

**CALIFORNIA COASTAL COMMISSION**

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**F 6c****STAFF REPORT AND RECOMMENDATION****ON CONSISTENCY CERTIFICATION**

Consistency Certification No	CC-086-03
Staff	MPD-SF
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**APPLICANT:** North County Transit District

**DEVELOPMENT LOCATION:** San Onofre Area, within railroad right-of-way adjacent to I-5, Camp Pendleton Marine Corps Base, San Diego County (Exhibits 1-2)

**DEVELOPMENT DESCRIPTION:** Construction of 2.6 miles of Second Main Track parallel to and between I-5 and the existing track (Exhibits 2-4)

**EXECUTIVE SUMMARY**

The North County Transit District (NCTD) proposes to construct a new (second) main railroad track adjacent to and east of its existing track, along a 2.6-mile stretch in the San Onofre area of the Camp Pendleton Marine Corps Base in northern San Diego County. The proposed project is located along the Los Angeles to San Diego (LOSSAN) Rail Corridor, just west of Interstate 5 (I-5). The second track would occur entirely within the existing NCTD right-of-way (which is leased from the U.S. Marine Corps). The proposed second track would be located in between and parallel to I-5 and the existing main track.

The purpose of the "double-tracking" project is to reduce delays caused by trains traveling in opposite directions having to stop and wait until the line is clear. The project is intended to increase operational efficiency and service reliability, and, hopefully, to induce more people to use passenger rail as an alternative travel mode to the personal automobile.

The project will help maintain highway capacity on I-5 for access to and along the shoreline. One of the specific Coastal Act's access mandates is the language in Section 30252 that encourages maintenance and enhancement of public access through facilitating the provision or extension of transit service. In addition, construction staging activities will not diminish parking for beach access at the adjacent San Onofre State Beach parking lot. The project is therefore consistent with the public access policies of the Coastal Act (Sections 30210 and 30252). The project is also consistent with the air quality policy (Section 30253) promoting energy consumption-reduction strategies (e.g., reducing automobile vehicle miles traveled).

Potential habitat issues raised are the removal of 6.3 acres of coastal sage scrub habitat for the new tracks, and potential wetland impacts from culvert widening. While NCTD surveys observed several California gnatcatchers in the affected area, no breeding or nesting activities occurred, and the habitat affected is degraded, occurs in isolated patches, and is located in between the existing tracks and I-5. The coastal sage scrub in this location is therefore not an environmentally sensitive habitat area (ESHA). (NCTD is also providing offsite mitigation for coastal sage scrub impacts.) Therefore, the project is consistent with the ESHA policy (Section 30240) of the Coastal Act.

The project also including widening of existing culverts under the tracks, which would result in 0.0145 acres of effects to 'waters of the U.S.' (thereby triggering Army Corps jurisdiction). No wetland plants or soils indicators are present and the areas do not qualify as wetlands under the Coastal Act wetland definition. Nevertheless the project triggers the tests of Section 30233 of the Coastal Act, because the wet areas may qualify as open coastal waters. The project is an allowable use as an incidental public service, is the least damaging alternative, and includes mitigation where appropriate. Therefore, the project is consistent with the wetlands/streams/open coastal waters policy (Section 30233) of the Coastal Act.

The project includes appropriate Best Management Practices (BMPs) to minimize water quality impacts from construction and operation of the project, and is consistent with the water quality policy (Section 30231) of the Coastal Act.

## **I. STAFF SUMMARY AND RECOMMENDATION:**

**A. Project Description.** The NCTD proposes to upgrade its existing railroad track system by constructing a new second main track adjacent to its existing track in northern San Diego County. The project is located along the Los Angeles to San Diego (LOSSAN) Rail Corridor, within the boundaries of the U.S. Marine Corps Base Camp Pendleton (MCBCP), and west of I-5. The northern end of the project begins just south of the intersection of Basilone Rd.

and I-5 (Exhibit 2), and the proposed new tracks would follow the existing tracks for 2.6 miles to the south, past the San Onofre Nuclear Generating Station. NCTD leases the railroad right-of-way from the Marine Corps. The project would occur entirely within the existing NCTD right-of-way. The proposed new second mainline track would be spaced 15 ft. east of, and parallel to, the existing mainline track. San Onofre State Beach and the beach parking lot, leased to the California Department of Parks and Recreation by the Marine Corps, as well as the San Onofre Nuclear Generating Station, are located to the west of the proposed project.

The purpose of the project is to construct a second mainline track which will allow for reduced travel times through high-speed train meets and passes. This in turn would increase operation efficiency and service reliability. As a result, people would be more likely to turn to passenger rail as an alternative travel mode to the personal automobile. Under current conditions at the proposed project location, when two trains traveling in opposite directions on the existing mainline need to pass each other, one train must pull off into the existing short siding, come to a stop and wait for the other train to pass before resuming its course. By enabling trains to meet and pass each other at speed, the proposed project would reduce the number and duration of train delays and thus improve service reliability.

The limits of project construction would occur between Station 597+15 (MP 212.8) and Station 791+90 (MP 209.1). Major components of the project construction include the construction of a new second mainline track, shifting of existing track, rehabilitation of existing track, removal of existing track, extension of existing drainage facilities, and miscellaneous activities such as removal of signal houses and signals and the installation of new signals.

More specifically, the project involves the construction of 2.6 miles of new second mainline track (connecting the existing mainline at Station 597+85 with the existing San Onofre siding track at Station 742+71), and rehabilitating a 0.6 mile portion of the existing San Onofre siding to mainline track standards (from Station 742+71 to Station 768+16 (MP 209.6 to MP 210.2)). A total of approximately 14,000 feet of new track would be installed, 2,700 feet of existing track would be shifted, 2,500 feet of existing mainline track would be rehabilitated, and 675 ft. of existing track would be removed.

The new second track would be constructed on ballast (12-inch minimum) beneath the ties (and over 6-inches of subballast). Cut areas would include a graded track ditch for runoff and variable slopes ranging from 1.5:1 to 1.0:1. Fill areas would be constructed with 2:1 or 1.5:1 slopes, depending on the height of the embankment. Select fill would be imported to backfill behind the proposed retaining wall.

The project would also involve the extension of existing drainage facilities (e.g., pipes or culverts) at five locations (See Figures 3-6 (Exhibits 8-11)). The extension of drainage facilities would typically involve the extension of an existing drainage pipe located underneath the existing track to extend under the second track in order to allow water to pass under both tracks. Riprap would also

be placed at several locations. The current drainage courses through the culverts would not be affected by the culvert extensions.

The project also involves the removal of a signal house and signal appurtenances, removal of abandoned signal foundations, modification of the axle/wheel defect detection system, removal of existing signals, installation of a new signal house, installation of new signals, installation of a new turnout, removal of an existing turnout and associated signal appurtenances, construction of a retaining wall and tie back system, and relocation of 2,800 linear feet of an MCI communications cable. Construction staging would occur in an existing cleared area located east of the San Onofre Nuclear Generating Station parking lot (See Figure 11 [Exhibit 4]). Access to the tracks from the staging site would be via the San Onofre State Beach and Campground parking lot and existing dirt roads that are currently used by railroad vehicles performing inspection and maintenance activities.

**B. Procedures – Permitting Issue.** The project triggers federal consistency review because it needs U.S. Army Corps of Engineers and U.S. Marine Corps permission. However the Commission also believes it is subject to the permitting requirements of the Coastal Act, as a private (i.e., non-federal) activity on federal land, based on the U.S. Supreme Court's "Granite Rock decision" (CCC v. Granite Rock Co.)(1986)(480 U.S. 572). The NCTD disagrees with this position; however the Commission is willing to concur with this consistency certification because it can be found consistent with Chapter 3 of the Coastal Act. Any permit review would involve the same substantive standard of review (i.e., Chapter 3). The Commission notes that the NCTD has applied for a number of permits for its "double tracking" activities in other sections of the coast, including, CDP's No. 6-01-64 (NCTD - Balboa Avenue), 6-01-108 (NCTD - Tecolote Creek), 6-93-60 (NCTD - Del Mar), 6-94-207 (NCTD - Solana Beach), 6-93-106 (NCTD - Carlsbad), and 6-93-105 (NCTD - Camp Pendleton).

**C. Status of Local Coastal Program.** The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If an LCP that the Commission has certified and incorporated into the California Coastal Management Program (CCMP) provides development standards that are applicable to the project site, the LCP can provide guidance in applying Chapter 3 policies in light of local circumstances. If the Commission has not incorporated the LCP into the CCMP, it cannot guide the Commission's decision, but it can provide background information. The Commission San Diego County LCP has not been incorporated into the CCMP.

**D. Applicant's Consistency Certification.** The North County Transit District certifies the proposed activity complies with the federally approved California Coastal Management Program and will be conducted in a manner consistent with such program.

**E. Staff Recommendation and Motion.** The staff recommends that the Commission adopt the following motion:

**MOTION.** I move that the Commission concur with the North County Transit District's consistency certification.

The staff recommends a **YES** vote on this motion. A majority vote in the affirmative will result in adoption of the following resolution:

**Concurrence**

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

**II. Findings and Declarations.**

The Commission finds and declares as follows:

**A. Public Access and Recreation.** Section 30210 of the Coastal Act provides for maximum public access to the shoreline. Section 30252 encourages mass transit and identifies reducing traffic congestion as a coastal access benefit. These sections provide, in relevant part, that:

*Section 30210 - In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access ... shall be provided for all the people....*

*Section 30252 - The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service....*

In reviewing several past actions involving mass transit improvements in San Diego County, the Commission has considered traffic congestion to constitute a constraint on public recreation and access to the shoreline. Increased traffic on highways such as I-5, which is a major coastal access thoroughfare, reduces the ability of the public to attain access to coastal recreation areas and makes it more difficult for the public to get to the beach. Section 30252 of the Coastal Act recognizes the importance of improving public access through, among other things, improvements in public transit.

Concerning access issues, NCTD states:

*The proposed project conforms with the public access objectives of the California Coastal Act because it does not propose any change to existing coastal accessways. Access roads to San Onofre State Beach, west of the project site, would not be affected.*

*The proposed project is anticipated to be beneficial to public coastal access and reduced traffic congestion by providing improved public transportation services as an alternative to individual vehicles.*

(NCTD also notes that the proposed project will contribute to reduced energy consumption and vehicle miles traveled by providing a more efficient alternative to personal automobile travel, which is consistent with another Coastal Act goal expressed in Section 30253 (and related to air quality).)

The Commission agrees with NCTD and finds that the project would not adversely affect public access and would, in fact, improve public access to the shoreline by reducing automobile traffic on I-5, in an area where the highway that supports public access and recreation. The Commission finds that the proposed project is consistent with the public access and recreation policies (including Sections 30210 and 30252) of the Coastal Act.

