that the impacts on public access, water and air quality, and energy conservation from not constructing the projects would be inconsistent with other policies listed in Chapter 3 of the Coastal Act and would be more significant and adverse than project 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

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<sup>2</sup> The *Biological Technical Report* states that disturbed wetlands are areas permanently or periodically inundated by water that have been substantially modified by human activity. This habitat type is often unvegetated, but may include some scattered native or non-native vegetation. Some characteristic non-native plant species that may be associated with disturbed wetlands in the study area include giant reed, tamarisk, eucalyptus, palms, pampas grass, and Bermuda grass. Within the study area, disturbed wetland habitat occurs within the San Diego River floodplain south of the active channel, with a large area to the west of the railroad ROW and a small area east of the railroad ROW. This habitat type within the study area exhibits scattered shrub cover and is moderately to heavily disturbed by transient/homeless activities, such as illegal encampments, dumping, vegetation clearing, fire, and trails. In addition, some of the habitat mapped as disturbed wetland consists of riprap placed above the ordinary high water mark.

would, on balance, be most protective of coastal resources. The Commission used the “conflict resolution” provision to concur with these double-track projects in San Diego County: CC-008-07, CC-059-09, CC-075-09, CC-052-10, and CC-056-11.

In its subject consistency certification, SANDAG stated that the San Diego River bridge replacement and double-track project is not consistent with the allowable use test of Section 30233(a) because it will, cumulatively and over time, increase the capacity of the LOSSAN corridor and is therefore not an incidental public service. The Commission agrees that the proposed project is not an allowable use under Section 30233(a) and, as discussed below in Section G 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.

### **Alternatives**

Concerning the alternatives test of Section 30233(a) for the proposed project, SANDAG designed the railroad bridge replacement and additional main line track in a manner that would minimize impacts to coastal resources, particularly at the crossing of the San Diego River. SANDAG states in its consistency certification that several bridge type alternatives were evaluated:

*Many alternatives were considered but rejected due to environmental resource constraints, vertical clearance requirements, and hydraulic restrictions. As part of the alternatives analysis process, the following five alternatives were considered feasible, and were evaluated for detailed comparison:*

- Alternative 1. Five-Span Concrete Through Girder Bridge*
- Alternative 2. Seven-Span Twin Concrete Through Girder Bridges*
- Alternative 3. Nine-Span Twin Steel Through Girder Bridges*
- Alternative 4A. Seven-Span Twin Steel Through Girder Bridges*
- Alternative 4B. Seven-Span Double Track Steel Through Girder Bridge*

SANDAG selected Alternative 4A – the Seven-Span Twin Steel Through Girder Bridges – as the preferred alternative to move forward into final design because it achieves the “no-rise” floodplain condition<sup>3</sup> for the San Diego River and has the smallest footprint (i.e., square-footage of bridge support piers) in the San Diego River. In addition, the proposed double-track bridge project results in a smaller footprint in the San Diego River and adjacent wetland habitat than the existing single-track bridge with its greater number of support piers. The Commission finds that the proposed alternative avoids permanent adverse impacts to wetland habitat and minimizes and mitigates temporary adverse impacts to wetland habitat to the maximum extent feasible. The Commission also agrees with SANDAG that there is no feasible, less environmentally damaging alternative to constructing the proposed bridge replacement and double-track project over the San Diego River.

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<sup>3</sup> Any project in a floodway must be reviewed to determine if the project will increase flood heights. An engineering analysis must be completed, and a “no-rise” certification must be supported by hydraulic analysis and technical data which states that the proposed project will not impact the pre-project base flood elevations.

## Mitigation

The *Biological Technical Report* for the proposed project states that no permanent impacts to Coastal Act wetland habitat would occur, due to a net reduction in wetland fill from the reduced number of support piles for the new bridge as compared to the existing bridge. However, the project will create temporary impacts to wetland impact during the two-year-long construction period and SANDAG has developed a mitigation program for those impacts. The goal of the proposed on-site restoration and enhancement mitigation activities is to permanently improve the wetland habitat values in the project area.

