

CALIFORNIA COASTAL COMMISSION

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**RECORD PACKET COPY****Item W9d**

Filed: March 8, 2004
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Staff: ALB-LB **ALB**
Staff Report: March 25, 2004
Hearing Date: April 14-16, 2004
Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NUMBER: 5-03-322

APPLICANTS: City of San Clemente and Orange County Transportation Authority (OCTA)

AGENT: James Pechous, City of San Clemente and Shoreh Dupuis, OCTA

PROJECT LOCATION: Along the shoreline within the OCTA right-of-way from North Beach to Calafia State Park (approx. 2.37 miles), San Clemente, Orange County

PROJECT DESCRIPTION: Construction of a multi-use trail consisting of lateral and vertical access improvements, including formal railroad crossings, barriers to prevent unauthorized crossings, lateral pedestrian bridges, and native landscaping located along the shoreline within the Orange County Transportation Authority (OCTA) right-of-way from North Beach to Calafia State Park.

LOCAL APPROVALS RECEIVED: Adoption of Resolution No. 03-56 by the San Clemente City Council on June 3, 2003, which approved *Mitigated Negative Declaration for the Railroad Corridor Pedestrian Beach Trail in the City of San Clemente*.

SUMMARY OF STAFF RECOMMENDATION:

The applicant proposes construction of a multi-use trail along the entire length of the San Clemente shoreline. The project involves the creation of a trail using natural materials and proposes to install formal railroad crossings and fencing/barriers where informal access is currently available. The major issues of this staff report include public access and recreation, preservation of scenic resources, avoidance of wetland impacts, and water quality.

Staff recommends **APPROVAL** of the proposed development subject to twelve (12) special conditions which require 1) evidence of approval(s) by other State and local agencies; 2) evidence of approval by USACOE; 3) submittal of final sign plan; 4) monitoring and maintenance of access improvements; 5) future improvements come back to the Commission for review; 6) maintenance of public access during construction; 7) conformance with coastal engineering recommendations; 8) assumption of risk; 9) no future protective device or enhancement of existing protective device; 10) wetlands avoidance; 11) construction best management practices; and 12) debris disposal at an appropriate site.

At the time of this staff report, the applicants are in agreement with the staff recommendation and special conditions. However, three (3) protests have been filed with the California Public Utilities

Commission (CPUC) regarding the proposed project. CPUC review of the project is still pending. The basis for the objections will be discussed within the staff report.

SUBSTANTIVE FILE DOCUMENTS:

City of San Clemente Certified Land Use Plan (LUP); *Biological Constraints Analysis for San Clemente Rail Trail* prepared by Merkel & Associates, Inc. dated January 31, 2002; *Jurisdictional Wetland Delineation for the San Clemente Rail Trail Project* prepared by Merkel & Associates, Inc. dated September 17, 2002; *Coastal Engineering Analysis for Coastal Trail Accessways* prepared by Coastal Frontiers dated March 2004.

EXHIBITS:

1. Location Map
2. Project Plans
3. Fencing Types
4. Objections Filed with PUC
5. PUC Staff Prehearing Conference Statement
6. City Response to PUC Staff Objection
7. Certified LUP Access Map and Summary of Access Points
8. Visual Simulations.

STAFF RECOMMENDATION:

Staff recommends that the Commission **APPROVE** the permit application with special conditions, pursuant to the following recommendation.

MOTION:

I move that the Commission approve Coastal Development Permit #5-03-322 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

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 this permit is reported to the Commission. 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.

III. SPECIAL CONDITIONS

1. Approval by State and Local Agencies:

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall provide to the Executive Director a copy of permits issued by the California Public Utilities Commission, Regional Water Quality Control Board, State Lands Commission, and the County of Orange authorizing this project, or letter of permission, or evidence that no permit or permission is required. The applicants shall inform the Executive Director of any changes to the project required by the above-referenced agencies. Such changes shall not be incorporated into the project until the applicants obtain a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

2. Approval by USACOE

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the permittees shall provide to the Executive Director a copy of a permit issued by the US Army Corps of Engineers (USACOE) or letter of permission, or evidence that no permit or permission is required. The applicants shall inform the Executive Director of any changes to the project required by the USACOE. Such changes shall not be incorporated into the project until the applicants obtain a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

3. Submittal of Final Sign Plan

- A. **PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the applicant shall submit a final sign plan to the Executive Director for review and approval. The plan shall include signage that directs the public to the various public access and recreation opportunities within the project limits and declares the public's right to use such

facilities. Signs shall invite and encourage public use of access opportunities and shall identify, provide information and direct the public to key locations. Key locations include, but are not limited to, public parking, parks, and visitor serving amenities. Signage shall include public facility identification monuments (e.g. vertical crossing name); facility identification/directional monuments (e.g. location of park amenities); interpretive signs, and safety signs. Signs shall also identify key habitat preservation areas, explain biology and other resource characteristics of the site, and identify restricted areas. The plan shall include the approximate siting of each sign, sign dimensions, and lettering dimensions.