**B. Environmentally Sensitive Habitat Areas.** Section 30240 of the Coastal Act provides that:

- (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.*

In addition, Section 30107.5 defines "Environmentally sensitive area" as follows:

*"Environmentally sensitive area" means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.*

Constructing the new tracks would result in the removal of 6.3 acres of coastal sage scrub habitat for the new tracks. NCTD surveys observed California gnatcatchers in the affected coastal sage scrub area; however no breeding or nesting activities occurred in this habitat. Furthermore, the habitat affected is degraded and located in between the existing tracks and a major 8-lane highway (I-5)(Exhibits 6-7). The coastal sage is therefore not an environmentally sensitive habitat area (ESHA). Furthermore, NCTD has agreed to provide offsite mitigation for coastal sage scrub impacts.

Addressing the potential habitat impacts, NCTD states:

*The attached Biological Resource Report describes sensitive habitat and species types and locations within the proposed project vicinity. Upland plant communities identified on-site are Diegan coastal sage scrub (CSS) and non-native grasslands (NNG).... The remaining area within the Study area is comprised of the railroad track, rock ballast and dirt or asphalt roads. The analysis of the proposed project anticipates affecting a total of 6.57 acres of natural habitat including 6.545 acres CSS, [and] 0.01 acre NNG .... As mitigation for these impacts, a revegetation plan would be prepared and implemented with native seed mixes. The proposed mitigation acreage would total 13.14 acres (13.09 acres CSS, [and] 0.005 acres NNG, ... (Marquez & Associates, 2003).*

*To minimize impacts to California gnatcatchers and other species potentially nesting in the project vicinity, clearing and grubbing, which may directly impact nesting habitat, will occur outside of the avian breeding season. Because it will not be possible to complete the entire project prior to the beginning of the breeding season, project construction, including earthwork and track laying will extend into the nesting season. In addition, construction limits identifying sensitive habitats will be flagged, taped, or marked to keep construction equipment and workers out of these areas. In areas identified as potential habitat for sensitive species, a biological monitor will be present onsite during construction activities, and if necessary, temporary noise barriers will be utilized to minimize potential impacts to nesting species.*

In order to evaluate whether the coastal sage scrub qualifies as ESHA, the Commission staff requested additional information from NCTD. NCTD responded:

*Although the project involves grading of coastal sage scrub environment in the coastal zone, the project is consistent with the environmentally sensitive habitat area (ESHA) policy (Section 30240) of the California Coastal Act. The habitat affected is degraded by due to its location in a narrow strip between Interstate 5 and the railroad tracks on the eastern side, and between the railroad tracks and Old Pacific Highway (San Onofre State Park access road) on the western side, and occurs in small patches. As such, it is relatively isolated from other habitat areas by these transportation corridors.*

Despite this statement, NCTD has committed to restoring coastal sage in the project region; NCTD states:

*Coastal Sage Scrub Mitigation – Coastal Act Section 30240*

*Approximately 6.588 acres of Coastal Sage Scrub will be permanently impacted by the proposed project. Mitigation for these impacts will be achieved through the purchase of mitigation credits in an established upland/Coastal Sage Scrub bank, such as the Whelan Ranch Formal Bank located in the City of Oceanside along the southeastern border of Camp Pendleton. Whelan Ranch has Coastal Sage Scrub credits available, and the*

*service area (San Diego NCCP) is applicable to the proposed project. Funding for upland habitat mitigation has been set aside by the applicant as a part of the project proposal.*

The Commission finds that while the project would affect approximately 6 acres of coastal sage scrub, this habitat is degraded and isolated, and it does not support breeding or nesting coastal California gnatcatchers. The habitat is isolated from other valuable gnatcatcher habitat by existing development (i.e., by the 8-lane I-5 freeway immediately to the east and the existing NCTD track immediately to the west). In addition, NCTD has agreed to provide offsite mitigation for coastal sage scrub impacts. Therefore, the Commission concludes finds that the coastal sage scrub habitat in this location does not qualify as an ESHA, and that the project is consistent with Section 30240 of the Coastal Act.

**C. Wetlands/Streams/Open Coastal Waters.** Section 30233 of the Coastal Act provides:

*(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) 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.*

Section 30121 of the Coastal Act defines a wetland as follows:

*"Wetland" means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens.*

In addition, Section 13577(b)(1) of the Commission's Administrative Regulations (Title 14, Division 5.5) provides:

*Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of*



*hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats.*

The proposed widening of 5 culverts (Exhibits 8-14) would result in 0.0145 acres of effects to 'waters of the United States' (for purposes of U.S. Army Corps of Engineers regulation). NCTD has reviewed its biological surveys under both Corps of Engineers and Coastal Act definitions. No wetland plants or soils indicators are present and the areas do not qualify as wetlands under the Coastal Act wetland definition. NCTD surveys do show mulefat scrub in the project vicinity, which would qualify as wetland habitat; however the project has been redesigned to avoid the mulefat scrub habitat. NCTD states:

*Impacts to Coastal Waters from project facilities will be minimal. Within the proposed project area, there are five existing culverts allowing runoff from unnamed drainages to flow underneath the existing railroad track toward the Pacific Ocean (Figures 4-10). According to the "Biological Resource Report" for the proposed project (Marquez & Associates, 2003), all five drainage culverts lack hydrophytic vegetation and wetland hydrology and therefore, do not qualify as U.S. Army Corps of Engineers (ACOE) wetlands. Although the culvert areas do not meet the ACOE parameters for wetlands, four meet the criteria for Waters of the U.S. These criteria encompass open, unvegetated channels as well as areas that are capable of supporting non-wetland vegetation even though they receive waterflow on a regular basis. Most of these culverts extend under I-5 and receive rainfall from the hills east of I-5 and from the non-permeable surface of I-5. The remaining culvert at MP 211.1 is subterranean, surfacing only to the east of I-5, and to the west near the Pacific Ocean outside of the project area. The only culvert feature within the project area is an access manhole that does not allow for drainage of water into the subterranean culvert.*

In order to evaluate whether the affected 'waters of the U.S.' qualify as wetlands under the Coastal Act, the Commission staff requested additional information from NCTD. NCTD responded:

*Coastal Act-Defined Wetland Delineations*

*The enclosed Figures 7-10 [Exhibits 8-11] identify wetland delineations under Coastal Act-defined wetlands. These areas were revisited on October 8, 2003 by project biologist Vivian Marquez and reassessed with respect to Coastal Act criteria. Vivian Marquez determined that these areas meet only one (hydrology) of the Coastal Act criteria for wetlands, as they consist of culverts intended to allow stormwater runoff from Interstate 5 to drain underneath the elevated railroad berm towards the Pacific ocean. These areas do not, however, contain wetland vegetation or hydric soil characteristics.*

The Commission's staff biologist has reviewed the NCTD's wetland surveys, delineations, and photographs, and the Commission agrees that this information establishes that no wetland plants or wetland soils indicators are present in the culvert widening areas, and that the 'waters of the U.S.' affected do not qualify as wetlands under the Coastal Act wetland definition. NCTD surveys do show mulefat scrub in the project vicinity, which would qualify as a wetland. However the applicant has been able to redesign the project to avoid affecting the mulefat scrub habitat and the project therefore does not involve fill of wetlands. The project nevertheless triggers the 3-part test of Section 30233(a) of the Coastal Act, because the 'waters of the U.S.' areas may qualify as open coastal waters under the Coastal Act. The Commission therefore needs to be able to determine that the project complies with the allowable use, alternatives, and mitigation tests of Section 30233(a).

Under the first of these tests, a project must qualify as one of the eight stated uses allowed under Section 30233(a). The Commission has considered minor expansions of existing roads (and airport runways) in certain situations to qualify as "incidental public service purposes," and thus allowable under Section 30233(a)(5), but only where no other alternative exists and the expansion is necessary to maintain existing traffic capacity.

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

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

Thus, fill for the expansion of existing roadways (and other public transportation projects) may be considered to be an "incidental public service purpose" only if: (1) the expansion is limited; and (2) the expansion is necessary to maintain existing traffic capacity. NCTD maintains the project fits into this historically accepted interpretation, stating:

*Allowable Use Test - Coastal Act Section 30233(a)*

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

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

The Commission agrees and finds that the project is a limited expansion and is necessary to maintain existing capacity, and can be considered an allowable use as an incidental public service under Section 30233(a)(5). In making this finding the Commission notes that future double tracking proposals may not qualify under this section, because at some point with increasing numbers of double tracking proposals, the double tracking: (a) will no longer be limited; and (b) will contain enough length of a second set of tracks to in fact constitute an increase in capacity. However at this time and in this location the Commission finds that the double tracking does not meet either of these thresholds that would render the project ineligible for consideration as an incidental public service.

Concerning the alternatives test, NCTD notes:

*Alternative Test – Coastal Act Section 30233(a)*

*The proposed project has been designed to result in the least environmentally damaging manner possible. In fact, permanent impacts to wetland vegetation communities are avoided. The coastal zone wetlands affected by the project are manmade culvert areas, devoid of wetland vegetation and hydric soils, that were constructed to allow drainage of stormwater runoff from the adjacent Interstate 5 elevated berm. The fill associated with the proposed project is necessary to match the elevation of the existing tracks and construct the project in accordance with generally accepted rail construction standards. Because the habitat is located immediately adjacent to the tracks, NCTD cannot raise the track elevation without filling these coastal wetlands. Any alternative route would result in an alignment not directly adjacent to the existing tracks, and therefore would have greater habitat impacts.*

NCTD has also committed to some degree of wetland mitigation, (in part because the Corps process requires mitigation for impacts to waters of the U.S.). NCTD states:

*Wetland Mitigation -*

*[T]emporarily impacted areas [0.0063 acres] ... would be returned to their original condition upon completion of construction.*

*To mitigate for permanent wetland impacts, the project applicant is actively pursuing several potential options, given the fact that the magnitude of the impact is very small in terms of quality and quantity, and that productive opportunities for onsite mitigation on Federally-owned Marine Corps property within the leased NCTD right-of-way (R/W) are limited.*

*Onsite mitigation opportunities include the removal of invasive, upland species, to minimize the spread of their seeds to nearby coastal wetland areas (i.e. wetland areas in San Onofre State Park near the Pacific Ocean). During a site visit with biologist Vivian Marquez on October 8, 2003, four non-native, invasive upland species were identified as candidates for removal: fennel, castor bean, mustard, and tobacco tree. Removal of unestablished Peruvian peppertrees are also an option as well. In this regard, approximate portions of the project area identified for invasive species removal include (south to north): Mile Post (MP) 212.4 to 212.1, MP 211.6 to 211.2, [and] MP 210.8 to 210.0 (San Onofre Checkpoint).*

*These areas were identified based upon a drive-by visit, and the presence of the above-listed invasive species. According to Ms. Marquez, removal of fennel, the most predominant invasive species in the project area, would be most productive if conducted during the time of year to avoid seed drop.*

*No off-site wetland mitigation banks in San Diego or Orange Counties currently have credits available for purchase for the proposed project. However, given the minor amount of impact associated with this project, another off-site mitigation option being investigated through U.S. Army Corps of Engineers (ACOE) staff is a contribution to the Santa Margarita River Exotics Control Program operated by the Mission Region Resource Conservation District. This program encompasses an area of 750 square miles in Riverside and San Diego Counties within the Santa Margarita Watershed, and is an ongoing effort toward the eradication of *Arundo donax* (giant reed), an invasive wetland/riparian species. The program applies to projects with one acre or less of impacts as determined by the ACOE, as is the case with this project. Similarly, a contribution to another wetlands enhancement or restoration project, such as the *Caulerpa toxifolia* eradication efforts by the National Marine Fisheries Service, are being simultaneously investigated. An additional consideration is off-site mitigation in cooperation with NCTD's proposed Oceanside – Escondido Rail project, the location of which may provide improved mitigation opportunities.*

...