As noted earlier in this report, and in the project *Conceptual Revegetation Plan* (July 2015), the project would temporarily affect 2.04 acres of wetland habitat (0.81 acres of disturbed wetland, 0.50 acres of mulefat scrub, 0.36 acres of disturbed southern willow scrub, 0.21 acres of freshwater marsh, 0.11 acres of southern willow scrub, and 0.05 acres of seasonal depressions periodically covered with shallow water). SANDAG will restore the southern willow scrub, freshwater marsh, and mulefat scrub habitats (totaling 0.82 acres) that will be temporarily impacted by project construction activities. In addition, to compensate for the temporal loss of wetland habitat during the two-year-long project construction period, SANDAG will in the project area enhance an additional 1.44 acres of wetland habitat: (1) enhance 0.06 acre of arundo-dominated (non-native invasive) riparian habitat by conversion to southern willow scrub habitat; (2) enhance 0.52 acre of disturbed southern willow scrub habitat by conversion to southern willow scrub habitat; and (3) enhance 0.86 acre of disturbed wetland habitat by conversion to a freshwater marsh/southern willow scrub/mulefat scrub mosaic (**Exhibit 6**).

The *Conceptual Revegetation Plan* states that:

*Revegetation of existing habitat areas that are temporarily impacted and the enhancement of native habitats on-site will be accomplished through planting and seeding of native species appropriate to the habitat and up to five years of maintenance and monitoring, including the removal of non-native, invasive plant species that compete with native species.*

The *Plan* includes details on the following elements:

- Site preparation of restoration/revegetation areas and enhancement areas, including grading and vegetation removal (mechanized, hand removal, and limited use of herbicides).
- Revegetation and enhancement schedule.
- Planting design for seeding and container stock, including plant palettes and seed mixes for southern willow scrub, coastal and valley freshwater marsh, mule fat scrub, and freshwater marsh/southern willow scrub/mule fat scrub mosaic areas.
- Habitat protection measures to be implemented during project construction.
- Installation measures for container stock and live staking.

- Watering plans during plant establishment period.
- Source of plant materials (all plant materials shall be derived from materials local to the revegetation site).
- Restoration contractor qualifications.
- Maintenance activities, including repair of vandalized areas, exotic species and weed control, replacement planting, and maintenance schedule.
- Monitoring methods, including installation and maintenance monitoring, qualitative and quantitative monitoring, monitoring schedule, success criteria, and monitoring reports.

The *Plan* concludes by stating that:

*In accordance with anticipated permit requirements, the revegetation site must be monitored for a minimum of five years and shall meet the success criteria determined based on an assessment of a suitable reference site located either upstream or downstream from the revegetation site. The revegetation site shall be self-sustaining; native plants shall be thriving and shall be completely weaned from supplemental watering at least two years prior to the end of the five-year monitoring period. When the success criteria have been met, the wildlife and regulatory agencies shall be notified in writing. The revegetation effort shall not be considered successful without an on-site inspection by wildlife and regulatory agency personnel and/or written confirmation that success criteria have been achieved.*

In addition, the consistency certification, *Biological Technical Report*, and *Conceptual Revegetation Plan* include numerous avoidance and minimization measures that will be implemented throughout the project construction period, including but not limited to the designation of a U.S. Fish and Wildlife Service-approved project biologist to oversee compliance with protective measures for biological resources; project worker awareness training conducted by the project biologist; placement of environmentally sensitive area fencing; restrictions on vegetation clearing during bird breeding season; construction impact avoidance measures for listed species in the project area; and best management practices to protect wetland habitat during construction and demolition activities.

Because the proposed project would not create any permanent impacts to wetland habitat, and with implementation of the revegetation and enhancement plan for temporary wetland habitat impacts, the Commission finds that the proposed project includes adequate mitigation for project impacts to wetland habitat to meet the third test of Section 30233(a).

### **Water Quality**

SANDAG has included in its consistency certification commitments for water quality protection for the proposed double track and bridge replacement project, including development and

implementation of a Storm Water Pollution Prevention Plan (SWPPP), a Spill Prevention Containment and Countermeasure (SPCC) Plan, grading and drainage plans, erosion and sediment control plans, guidelines for fuel and hazardous materials storage, and associated construction and post-construction best management practices to avoid and minimize the potential for adverse impacts to water quality in and adjacent to the project area. The consistency certification also states that:

*During construction, a temporary trestle will span over the San Diego River active channel for construction access, staging, and assembly of the new railroad bridge. A smaller trestle structure will also span a storm drain channel as part of the Ocean Beach Bicycle Path temporary realignment and reconstruction. The trestle(s) will have stable abutments and will be adequately designed, constructed, maintained, and tied to secure landside objects to prevent washout and avoid impacts to open water. The contractor will be required by the project specifications to contain and recover debris during demolition and construction activities over the San Diego River (e.g., debris nets).*

In previous reviews of SANDAG and NCTD double-tracking projects in San Diego County, the Commission concurred with these agency's determinations 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 to protect water quality 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).

