

CALIFORNIA COASTAL COMMISSION

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original staff report

Th25a

Addendum

December 7, 2015

To: Commissioners and Interested Persons

From: California Coastal Commission
San Diego Staff

Subject: Addendum to **Item Th25a**, Notice of Impending Development
NCC-NOID-0004-15 (Geotechnical Borings), for Public Hearing and
Commission Action at the December 10, 2015 Commission Meeting in
Monterey

The purpose of this addendum is to make corrections to the summary of staff recommendations, recommended special condition, and findings to the above-referenced staff report, dated November 20, 2015; and, to attach a new Exhibit #7 that includes Section 6B.6 (Habitat Mitigation and Monitoring Plans) from the Public Works Plan. The corrections are to clarify that a draft plan is required to be submitted, that the proposed work can progress as soon as the draft plan is submitted, and that this plan must comply with the standards in the Public Works Plan. Underlined text indicates text to be added to the staff report, and ~~text struck out~~ is to be deleted, as shown below:

1. On Page 2 in the Summary of Staff Recommendations, the first paragraph shall be revised as follows:

The NCC PWP/TREP indicates that all mitigation sites included in the Resource Enhancement and Mitigation Program (REMP) require that a draft Long-Term Management Plan (LTMP) be ~~approved~~ submitted before any mitigation credit can be made available. In order to be consistent with the NCC PWP/TREP, **Special Condition #1** requires that Caltrans submit a draft Long Term Management Plan for the La Costa Mitigation Site ~~and have it approved prior to commencement of construction~~, since the La Costa Mitigation Site is solely a preservation site.

2. On Page 5, Special Condition #1 shall be supplemented as follows:

1. **Long Term Management Plan. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES**, Caltrans shall submit a draft Long Term Management Plan for the La Costa Mitigation Site for review and written approval by the Executive Director, though the commencement of construction need not await such approval. The Long Term Management Plan shall satisfy all

of the criteria established in Section 6B.6 (Habitat Mitigation and Monitoring Plans) of the NCC PWP/TREP.

3. On Page 9 in the Biological Resources Findings, the third paragraph shall be revised as follows:

[...] Since the La Costa Mitigation Site is strictly a preservation mitigation site, Section 6B.6 (Habitat Mitigation and Monitoring Plans) in the REMP requires the development of a Long-Term Management Plan (LTMP) that identifies the ecological priorities for the preservation area and includes a plan for management activities at the site going forward. A draft version of this LTMP is required to be submitted in the first phase of the mitigation credit release schedule, as outlined in Section 6B.4 (Credit Establishment and Release), and needs to be reviewed and approved by the resource and regulatory agencies, as specified in Section 6B.6. According to Section 6B.4, 25% of the mitigation credits identified at a specific preservation site become available upon submittal of the draft LTMP, another 25% upon the plan's approval, and the final 50% when the LTMP is implemented. As Caltrans only needs 25% to cover the boring work proposed in this NOID (in fact, 25% would more than cover the proposed work, but it is the smallest increment available), only the first of these stages must occur prior to commencement of the work proposed in the NOID. In order to be consistent with the NCC PWP/TREP, **Special Condition #1** requires submission, review, and approval of a draft LTMP before proposed construction begins since a LTMP for the La Costa Mitigation Site has yet to be completed and was not included in the application submittal. The LTMP must satisfy the standards set forth in the PWP/TREP, as indicated in Section 6B.6 (Exhibit #7).

Maintenance of the mouths of both of these lagoons is important to estuary functions and services. Quantifying the benefits of the maintenance is a difficult thing to do. However, with some lag time between the sign-off on all wetland mitigation sites and some first-phase impacts to the lagoons, Caltrans and SANDAG propose that establishing the \$10 million endowment either should be granted compensatory mitigation credit, or it should be agreed to that it will serve as contingency credits for any deficits of credit release between beginning construction of the wetland mitigation sites and impacts from the PWP/TREP improvements, as necessary. SANDAG and Caltrans also propose that 10 percent of this mitigation credit (0.46 acre for Los Peñasquitos Lagoon and 1.57 acres for Batiquitos Lagoon of the respective 4.6 and 15.7 acres identified previously) would be available upon establishment of the endowment and the funding strategy. The remaining balance of the available credits for each lagoon would be available when the interest of the endowment exceeds \$500,000, and when the first dredging activities have been completed at each lagoon system.

6B.5 MITIGATION PHASING

Advance resource enhancement activities are assigned specific no-net-loss mitigation credits based on the type of habitat established and/or restored from implementation of individual REMP projects, and/or for establishing the endowment for maintenance activities that sustain lagoon functions and services. Once established, mitigation credits are available to mitigate any PWP/TREP transportation infrastructure and/or community enhancement project impacts included in an active phase of the PWP/TREP Implementation Phasing Plan (i.e., 2010–2020, 2021–2030, 2031–2040, or 2041–2050). Where habitat mitigation credit exceeds the cumulative project impacts of any particular project phase, habitat mitigation credit would be made available to mitigate impacts associated with project implementation of the following phases.

Advance resource enhancement activities also include projects that provide enhancement and/or preservation of sensitive coastal resources, and facilitate and achieve ecological lift of corridor lagoon systems, specifically large-scale restoration plans for San Elijo and Buena Vista Lagoons, and hydraulic lift associated with bridge optimization projects for San Elijo, Batiquitos, and Buena Vista Lagoons. The San Elijo Lagoon and Buena Vista Lagoon Restoration Plans would potentially establish a specific amount of wetland/other aquatic habitat mitigation credits dependent on the final alternative design selected. The REMP projects that would facilitate and achieve ecological/hydraulic lift of corridor lagoon systems through large-scale restoration plans are generally not subject to a specific credit calculation by the Coastal Commission, but nevertheless will result in significant enhancement of corridor resources and are considered appropriate for mitigating PWP/TREP project impacts. The USACE will determine specific compensatory mitigation credits based on acreage and functional lift for San Elijo Lagoon and Buena Vista Lagoon Restoration Projects if the final restoration alternatives chosen by the REMP Working Group meet the standards set forth by the USACE and EPA in the 2008 Wetlands Compensatory Mitigation Rule (Mitigation Rule).