*As discussed above under "Coastal Act-Defined Wetland Delineations," the wetlands in question do not support wetland vegetation or hydric soils. Further, these locations are man-made culverts constructed to allow stormwater run-off from the elevated Interstate 5 berm to drain underneath the elevated railroad berm, and do not contain water except during storm events with sufficient precipitation to generate runoff flow from Interstate 5. For this reason, no wetland vegetation or soils have developed onsite, and no fish or other aquatic animal species utilize these areas for habitat purposes.*

The Commission finds that wetland mitigation is not required under the Coastal Act because, as discussed previously, the 'waters of the U.S.' areas affected do not qualify as wetlands. The above-described mitigation is being provided in part due to the Army Corps' Nationwide Permit

(NWP) program. The project falls under NWP 14, which is for Linear Transportation Projects involving 0.5 acres or less (for non-tidal waters) of fill of waters of the US. Projects qualifying for NWP 14 must include a "compensatory mitigation proposal to offset permanent losses of waters of the US to ensure that those losses result only in minimal adverse effects to the aquatic environment and a statement describing how temporary losses will be minimized to the maximum extent practicable." The Commission therefore finds that the fact that NCTD has not finalized its mitigation pursuant to the Corps' process is not consequential in terms of finding the project consistent with the mitigation test of Section 30233 of the Coastal Act. NCTD will mitigate and/or enhance habitat values in coastal (or possibly inland) waters through the Corps' process, and the Commission concludes that the above mitigation is adequate in this circumstance, and for the reasons discussed above, that the project is consistent with the allowable use, alternatives, and mitigation tests of Section 30233(a) of the Coastal Act.

**D. Water Quality.** Section 30231 of the Coastal Act provides for the protection of water quality resources. That section provides:

*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.*

NCTD has included commitments for water quality protection in its consistency certification, stating:

*Storm Water Pollution Prevention Plan*

*The Proposed project would include the preparation of a Storm Water Pollution Prevention Plan (SWPPP) by the project engineer, in compliance with the required National Pollution Discharge Elimination System (NPDES) general permit issued by the Regional Water Quality Control Board (RWQCB), identifying construction and post-construction best management practices (BMPs) to protect water quality. The temporary and permanent BMP's will conform to the Caltrans Storm Water Quality Handbook, Construction Site Best Management Practices Manual, November 2000.*

NCTD also states:

*Impacts to Coastal Waters from project facilities will be minimal. ...*

*Best Management Practices (BMPs) would be implemented to avoid adverse environmental impacts and minimize unavoidable environmental impacts. The BMPs generally comply with the California Construction Handbook, latest edition. Project BMPs would include, but not be limited to:*

- *an Erosion Control Plan (Storm Water Pollution Prevention Plan (SWPPP), in compliance with the required National Pollution Discharge Elimination System (NPDES));*
- *silt fencing around proposed toes of fills and excavation stockpiles;*
- *stabilized construction entrances and roads;*
- *dust control measures (Best Available Control Technology (BACT) procedures (County of San Diego Air Pollution Control District, May 2002));*
- *a Decompaction, Surface Contouring and Native Seed Mix Revegetation Plan;*
- *a "Wildland Fires and Other Emergency Services Response Plan";*
- *construction area limits fencing around any identified sensitive habitats and historical resource sites within 30.48 m (100 ft) of the proposed construction impact area; [and]*
- *access controls to minimize the environmental impacts caused by the hauling and spreading of construction materials along the right-of-way.*

In response to Commission staff requests for additional information, NCTD also stated:

*Existing water runoff quality will be improved through proposed improvements. A 5-foot wide, 1-foot deep pad will be placed at the inlet end of each culvert. This serves two purposes. First it allows sediments in the storm water to settle out into the riprap by slowing the water velocity as it enters the culvert. This will improve overall water quality at the outfall. Secondly, it prevents undermining of the inlet end of the culvert due to scour. This is an existing problem and it impedes water flow into the culvert. To this extent, the proposed project will improve water quality over existing conditions.*

...

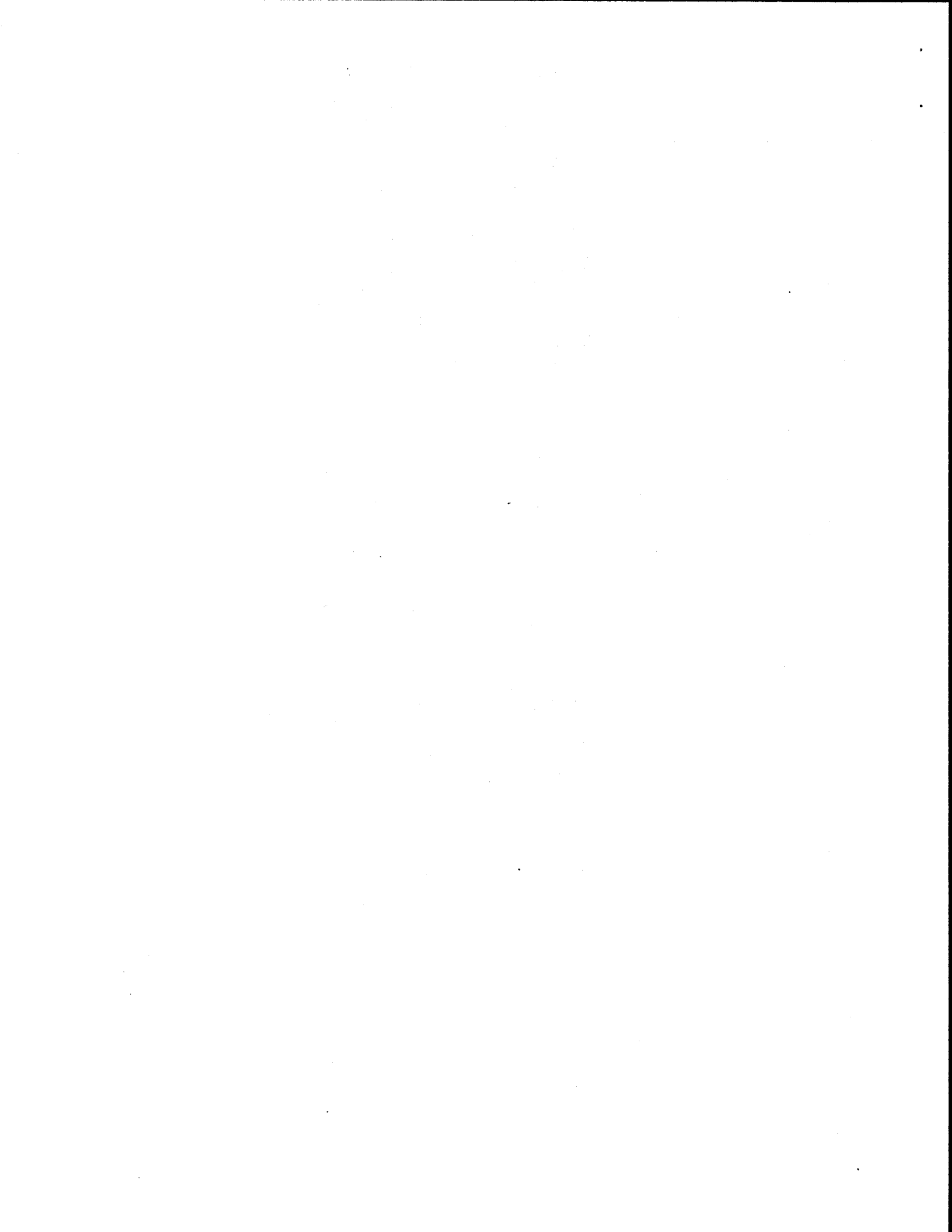
*Stormwater runoff will also be improved by reducing the amount of non-point source water pollution generated by existing and future automobiles utilizing this corridor (i.e., Interstate 5). The purpose of the project is to construct a second mainline track which will allow for reduced travel times through high-speed meets and passes. This will increase operational efficiency and reliability. As a result, people would be more likely to turn to*

*passenger rail as an alternative mode to the personal automobile. 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 right-of-way, where the gravel and soil act as a filter to prevent runoff from moving contaminants and because light rail 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 increase passenger service along this corridor thereby reducing automobile vehicle miles traveled and the corresponding non-point source emissions.*

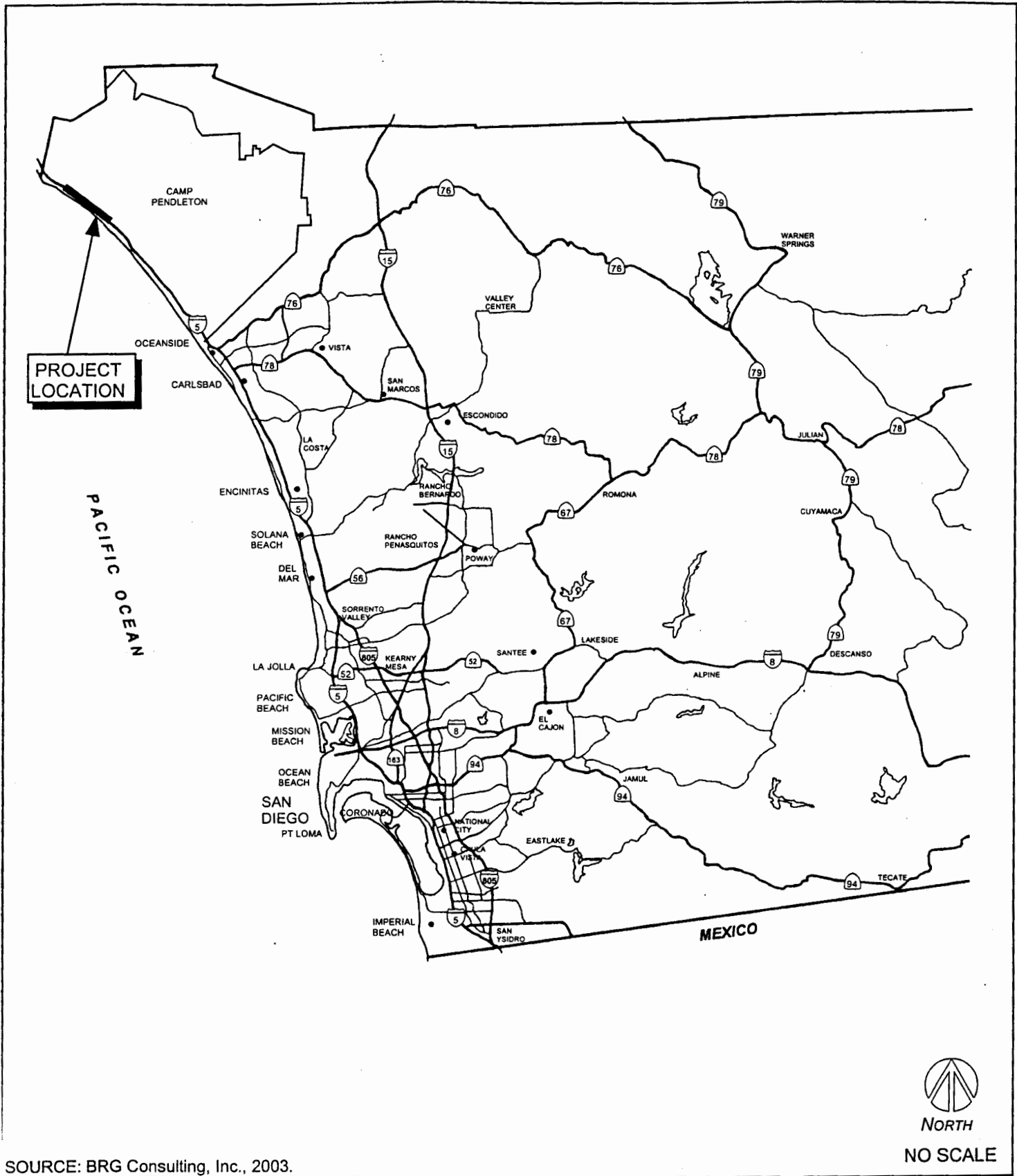
With the above measures, the project will not cause significant water quality impacts, and the Commission finds that the proposed project consistent with the water quality policy (Section 30231) of the Coastal Act.