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

4. Monitoring and Maintenance

- A. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, a Maintenance and Monitoring Plan for the vertical and lateral access improvements. The plan shall demonstrate that the trail and crossing structures are inspected and maintained to prevent unsafe access conditions and to ensure that any portions of the access improvements that may become damaged do not enter the beach. The plan shall also demonstrate that the barrier system along the lateral accessway provides effective safety controls and is functional throughout the life of the project. The plan shall include, at a minimum, the following items:

1. A schedule for inspection of the vertical and lateral access improvements by a qualified professional. In addition to periodic inspection, the inspection of the access improvements shall occur after high surf and/or railroad armoring activities.
2. A contingency plan for debris removal in case of damage to access improvements.
3. A contingency plan for immediate barrier system repair in case of damage. The plan shall include provisions for interim barriers while repairs are being undertaken.

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

5. Future Improvements

This coastal development permit (5-03-322) is only for construction of vertical and lateral access improvements along the railroad corridor, as expressly described and conditioned herein. Any plans for non-exempt future improvements or development, including but not limited to the construction of additional crossings, fencing/barriers, lighting, and/or protective

devices, shall be submitted for Commission review and shall not commence unless Commission approval is granted. New development, unless exempt, shall require an amendment to this permit or a new coastal development permit from the Coastal Commission or its successor agency.

6. Maintenance of Public Access

The construction activities authorized pursuant to Coastal Development Permit No. 5-03-322 shall not obstruct public access to San Clemente's beaches during the peak use season, defined as the period starting the day before the Memorial Day weekend and ending the day after the Labor Day weekend of any year. In addition, the applicant shall comply with the following:

- 1) In the event that any vertical accessway to the beach is not open for public use during the "off" peak use season due to construction activities associated with the Railroad Corridor Pedestrian Trail project, signage shall be posted on site identifying the nearest public accessway providing safe railroad crossing.
- 2) The staging area for construction of the project shall not obstruct vertical or lateral access.
- 3) Public parking areas shall not be used for staging or storage of equipment during the peak use season.
- 4) Lateral public access along the beach shall remain available year-round.

7. Conformance with Coastal Engineering Recommendations

- A. All final design and construction plans, including foundation plans for the vertical crossings, shall be consistent with all recommendations contained in the *Coastal Engineering Analysis for Coastal Trail Accessways* prepared by Coastal Frontiers dated March 2004.
- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that an appropriately licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced coastal engineering evaluation approved by the California Coastal Commission for the project site.
- C. The permittees 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 Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Assumption of Risk, Waiver of Liability and Indemnity

- A. By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from flooding, wave uprush and boulder placement and/or movement; (ii) to assume the risks to the applicants 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 applicants 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 "Special Conditions"); and (2) imposing all 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 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. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

9. No Future Shoreline Protective Device

- A(1). By acceptance of this Permit, the applicants agree, on behalf of themselves and all other successors and assigns, that no new shoreline protective device(s) or enhancement of the existing protective device shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 5-03-322 in the event that the development is threatened with damage or destruction from boulder placement, waves, erosion, storm conditions or other hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- A(2). By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the applicants shall remove the development authorized by this permit, including the vertical and lateral access improvements, if any government agency has ordered that the structures are not to be utilized due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the applicants shall be jointly and severally liable for removal of all recoverable debris associated with the development from the beach and ocean and lawful disposal of the material in an approved disposal site. Such removal shall require a coastal development permit.
- B. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT**, the applicants 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 "Special Conditions"); and (2) imposing all 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 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.

- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicants shall submit a written agreement in a form and content acceptable to the Executive Director, incorporating all of the above terms of this condition.

