

CALIFORNIA COASTAL COMMISSION

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Staff Report: 12/20/02
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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-01-149

Applicant: Caltrans

Agent: Bruce April

Description: Construction of repairs to stabilize the existing I-5 freeway bridge piers within San Mateo Creek to include the placement of 44, 30-inch diameter piles around Pier Nos. 2, 3 and 4 as an enlarged concrete footing, as follow up to an emergency permit (6-01-149-G). Also proposed is after the fact authorization for on-and off site mitigation for impacts to wetlands.

Site: Interstate 5 bridge (north and southbound) over San Mateo Creek approximately 500 yards south of the Orange County line, San Onofre vicinity, San Diego County

Substantive File Documents: Proposed Wetland Mitigation for San Mateo Creek Bridge Repairs: Final Mitigation Plan; California Department of Fish and Game: SAA R5-2001-0285; Regional Water Quality Control Board: File No. 01C-116; United States Army Corps of Engineers: Permit No. 200101477-SAD; National Marine Fisheries Service: Letter of Concurrence; United States Fish and Wildlife Service: Biological Opinion (pending); Emergency Permit No. 6-01-149-G

STAFF NOTES:

In August 2001, a routine Caltrans inspection of the Interstate 5 bridge over San Mateo Creek revealed that scour around the footings made the facility vulnerable to damage in the event anything larger than a ten-year flood storm event occurred. The bridges were determined "scour critical" by Caltrans officials and confirmed as such by the Federal Highway Administration (FHWA). They found the structures were also vulnerable to seismic loading and in danger of being closed if further degradation occurred causing the bridges to be considered unsafe for the traveling public. It was also determined that by undertaking an emergency repair before the bridge was further damaged, measures could be implemented that would avoid and minimize adverse effects to listed species and

critical habitats within the project area. On November 21, 2001 the Executive Director issued an emergency permit (CDP #6-01-149-G). This emergency work included activities which resulted in wetland and riparian impacts and potentially may have affected the federally listed arroyo toad, least bell's vireo and tidewater goby.

Summary of Staff's Preliminary Recommendation:

Staff is recommending approval of the permit with special conditions. Based on the above, staff recommends the Commission find the proposed development consistent with Coastal Act policies as all impacts to sensitive resources, as conditioned, have been adequately mitigated. The project raises a number of significant issues that include impacts to wetlands, water quality and public access. The applicant has documented that impacts to wetland have been mitigated to the maximum extent feasible and has proposed mitigation for all impacts both on site and off-site in a location outside the coastal zone. The Commission staff biologist has reviewed the project and found the mitigation satisfactory. Relative to public access, the project includes closing off an "illegal trail" used by the public to access the nearby beach. The applicant has fenced off the slopes adjacent to the bridge abutment and has instead proposed alternative access and signage for the public to access the beach in a safe and sensitive manner.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-01-149 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a YES vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Conformance with Final Wetland Mitigation Program. The applicant shall comply with the "Proposed Wetland Mitigation for San Mateo Creek Bridge Repairs: Final Mitigation Plan," prepared by Darlene F. Alcorn and Sue R. Scatolini, District Biologists Department of Transportation-- District 11, dated July 9, 2002.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Other Permits. WITHIN 30 DAYS OF COMMISSION APPROVAL OF THIS PERMIT APPLICATION, the permittee shall provide to the Executive Director copies of all other required state or federal discretionary permits for the development authorized by CDP #6-01-149. The applicant shall inform the Executive Director of any changes to the project required by other state or federal agencies. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this permit, unless the Executive Director determines that no amendment is legally required.

3. Public Access Trail Plan. WITHIN 30 DAYS OF COMMISSION APPROVAL OF THIS PERMIT APPLICATION, the applicant shall submit to the Executive Director, for review and written approval, a final public access plan for the proposed public access improvements, approved by the California Department of Parks and Recreation, which shall include, at a minimum, posting signs directing the public to the San Onofre State Beach via the existing improved trail from the San Mateo Campground, creating an entrance in the existing fence along Cristianitos Road and posting signs indicating an access point to the San Onofre State Beach is available, installing a crosswalk across El Camino Real and Cristianitos Road to direct the public from a public parking lot on El Camino Real to a new entrance to the trail and implementing the remaining measures identified in the draft public access plan (Exhibit 5). The plan shall also provide that the improvements shall be constructed within 90 days of the Commission's approval.

The permittee shall undertake development in accordance with the approved public access plan and shall be responsible for the maintenance of the accessway and signage. Any proposed changes to the approved public access plan shall be reported to the Executive Director. No changes to the approved plan shall occur without an amendment

to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Assumption of Risk, Waiver of Liability and Indemnity Agreement

A. By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from erosion; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

B. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

C. WITHIN 30 DAYS OF COMMISSION APPROVAL OF THIS PERMIT APPLICATION, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. **Detailed Project Description/History.** Caltrans is proposing to repair the Interstate 5 north and southbound San Mateo Creek Bridges to reverse the scour due to high stream water velocities that have caused erosion of the streambed and subsequent exposure of the bridge pier footings. Serious erosion has also occurred at all of the piers. To repair the bridges, additional piles are proposed to be constructed at three of the four piers. At Piers #2, 3 and 4, approximately 44, 30-inch diameter cast-in-steel-shell piles

will be driven ten feet into bedrock. The existing footings would be enlarged to accommodate the new piles. The placement of a permanent sheet pile cofferdam to protect the existing piles is proposed at Pier #5, due to the existing creek bed at this location. The application is a follow up to an emergency permit (G-6-01-149) that was issued by the Executive Director on November 21, 2001. The repair work has already been completed.