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

1. CC-029-02, NCTD, Oceanside-Escondido Rail Project.
2. CC-064-99, Metropolitan Transportation Agency, Extension of Light-Rail, City of San Diego.
3. CC-058-02, City of Santa Barbara, modifications to the Santa Barbara Airport.
4. NCTD Coastal Development Permits 6-01-64 (NCTD - Balboa Avenue), 6-01-108 (NCTD - Tecolote Creek), 6-93-60 (NCTD - Del Mar), 6-94-207 (NCTD - Solana Beach), 6-93-106 (NCTD - Carlsbad), and 6-93-105 (NCTD - Camp Pendleton).







SOURCE: BRG Consulting, Inc., 2003.

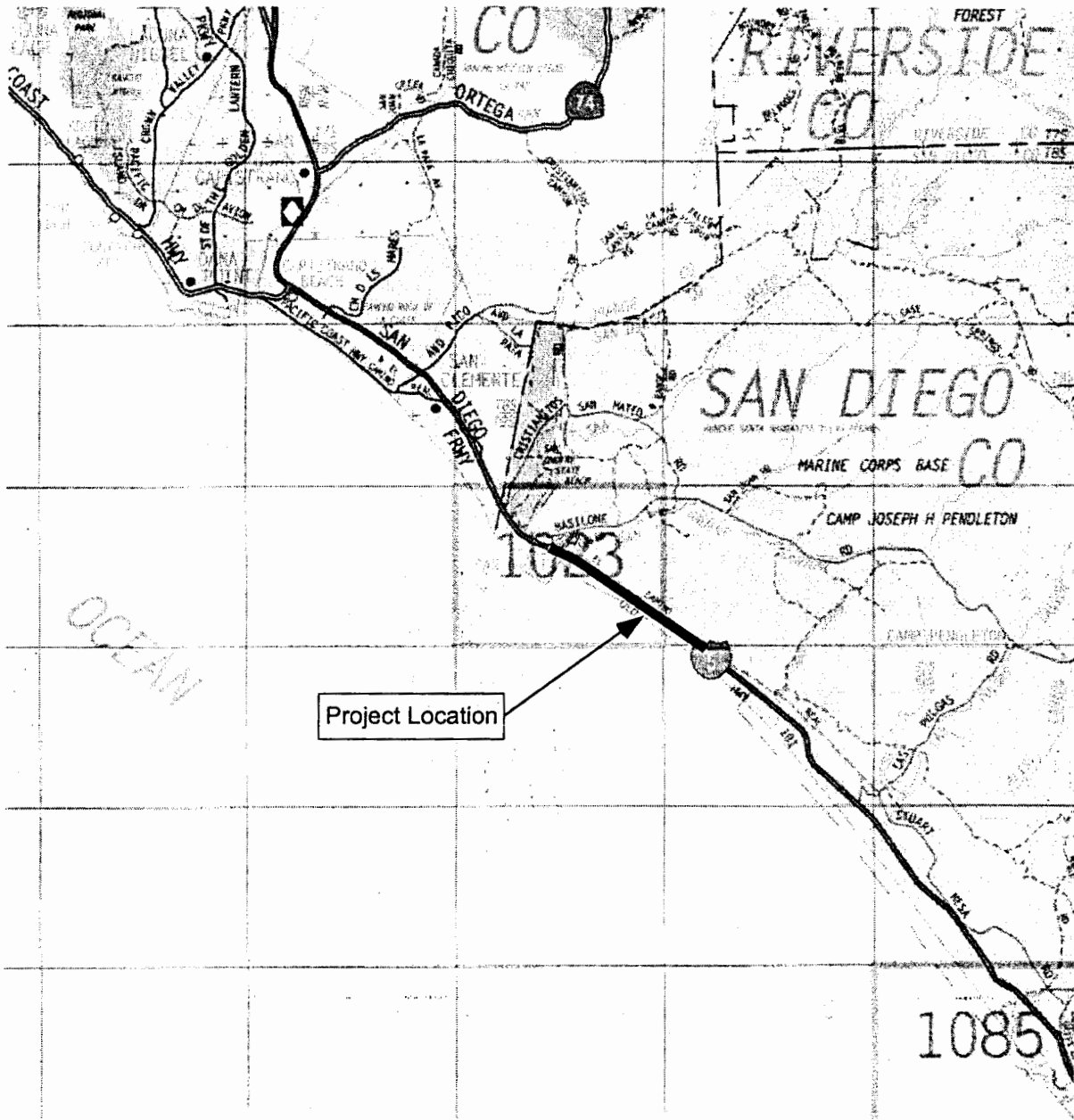
Amtrak San Onofre Second Main Track Project

### Regional Location Map



BRG Consulting, Inc.

EXHIBIT NO.	1
APPLICATION NO.	
	CC-86-03

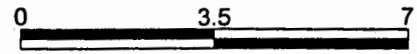


OCEAN

Project Location



North



Scale in Miles

BASEMAP: Thomas Guide, 1999, pp. 408.

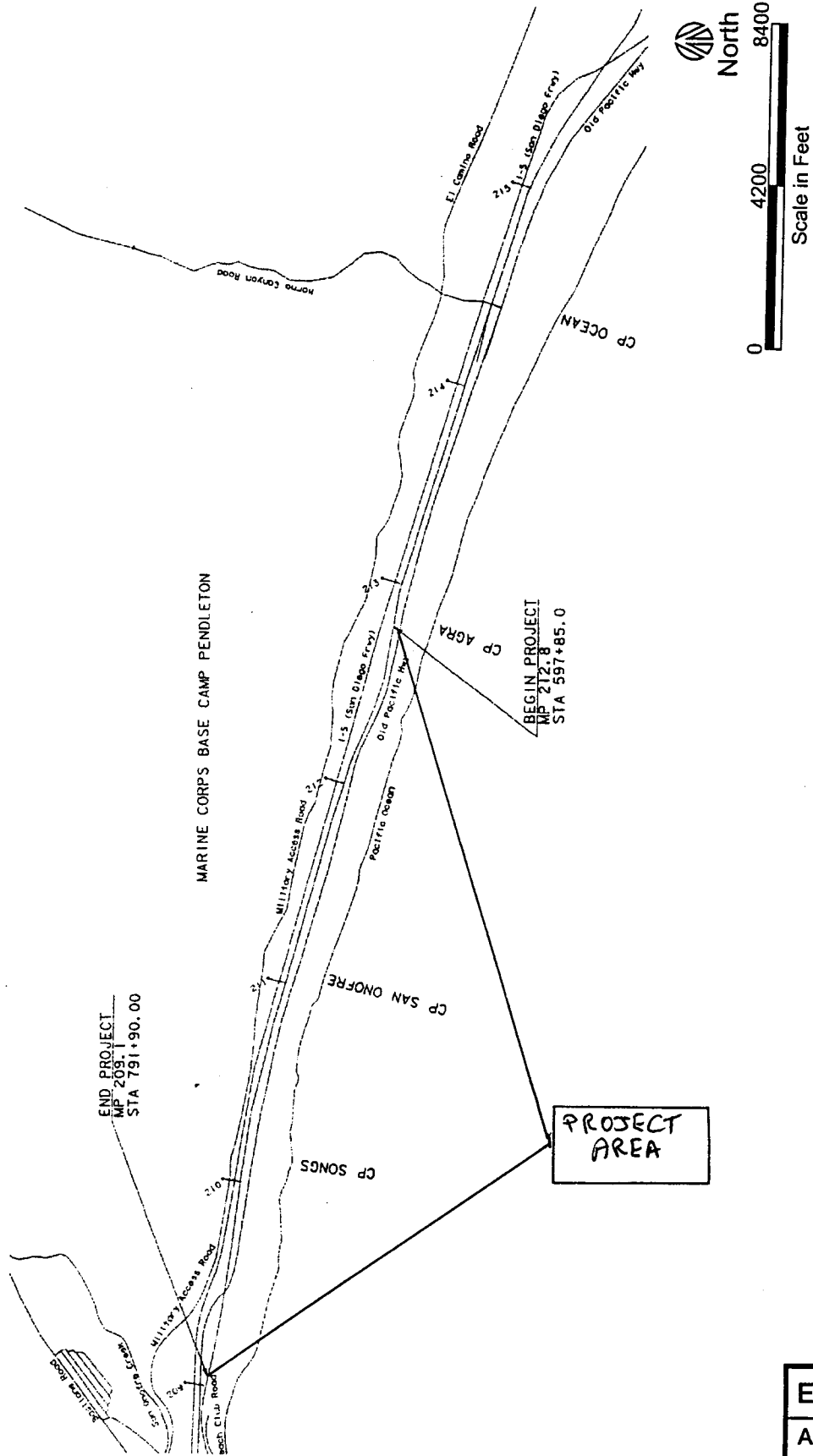
07/16/03

Amtrak San Onofre Second Main Track Project

Vicinity Map



EXHIBIT NO. 2
APPLICATION NO.
CC-86-03



ineering, Inc., 2003.