### **Conclusion**

The Commission finds that the proposed San Diego River railroad bridge replacement and double-track project is consistent with the water quality protection policies of Sections 30231 and 30232 of the Coastal Act, and is consistent with the wetland fill alternatives and mitigation tests, but not consistent with the allowable use test, of Section 30233(a) 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.D, E, and F** of this report, not approving the project would be inconsistent with the water quality,

public access and recreation, and air quality/energy consumption policies of the Coastal Act, because it would eliminate benefits to coastal resources that are inherent in the project and mandated by the policies of the Coastal Act. Those benefits include the maximization of existing and future public access, the facilitation of public transit and the minimization of vehicle miles traveled, and the improvement of 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 III.G**) the Commission will resolve these conflicts and determine that concurrence with this consistency certification would, on balance, be most protective of significant coastal resources.

## **E. PUBLIC ACCESS, RECREATION, AND TRANSIT**

Coastal Act Section 30210 states:

*In carrying out the requirements 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.*

Coastal Act Section 30213 states in part:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred . . . .*

Coastal Act Section 30252 states in part:

*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 . . .*

SANDAG states in its consistency certification that in reviewing past actions involving mass transit improvements in San Diego County, the Commission has considered traffic congestion to constitute a constraint on public recreation and access to the shoreline. Increased traffic on highways such as Interstate 5, which is a major coastal access thoroughfare, reduces the ability of the public to reach 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 project would be beneficial to public coastal access by increasing the structural and operational capacity for trains passing through the San Diego region.

The majority of the proposed project is within the existing railroad right-of-way (ROW); construction access and staging areas and a portion of the Ocean Beach Bicycle Path detour are located outside the ROW. Public accessways that bisect the ROW in the project area are Friars Road, Sea World Drive/Tecolote Road, and the Ocean Beach Bicycle Path. Regarding the latter, SANDAG states that:

*To comply with Caltrans vertical clearance requirements for the new bridge girder structure (southern abutment), the existing Ocean Beach Bicycle Path is required to be lowered by approximately one foot and six inches. As a result, the portion of the Ocean Beach Bicycle Path in the study area will be temporarily detoured, as a safety precaution, to protect cyclists from heavy construction related to the southern abutment and piles. The existing bike path alignment will be temporarily realigned in the same general vicinity to sweep north away from the southern abutment and piles. This bike path realignment will occur along portions of an existing dirt maintenance road in the San Diego River floodplain, and a small trestle structure will be constructed to span a storm drain channel on the southern bank of the river.*

*Directional guidance to path users will be provided during construction to facilitate public access to coastal areas west of the project and to maintain public safety during construction.*

SANDAG further states that the bike path detour will be in place between January and March 2016, that the lowered bike path will reopen in its present location in April 2016, and that public access on this bike path will be maintained throughout the construction period. Construction vehicles and equipment will use Friars Road and Sea World Drive/Tecolote Road, standard traffic management measures will be implemented throughout the construction period to maintain vehicular and pedestrian access and to protect public safety, and the project is not expected to adversely affect public access to the coast. The project will improve public access to the coast by improving railroad schedule reliability and expanding rail capacity and ridership. SANDAG expects the project to help reduce automobile and truck traffic on nearby roads and freeways in the study area which are used for public access to coastal recreation areas.

The Commission agrees with SANDAG and finds that the proposed project would not adversely affect and existing public access and recreational opportunities, and would improve public access by maintaining and expanding the railroad line used by SANDAG and other rail operators. This in turn will help to reduce automobile traffic on Interstate 5 in an area where this freeway supports public access and recreation. The Commission therefore finds the project consistent with the public access and recreation policies of the CCMP (Coastal Act Sections 30210, 30213, and 30252).

## **F. AIR QUALITY AND ENERGY CONSUMPTION**

Coastal Act Section 30253 states in part:

*New development shall do all of the following:*

...

*(d) Minimize energy consumption and vehicle miles traveled.*

During its review in 2002 of NCTD's proposal for the 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 acceptance and use of public transit 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.*

SANDAG reports in its consistency certification that:

*Due to implementation of increasingly stringent locomotive emission standards being implemented by the U.S. Environmental Protection Agency (U.S. EPA), emissions per locomotive of nitrogen oxides (NOx) and particulate matter (PM) are expected to decrease along the LOSSAN corridor with utilization of California Air Resources Board (ARB) Tier 4 locomotive emission standards that are required to be effective in 2015, and the ARB's pollution reduction agreement with Union Pacific and Burlington Northern Santa Fe Railways.*

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 operational efficiency improvements arising from construction of an additional segment of double-track 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. 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. The Commission has historically found (e.g., CC-079-06, BHP Billiton LNG International, Inc., Ventura and Los Angeles Counties) that coastal resources would be directly affected by global climate change resulting from increases in greenhouse gas emissions.