The project also includes after the fact approval of on-and off-site mitigation for impacts to riparian woodland. The off-site mitigation is located at a site outside the coastal zone. The existing streambed runs northeast to southwest, eventually connecting to the Pacific Ocean west of the bridges. The streambed has a sandy bottom that is vegetated with southern willow scrub dominated by willows, California sycamores, mulefat and cottonwoods. The abutments at both the north and south bridges are devoid of vegetation. The adjacent upland community consists of high quality coastal sage scrub.

Listed species documented in the San Mateo Creek area include the arroyo toad, tidewater goby, southern steelhead trout, southwestern willow flycatcher, coastal California gnatcatcher, and least Bell's vireo. The project site is designated as critical habitat for the arroyo toad, tidewater goby, southern steelhead trout and southwestern willow flycatcher.

To avoid impacts to listed wildlife and critical habitats, the applicant designated all areas outside of the work limits as Environmentally Sensitive Areas (ESAs), including San Mateo Creek. The applicant proposes to permanently repair the bridges rather than perform temporary remedial work and avoid impacting the same listed wildlife and critical habitats a second time.

A draft Biological Assessment (BA) was submitted to the U.S. Fish and Wildlife Service for a Section 7 Consultation on the arroyo toad. Measures to avoid and minimize adverse effects to listed species and critical habitats are outlined in the BA. The BA is currently being revised per a request from the USFWS to include actual construction methods, and effects, since the construction is complete. The applicant has also received permits for Section 401 Water Quality Certification from the Regional Water Quality Control Board Section 404 (Nationwide Permits 3, 25, and 33) from the U.S. Army Corps of Engineers and a Streambed Alteration Agreement with the California Department of Fish & Game (CDFG). As there is no certified local coastal program for the area, Chapter 3 policies of the Coastal Act are the standard of review.

2. Wetland/Marine Resource Protection. Several Coastal Act sections are applicable as follows:

Section 30231

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.

In addition, Section 30233 of the Coastal Act 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:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) 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.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

Section 30236

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

Finally, Section 30240 of the Coastal Act is applicable, and states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The repairs entail fill within San Mateo creek which contains several endangered and sensitive plants and animals. The creek in this location supports several sensitive habitats and the endangered arroyo toad and least Bell's vireo. Thus, the proposed development, located directly within the creek, has the potential to adversely affect this sensitive area. Post-construction permanent impacts total 0.099 acres to riparian wetland and temporary impacts total 1.41 acres to riparian wetland. Under the Coastal Act, disturbance and/or filling of wetlands is severely constrained. Coastal Act Section 30233 prohibits the filling of coastal waters and wetlands except under the eight limited circumstances cited above. In light of the dramatic loss of wetlands (over 90% loss of historic wetlands in California), and their critical function in the ecosystem, the Coastal Act's mandate to preserve such environmentally sensitive habitats is well founded. Coastal Act Sections 30231 and 30240 call for the preservation of environmentally sensitive habitat areas and protection against significant disruption of habitat values. In addition, the project must be the least environmentally damaging alternative and provide feasible mitigation measures to minimize remaining unavoidable adverse environmental effects.

In this particular case, permanent and temporary fill of riparian wetland habitat is proposed to facilitate the repair of damaged freeway bridges. The Commission finds that the dredging and fill repair work is a permitted use within Section 30233 of the Coastal Act. The bridge crossing San Mateo Creek is an essential part of the applicant's operating infrastructure. Caltrans would not be able to provide its standard service without having the bridge supporting its freeway in operation. Additionally, I-5 is a major coastal access route and provides the major vehicular access into San Diego County from the north. Disruption of service on I-5 would have a significant impact on

coastal access. The repair of the bridge's footings will not increase the traffic capacity of I-5. Therefore, the proposed emergency repairs constitute an incidental public service. Thus, the proposed development is a permitted use under Section 30233(a)(5) of the Coastal Act.

Once it has been determined that the proposed project is an allowable use under Section 30233 of the Coastal Act, it must also be determined that no other feasible alternative is available that would avoid or lessen the environmental impacts of the development and that mitigation is provided for all unavoidable impacts. Alternatives to the project, in this particular case, are limited. The no project alternative is not feasible because it would result in the interruption of regional transportation in San Diego County. The bridge repair must occur within San Mateo Creek as the freeway spans the creek. Because the entire area in this location is wetlands, impacts to sensitive habitat cannot be entirely avoided; however, they must be minimized to the extent feasible.

During emergency repairs and subsequent site restoration, coordination occurred between the Commission's staff biologist and the applicant and federal and state agencies, including the U.S. Army Corps of Engineers (ACOE), the U.S. Fish and Wildlife Service (USFWS), and U.S. Marine Corps, Camp Pendleton. Based on the fact that the resource agencies provided direction and confirmation on the type and scope of work performed by the applicant, the Commission finds that unavoidable impacts were minimized to the maximum extent practicable, based on the circumstances. Extraordinary measures the applicant provided to protect the streambed and its habitat included construction of a temporary bridge between piers 3 and 4 to avoid having to continually cross the stream and installing a permanent sheet pile cofferdam to protect pier #5 rather than constructing larger permanent improvements that would permanently impact more habitat. Additionally, the creek bed between piers 2 & 3, and 3 & 4 were lined with rubber mats and covered with wood ties and sand bags to stabilize the streambed during construction.

Once it is determined that all unavoidable impacts have been minimized, mitigation for impacts must be addressed. Historically, the Commission has required mitigation measures to assure there is no net loss in either acreage or habitat value for any displaced wetlands. The Commission's practice has been to require a 3:1 mitigation ratio for disturbance of riparian habitats and 4:1 mitigation ratio for other wetland impacts, such as saltwater marsh. In other words, a mitigation area for the creation of new wetlands must be established that is three/four times the size of the existing riparian/wetland area to be removed as a result of the project. The Commission typically applies mitigation ratios to habitat impacts based on the type of habitat being impacted, the relative permanence of impacts, and the quality of the habitat affected. The Commission is also concerned with the level of protection afforded the mitigation habitat following mitigation.