07/16/03

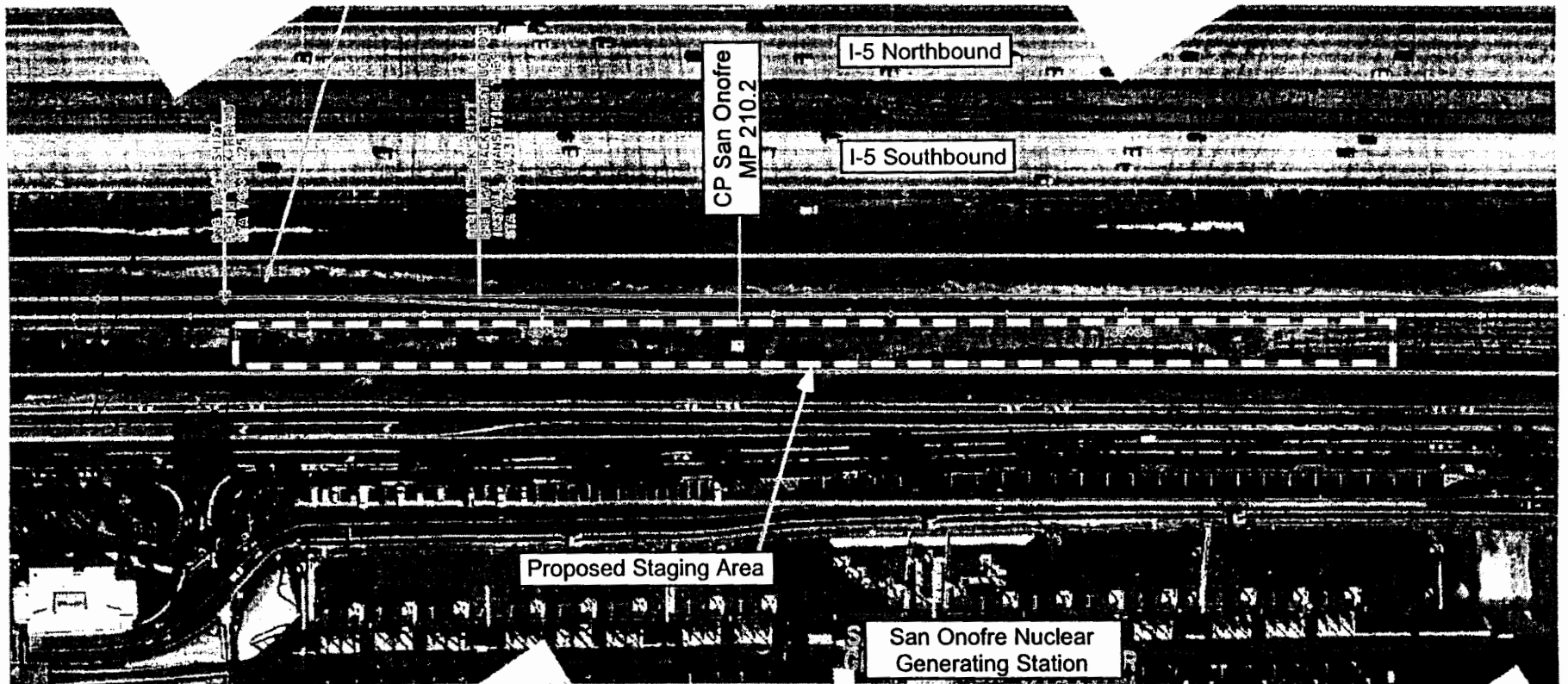
Amtrak San Onofre Second Main Track Project

FIGURE

3

Site Plan

EXHIBIT NO. 3
APPLICATION NO.
CC-86-03



0 130 260  
Scale in Feet

Engineering, Inc., 2003.

07/16/03

Amtrak San Onofre Second Main Track Project

**Proposed Staging Area**

**FIGURE**

**11**

EXHIBIT NO. 4

APPLICATION NO.

CC-86-03

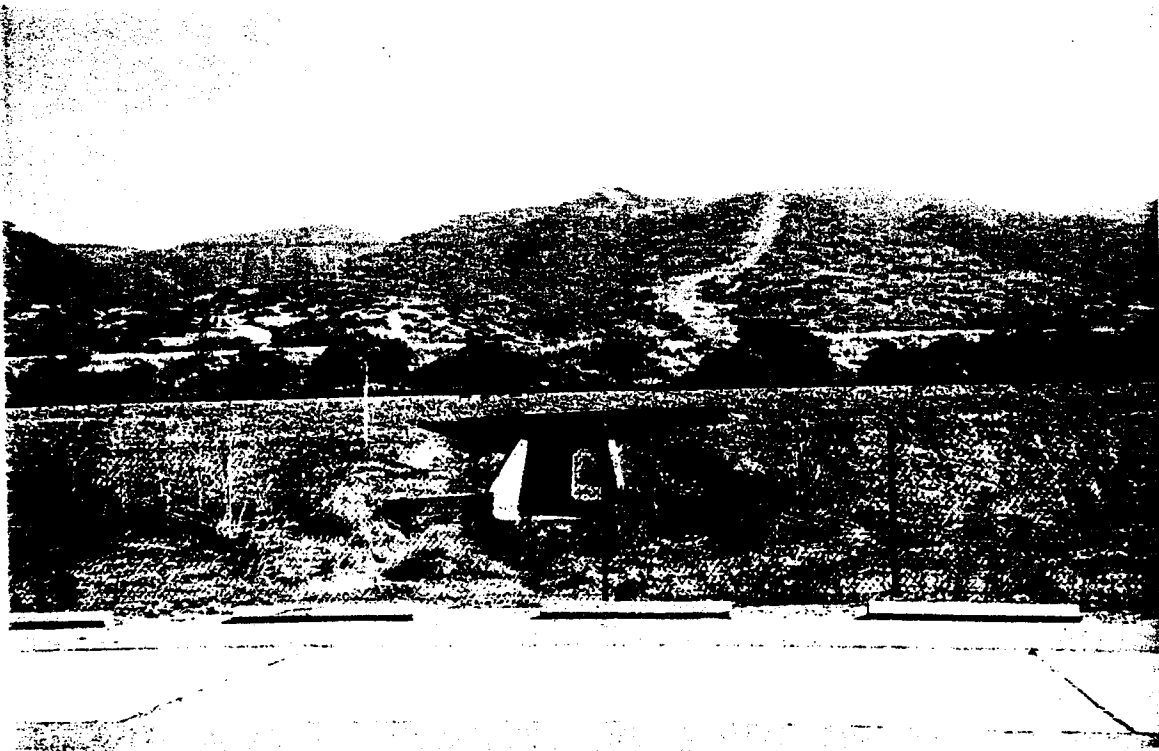


Photo 3. State Park parking spaces in the foreground, culvert 213.6 under rails in the center, coastal sage scrub and 1-5 in the background. Photo taken facing west and slightly to the north.

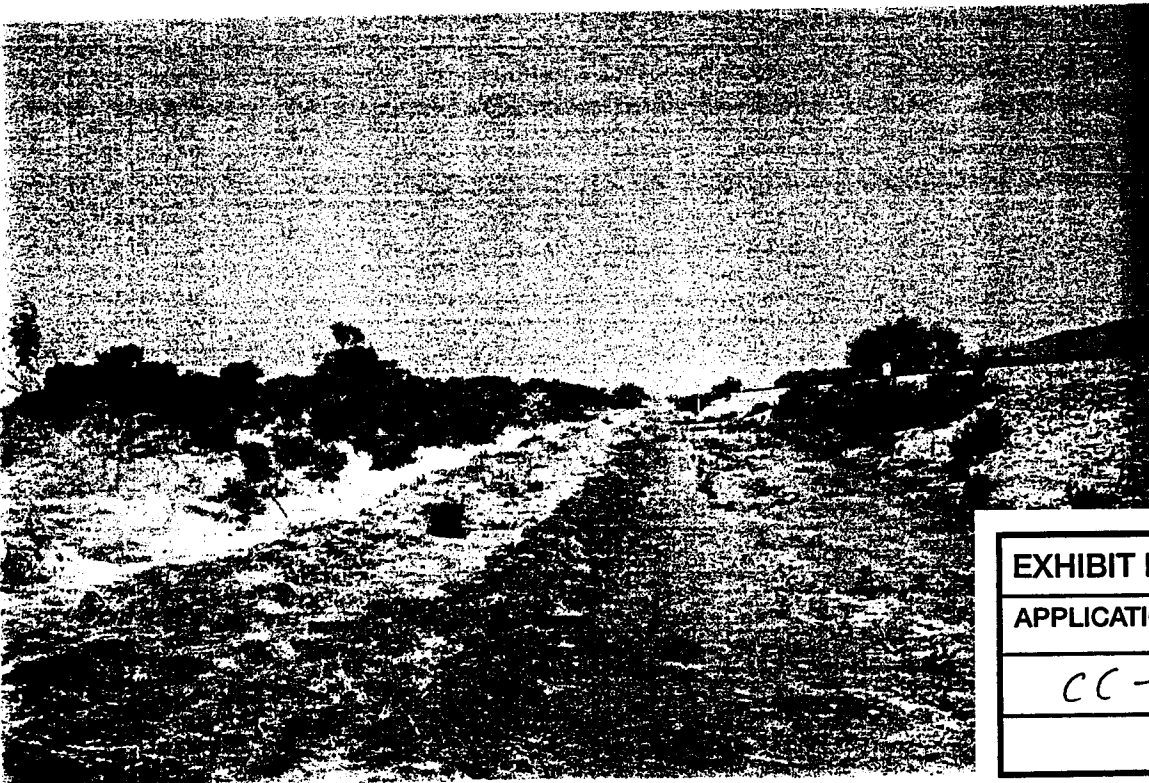
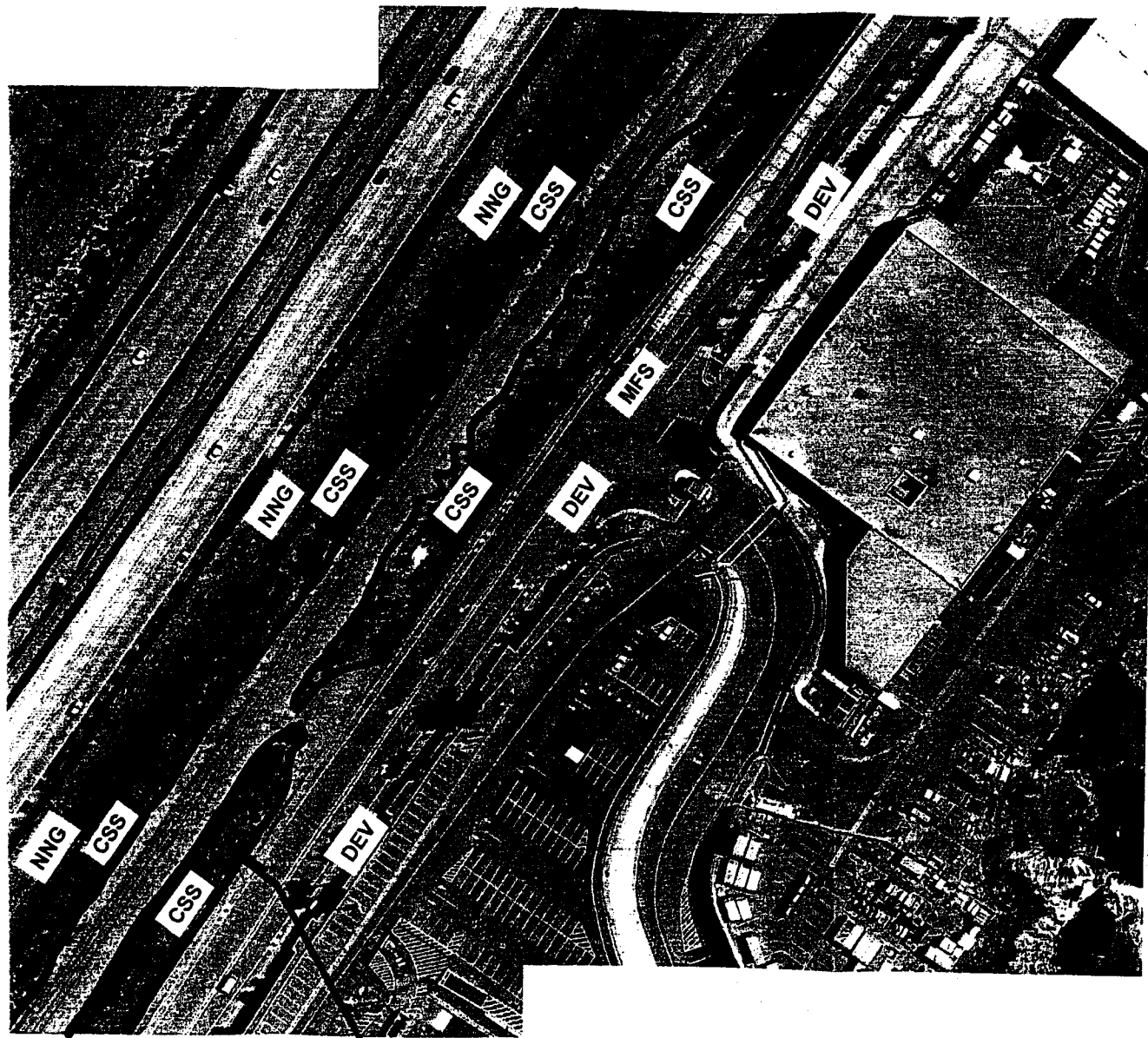