6B.6 HABITAT MITIGATION AND MONITORING PLANS

Site-specific HMMPs are required for all REMP compensatory mitigation sites, with the exception of purely preservation sites, whereas LTMPs are required for all mitigation sites. The MSAs (see Appendix H) have been developed for resource and agency approval prior to developing detailed HMMPs and associated grading, planting, irrigation and other implementation plans, as appropriate. The HMMPs will be developed in compliance with the USACE and EPA Mitigation Rule, but also include sections and supplemental documents that will allow for use of the 2012 Advance Permittee-

Responsible Mitigation Guide³ or comparable approaches by the USACE Los Angeles District and meet Coastal Commission and other resource agency permitting needs. These HMMPs will include the information agreed upon in this REMP for determination of a Service Area (the NCC), defining the number and type of credits and methodology used to determine crediting, a credit release schedule based on performance standards, a credit ledger to track PWP/TREP project implementation, and the projected permanent and temporary impacts from PWP/TREP transportation infrastructure and community enhancement projects intended to be mitigated by the compensatory mitigation site.

Each site-specific HMMP will include an itemized cost estimate for implementing the mitigation site activities. In accordance with 33 CFR §332.3(n) of the Mitigation Rule, prior to initiating impacts for each PWP/TREP project phase, the permittee(s) will post financial assurance ("financial assurance") in an amount and form approved by the USACE and other agencies as appropriate. The cost estimate will be the basis for providing the required financial assurance until the site achieves its ecological performance standards and other site protection requirements have been achieved. The financial assurance amount will include the estimated cost for replacement mitigation, including costs for land acquisition, planning and engineering, legal fees, mobilization, construction, monitoring, maintenance, and adaptive management for the required 5- to 10-year short-term monitoring period and a 20% contingency. The purpose of this financial assurance is to guarantee the successful implementation, maintenance, and monitoring of the wetland and nonwetland waters preservation, establishment, restoration, and enhancement work. The financial assurance may be in the form of a performance bond, irrevocable letter of credit, or escrow agreement.

A draft LTMP will be prepared along with a final HMMP for each mitigation site for review and approval by the resource and regulatory agencies. Per 33 CFR §332.4 (c)(11) of the Mitigation Rule, the LTMP will be based on the habitats approved in the final site-specific HMMP and developed to ensure the long-term sustainability of the site, describing how the compensatory mitigation site will be managed and monitored after performance standards have been achieved and mitigation credits have been released. The LTMP will include a description of the baseline environmental conditions of the site, protection, signage, and other management and monitoring activities anticipated to maintain the current ecological condition (preservation only) or projected ecological condition (establishment, restoration, and enhancement sites) and the estimated cost of implementing the annual maintenance and management activities set forth in the LTMP. The LTMP will include a description of the long-term site protection mechanism, the financing mechanism, and the proposed third-party responsible for LTMP. The final LTMP must be updated and approved by the resource and regulatory agencies prior to the final credit release for each compensatory mitigation site. This allows for modification of the management needs and associated financing mechanism, as necessary, if compensatory mitigation site needs are different from those originally anticipated prior to implementation and short-term monitoring period.

Once secured, mitigation credits for preservation-only sites will be formalized with the development and approval of a final LTMP, which includes all the information as described above.

Long-term protection mechanisms must be described in the final HMMP and are required for every REMP compensatory mitigation site. The long-term protection mechanism must be provided for review and approval by the applicable agencies prior to implementation of the final HMMP. Protection mechanisms can include a conservation easement, restrictive covenant, or other regulatory agency-approved mechanism. The mechanism must ensure that the permittee, its successors, and assigns,

³ Interagency Regulatory Guide, Advance Permittee-Responsible Mitigation by U.S. Army Corps of Engineers Seattle District, Department of Ecology State of Washington, and Washington Department of Fish and Wildlife, December 2012, Ecology Publication no. 12-06-015

are required to protect and maintain the compensatory mitigation site in perpetuity. The conservation mechanism will preclude establishment of fuel modification zones, additional road crossings or outfalls, paved or unpaved public trails beyond what is approved in the final HMMP and LTMP, maintenance access roads, and/or future easements. The conservation mechanism must provide for the long-term management of the compensatory mitigation site. Written approval (by letter or e-mail) from all applicable agencies of the final conservation mechanism must be received prior to it being executed and recorded. A recorded copy of the mechanism must be provided to the USACE and Coastal Commission prior to mitigation credit release, release of final mitigation obligations, and release of the financial assurance.

The HMMPs will formalize how the habitat establishment, restoration, and enhancement activities proposed for each of the compensatory mitigation sites conform to the REMP. Each site-specific HMMP will be submitted to the REMP Working Group for review and approval to ensure fulfillment of requirements with agency permits and consultations prior to any formal submittal to the USACE and Coastal Commission (the Coastal Commission's submittal process is further detailed in Chapter 6A of the PWP/TREP).

The MSAs serve to formalize how the habitat establishment, restoration, enhancement and/or preservation activities proposed for each of the compensatory mitigation sites conform to the REMP goals and criteria described previously. The MSAs also provide preliminary information to estimate mitigation credits available for each project and to assist in the preparation of final HMMPs that will be subject to further review through subsequent Coastal Commission review (NOIDs, CDPs or federal consistency submittals, as applicable). Initial MSAs for the current package of REMP compensatory mitigation opportunities are included in Appendix H. These will be used to develop final site-specific HMMPs. The MSAs include the following preliminary information, as applicable:

- Overall Mitigation Goals and Objectives
- Mitigation Site Service Area and Credits
- Baseline Conditions
 - Historic and Current Ecological Context
 - Drainage and Hydrology
 - Soils
 - Vegetation (Including Existing Vegetation Map)
 - Wildlife
 - Prior and Current Land Use
 - Existing Utilities/Infrastructure/Easements
 - Site Contaminants
- Mitigation Program
 - Schedule
 - Hydrology
 - Topographic Modification
 - Soils
 - Target Plant Communities
 - Supportive Measures
 - Performance Standards

- Adaptive Management Plan
- Cost Estimate and Financial Assurances
- Site Protection Instrument
- Long-Term Management Plan
- Additional Studies Required
- Required Permits/Approvals

6B.7 PROGRAM PHASING

The REMP is an integral component of the PWP/TREP Implementation Phasing Plan, in which stakeholders and resource and regulatory agencies can track the progress and success of the PWP/TREP. The Implementation Phasing Plan reflects the regional priorities relative to identifying resource protection opportunities and implementing REMP projects that address the most significant natural resource needs of the NCC, while respecting the phasing requirements for transportation infrastructure and community enhancement project development further specified in the PWP/TREP. Consistent with Senate Bill 468 (Kehoe), the REMP and the larger PWP/TREP Implementation Phasing Plan collectively provide the framework for the region to allocate *TransNet* EMP funds for regional habitat acquisition, management, and monitoring activities based on the estimated economic benefits derived from permitting and approval efficiencies accomplished through the NCC PWP/TREP process. The funding will be released by SANDAG in phases based on the proportion of PWP/TREP projects that have been issued NOIDs, CDPs and/or federal consistency reviews, as applicable.