A mitigation plan is proposed to mitigate the permanent and temporary impacts associated with the emergency repairs. Approximately 1.41 acres of temporary impacts and 0.099 acres of permanent impacts will occur to riparian habitat. Permanent impacts would be mitigated offsite at a 5:1 ratio at the 10.5-acre Marron parcel. The total offsite mitigation required is 1.90 acres. The proposal is to create 2.8 acres and enhance 1.8

acres of riparian habitat. Therefore, the project proposes more than the required mitigation. Additionally, approximately .62 acres of disturbed coastal sage scrub and .86 acres of coastal sage scrub were temporarily impacted by repair work. Approximately .04 acres of disturbed coastal sage scrub is permanently impacted by rock slope protection on the abutments. The temporary impact areas onsite are proposed to be hydroseeded to revegetate with coastal sage scrub species. Due to the low quality and small amount of coastal sage scrub impacted at the bridge site, mitigation is not required at the Marron site. Only revegetation at the bridge site is required. The mitigation plan has been reviewed and found acceptable by the Commission's staff biologist.

The Marron parcel is outside the coastal zone but within a watershed that drains into the coastal zone. It is adjacent to an existing Caltrans mitigation site (Feck parcel) to the west, the San Luis Rey River to the north, and State Route 76 (SR-76) to the south. It is within critical habitat of the arroyo toad and least Bell's vireo. The riparian mitigation area is adjacent to the low flow channel of the San Luis Rey River and is designed to flood during high flows. The proposed project will also improve habitat in this important east/west wildlife corridor. Although nearby Camp Pendleton contains several possible mitigation sites, the Marine Corps prefers to use its property for its own mitigation projects and would not grant authorization for mitigation within the base property. As such, the applicant chose another location. The site is next to the San Luis Rey River and was chosen because it is owned by Caltrans and would provide suitable habitat for the arroyo toad.

Special Condition #1 requires the applicant to comply with the provisions of the mitigation plan. Thus, permanent impacts to 0.099 acres of riparian wetland shall be mitigated offsite at the Marron Parcel by the creation of riparian wetland at a 5:1 ratio (0.495 acres). Temporary impacts to 1.41 acres of riparian wetland shall be mitigated by a combination of revegetation onsite and 1:1 restoration/creation offsite. The total offsite mitigation required is 1.90 acres (1.41 acres + .49 acres).

The required mitigation plan also provides a final monitoring program. It provides that cover criterion shall follow the canopy coverage for least Bell's vireo nesting habitat developed by Barbara Kus, and occupied least Bell's vireo habitat along the San Luis Rey River. Ten transects across the width of the site and/or stacked cubes along the 10 transects must be utilized. Average cover and standard deviation must be calculated. Vegetation cover shall be monitored until year 5 or buyoff, and annual monitoring reports thereafter to year 10. Reports will consist of photographs and a statement. If the final report indicates that the mitigation project has been unsuccessful, in part, or in whole, based on the approved performance standards, the applicant shall submit a revised or supplemental mitigation program to compensate for those portions of the original program which did not meet the approved performance standards.

Proposed maintenance of the mitigation site consists of weed and exotic plant control, plant replacement, control of vandalism, and incidental activities as necessary to ensure proper site conditions are maintained. No installed irrigation system is proposed for the site in that it is anticipated that the river environment is adequate to obtain the target

habitat development without the need for formalized supplemental irrigation. Hand watering will be done on short duration if it is deemed by the project biologist to be warranted. Maintenance will be carried out over a five-year period following completion of all planting activities. This period may be shortened to no less than three years if all success milestones and criteria are met (i.e., 90% vegetative cover, average canopy exceeds 6 ft., willows exceed 9 ft.) and the site has been free of significant maintenance needs.

Plant survival and growth shall be sustained for at least 2 consecutive dry seasons without irrigation or human intervention to meet success criteria for self-sufficiency. Annual reports shall be submitted until success criteria are met. For five years after success criteria is met, aerial photography and an annual walk through shall be completed to ensure site conditions have not changed appreciably

The monitoring program will incorporate the use of fixed transects to determine the total plant cover within each planting zone, as well as the percent cover of each species present, and the percent survival of container revegetation materials utilized in the restoration program. In addition to transect monitoring, a general overview of the site will be made in order to assess overall compliance with success criteria, species richness of the site, and areas requiring special modifications to the maintenance program. Ten transects of 30 meters shall extend across the site. The stacked cube method shall be used to sample vegetation every 10 meters. This shall result in a sample size of 30.

The above progress milestones have been established in order to guarantee a follow-through to the ultimate achievement of a viable restoration project. Each milestone is accompanied by the maintenance required if the project fails to reach the ultimate goals. Within two months following each monitoring period, a report detailing the results of the monitoring and prescribed remedial maintenance to be performed will be completed. The results will be provided to the Coastal Commission, Environmental Protection Agency, Army Corps of Engineers, USFWS, California Department of Fish and Game, California State Parks, and Camp Pendleton for review and general status information. As noted, the Commission's biologist has reviewed the proposal and concurs that the mitigation plan, including maintenance and monitoring components, is acceptable such that impacts associated with the bridge repairs will be adequately mitigated.

Special Condition #2 provides that several other discretionary permits required by various state and federal agencies having jurisdiction over the project must be submitted. Should any project modifications be required as a result of other permits, the applicant is further advised that an amendment to this permit may be necessary to incorporate said mitigation/changes into the project.