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 adopted findings in support of these goals when it concurred with consistency certification CC-075-09 by NCTD for a double-tracking project in Carlsbad in northern San Diego County. The Commission has adopted similar findings in its concurrence with subsequent consistency certifications for LOSSAN double-track projects (CC-052-10, CC-056-11, and CC-009-12). The Commission finds that SANDAG's 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)).

## G. 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 some other policy or policies of the Coastal Act.

As discussed previously in **Section III.D**, 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. 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.E**), 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.

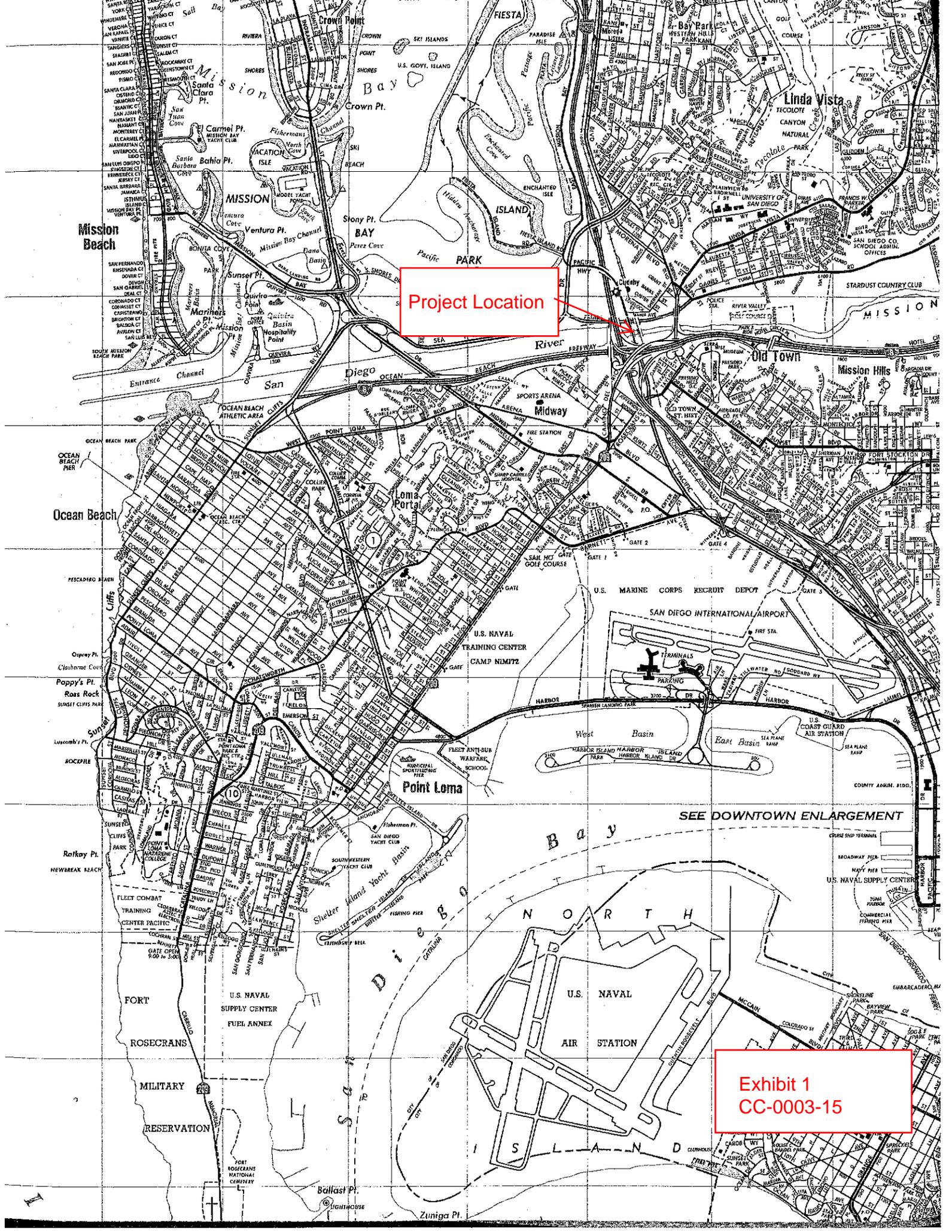
As discussed in **Sections III.D and III.F** above, traffic increases that would occur if this project were not to go forward would also degrade water and air quality. This would result in conditions that are inconsistent with the water and air quality policies of the Coastal Act, because they would 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 policy (Section 30233(a)) 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 a manner that is on balance most protective of coastal resources. In this case, the proposed project will result in a decrease in the amount of the permanent wetland fill due to the removal of existing bridge piers from the San Diego River channel and because the new bridges require fewer support piers in wetland habitat than are currently used to support the existing bridge. The wetland habitat to be filled is adjacent to the existing railroad line, the amount of wetland fill to support the new bridges has been minimized to the maximum extent practicable, and on-site restoration of temporarily impacted habitat and enhancement of currently disturbed wetland habitat are incorporated into the project. 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 wetland impacts, which would, as designed by SANDAG, be adequately mitigated. The Commission therefore concludes that concurring with this consistency certification would, on balance, be most protective of significant coastal resources, and that the project is consistent with Coastal Act Section 30007.5.