The PWP/TREP Implementation Phasing Plan includes specific measures to ensure that REMP projects will be implemented prior to, or concurrent with, PWP/TREP transportation infrastructure and community enhancement projects according to the approved phasing plan. The USACE and Coastal Commission submittals (NOIDs, CDPs and/or federal consistency review, as applicable) for transportation infrastructure and community enhancement projects provide the primary mechanism for the regulatory agencies to continuously ensure adequate compensatory mitigation is provided by PWP/TREP phase. Chapter 6A, Implementation requires Coastal Commission submittals (NOIDs, CDPs and/or federal consistency review, as applicable) to provide the following project details (among others) before a submittal will be filed as complete and reviewed by the Coastal Commission for consistency with the approved PWP/TREP:

- The expected date of commencement of construction.
- A description of the proposed development that is sufficient to understand its size, location, type, and intensity (including but not limited to site plans, grading plans, and elevations/renderings showing the proposed development, where applicable) sufficient to determine the development is contained in the PWP/TREP.
- A discussion of the proposed development consistency with the PWP/TREP Implementation Phasing Plan detailed in Section 6A.2.1 including details regarding the following:
 - The project phase in which the development is included.
 - The status of implementation of other rail, highway, community and resource enhancement projects included in the same phase.
 - A brief summary of the proposed development's contribution to the mobility and resource benefits of the project phase.
 - Description of any project-specific resource impacts and status of corresponding mitigation requirements for the project phase.

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Th25a

DATE: November 20, 2015

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, Deputy Director, San Diego Coast District
Gabriel Buhr, Coastal Program Manager, San Diego Coast District
Keri Robinson, Coastal Program Analyst, San Diego Coast District

SUBJECT: **Notice of Impending Development NCC-NOID-0004-15 (Geotechnical Borings)**, for Public Hearing and Commission Action at the December 10, 2015 Commission Meeting in Monterey

SUMMARY OF STAFF RECOMMENDATION

Caltrans' Notice of Impending Development (NOID) NCC-NOID-0004-15 will authorize a geotechnical investigation, including 12 borings, to evaluate subsurface conditions of the slopes along Interstate 5 (I-5) north and south of the San Elijo Lagoon in the Cities of Solana Beach and Encinitas. To access the boring locations, newly created vehicular access from I-5 will require vegetation clearance and grading. This is the first project under Phase 1 of the North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program (NCC PWP/TREP), a comprehensive program of transportation, community, and resource enhancement projects within what is known as the "North Coast Corridor," which extends from La Jolla to Oceanside along the North San Diego County coastline. The NCC PWP/TREP was approved by the Commission in August 2014 (ref. PWP No. PWP-6-NCC-13-0203-1). The 12 borings will be located on the west side of I-5, north of Lomas Santa Fe Drive in the City of Solana Beach, and on the east side of I-5, between Birmingham Drive and Manchester Avenue in the City of Encinitas.

An initial Notice of Impending Development (NOID) was received in the Coastal Commission's San Diego Office on October 8, 2015; however, due to missing information the NOID application was determined to be incomplete. The remaining necessary documents were received in the San Diego Office on November 5, 2015, which deemed the notice filed on November 5, 2015.

The subject NOID is necessary to evaluate subsurface conditions for the design of foundations for retaining walls to be constructed along I-5 as a part of future freeway expansion. However, the proposed work, primarily clearing of necessary access roads,

will impact 0.45 acres of disturbed coastal sage scrub. Caltrans is therefore proposing to mitigate these biological resource impacts with 2:1 preservation at the recently purchased La Costa Mitigation Site. The NCC PWP/TREP indicates that all mitigation sites included in the Resource Enhancement and Mitigation Program (REMP) require that a Long-Term Management Plan (LTMP) be approved before any mitigation credit can be made available. In order to be consistent with the NCC PWP/TREP, **Special Condition #1** requires that Caltrans submit a Long Term Management Plan for the La Costa Mitigation Site and have it approved prior to commencement of construction, since the La Costa Mitigation Site is solely a preservation site.

Therefore, staff is recommending that the Commission determine that the impending development is consistent with the certified NCC PWP/TREP, as conditioned. The habitat disturbance included in the proposed project is expressly authorized by the NCC PWP/TREP and in authorizing it, the Commission recognized that it was inconsistent with policies of the Coastal Act and presented a conflict. However, within the larger context of the suite of regional improvements contained within the NCC PWP/TREP, the Commission found this to be, on balance, the most protective of coastal resources. The project is consistent with all policies, design/development strategies, and implementation measures of the NCC PWP/TREP. The standard of review for the proposed NOID is conformity with the policies of the certified NCC PWP/TREP.

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EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Aerial View](#)

[Exhibit 3 – Site Plan](#)

[Exhibit 4 – Boring Locations/Vehicular Access](#)

[Exhibit 5 – Vegetation Impacts](#)

[Exhibit 6 – Upland Impacts and Mitigation Releases](#)

I. PROCEDURAL ISSUES

Sections 30605 and 30606 of the Coastal Act and Title 14, Sections 13357(a)(5), 13359, and 13353-54 of the California Code of Regulations govern the Coastal Commission's review of subsequent development where there is a certified Public Works Plan ("PWP"). Section 13354 requires the Executive Director to review the Notice of Impending Development within five working days of receipt and determine whether it provides sufficient information to determine if the proposed development is consistent with the certified PWP. The notice is deemed filed when all necessary supporting information has been received.

Pursuant to Section 13359 of Title 14 of the California Code of Regulations, within thirty working days of the project proponent's filing of the Notice of Impending Development, the Executive Director shall report to the Commission the pendency of the development and make a recommendation regarding the consistency of the proposed development with the certified PWP. The NCC PWP/TREP includes language that allows this deadline to be extended if Caltrans agrees to waive the 30-day requirement, and in the case of the subject NOID, Caltrans has agreed to extend the processing time in order to make the December 2015 Commission hearing. After public hearing, by a majority of its members present, the Commission shall determine whether the development is consistent with the certified PWP and whether conditions are required to bring the development into conformance with the PWP.