Special Condition #4 provides that the applicant shall submit a signed document which shall indemnify and hold harmless the California Coastal Commission, its officers, agents and employees against any and all claims, demands, damages, costs, expenses of liability arising out of the acquisition, design, construction, operation, maintenance, existence, or failure of the permitted project.

The project does involve repair and expansion of piers in San Mateo Creek. The work performed by Caltrans, however, does not constitute a substantial alteration of the creek and is therefore consistent with Section 30236.

In summary, the proposed unavoidable impacts to wetlands have been found to be an allowable use within a wetland and the mitigation of impacts to sensitive plant and animals have been found acceptable under the Coastal Act. In addition, based on the above considerations, all unavoidable impacts to sensitive habitats have been minimized and mitigated to the maximum extent feasible. Therefore, the Commission finds the proposed development, as conditioned, is consistent with Sections 30230, 30231, 30233 and 30240 of the Coastal Act.

3. Public Access/Coastal Act Consistency. Many policies of the Coastal Act address the provision, protection and enhancement of public access to and along the shoreline, in particular, Sections 30210, 30211, 30212 and 30223. These policies address maintaining the public's ability to reach and enjoy the water, preventing overcrowding by providing adequate recreational area, and protecting suitable upland recreational sites.

Section 30210 of the Coastal Act states:

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

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, [or]

(2) adequate access exists nearby....

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

As noted, the applicant recently completed repairs to the Interstate 5 (I-5) northbound and southbound bridges crossing San Mateo Creek. The applicant also permanently closed off an approx. ¼ mile long dirt trail that leads from nearby Cristianitos Rd. to and under the bridges and eventually to an improved California State Parks walking/bike trail that connects the San Mateo Campground (east of the project area) to San Onofre State Beach. Within the applicant's right-of-way back, the unauthorized trail is regularly used by the public, primarily surfers, to get to the walking/bike trail. The preferred way to get to the trail from Cristianitos Rd. is to walk west over I-5 then meet the trail on the west side of I-5. According to the applicant, the unauthorized trail was eliminated because it is hazardous (it crosses a steep slope under the bridges on the north bank of the creek; also visitors walk down the freeway off-ramp). This slope was also revegetated as part of the project to control erosion. To discourage public access to the unauthorized trail, the applicant installed fences and signs ("No Trespassing", "No Access to Beach") near Cristianitos Road and the project site. However, these measures were ineffective in keeping the public from using the trail.

In response to concerns regarding blocking public access to the beach, the applicant contacted California State Parks to discuss what could be done to direct the public to the walking/bike trail. A plan was developed that would provide alternative access. The plan includes measures to permanently close the unauthorized trail and directs the public through fencing, a crosswalk, vegetation and signage to access the walking/bike trail at two locations east and west of the unauthorized trail (exhibit 5). Specifically, the plan proposes posting signs directing the public to the San Onofre State Beach via the existing improved trail from the San Mateo Campground and over the bridge, creating an entrance in the existing fence along Cristianitos Road and posting signs indicating an access point to the San Onofre State Beach is available, installing a crosswalk across El Camino Real and Cristianitos Road to direct the public from a public parking lot on El Camino Real to a new entrance to the trail and implementing the remaining measures identified in the draft public access plan.

The Commission notes the closed trail is on Caltrans right of way and is unauthorized. The subject trail is dangerous and has adversely affected erosion control efforts under the bridges. However, in this case, based on the applicant's plan to provide alternative access, the Commission finds that adequate access exists nearby that will be enhanced if implemented as proposed. Special Condition #3 addresses the applicant's trail proposal and requires implementation of the plan within 90 days. As conditioned, access opportunities would not be adversely affected. As such, the Commission finds the project is consistent with the above access policies of the Coastal Act.

4. Unpermitted Development. Emergency CDP #6-01-149-G identified the project was to be completed by 3/20/02 and that if a regular coastal development permit

was not approved by that date, a permit to have the emergency work removed was required within 150 days of issuance of the emergency permit--in this case by April 20, 2002. The project failed to meet the April 20, 2002 deadline as the pending regular permit application # 6-00-149 was deemed incomplete until 9/11/02. The applicant, however, has already commenced restoration work that is beyond the scope of the emergency permit. Therefore, unpermitted development occurred on site without the required coastal development permit.

Although development has taken place without the benefit of a coastal development permit, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred, nor does it constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit.

5. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, as conditioned, such a finding can be made.

The subject site is within the County of San Diego jurisdiction. While the LCP is not presently certified, the Commission will continue to utilize the San Diego County LCP documents for guidance in its review of development proposals until such time as the Commission certifies a LCP for the County. The special conditions proposed above would provide the type of protection the Commission has previously required for proposals that impact sensitive coastal resources. In the case of the proposed development, impacts to sensitive coastal resources will be mitigated. Based on the above discussion, the Commission finds that the proposed development, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act and no adverse impacts to coastal resources are anticipated.

6. California Environmental Quality Act (CEQA) Consistency. Section 13096 of the Commission's administrative regulations requires Commission approval of a Coastal Development Permit to be supported by a finding showing the permit, as conditioned, is consistent with any applicable requirements of the California Environmental Quality Act (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 effects which the activity may have on the environment.