10. **Avoidance of Drainages and Wetlands**

- A. The permittees shall comply with the following drainage and wetlands avoidance requirements:
1. The on-site drainages and wetlands shall not be impacted by the project. All plans and specifications for the project shall indicate that impacts to the drainages and wetlands shall be avoided and that no impact to the drainages and wetlands is authorized by the California Coastal Commission.
 2. A buffer shall be established between all work approved by this permit and any drainages and wetlands. Prior to commencement of any work approved by this permit, a temporary barrier or work area demarcation (such as but not limited to plastic mesh, solid wood or chain link fencing) shall be placed between the construction areas and the buffer protecting the drainages and wetlands. Barriers and other work area demarcations shall be inspected and approved by a qualified biologist. All temporary barriers, staking, fencing shall be removed upon completion of the proposed development.
 3. Any inadvertent impacts to drainages or wetlands by the proposed development shall be reported to the Executive Director within 24 hours of occurrence and shall be mitigated. Such mitigation shall require an amendment to this permit or a new permit unless the Executive Director determines that no amendment or new permit is required.
 4. No construction materials, debris, or waste shall be placed or stored where it may enter areas containing drainages or wetlands;
 5. No equipment shall be staged or stored within any habitat area or within 100 feet of any drainages or wetlands;
- B. **PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the permittees shall submit a revised site access, staging, work area and equipment storage plan(s) which conforms with the requirements of subsection A.1 through A.5. of this special condition. The permittees shall undertake development in accordance with the approved final plan(s). Any proposed changes to the approved final plan(s) shall be reported to the Executive Director. No changes to the approved final plan(s) shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

11. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris

The permittee shall comply with the following construction-related requirements:

- (a) No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to wave erosion and dispersion;
- (b) Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;
- (c) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs and GHPs which shall be implemented include, but are not limited to: stormdrain inlets must be protected with sandbags or berms, all stockpiles must be covered, and a pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines. Selected BMPs shall be maintained in a functional condition throughout the duration of the project.
- (d) Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed at a debris disposal site outside the coastal zone, pursuant to Special Condition No. 12.

12. Location of Debris Disposal Site

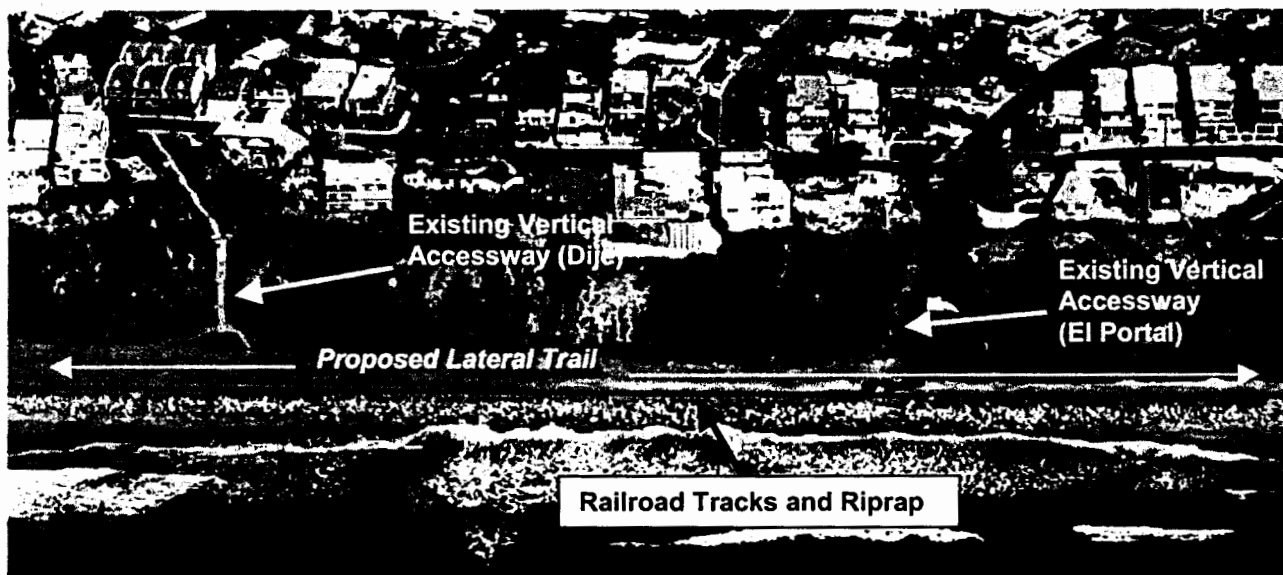
The applicants shall dispose of all demolition and construction debris resulting from the proposed project at an appropriate location. If the disposal site is located within the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. PROJECT LOCATION, DESCRIPTION AND BACKGROUND

The City of San Clemente and the Orange County Transportation Authority (OCTA) are proposing to improve lateral and vertical beach access within the railroad corridor from North Beach to Calafia State Park in the City of San Clemente, Orange County (Exhibit 1). The project will occur within a 100' wide OCTA right-of-way for a length of approximately 2.37 miles. The project begins at a Metrolink rail station within the northernmost portion of San Clemente and terminates at State Park property in the southernmost portion of the City. (CA State Parks declined an invitation to become a co-applicant in the current application.) The railroad corridor is situated between the ocean and the toe of a coastal bluff system that extends the length of the City, as depicted below.