II. MOTION AND RESOLUTION

MOTION: *I move that the Commission determine that the development described in the Notice of Impending Development NCC-NOID-0004-15, as conditioned, is consistent with the certified North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program.*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in a determination that the development described in the Notice of Impending Development ***NCC-NOID-0004-15***, as conditioned, is consistent with the certified North Coast Corridor Public Works Plan/Transportation and Resource Enhancement Program, and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DETERMINE DEVELOPMENT IS CONSISTENT WITH PWP:

The Commission hereby determines that the development described in the Notice of Impending Development *NCC-NOID-0004-15*, as conditioned, is consistent with the certified North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program for the reasons discussed in the findings herein.

III. SPECIAL CONDITIONS

1. **Long Term Management Plan. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES,** Caltrans shall submit a Long Term Management Plan for the La Costa Mitigation Site for review and written approval by the Executive Director.

IV. FINDINGS FOR APPROVAL OF THE NOTICE OF IMPENDING DEVELOPMENT

The following findings support the Commission's approval of the Notice of Impending Development. The Commission hereby finds and declares as follows:

A. PROJECT DESCRIPTION AND BACKGROUND

Caltrans proposes to conduct a geotechnical investigation that includes 12 borings to evaluate subsurface conditions on the slopes north and south of the San Elijo Lagoon as part of Stage 1 of the Interstate 5 North Coast Corridor (I-5 NCC) Project (Exhibits #1, 2); the resulting information will be used for design of foundations for retaining walls to be constructed at a later date along I-5. Six boring locations will be on the west side of I-5 north of Lomas Santa Fe Drive in Solana Beach, and the remaining six borings will be on the east side of I-5 north of Manchester Avenue in Encinitas (Exhibit #3). All of the work performed will be within Caltrans' right-of-way (ROW), within the proposed Phase 1/Stage 1 grading limits.

Each of the 12 geotechnical borings will involve: accessing the project site, conducting a boring that will be 18 inches in diameter with depths ranging from approximately 8 ft. to 32 ft., backfilling the hole with a suitable material (neat cement, sand-cement, or bentonite), transporting the samples to a testing facility, and treating disturbed earth with hydro-mulch. A drilling rig, with a footprint of approximately 8 ft. by 40 ft., will be used to reach the required boring depth. Temporary roads to the sample locations will be created, and will be approximately 10 ft. wide to accommodate the drilling rig (Exhibit

#4). Drilling will be performed during the day, and each boring will require approximately one day to complete. After completion of all construction activities, construction access roads shall be ripped to a depth of 12 inches and hydroseeded with a southern California native seed mix.

Background

On August 13, 2014, the NCC PWP/TREP was effectively certified by the Commission (ref. PWP No. PWP-6-NCC-13-0203-1). The NCC PWP/TREP, prepared by Caltrans and SANDAG, functions as a single integrated document for comprehensively planning, reviewing, and authorizing the NCC's transportation, community, and resource enhancement projects within the NCC extending from La Jolla to Oceanside along the North San Diego County coastline. The NCC PWP/TREP creates a framework within which identified projects can be analyzed and implemented over the next 30 to 40 years under a coordinated plan. The goal of this process is to optimize the suite of included improvements so that multi-modal transportation goals are achieved in a manner that maintains and improves public access while also maximizing protection and enhancement of the region's significant sensitive coastal resources.

The overall NCC PWP/TREP-approval process provides that 1) under the TREP, rail projects will be evaluated on a case-by-case basis to determine whether the Commission's review of those projects will be limited to the federal consistency review process only; 2) all projects located in areas of the Commission's retained permit jurisdiction are subject to Commission review through the coastal development permit review process; and 3) all other NCC projects are subject to Commission review through the PWP review process.

Under the PWP, Caltrans or SANDAG must submit a Notice of Impending Development (NOID) describing any proposed development that is listed in the plan, for review and approval by the Commission. For a project contained in the certified PWP, the Commission's review of a Notice of Impending Development is limited to determining whether the development is and can be made consistent with the PWP, or imposing reasonable terms and conditions to ensure that the development conforms to the PWP.

Requirements for the level of information contained in a Public Works Plan are contained in Section 13353 of Title 14 of the California Code of Regulations, which states that a PWP "shall contain sufficient information regarding the kind, size, intensity and location of development activity intended to be undertaken pursuant to the plan." Such information includes: 1) the specific type of activity or activities proposed to be undertaken; 2) the maximum and minimum intensity of activity or activities proposed to be undertaken; 3) maximum size of facilities proposed to be constructed pursuant to the plan; and 4) the proposed location or alternative locations considered for any development activity or activities to be undertaken pursuant to the proposed plan. The Coastal Act envisions that a Public Works Plan functions more as a Specific Plan or a

master development permit in order for specific projects or activities described in the PWP to be approved quickly through the NOID process at later dates with minimal review. Activities, projects, or facilities not specifically proposed in a Public Works Plan in the level of detail described above may first require an amendment to the certified PWP that must be approved by the Coastal Commission in order for that specific project to be able to be found consistent with the PWP through the NOID process.

The standard of review for the subject NOID is the certified NCC PWP/TREP, which was originally certified in August 2014.

B. BIOLOGICAL RESOURCES

Policy 5.5.1 of the NCC PWP/TREP states:

Development of NCC transportation facility and community enhancement projects shall be sited and designed to ensure that ESHAs are protected against any significant disruption of habitat values. Development in areas adjacent to ESHAs shall be sited and designed to prevent impacts that would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Design/Development Strategies of the NCC PWP/TREP include:

6. Mitigation measures for sensitive wildlife species may include, but not be limited to, preconstruction focused surveys, construction monitoring, and the restoration of suitable breeding and foraging habitat as established in the REMP. Prior to construction, focused surveys would be conducted for sensitive wildlife species, with locations of sensitive wildlife species observed mapped on construction drawings. Vegetation clearing prior to onset of construction impacts may be implemented to minimize the wildlife use of areas slated for construction, and thereby minimize indirect and direct impacts to wildlife species. The clearing and grubbing of native wetland, riparian, and/or upland habitats would occur outside of the breeding seasons for nesting birds to avoid impacts to sensitive species. All native or sensitive habitats outside and adjacent to the permanent and temporary construction limits would be temporarily fenced during construction with orange plastic snow fence, orange silt fencing, or in areas of flowing water, with stakes and flagging. No personnel, equipment or debris would be allowed within these areas. Temporary construction fencing and markers would be maintained in good repair until the completion of each phase of project construction and removed upon completion of each project phase.