As discussed herein, all proposed impacts to facilitate repair and maintenance of the I-5 bridges are unavoidable and the applicant has proposed mitigation for all impacts, both permanent and temporary. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging

feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

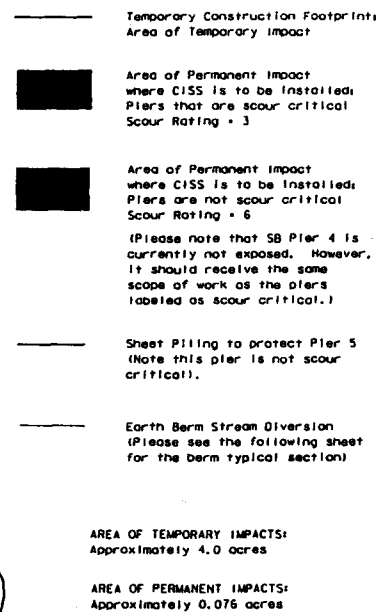
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



FIGURE 2

SAN MATEO CREEK BRIDGE VICINITY MAP

A circular professional seal for a Registered Professional Engineer in the State of California. The seal features the text "REGISTERED PROFESSIONAL ENGINEER" around the top and "STATE OF CALIFORNIA" around the bottom. In the center, it says "CIVIL" and "No. 10000".



CONSTRUCTION FOOTPRINT
ALTERNATIVE *W6a*
SAN MATEO CREEK BRIDGE
No Scale

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      DGN FILE  -> REQUEST

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EA 000000

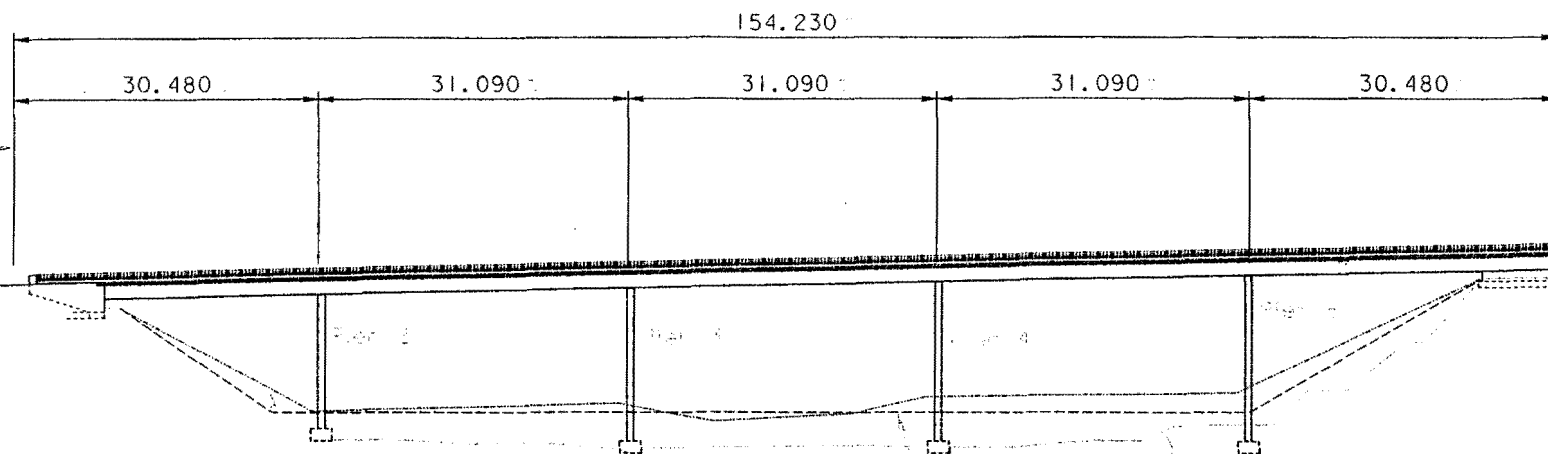
California Coastal Commission

DIST	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET NO.	TOTAL SHEETS
------	--------	-------	-----------------------------	-----------	--------------

REGISTERED CIVIL ENGINEER

PLANS APPROVAL DATE

The State of California or its officers or agents shall not be responsible for the accuracy or completeness of electronic copies of this plan sheet.


 Approximate
existing
ground (1966)

 Approximate
existing
ground (1976)

 Approximate
existing
ground (2001)

Approximate existing ground (1966)

Approximate existing ground (1976)

Approximate existing ground (2001)

LOCATION	CREEK ELEV (m) AT PIERS ACCORDING TO YEAR			PIER CONDITION
	1966	1976	2001	
PIER 2	3.96	3.96	1.5	SCOUR CRITICAL
PIER 3	5.18	3.96	0.91	SCOUR CRITICAL
PIER 4	6.40	3.96	0.91	SCOUR CRITICAL
PIER 5	7.01	3.96	6.10	NOT SCOUR CRITICAL