EXHIBIT NO. 5
APPLICATION NO.
CC-86-03

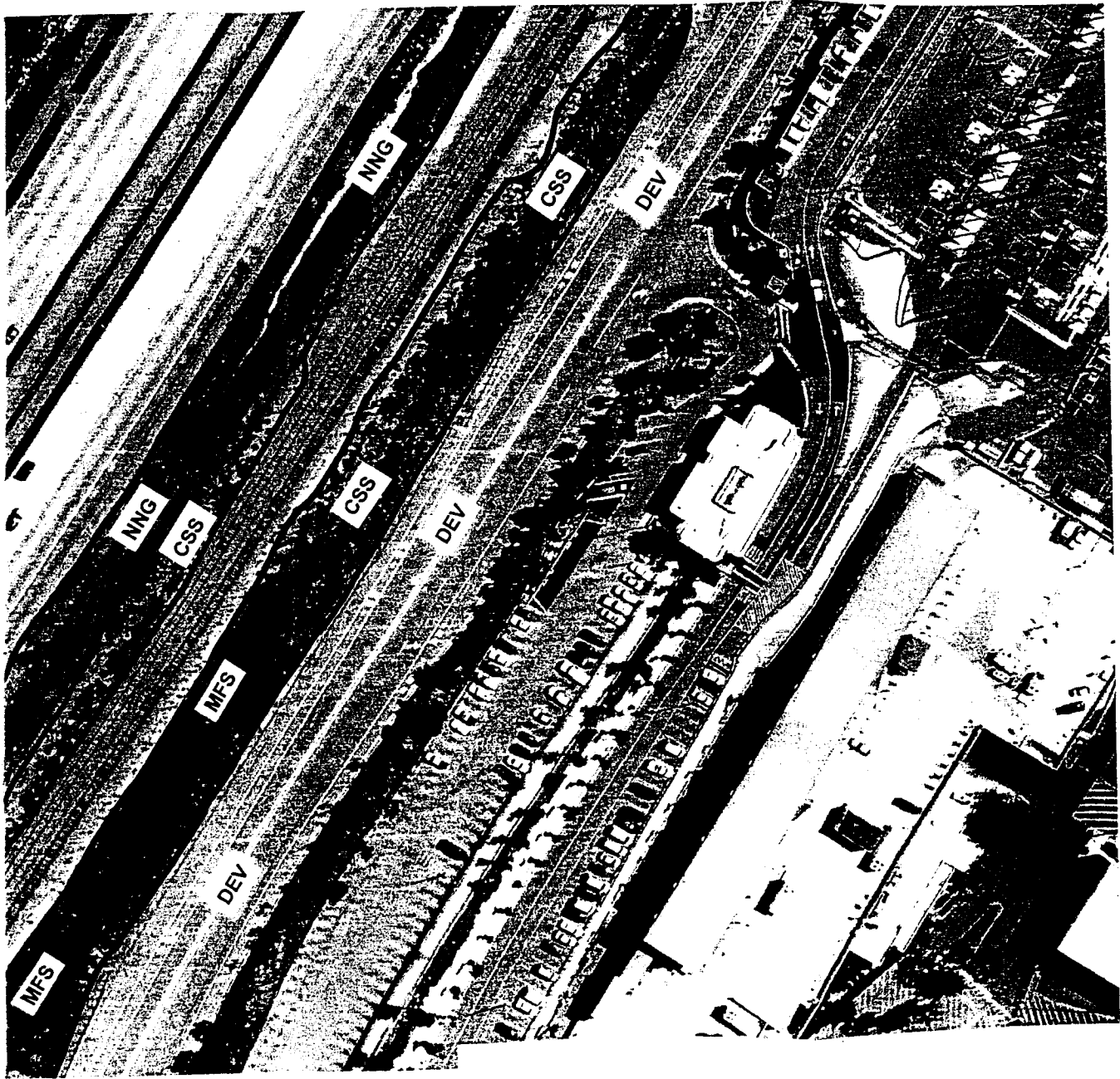
Photo 4. A majority of the project area is comprised of the railroad tracks, rock ballast and dirt roads. Photo taken from MP 214.9 facing north.



S26 North

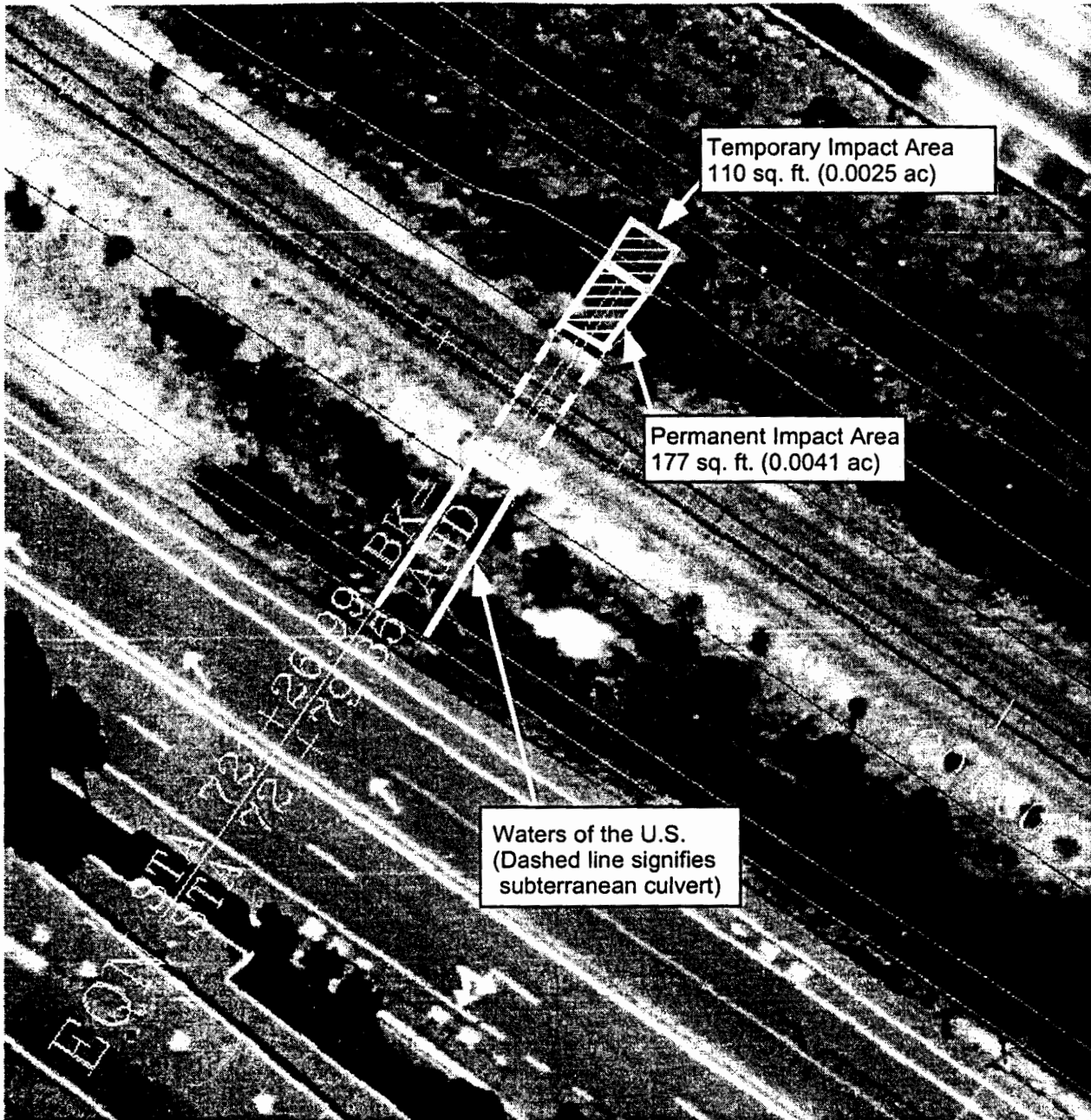
CG (1 Female, 1 Juvenile)  
8-24-01

EXHIBIT NO. 6
APPLICATION NO.
CC-86-03
CSS=Coastal Sage Scrub

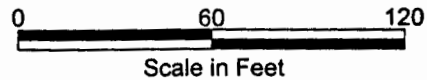


S29 North

EXHIBIT NO. 7
APPLICATION NO.
CC-86-03



MP 210.5 (Station 721+22.3)  
 Permanent Impact: 177 sq. ft. (0.0041 ac)  
 Temporary Impact: 110 sq. ft. (0.0025 ac)