## APPENDIX A

### SUBSTANTIVE FILE DOCUMENTS

1. CC-0003-15 (SANDAG, San Diego River Railroad Bridge Replacement and Double Track Project, San Diego County)
2. *Biological Technical Report for San Diego River Bridge Double-Track Project*. HDR, July 2015.
3. *Jurisdictional Wetland Delineation Report for San Diego River Bridge Double-Track Project*. HDR, July 2015.
4. *Conceptual Revegetation Plan for San Diego River Bridge Double-Track Project*. HDR, July 2015.
5. CC-006-14 (North County Transit District (NCTD), San Dieguito River Railroad Bridge, Scour Repair Project, San Diego County)
6. CC-009-12 (SANDAG, San Onofre-Pulgas Double Track Project, San Diego County)
7. CC-056-11 (SANDAG, Sorrento Valley Double Track Project, San Diego County)
8. CC-006-11 (NCTD, San Dieguito River Railroad Bridge, Southern Abutment Protection, San Diego County)
9. CC-052-10 (NCTD, San Dieguito River Railroad Bridge Scour Protection, City of Del Mar, San Diego County)
10. CC-075-09 (NCTD, Agua Hedionda Railroad Bridge and Double Track Project, San Diego County)
11. NE-067-09 (NCTD, San Dieguito River Railroad Bridge, Structural Retrofit and Pile Wrapping, San Diego County)
12. CC-059-09 (NCTD, Replacement of three wood trestle railroad bridges with concrete bridges, Los Penasquitos Lagoon, San Diego County)
13. CC-008-07 (NCTD, extension of passing track and construction of one replacement and one new railroad bridge over Loma Alta Creek in Oceanside)
14. CC-079-06 (BHP Billiton LNG International, Inc., Ventura and Los Angeles Counties)
15. CC-055-05 (NCTD, replacement of the railroad bridge over Agua Hedionda Lagoon)
16. CC-052-05 (NCTD, Santa Margarita River double tracking project at the south end of Camp Pendleton)
17. CC-004-05 (NCTD, O'Neill to Flores double track project in central Camp Pendleton)
18. CC-086-03 (NCTD, Pulgas to San Onofre double tracking at the north end of Camp Pendleton)
19. CC-058-02 (City of Santa Barbara, modifications to Santa Barbara Airport)
20. CC-029-02 (NCTD, Oceanside-Escondido Railroad Project, San Diego County)
21. NCTD CDP Nos.: 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).
22. *Bolsa Chica Land Trust et al., v. The Superior Court of San Diego County* (1999) 71 Cal.App.4<sup>th</sup> 493, 517
23. *California Eelgrass Mitigation Policy*, National Marine Fisheries Service, October 2014.