 HISTORY OF CREEK
ELEVATION
SAN MATEO CREEK BRIDGE

 FOR REDUCED PLANS ORIGINAL
SCALE IS IN INCHES

0 1 2 3

 USERNAME -> NUSER
DON FILE -> WRCR01ST

CU 00000

EA 000000

 REVISED BY
DATE

 CALCULATED/
DESIGNED BY
CHECKED BY

PROJECT ENGINEER

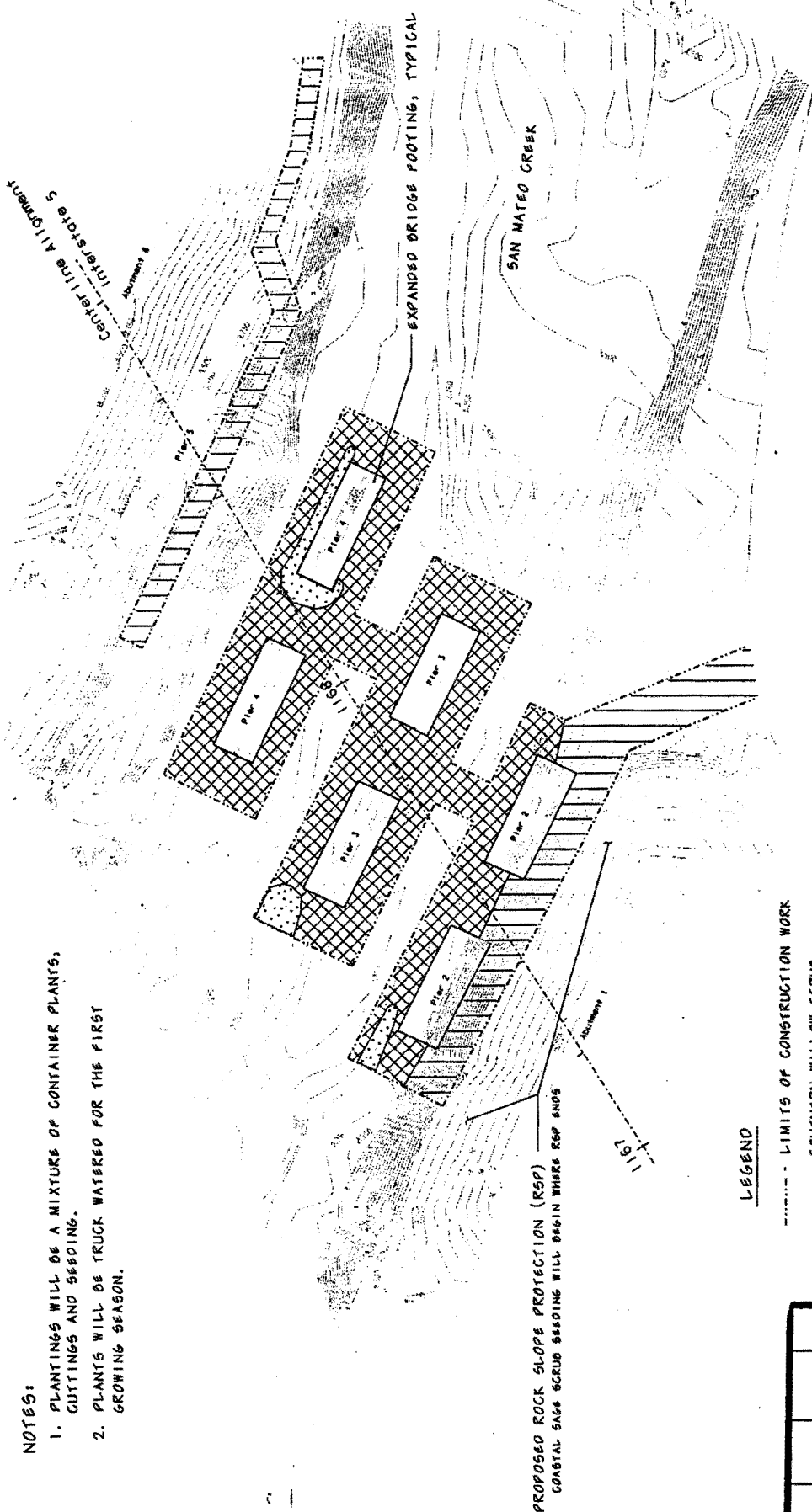
PARTMENT OF TRANSPORTATION

 EXHIBIT NO. 3
APPLICATION NO.
6-01-149
Cross-Section
Page 1 of 1
California Coastal Commission

 DATE: 03/11/04 TIME: 00:00:00
FILE: 03/11/04 TIME: 00:00:00
PRINTED BY:

NOTES:

1. PLANTINGS WILL BE A MIXTURE OF CONTAINER PLANTS, CUTTINGS AND SEEDING.
2. PLANTS WILL BE TRUCK WATERED FOR THE FIRST GROWING SEASON.



LEGEND

--- LIMITS OF CONSTRUCTION WORK

- SOUTHERN WILLOW SCRUB
- SALIX LASIOLEPIS, SALIX EXIGUA, SALIX LAEVIGATA, SALIX GOODINGII, PLATANUS RACEMOSA, BACCHARIS SALICIFOLIA AND NATIVE SEED
- OREGON COASTAL SAGE SCRUB
- ARTEMISIA CALIFORNICA, ERIGONUM FASCICULATUM, BACCHARIS PILULARIS, ISOMERIS ARDREA, RHUS INTEGRIFOLIA, HETEROMELAS AROUTIFOLIA AND NATIVE GRASSES
- FRESHWATER MARSH
- TYPHA LATIFOLIA, ELEOCHARIS SPECIES AND EQUISETUM HYEMALE

San Mateo Creek Bridge

CONCEPT REVEGETATION PLAN FIGURE 2-

EXHIBIT NO. 4
APPLICATION NO.
6-01-149
Bridge Reveg. Plan
California Coastal Commission

Department of Transportation, District 11
San Mateo Creek Bridge Retrofit Project
EA 251300, 11-SD-5, PM 71.9
December 2001