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Within the project area, the railroad tracks are located between the first public road and the sea, separating beachgoers from the sandy beach. The railroad tracks have a rip-rap revetment that protects the tracks from erosion and wave overtopping. There are 18 designated vertical access points in the City's certified Land Use Plan (LUP). Many of these designated vertical access points are located at the terminus of public stairways leading down the bluff face. Although the number of crossings is higher at these points, the public can access the beach by crossing the tracks at virtually any point along the corridor. At present, there is only minimal fencing along the tracks and that is focused in the vicinity of the Municipal Pier. The only public railroad crossings that are recognized by the CPUC are located at the Municipal Pier (two crossing points) and Calafia State Park.

No lateral access within the right-of-way is currently authorized by any of the rail agencies and is, in fact, considered trespassing by those rail agencies. Nonetheless, the public continually travels along an informal trail that exists inland of and parallel to the railroad tracks, seaward of the toe of bluff. Therefore, track crossings occur along the entire length of the railroad corridor, presenting an obvious safety hazard. There is also a safety concern due to a number of "pinch points" along the informal trail that force people to walk very close to and/or on the tracks when traveling laterally.

The City and OCTA propose to improve the current access conditions within the railroad corridor by creating the San Clemente Railroad Corridor Pedestrian Beach Trail, a multi-use trail along the entire length of the corridor. The proposed trail will follow the general alignment of the existing informal trail, but will include design controls to minimize safety hazards associated with rail crossings. The trail will begin on the east (inland) side of the tracks south of the Metrolink Commuter station at North Beach. From North Beach, the trail will extend south to Corto Lane. At Corto Lane, the trail will cross the tracks and continue southward on the west (seaward) side of the tracks until it reaches the T-Street restrooms. The trail will then cross back over to the east side of the tracks and continue to its endpoint at Calafia State Park.

The applicants propose to create a well-defined trail with barriers between the pedestrians and the railroad. The trail will accommodate two-way, non-motorized uses and limited motorized uses (motorized wheelchairs, maintenance equipment and emergency vehicles from the Pier to T-Street). The project is a multi-use trail that will allow walkers, joggers, mountain bicyclists, and wheelchair users. Maintenance vehicles and equipment will also use the railroad right-of-way. The trail is comprised of four components: the trail, fencing and barriers, crossings, and landscaping, as described below. Project plans are included as Exhibit 2.

1. Trail

The trail will be 5' wide in either direction (10' total width) to allow sufficient width for maintenance vehicles. The edge of the trail will be located a minimum of 15' from the centerline of the railroad tracks. The majority of the trail will be constructed of stabilized decomposed granite or natural soil (existing conditions). An 8' wide elevated wooden walkway supported by caissons is proposed along an approximately 975' long stretch of the trail at Mariposa Point. The elevated walkway is proposed for safety considerations as the trail in this particular area curves around a narrow point and gets very close to the railroad track. The walkway design addresses the safety concerns at this point by separating pedestrians from the tracks as much as possible. To do this, the trail must be sited as close to the toe of the bluff as possible. The utilization of an elevated walkway supported by caissons minimizes any grading of the toe of bluff. In addition to the elevated walkway, four (4) new pre-fabricated bridges are proposed to span existing drainage courses along the lateral trail. The proposed clear-span bridges will not require any modifications to the drainage courses or result in the fill of coastal waters. New bridges will be constructed of wood. Minor grading is proposed for site preparation and drainage improvements.

2. Fencing and Barriers

Fencing and/or natural buffer treatments are proposed between the trail and the railroad tracks along the inland side of the tracks. As shown on the plans, some form of barrier (or combination of barrier types) would extend laterally along either side of authorized crossing points for a distance of 150 feet. These controls are intended to ensure safe use of the trail by funneling users to new improved crossing points, thereby deterring uncontrolled crossings. There are several types of barriers and/or buffers proposed, depending on the location. These include native landscape restoration planting areas; new boulders; 2' high railroad tie buffer walls; 4' high three-rail fencing; 3' high two-rail fencing; new 5'6" high welded wire fencing; and 5'6" high welded wire fencing to replace a fence washed out by the El Niño storms. Fencing types are shown in Exhibit 3. The welded wire fencing will only be used along a very limited stretch of the overall project area, as will be discussed in the Public Access Section. Rock mulch would also be used as a further walk deterrent in restricted areas.