Implementation Measures of the NCC PWP/TREP state:

Implementation Measure 5.5.1: The following conservation measures shall be implemented during construction for all new transportation improvements and associated community and resource enhancements to minimize impacts to sensitive communities as identified in Figure 5.5-1A through Figure 5.5-6B: [...]

- *Cut slopes would be revegetated with native upland habitats with similar composition to those within the project limits. Fill slopes and areas adjacent to wetlands and drainages would be revegetated with appropriate native upland and wetland species. The revegetated areas would have temporary irrigation and be planted with native container plants and seeds selected by the biologist. There would be at least three years of plant establishment/maintenance on these slopes to control invasive weeds and ensure that the plants become established, and review of these revegetation efforts would be included in the REMP reports submitted to the Coastal Commission. Success criteria for plant establishment would be included in any revegetation plan submitted for cut slopes and areas of temporary impacts. Bioswales and detention basins would be planted with appropriate native species as determined by the biologist and storm water personnel.*
- *Landscaping plans shall include only species native to southern California such that the proposed planted areas will be compatible with surrounding natural and manmade areas. No plant species listed as problematic or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property.*

[...]

Implementation Measure 5.5.4: To minimize impacts to nesting migratory bird species, all native vegetation and non-native shrubs and trees within the impact areas shall be removed outside of the breeding season (February 15 to September 15), if possible. Otherwise, a qualified biologist shall thoroughly survey all vegetation prior to removal to ensure there are no nesting birds on-site. If nesting birds are identified on-site, vegetation removal shall be delayed and an appropriate buffer established, until the chicks have fledged or the nest has failed.

Section 6B.2.3.1 (Temporary Impacts) of the NCC PWP/TREP states:

Compensatory mitigation for these long-term temporary impacts to uplands would include either revegetation with native species of other nonnative habitat temporary impact areas (at a 1:1 ratio of replacement to impacts) or the

preservation of high-quality native habitat under the threat of development (a 2:1 ratio of preservation to impacts).

The proposed 12 geotechnical borings and associated vehicular access would be located in the Cities of Solana Beach and Encinitas. The project would be on the slopes north and south of San Elijo Lagoon, which is a significant sensitive coastal resource that is required to receive comprehensive lagoon restoration efforts under the NCC PWP/TREP Implementation and Phasing Plan. The NCC PWP/TREP anticipates that the subject borings and vehicular access would be a part of the proposed I-5 expansion and San Elijo Lagoon Bridge Replacement, found in the Initial Phase (2010-2020) of the NCC PWP/TREP.

Although the 12 geotechnical boring sites will have a relatively small footprint, each having a diameter of 18 inches with depths ranging from 8 ft. to 32 ft., the associated 10 ft. wide vehicular access has a potential to impact environmentally sensitive habitat areas (ESHA). The proposed borings and vehicular access will be located in areas with disturbed coastal sage scrub, disturbed habitat, or nonnative grassland (Exhibit #5). Specifically, the project will temporarily impact approximately 0.45 acres of disturbed coastal sage scrub due to the boring sites and vegetation removal for access roads. Although these roads can be stabilized and seeded after completion, Caltrans anticipates that construction of the I-5 improvements listed in the NCC PWP/TREP, which include bridge improvements and associated retaining walls to accommodate widening of I-5, will begin less than 12 months after the borings are complete. Caltrans has indicated that the project will be performed within the proposed Phase 1/Stage 1 grading limits within Caltrans ROW and outside of ESHA areas, and any vegetation removed during access and sampling will be disposed of off-site. After all construction activities are complete, construction access paths beyond the grading limits shall be ripped to a depth of 12 inches and hydroseeded with a southern California native seed mix.

Section 30240 of the Coastal Act strongly protects biological resources adjacent to and within ESHA, and the Commission typically requires mitigation for any adverse impacts to sensitive habitats, and the NCC PWP/TREP also includes development strategies and implementation measures that further extend this protection. Therefore, Caltrans is proposing to mitigate these temporary impacts with 2:1 preservation at the recently purchased La Costa Mitigation Site, which is also consistent with Section 6B.2.3.1 (Temporary Impacts) in the NCC PWP/TREP Resource Enhancement and Mitigation Program (REMP) (Exhibit #6). Since the La Costa Mitigation Site is strictly a preservation mitigation site, Section 6B.6 (Habitat Mitigation and Monitoring Plans) in the REMP requires the development of a Long-Term Management Plan (LTMP) that identifies the ecological priorities for the preservation area and includes a plan for management activities at the site going forward. In order to be consistent with the NCC PWP/TREP, **Special Condition #1** requires submission, review, and approval of a LTMP before proposed construction begins since a LTMP for the La Costa Mitigation Site has yet to be completed and was not included in the application submittal.

In addition, Caltrans conducted gnatcatcher observation surveys in the spring of 2015 and found that no California gnatcatchers were observed within the proposed project's vicinity. However, Caltrans has stated that all vegetation clearing will be completed between September 1 and February 14 to avoid the migratory bird and California gnatcatcher breeding season, which is consistent with Policy 5.5.3.3 (PWP/TREP Design/Development Strategies) sub-section 6 in the NCC PWP/TREP.

As conditioned, the project will mitigate for adverse impacts on sensitive habitats as required through the NCC PWP/TREP. Therefore, the Commission finds that only as conditioned and described above, can the proposed project be found consistent with Chapter 3 of the Coastal Act and the policies of the NCC PWP/TREP, which requires the protection, and where feasible, enhancement of biological resources.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to Public Resources Code Section 21067 and Sections 15050 and 15051 of Title 14 of the California Code of Regulations, Caltrans is the lead agency for CEQA purposes, as it is the public agency with principal responsibility for carrying out the I-5 related improvements and the larger NCC PWP/TREP. As the lead agency under CEQA, Caltrans certified a Final Environmental Impact Report addressing the subject plan in October 2013. Caltrans is also the state-designated lead agency under CEQA for the rail component of the plan and released the LOSSAN FINAL Program EIR/EIS in September 2007, with the Record of Decision issued on March 18, 2009.