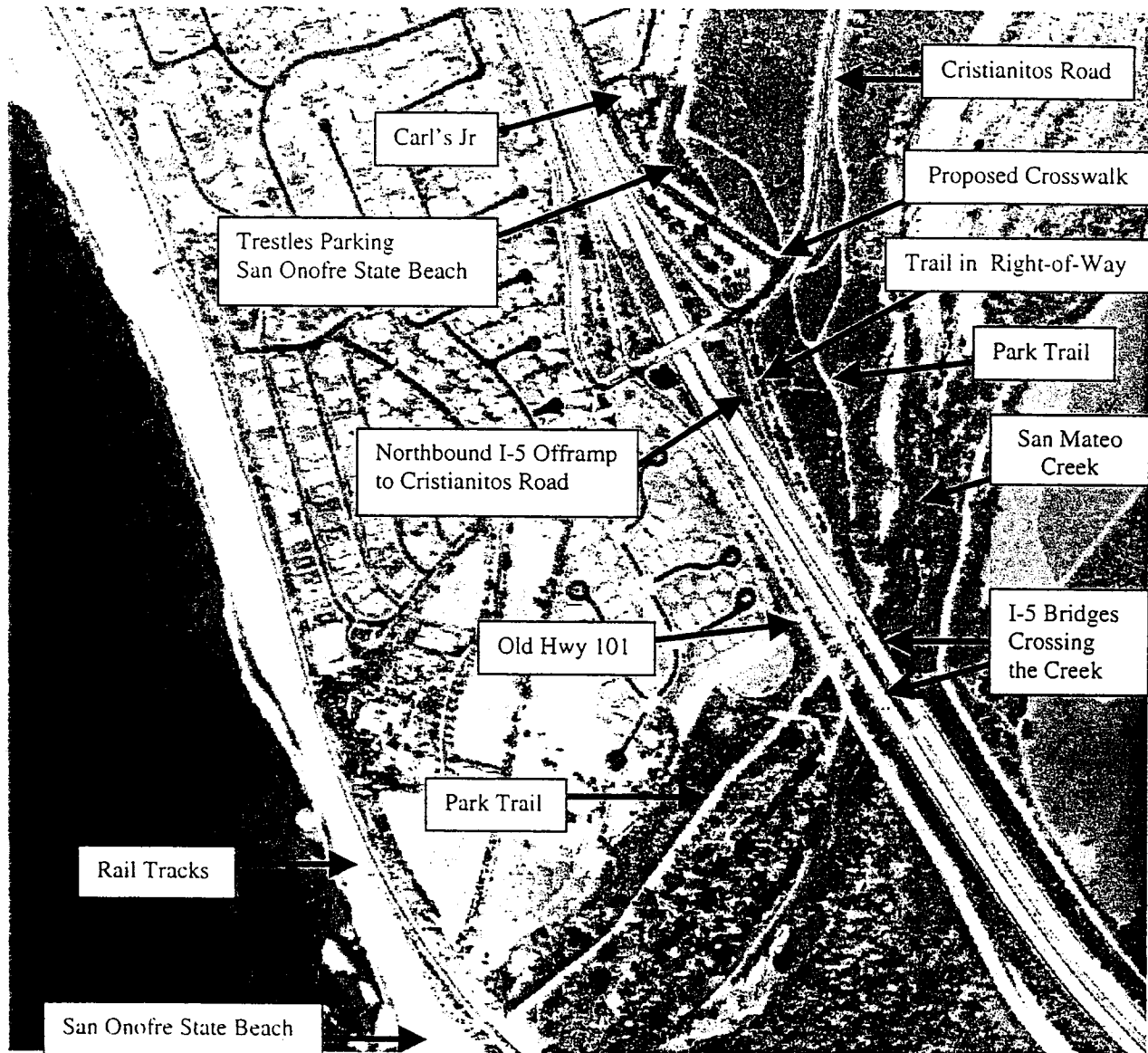


EXHIBIT NO. 5
APPLICATION NO.
6-01-149
Public Access

California Coastal Commission

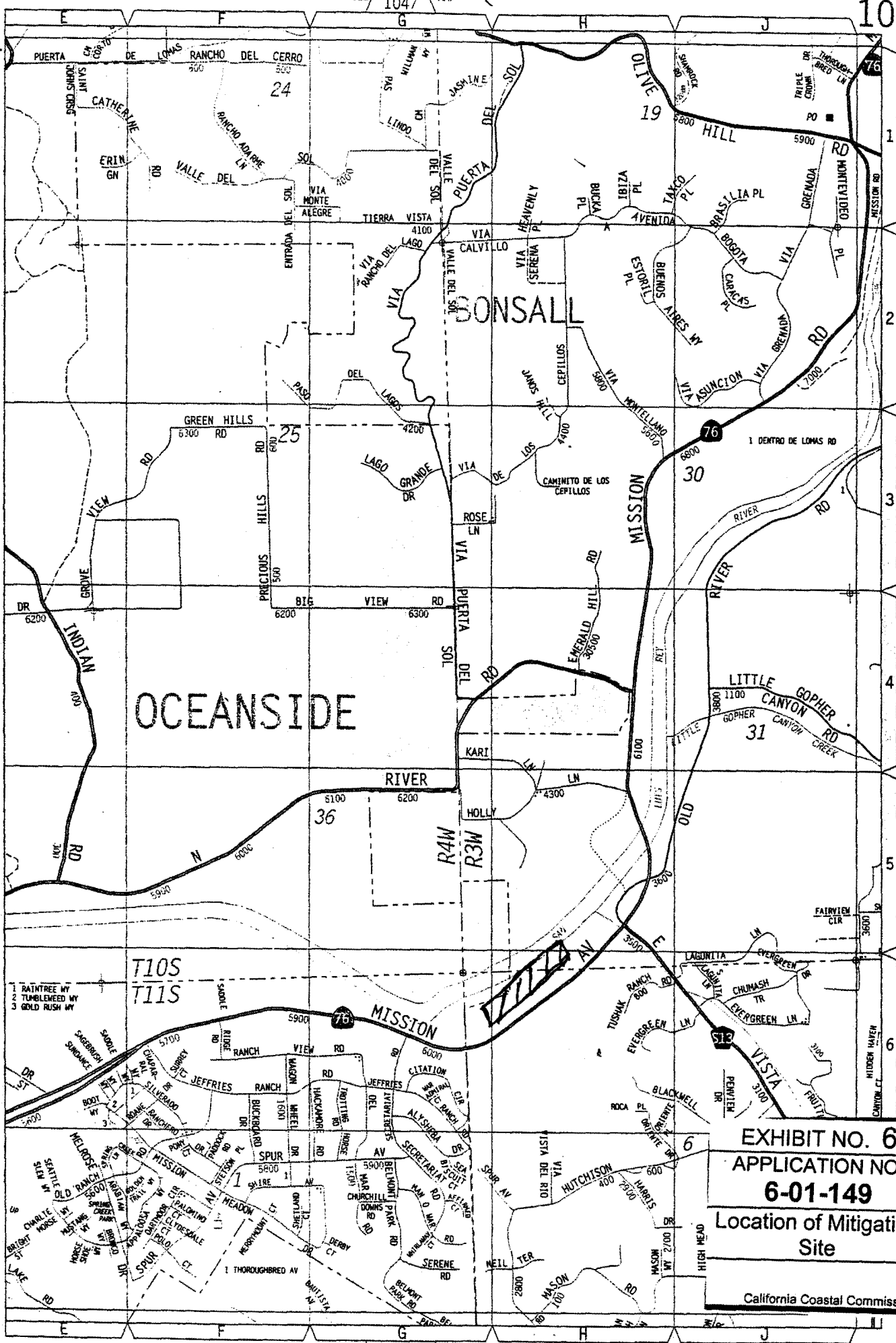


EXHIBIT NO. 6
APPLICATION NO.
6-01-149
Location of Mitigation