3. Railroad Track Crossings

The project involves the improvement and formalization of nine (9) existing vertical railroad crossings.¹ As shown in the project plans, these will be located at Dije Court, El Portal, Linda Lane, Corto Lane, T-Street, Lost Winds, Riviera, Montalvo and Calafia. Of the thirteen (13) vertical accessways identified in the certified LUP within this stretch of the City, nine (9) will be improved, three (3) will remain unchanged, and one (1) will be closed for safety reasons. Pedestrians reaching the closed access point will be redirected to a nearby alternative crossing. Where possible, the applicants are proposing to funnel pedestrian traffic from a broad relatively un-defined crossing area to one specific, defined crossing point to minimize the number of crossings within a relatively short distance.

The applicants considered various crossing types (at-grade, undercrossing and overpass) based on level of usage, physical constraints, and cost. Although grade separated crossings (i.e. undercrossings and overpasses) are preferred by the rail agencies, the physical constraints and cost of installing only grade-separated crossings was prohibitive for the current project, as will be discussed further in the report. As such, the majority of vertical access improvements will include at-grade crossings. Two of the access points (Linda Lane and El Portal) will include both an at-grade crossing and an underpass. At-grade crossings are proposed for seven (7) of the vertical access points, including Dije Court, El Portal, Linda Lane, Corto Lane, T-Street, Lost Winds, and Calafia. Improved undercrossings are proposed for three (3) of the access points, including El Portal, Linda Lane and Riviera. No vertical access improvements are proposed at the North Beach, Pier, or Boca del Canon access points.

Improved at-grade track crossings will be constructed of asphalt and concrete surfaces. In cases where rip-rap is located on the seaward side of the crossing, a meandering cement stairway will be installed down the rocks for access to the beach. The project involves the placement of Number 9 signals on the inland side of the tracks and Number 8 signals on the ocean side. Number 9 signals utilize flashing lights, bells and an automated arm to warn pedestrians of an on-coming train, whereas Number 8 signals have only lights and bells. The applicants indicate that the proposal allows for an "escape route" if the arm comes down while someone is crossing.

4. Landscaping

The project involves the use of native landscaping for native restoration and buffer planting. Landscaping will be used as barriers to unauthorized crossings and to identify authorized crossing points. The applicants propose to replant native vegetation in barren areas along the trail that may have been occupied by native plants at some point in the past. The landscaping will include plants and shrubs that are relatively small in scale. No large trees are proposed.

The project involves the placement of regulatory signage to specify use restrictions. The project also involves the placement of directional signage to identify access points, parks, transit stations and other points of interest. Temporary signs may also be used to caution users of hazardous

¹ The CPUC only recognizes 3 public railroad crossings within the project area—the Pier at-grade crossing, the Pier undercrossing, and the Calafia at-grade crossing. However, the Coastal Commission recognizes 13 vertical access points within the project area through its certification of the City's Land Use Plan (18 access points Citywide).

conditions, such as during high tide episodes when water may block the undercrossings or when there may be sand or water on the trail.

Construction of the proposed improvements will be carried out using the following types of equipment: crane, truck, backhoe, wheeled loader and bulldozer. A concrete pump may also be needed to construct the crossings. Construction is anticipated to last approximately 24 months, to commence in early Fall 2004 and be completed by Fall 2006. Throughout the construction process, beach access will be maintained. Staging of equipment and materials will occur in designated areas that are well protected from wave uprush, including adjacent streets and parking lots. Some equipment may be stored on available areas between the railroad track and the toe of bluff where space allows, such as at Dije Court and Linda Lane. No equipment will be stored on the sandy beach, near wetlands or within drainage courses.

The proposed project requires approval by the US Army Corps of Engineers, the Regional Water Quality Control Board, CA State Parks Department, CA Department of Fish and Game, CA State Lands Commission, CA Public Utilities Commission (CPUC) and the County of Orange. To date, the applicants have received verification from CA State Parks and CA Department of Fish and Game that no approvals are required for the proposed project. Approvals are still pending with the remaining regulatory agencies. Formal objections to the project have been filed with the CPUC by CPUC staff, Caltrans and Burlington Northern and Santa Fe Railway Company (BNSF). (These objections will be discussed in Section B of the current staff report.) The Commission needs to ensure that approvals from other regulatory agencies are obtained and must be informed of how those approvals affect the project (if at all). As such, the Commission imposes Special Conditions 1 and 2. Special Condition 1 requires evidence of approval from all outstanding State and County agencies. Special Condition 2 requires evidence of approval from the US Army Corps of Engineers.