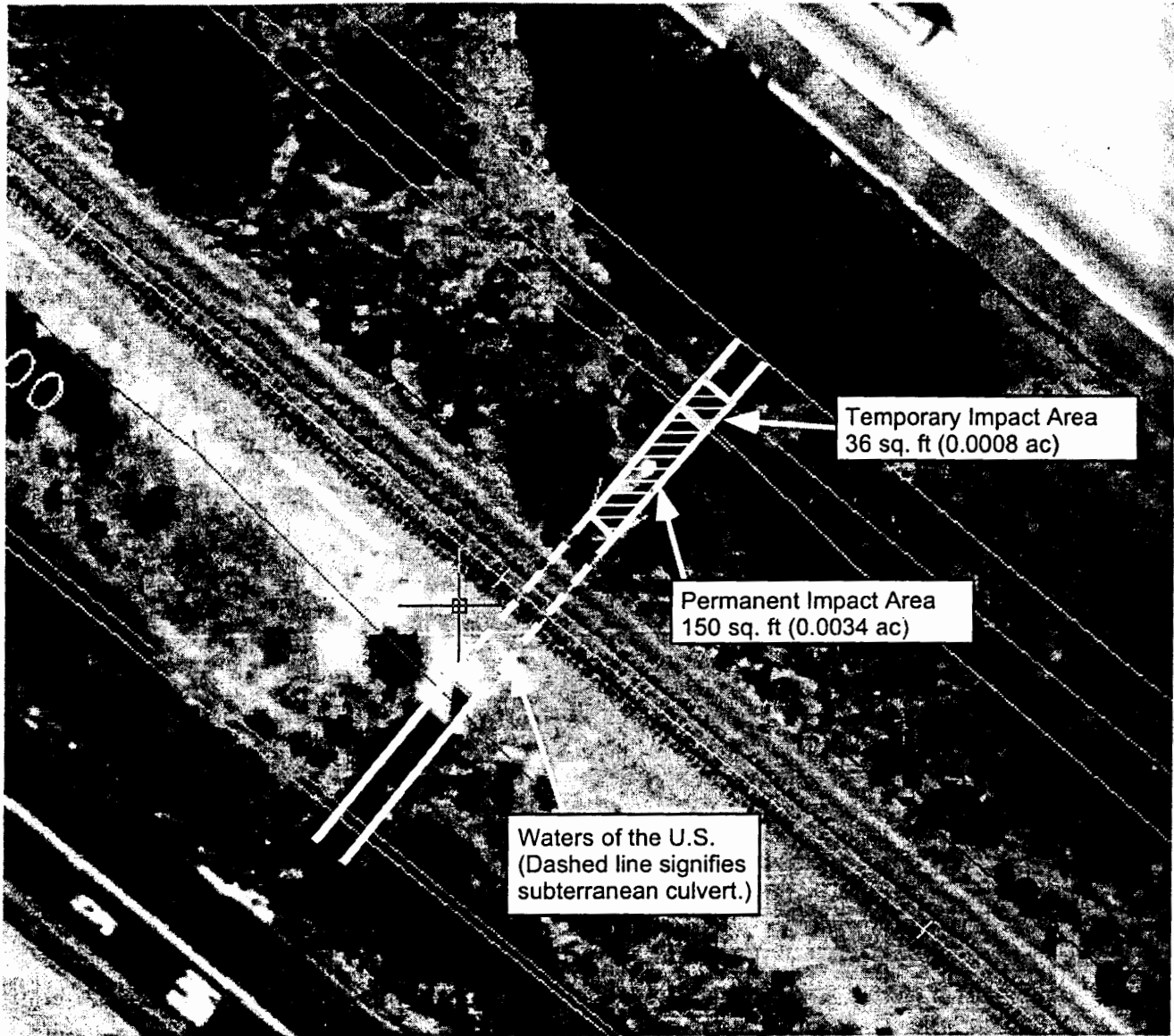
BASEMAP: HDR, Inc., 2002.; SOURCE: Marquez and Associates, 2003.; HDR, Inc, 2003.; BRG Consulting, Inc., 2003. 07/25/03



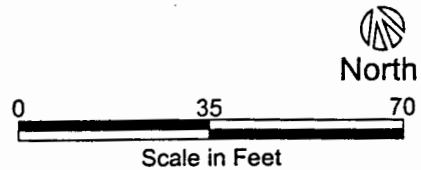
Amtrak San Onofre Second Main Track Project  
**Impacted Waters of the U.S.,  
 Culvert MP 210.5**

EXHIBIT NO. 8
APPLICATION NO.
CC-86-03
Culverts





MP 211.4 (Station 673+91)  
 Permanent Impact: 150 sq. ft. (0.0034 ac)  
 Temporary Impact: 36 sq. ft. (0.0008 ac)



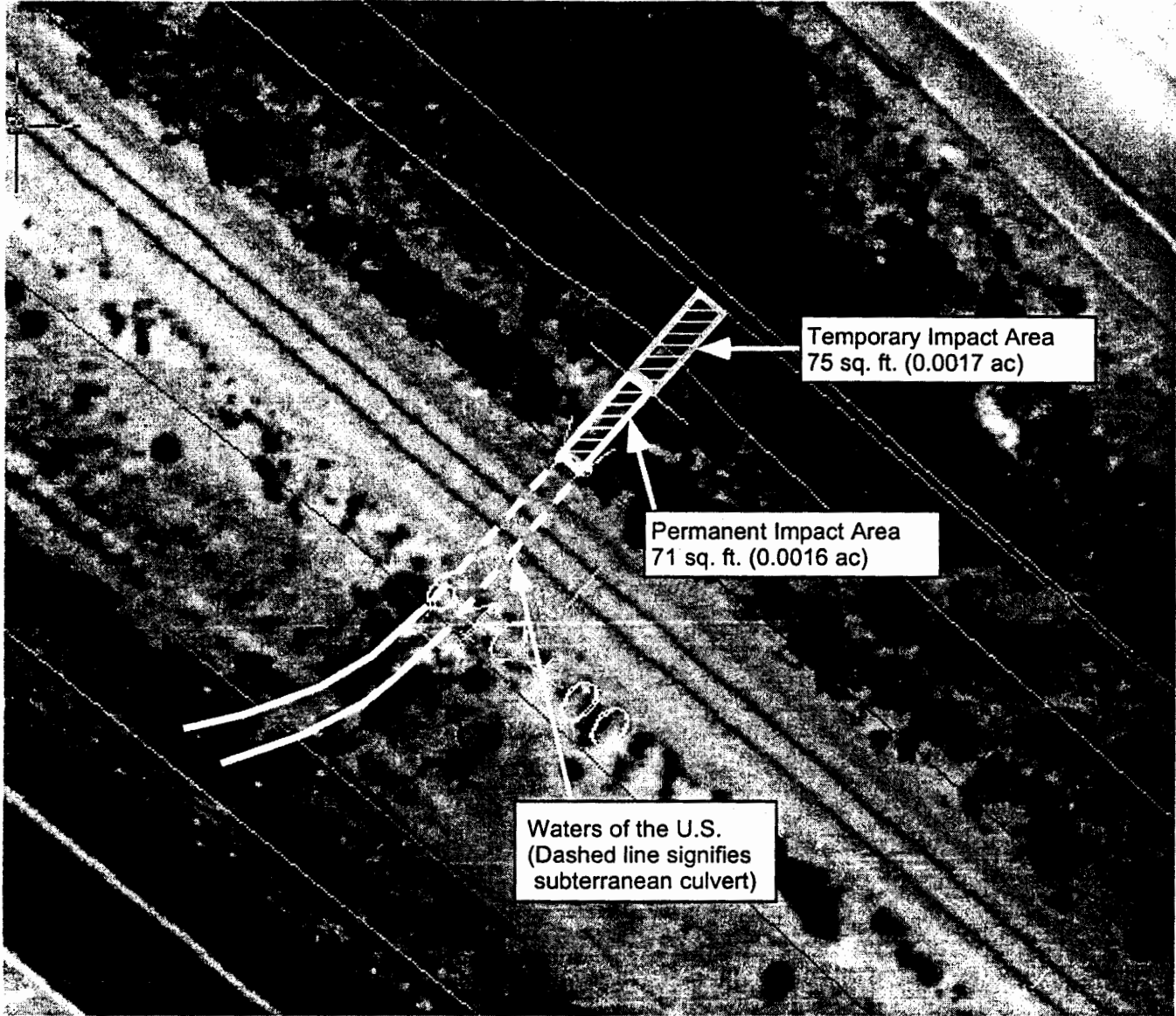
BASEMAP: HDR, Inc., 2002.; SOURCE: Marquez and Associates, 2003.; HDR, Inc, 2003.; BRG Consulting, Inc., 2003. 07/25/03



San Onofre Double Track Project - San Onofre Segment

**Impacted Waters of the U.S.,  
 Culvert MP 211.4**

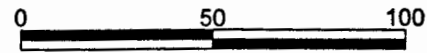
EXHIBIT NO.	9
APPLICATION NO.	
	CC-86-03
	Culverts



MP 212.0 (Station 640+18)  
 Permanent Impact: 71 sq. ft. (0.0016 ac)  
 Temporary Impact: 75 sq. ft. (0.0017 ac)



North



Scale in Feet

BASEMAP: HDR, Inc., 2002.; SOURCE: Marquez and Associates, 2003.; HDR, Inc, 2003.; BRG Consulting, Inc., 2003. 07/25/03



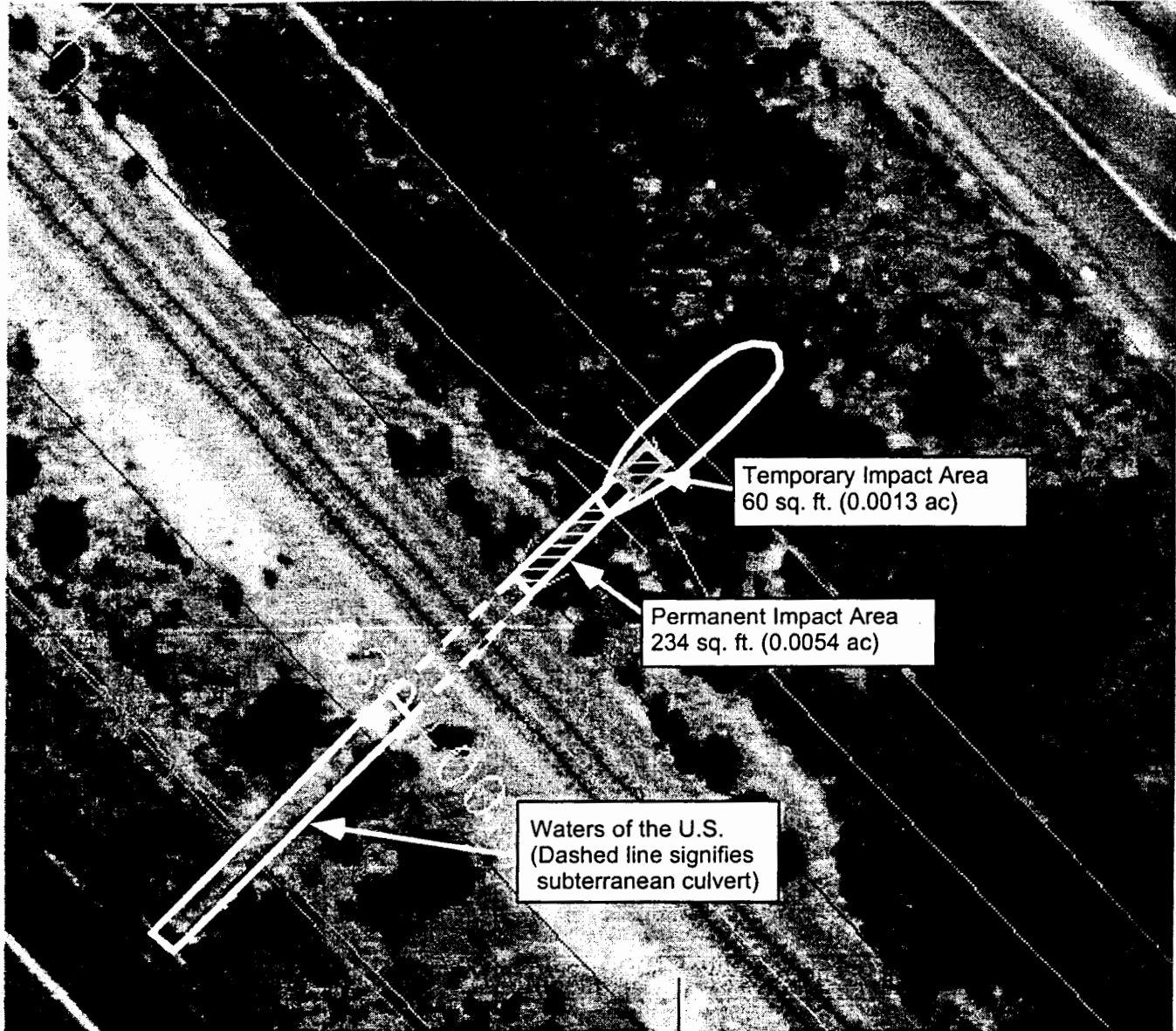
Amtrak San Onofre Second Main Track Project  
**Impacted Waters of the U.S.,  
 Culvert MP 212.0**