Pursuant to Section 21080.9 of the California Environmental Quality Act ("CEQA"), the Coastal Commission is the lead agency responsible for reviewing Public Works Plans (PWP) and Notices of Impending Development for compliance with CEQA. In addition, Section 13096 of the Commission's administrative regulations requires Commission approval of a Notice of Impending Development to be supported by a finding showing the work, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). The Secretary of Resources Agency has determined that the Commission's program of reviewing and certifying PWPs and subsequent NOIDs qualifies for certification under Section 21080.5 of CEQA.

Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. As proposed, there are no feasible alternatives or mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activities may have on the environment. Therefore, the Commission finds that the Notice of Impending Development, as conditioned, is

consistent with CEQA Section 21080.5(d)(2)(A), as well as the applicable provisions of the Public Works Plan.



**Subject
Site**



EXHIBIT NO. 1

APPLICATION NO.

NCC-NOID-0004-15

Vicinity Map




California Coastal Commission



**Subject
Site**



EXHIBIT NO. 2
APPLICATION NO.
NCC-NOID-0004-15
Aerial View
 California Coastal Commission

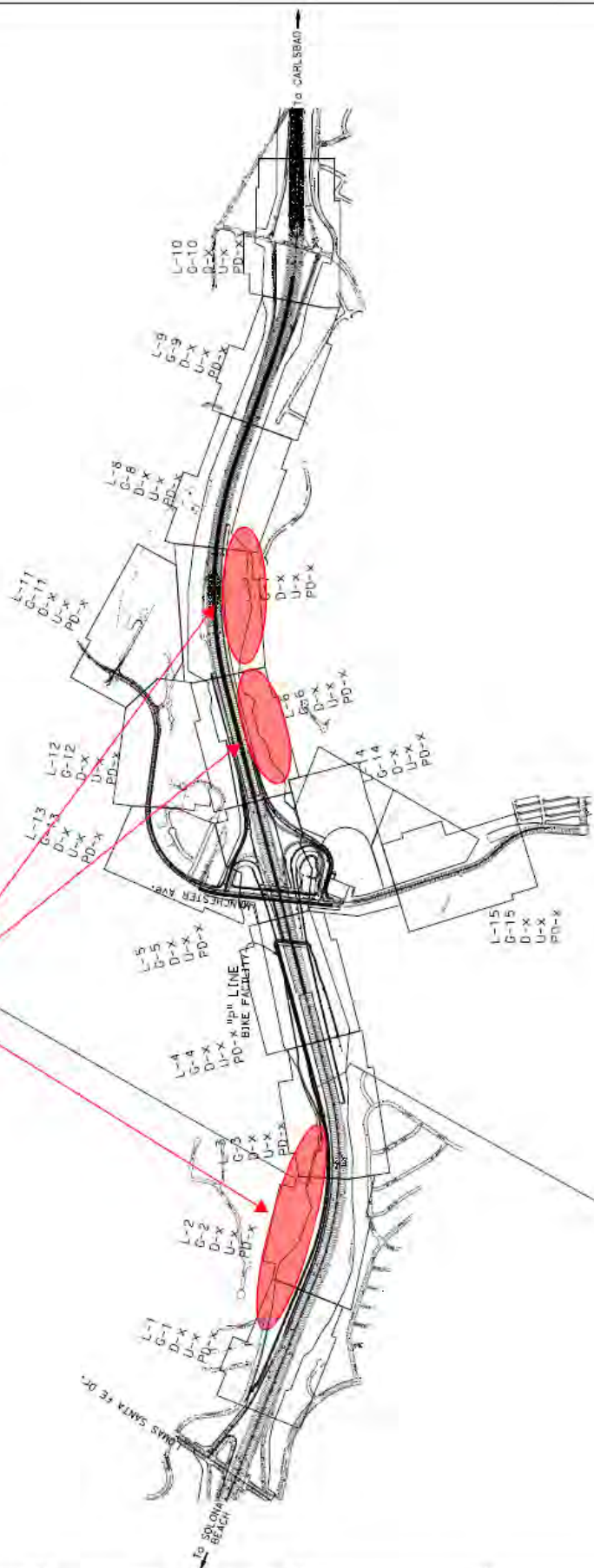
Dist	County	ROUTE	DATE	TOTAL SHEETS	SHEET NO.

REGISTERED CIVIL ENGINEER DATE

PLANS APPROVAL DATE

IN THE STATE OF CALIFORNIA BY ITS OFFICE
FOR ARCHITECTS, ENGINEERS AND SURVEYORS
COUNTY OF SAN DIEGO SHEET 11

General Proposed Soil
Sample Areas



KEY MAP AND LINE INDEX
NO SCALE

K-1

EXHIBIT NO. 3

APPLICATION NO.
NCC-NOID-0004-15

Site Plan

California Coastal Commission

DESIGNED BY	CHECKED BY	FUNCTIONAL SUPERVISOR	DEPARTMENT OF TRANSPORTATION
DATE REVISOR			

DATE PLOTTED 11/08/2015
FILE PLOTTED 11/08/2015

PROJECT NUMBER & PHASE	UNIT 0000	RELATIVE HORIZONTAL SCALE 1" = 100'	UNIT 0000	PROJECT NUMBER & PHASE

Potential Access to Proposed Soil Sampling Location #1



Bench

Access

Northbound I-5

	Access
	R/W (Approximate)
	Sample Location
	Grading/Impact Area



EXHIBIT NO. 4
APPLICATION NO.
NCC-NOID-0004-15
Boring Locations/ Vehicular Access
California Coastal Commission

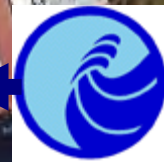
Potential Access to Proposed Soil Sampling Location #2