B. OBJECTIONS FILED

The project requires approval by the California Public Utilities Commission (CPUC). The City of San Clemente and OCTA applied to the CPUC on October 27, 2003. The CPUC has a quasi-judicial process that allows interested parties to protest applications, which are then assigned to an administrative law judge who holds hearings and presents findings and recommendations to the Commission. Three (3) protests were filed with the CPUC. Protests were filed by the CPUC staff, Caltrans and the Burlington Northern and Santa Fe Railway Company (BNSF) in late November/early December 2003. Following is an outline of the objections raised by the various parties. The full text of the objections is attached as Exhibit 4.

CPUC Staff Objection (Exhibit 4a)

CPUC staff opposes the construction of the proposed at-grade crossings as serious safety hazards for the reasons summarized below.

1. Insufficient Safety Precautions
2. Failure to Demonstrate that Grade Separations are not "Practicable"
3. Inadequate Measures to Prevent Trespassing by Pedestrians
4. Unreliable Grade-Separated Undercrossings
5. Insufficient Landing Areas for Pedestrians
6. Insufficient Lighting
7. Failure to Address Enforcements Against Trespassers Using ROW
8. Failure to Comply with the CPUC's Prior Decision Concerning the Calafia Beach At-grade Crossing

BNSF Objection (Exhibit 4b)

The BNSF objection addresses the following points:

1. The project will result in an increase in pedestrian traffic on the right-of-way, which is incompatible with use as a high speed rail corridor.
2. Request to construct additional at-grade crossing inconsistent with current state and national policy calling for elimination of existing railroad grade crossings.
3. Trial meanders in close proximity to railroad tracks. Inadequate safety measures are proposed.
4. Concerns expressed by CPUC staff and railroads should be addressed.
- 5.

Caltrans Objection (Exhibit 4c)

The Caltrans objection raises the following issues:

1. The project will result in increased pedestrian traffic, which is incompatible with the right-of-way's use as a federally designated high speed passenger rail corridor.
2. Request to construct additional at-grade crossing inconsistent with current state and national policy calling for elimination of existing railroad grade crossings.
3. Additional crossings are inconsistent with plans to provide improved intercity passenger rail in the LOSSAN (Los Angeles San Diego) corridor.
4. Proposal is inconsistent with the LOSSAN Corridor Specific Plan.
5. At-grade crossings and other "attractive nuisances" such as easily compromised fences present safety concerns.
6. City has ignored safety concerns raised by rail agencies.

In February 2004, CPUC staff submitted a prehearing conference statement, which further explains their objection (Exhibit 5). The statement expands on objections against each proposed crossing, both at-grade and undercrossings. CPUC staff asserts that the crossings are sited too closely together. The staff also states that storm drains should not be used as undercrossings due to potential for flooding in the rainy season and "uninviting" conditions during the dry season.

Response to Objections

The City has prepared a summary response to the PUC staff objection (Exhibit 6). The City maintains that the proposal *"eliminates innumerable existing crossings of the railroad by the public attempting to access the beach"* and will increase safety within the rail corridor. The City asserts that grade separations at every access point are physically infeasible given the soil, topography, elevation of the railroad tracks and water conditions. The City has proposed grade separation in the form of undercrossings where feasible. When the undercrossings are impassable during the storm season, pedestrians will be directed to at-grade crossings. Another point addressed in the City's response is the use of fencing along the rail corridor. The proposal provides a combination of barrier types (including vegetation and 3'-4' high fencing) to channel pedestrians to safe crossing points. As stated in the City's response, *"more heavy-duty fencing would not be compatible with community values or Coastal Commission requirements, and would be the target of considerable attempts to gain entry through construction fences at inappropriate and unnecessary locations."*

Public access and the safety of that access are naturally tied to one another. The City and OCTA have carefully studied the safety issues at the subject site and have devised the proposed project based on their long-term experience dealing with the present unsafe conditions of public access along the shoreline within the City. The applicants have indicated that a more structural approach is essentially a "no-project" alternative, whereas existing conditions will remain unchanged. The

proposal will do nothing more than improve safety compared with existing conditions; it will not create an unsafe condition.

The Commission acknowledges that the charges of the Coastal Act and the Public Utilities Commission differ. Many of the issues addressed in the objections to the PUC do not raise significant issues of consistency with the Coastal Act. Where issues of consistency arise, the Commission has imposed appropriate special conditions to ensure conformance with the Coastal Act.