EXHIBIT NO. 10

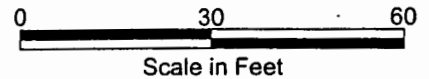
APPLICATION NO.

CC-86-03

Culverts



MP 212.2 (Station 630+02)  
 Permanent Impact: 234 sq. ft. (0.0054 ac)  
 Temporary Impact: 60 sq. ft. (0.0013 ac)



BASEMAP: HDR, Inc., 2002.; SOURCE: Marquez and Associates, 2003.; HDR, Inc, 2003.; BRG Consulting, Inc., 2003. 07/25/03



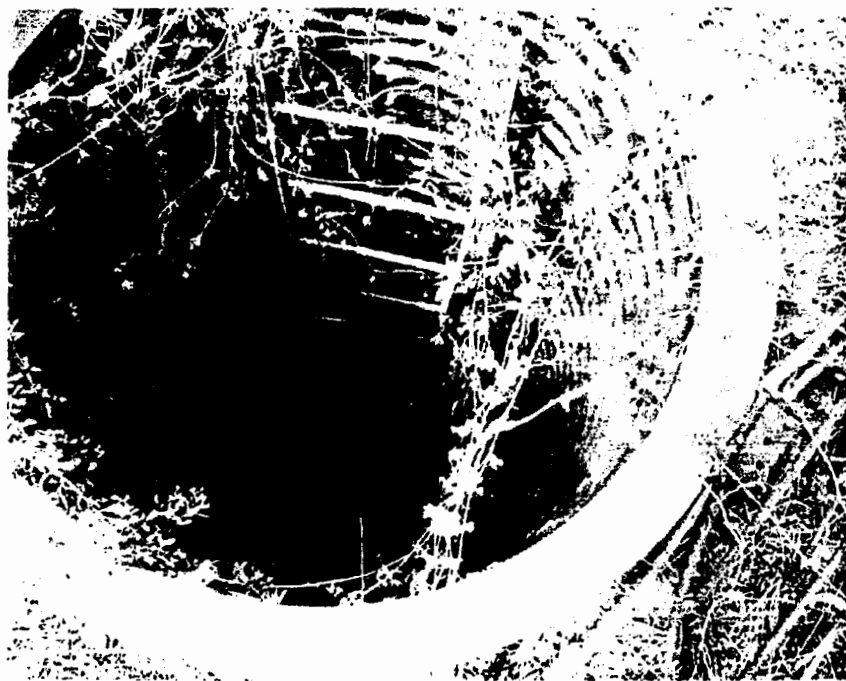
San Onofre Double Track Project - San Onofre Segment

**Impacted Waters of the U.S.,  
 Culvert MP 212.2**

EXHIBIT NO.	11
APPLICATION NO.	
	CC-86-03
	culverts



View of east face of Culvert MP 210.5 (Station 721+22.3).



View of manhole access point for Culvert MP 211.1 (Station 687+98).

SOURCE: ASM Affiliates, Inc., July 2003.

07/21/03



Amtrak San Onofre Second Main Track Project

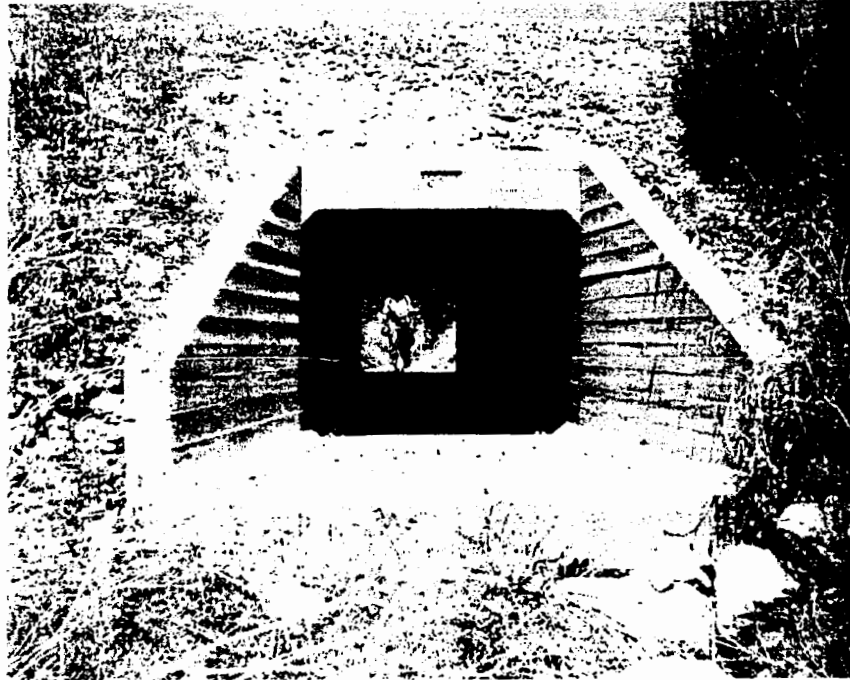
**Culverts MP 210.5 and MP 211.1**

EXHIBIT NO. 12

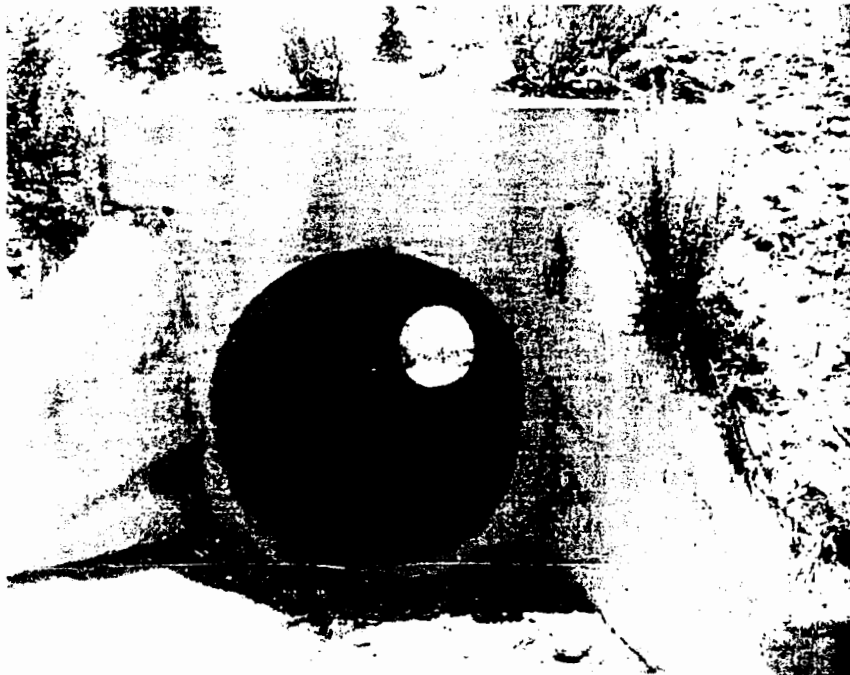
APPLICATION NO.

CC-86-03

culverts



West face of Culvert MP 211.4 (Station 673+91) showing construction date of 1947.



East face of railroad portion of Culvert MP 212.0 (Station 640+18).

SOURCE: ASM Affiliates, Inc., July 2003.

07/21/03



Amtrak Double Track - San Onofre Segment

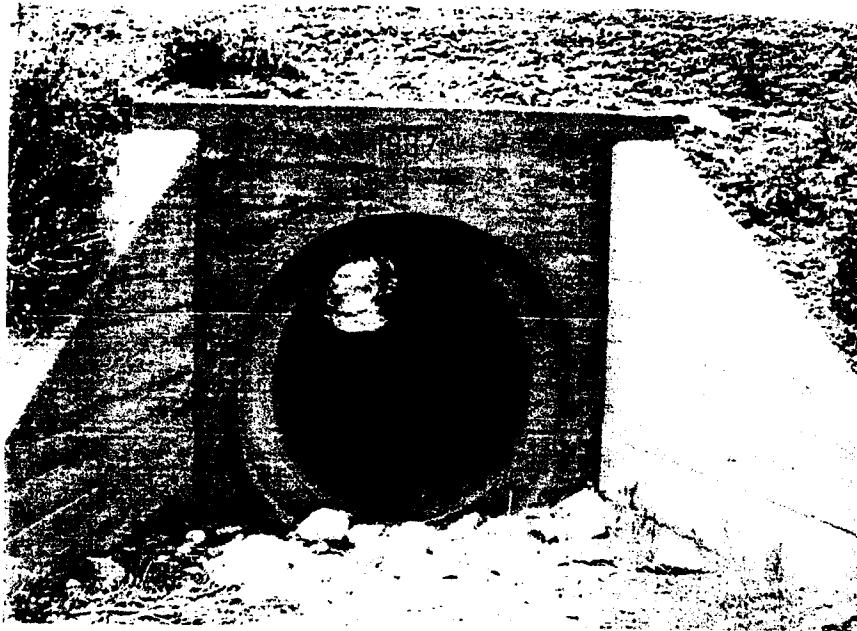
**Culverts MP 211.4 and MP 212.0**

EXHIBIT NO. 13

APPLICATION NO.

CC-86-03

Culverts



East face of Culvert MP 212.2 (Station 640+18) showing construction date of 1937.

SOURCE: ASM Affiliates, Inc., July 2003.

07/21/03



Amtrak San Onofre Second Main Track Project

**Culvert MP 212.2**

EXHIBIT NO. 14

APPLICATION NO.

CC-76-03

Culverts