Bench

Access

Northbound I-5



Potential Access to Proposed Soil Sampling Location #3



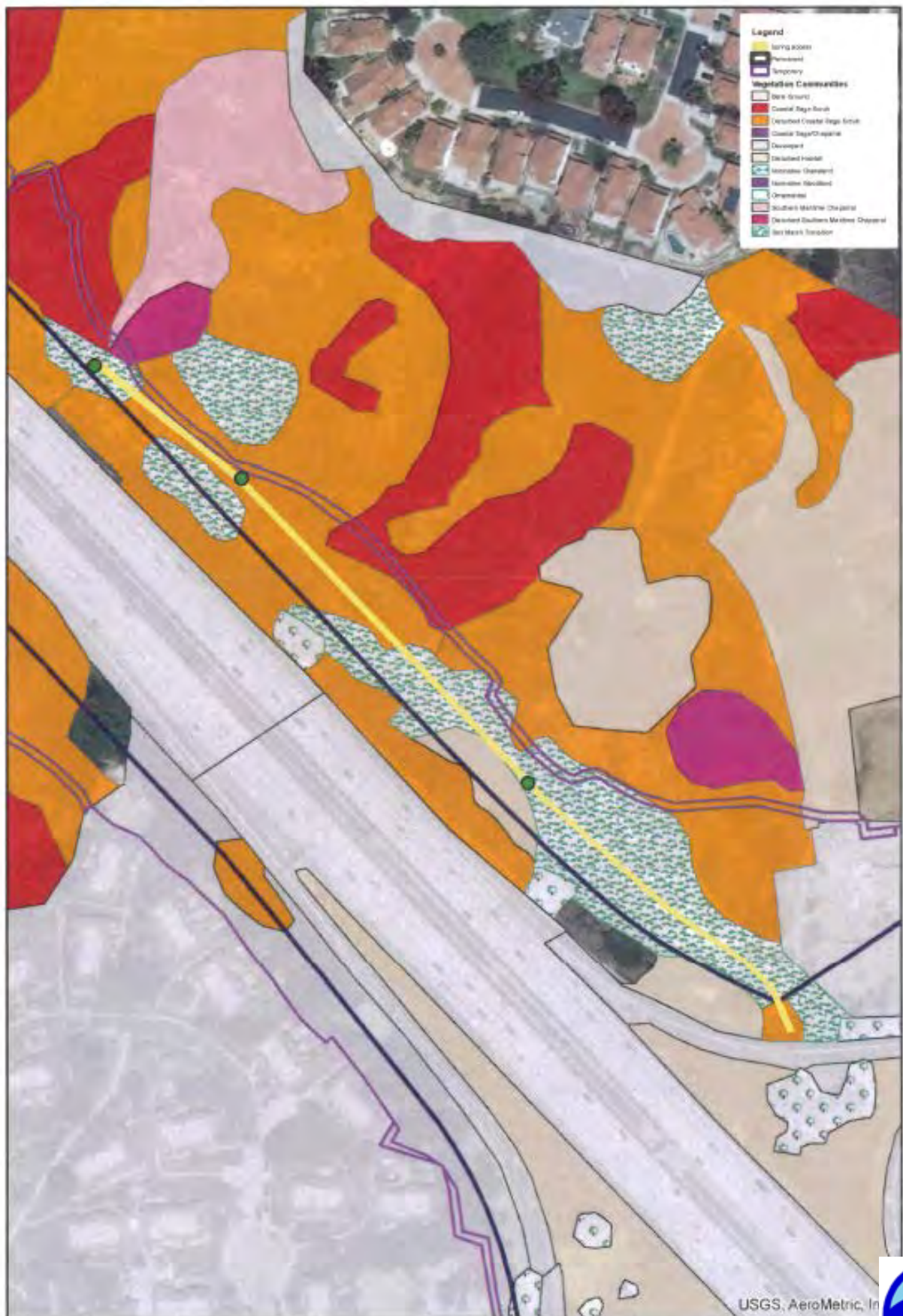


Figure 2. Vegetation Communities with Permanent and Temporary Impacts and boring access and locations at San Elijo Lagoon I-5 North Coast Corridor