Project Location

Exhibit 1  
CC-0003-15

SEE DOWNTOWN ENLARGEMENT



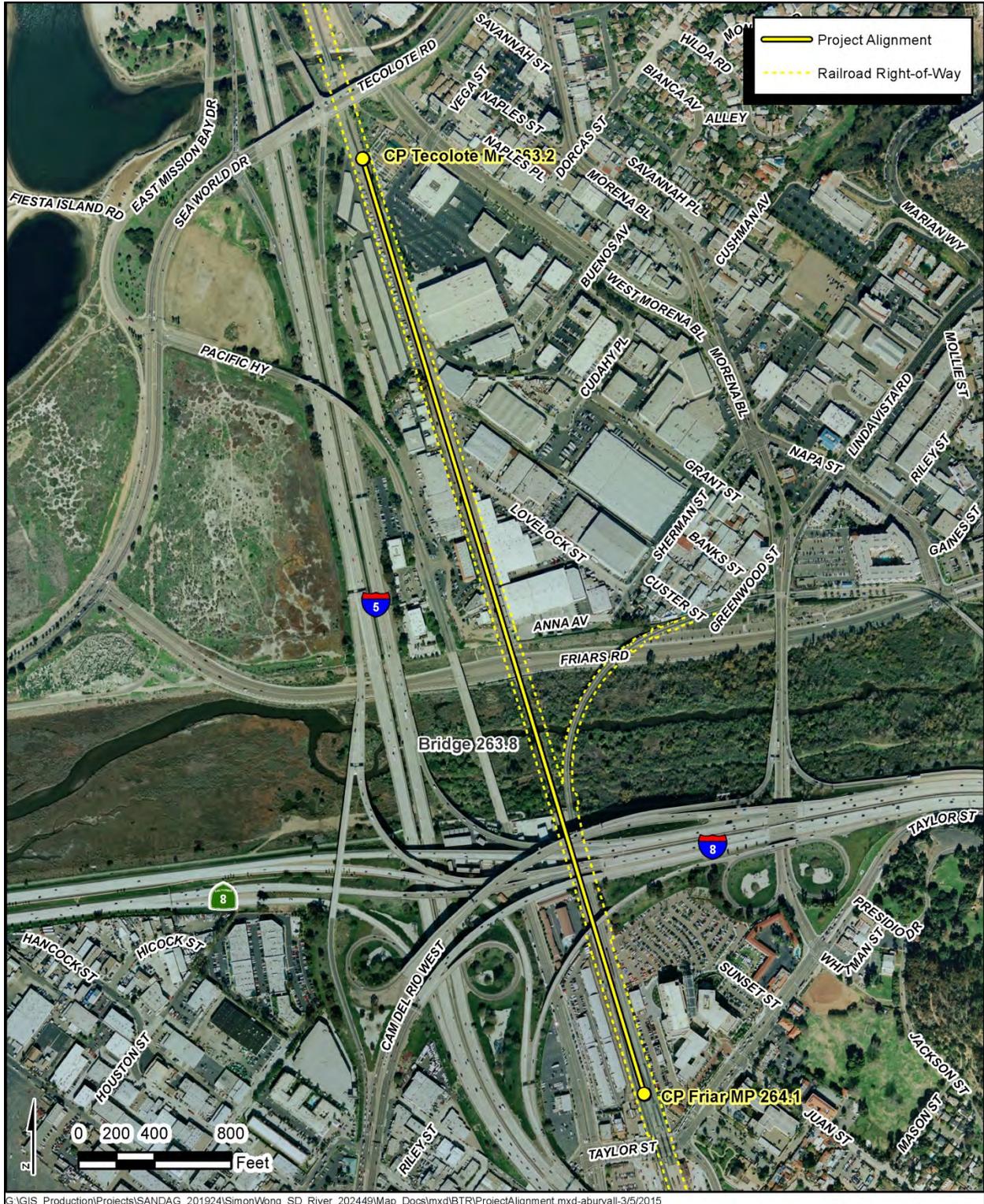


Figure 1. Project Location and Vicinity

Exhibit 2  
CC-0003-15

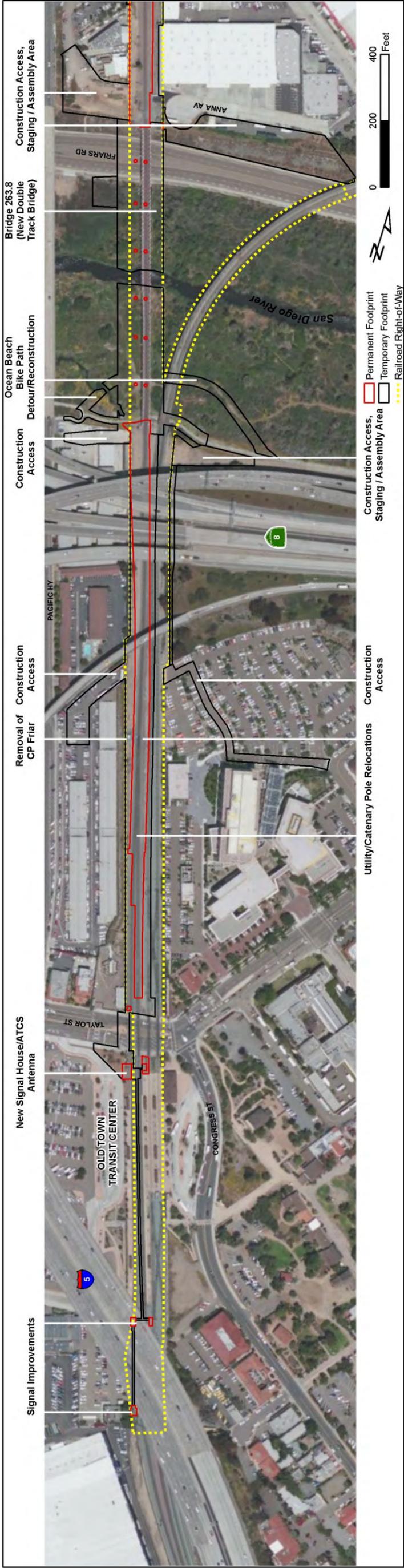


Figure 4a. Project Footprint