C. PUBLIC ACCESS

Section 30212(a)(2) of the Coastal Act states:

(a) 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,

(2) adequate access exists nearby

Section 30213 states, in pertinent part.

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

The City of San Clemente certified LUP contains various coastal access policies pertaining to the currently proposed project, including the following:

Policy IX.1 *Improvements to beach facilities and beach access points which are administered by the City of San Clemente shall specifically be intended to provide for the maintenance and enhancement of maximum public use of the beach and ocean.*

Policy IX.2 *Monitor and attempt to improve the safety of pedestrians crossing El Camino Real and the railway along the coast. Specifically, the city shall work with OCTA to implement a safe and legal railroad crossing at Linda Lane Park, at an existing access centrally located between Linda Lane Park and North Beach, and at an existing access centrally located between T-Street and Calafia State Beach.*

Policy IX.4 *The maintenance and enhancement of public non vehicular access to the shoreline shall be of primary importance when evaluating any future public or private improvements in the Coastal Zone.*

Policy IX.6 *Develop a comprehensive network of improved beach access facilities at all designated primary beach access points which will ultimately provide safe access to all City owned beaches.*

Policy IX.7 *The City shall promote not only increased access to the shoreline, but increased safety of access. Improved access for the handicapped shall be provided at at least one of the primary access points administered by the City.*

Policy IX.11 *Funding shall be actively sought to maintain and improve existing accessways. The City shall seek funding for projects that will enhance public access, including:*

- *Improved pedestrian railroad crossing through the construction of at-grade, above-grade, or below-grade crossing at existing accessways.*
- *Additional off-street public parking spaces to serve beach accessways through the maximized use of existing beach parking lots and creation of new parking lots where feasible.*

Section 30604(C) of the Coastal Act requires that permit applications between the nearest public road and the shoreline of any body of water within the coastal zone shall include a public access and recreation finding. The proposed development is located between the sea and the first public road. In San Clemente, the railroad tracks separate the community from the shoreline. As shown in the certified LUP, vertical public beach access is available at 18 points along the San Clemente railroad corridor (Exhibit 7a). A summary of existing access points is also provided in the LUP (Exhibit 7b). Thirteen (13) of these points are located within the current project boundaries. Lateral access to the Pacific Ocean and sandy beach is available immediately seaward of the railroad tracks. An informal trail also exists immediately inland of the railroad tracks. The trail is heavily utilized by walkers, joggers and mountain bicyclists.

Most sections of the informal lateral trail are not maintained nor officially recognized by the City, OCTA, or any other rail agency. (The service road between the Pier and T-Street is officially recognized by OCTA and maintained by the City.) Due to limited space between the tracks and the coastal bluffs, poor drainage and rip rap placed along the right-of-way by OCTA maintenance crews, trail users have to cross or go onto the tracks when traveling along the trail. As described in the Mitigated Negative Declaration, this creates an *"uneven, sometimes discontinuous and dangerous trail."* Crossings of the track can occur at virtually any point along the trail, as only a small portion is fenced.

According to statistics provided in the MND, the City experiences over 2.3 million beach visitors annually. All of which must cross the OCTA right-of-way to get to the beaches. The railroad corridor is used by both tourists and local residents as a means of reaching the beach and as a transportation conduit between the northern and central parts of the City.

Multiple accidents between pedestrians and trains have occurred along the tracks, some of them fatal. A number of the accidents have been attributed to pedestrians being unaware of an approaching train, whereas others have been attributed to suicide.

As a result, the City of San Clemente has been working since 1995 on efforts to improve safety along the existing coastal trail. According to information provided by the applicants, the initial trail design was rejected by the community due to its overly engineered approach, elimination of many existing public coastal access points, proposed five foot high fences throughout the project, and the inclusion of seawalls that encroached onto the City's already receding beaches. This resulted in the appointment of the Railroad Corridor Safety and Education Panel (RCSEP). The RCSEP was made up of a diverse group of stakeholders involved in the process to that point, including community, environmental, railroad agencies, business representatives, City Council and staff, California State Parks, Orange County Transportation Authority (OCTA, the railroad corridor owner), along with others. These groups were charged with building consensus which would provide a blueprint for a more sensitively designed project that the community, the City and OCTA could support.

The current proposal is the outcome of the RCSEP's work with the community to develop a plan to

improve safety, while maintaining public access and avoiding a highly structural design alternative. The current proposal avoids the need for new shoreline protective devices and also minimizes the use of visually obtrusive fencing. The current proposal is intended to *"manage and channel pedestrians movements that are scattered along (and sometimes on) the track into 13 formal crossing locations"* within the project boundaries. Specifically, the proposed project is anticipated to improve safety by controlling railroad crossings.