Site
 California Coastal Commission

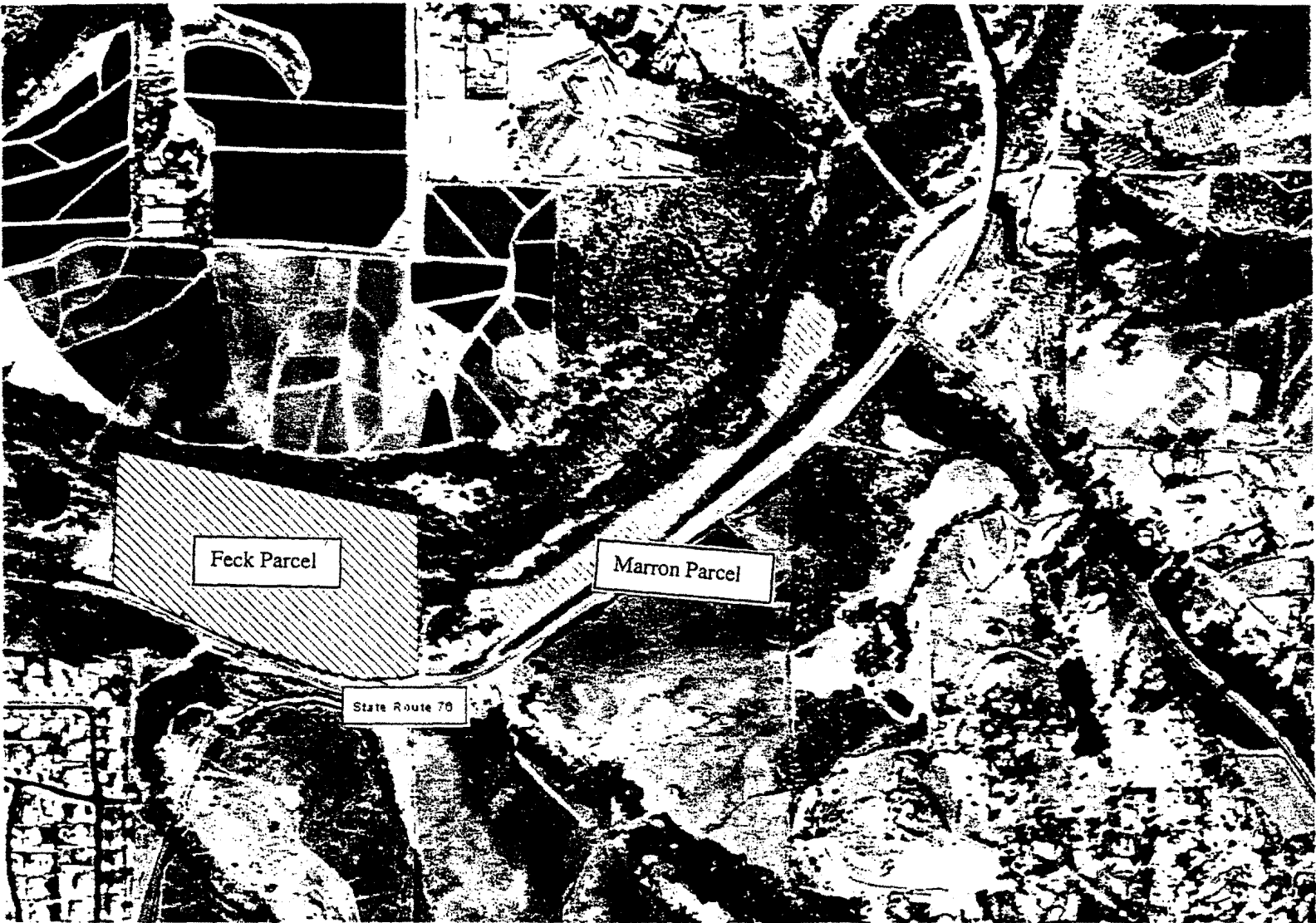


Figure 1
Offsite Mitigation Parcel – San Mateo Creek Bridge Repair

EXHIBIT NO. 7
APPLICATION NO. 6-01-149
Mitigation Site
California Coastal Commission