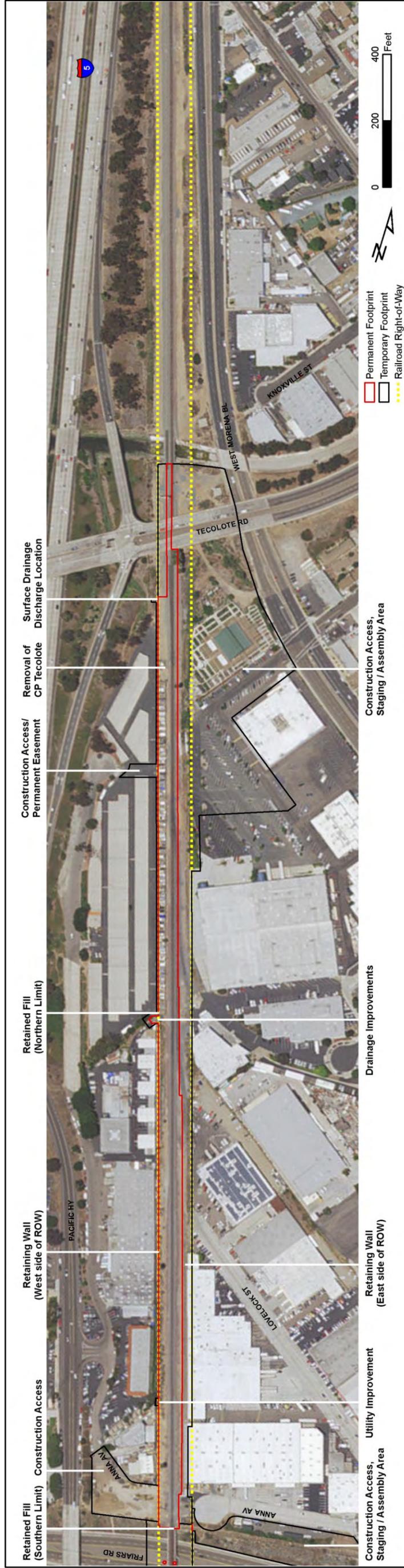


Figure 4b. Project Footprint

Exhibit 3  
CC-0003-15

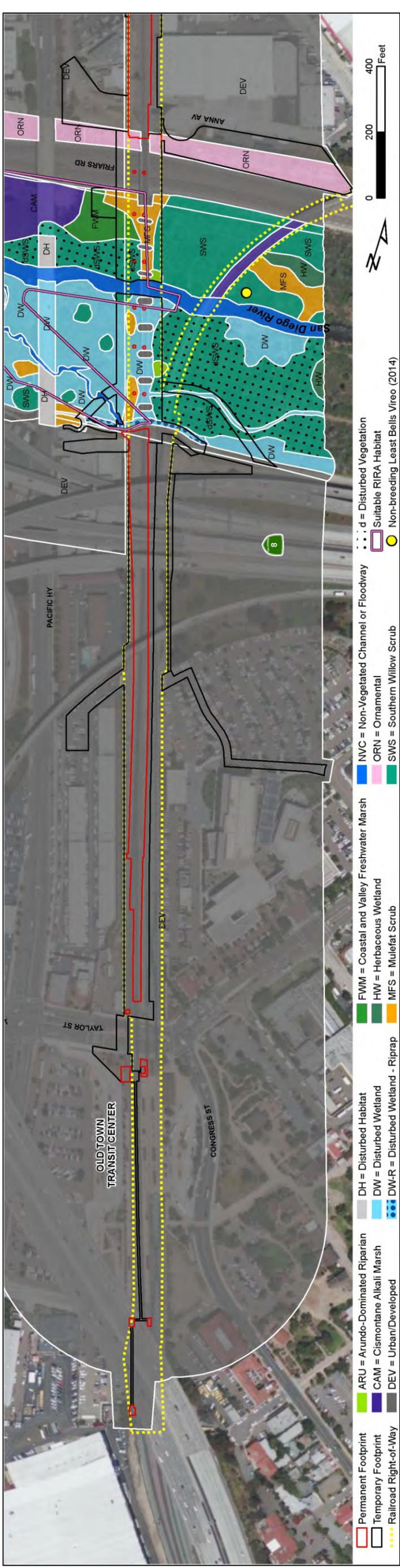


Figure 5a. Impacts to Biological Resources

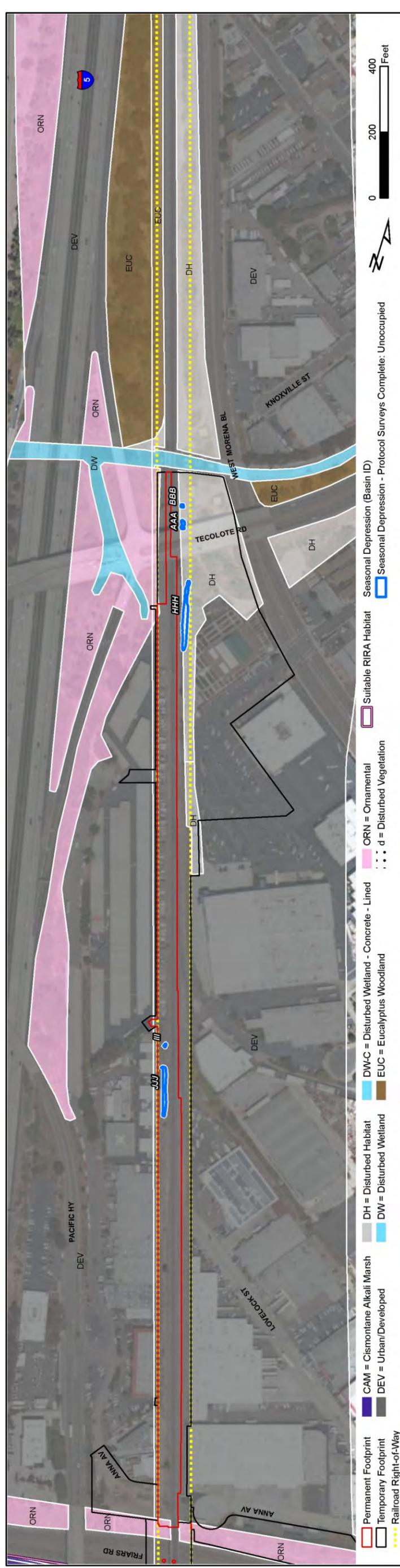