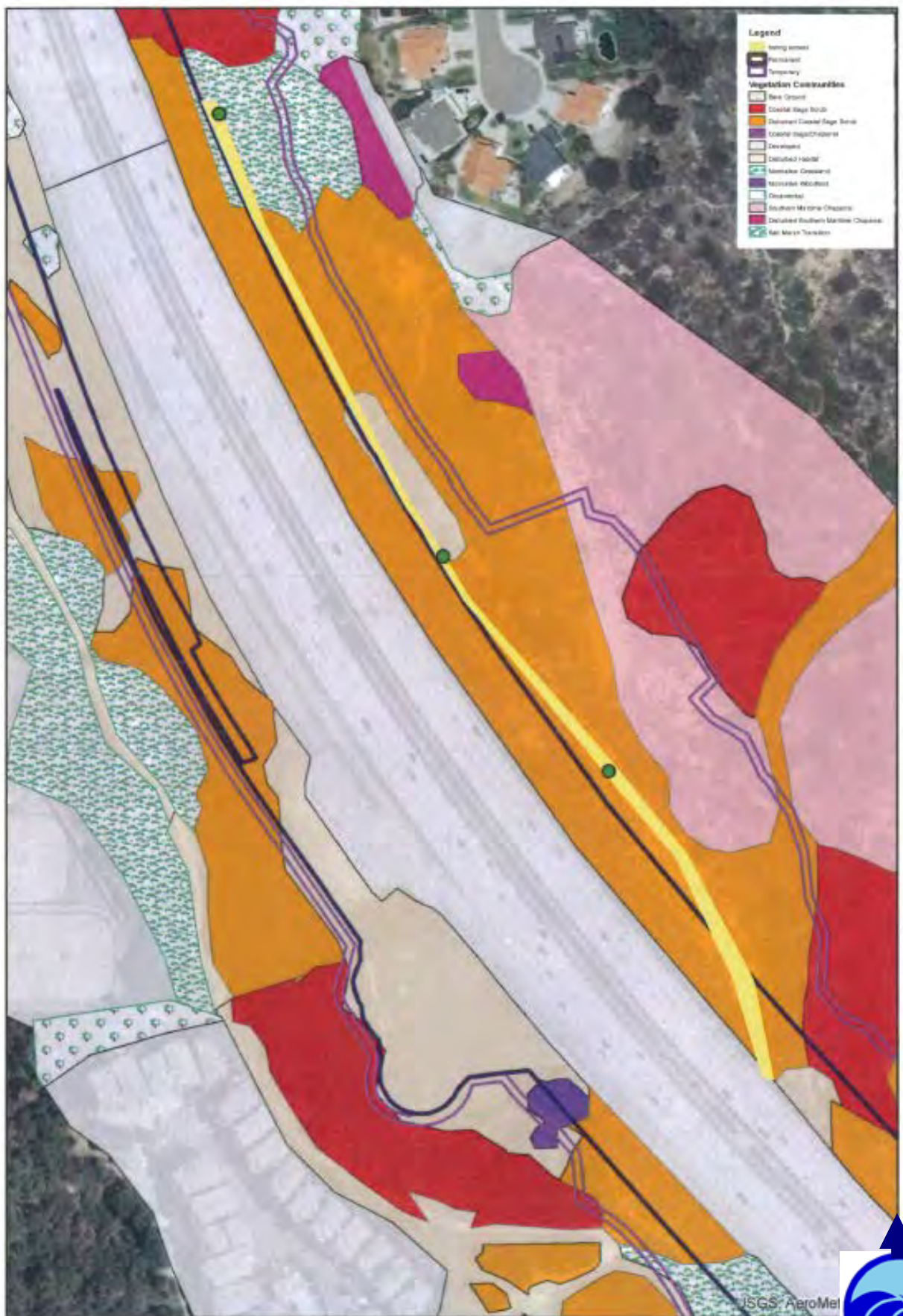


Figure 3. Vegetation Communities with Permanent and Temporary Impacts and boring access and locations at San Elijo Lagoon I-5 North Coast Corridor



Sensitive Upland Impacts and Mitigation Releases.

Site	Acreage	Complete construction	HMMP final	Site Protection	LTMP	Fund Endowment	Credit Release 1	Credit Release 2	Credit Release 3	Credit Release 4	Credit Release 5	Final Release	Total
Upland							15%	15%	10%	10%	25%	25%	
Hallmark West							Jan-16	Jan-16	Dec-16	Dec-17	Dec-19	Dec-20	Total
Re-establishment	1.14	Jan-16	Oct-14	Sep-15	Sep-15	Jan-16	0.17	0.17	0.11	0.11	0.29	0.29	1.14
Restoration	1.74	Jan-16	Oct-14	Sep-15	Sep-15	Jan-16	0.26	0.26	0.17	0.17	0.44	0.44	1.74
Enhancement	3.06	Jan-16	Oct-14	Sep-15	Sep-15	Jan-16	0.46	0.46	0.31	0.31	0.77	0.77	3.06
Preservation	0.9	Jan-16	Oct-14	Sep-15	Sep-15	Jan-16	0.90						

Hallmark East				Release Date			Jan-16	Jan-16	Dec-16	Dec-17	Dec-19	Dec-20	Total
Re-establishment	0.9	May-15	Oct-14	Sep-15	Sep-15	Jan-16	0.14	0.14	0.09	0.09	0.23	0.23	0.90
Restoration	1.54	May-15	Oct-14	Sep-15	Sep-15	Jan-16	0.23	0.23	0.15	0.15	0.39	0.39	1.54
Enhancement	1	May-15	Oct-14	Sep-15	Sep-15	Jan-16	0.15	0.15	0.10	0.10	0.25	0.25	1.00

Dean							Jan-16	Jan-16	Jan-16	Jan-17	Dec-17	Dec-19	
Restoration	20.05	Feb-15	Oct-13	Sep-15	Sep-15	Jan-16	3.01	3.01	2.01	2.01	5.01	5.01	20.05
Preservation	1.45	Feb-15	Oct-13	Sep-15	Sep-15	Jan-16	1.45						

Deer Canyon Upland							Jan-16	Jan-16	Dec-16	Dec-18	Dec-19	Dec-20	Total
Re-establishment	14.5	Oct-15	Oct-14	Sep-15	Sep-15	Sep-15	2.18	2.18	1.45	1.45	3.63	3.63	14.50

San Dieguito W19							Jan-17	Feb-19	Dec-20	Dec-21	Dec-22	Dec-23	Total
CSS	22.3	Oct-18	Jan-17	Jan-17	Jan-17	Jan-17	3.35	3.35	2.23	2.23	5.58	5.58	22.30
Transition	16.5	Oct-18	Jan-17	Jan-17	Jan-17	Jan-17	2.48	2.48	1.65	1.65	4.13	4.13	16.50

La Costa							Jan-16	Mar-16	Jul-16	determine who to transfer to.			
Preservation	19.75	NA	NA	Mar-16	Jan-16	Mar-16	4.94	4.94	9.88				

Laser							Jan-16	Mar-16	Jul-16				
Preservation	4.01	NA	NA	Mar-16	Jan-16	Mar-16	1.00	1.00	2.01				

Batiquitos Bluffs							Jan-16	Mar-16	Jun-16	Dec-18	Dec-19	Dec-20	Dec-21	Total
Re-establish	3.7	Jun-16	Dec-15	Mar-16	Jan-16	Mar-16	0.00	0.56	0.56	0.37	0.37	0.93	0.93	3.71
Preservation	42.4	Jun-16	Dec-15	Mar-16	Jan-16	Mar-16	10.60	10.60	21.20					42.40

		Jan-16	Dec-16	Jan-17	Dec-17	Dec-18	Feb-19	Dec-19	Dec-20	Dec-21	Dec-22	Dec-23
Reestablishment acreage available		4.96	2.21	5.82	0.20	1.82	5.82	4.51	8.94	4.81	9.70	9.70
Restoration		9.00	0.33	2.01	5.34			5.83	0.82			
Total		13.97	2.54	7.83	5.54	1.82	5.82	10.34	9.76	4.81	9.70	9.70
Enhancement		1.22	0.41		0.41			1.02	1.02			
Preservation		18.89	49.62									

Sensitive Upland Impacts and Mitigation Releases.

Permanent Impacts

Permanent Impacts	Acreage	Begin Construction	New Credits Available	Credits available	After debit
I-5 San Elijo Geotechnical borings	0	Jan-16	13.97	13.97	13.97
Unit 1. San Elijo	6.62	Sep-16	0.00	13.97	7.35
San Elijo Lagoon Double Track	2.1	Sep-16	0.00	7.35	5.25

Temporary Impacts

Temporary Impacts	Acreage w/ 2:1 ratio included	Begin Construction	New Credits Available	Credits available	After debit
I-5 San Elijo Geotechnical borings	0.9	Jan-16	18.89	18.89	17.99
Unit 1. San Elijo	17.14	Sep-16	0.00	18.89	0.85
San Elijo Lagoon Double Track	0	Sep-16	0.00	0.85	0.85

EXHIBIT NO. 6

APPLICATION NO.

NCC-NOID-0004-15

Upland Impacts and Mitigation Releases

 California Coastal Commission