Figure 5b. Impacts to Biological Resources



Figure 6a. Impacts to Jurisdictional Areas



Figure 6b. Impacts to Jurisdictional Areas

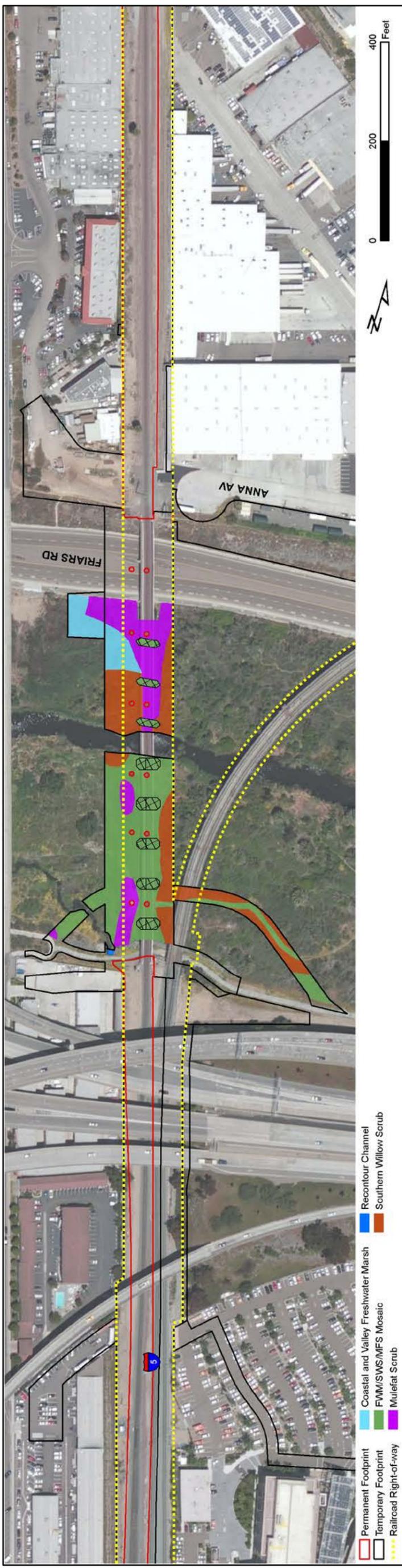


Figure 7. Revegetation Areas

Exhibit 6  
CC-0003-15