As described previously, there are currently 18 coastal access points identified in the certified LUP. Of the 13 crossings presently identified in the project area, 3 crossings will remain unchanged as part of this project—North Beach, Municipal Pier and Boca del Canon. Nine crossings will be improved in their current configuration and one will be eliminated for safety and consolidation purposes (Mariposa Point). The new project proposes 9 crossing locations, with two locations having both an at-grade crossing and undercrossing. The applicants have indicated that consolidation is proposed to create improved crossings at the most safe and heavily frequented points along the trail. Consideration was given to the distance pedestrians will walk before looking for more accessible (albeit unauthorized) crossings. The consolidation of the Mariposa Point crossing is proposed to eliminate a safety hazard at a very narrow section of the trail. Pedestrians will be directed approximately 750 feet downcoast to the alternative crossing at Linda Lane. This is consistent with the LUP policy IX.7, which encourages increased safety of access.

The proposal provides a combination of fencing, vegetation, topographic barriers and an elevated walkway to channel pedestrians to safe crossing points. The CPUC and rail agencies encourage the use of more restrictive fencing, such as 5' to 6' high chain length or wrought iron along either side of the railroad tracks. The City has expressed concern that more heavy-duty fencing would not be compatible with community values and would be the target of considerable attempts to gain entry through fences at inappropriate and unnecessary locations. The erection of such fencing would present a physical barrier to continued public use and enjoyment of the subject area. In addition, fencing along either side of the tracks would adversely affect public views of the ocean, as will be discussed in the following section.

The project will allow continued lateral and vertical access within the railroad corridor, albeit in a modified manner. The proposal provides a combination of fencing, vegetation, topographic barriers and elevated walkway to channel pedestrians to safe crossing points. The lateral trail will be improved through the placement of new surface material and drainage improvements. The trail will no longer become muddy and uneven after rains. Additionally, the elevated walkway will allow pedestrians to more safely travel around a pinch point (known as Mariposa Point). Although the proposed project will modify the use pattern of pedestrians, the project will provide comparable access in a more safe manner than currently exists.

After project implementation, the City will work with the Orange County Sheriff's Department to enforce trespassing regulations. Enforcement has been difficult in the past because a formal trail system was not established. An educational campaign is proposed to ensure proper use of the trail in the future. Informational signage is also proposed to provide awareness for railroad safety. The applicants have indicated that a sign program is being developed and will include verbiage for appropriate trail usage. The phrase "No RR Trespassing" with appropriate code enforcement language will be stenciled on fence railings and on posted signs where no fence is proposed. A final signage plan has not been submitted. As signage is an important component of a public access program, the Commission imposes Special Condition 3, which requires the submittal of a final signage plan.

The applicants considered various alternatives when developing the proposed plan. The physical constraints and cost of creating grade separations make them not practicable. For example, the

span of an overpass would require substantial landing space on both the inland and the seaward side of the tracks. In many areas, the area seaward of the tracks is periodically inundated with water, making it unsuitable for an overpass landing. Steep coastal bluffs exist inland of the tracks, limiting allowing landing space. In addition, much of the property on the inland side is privately owned. Where feasible, undercrossings are being proposed as part of the current project. If undercrossings become inundated during high tide and storm episodes, users would be directed by signage to use an alternative crossing.

As will be discussed in the Hazards Section, the proposed vertical access improvements will be periodically subject to wave uprush. The proposed stairways located along the rip rap will be particularly susceptible during high storm events. Consequently, it is necessary to regularly monitor the condition of the improvements to ensure that public access and safety are not compromised. If material from one of the stairways were to enter the beach, the safety of beachgoers would be at risk. Additionally, if the barrier system (fencing and/or vegetation) were to be damaged, lateral access could become obstructed, hindering public access. Alternatively, if the barrier were damaged to the point that pedestrians could pass unrestricted, the safety controls of the project would be ineffective. To ensure that the trail improvements are properly monitored and maintained, the Commission imposes Special Condition 4. This condition requires that damaged portions of access improvements are removed and ensures that the barrier system along the lateral accessway provide effective safety controls and are functional throughout the life of the project, thereby enhancing public access and recreation.

The proposed improvements are not expected to attract new users to the area, but will serve those already utilizing the trail. The trail is primarily used by local residents, but visitors also use the trail during the peak beach use period and special events. The City estimates that there are currently 2.2 million beach visitors per year and the numbers continue to grow. The City also estimates that approximately 5 to 6 million trips across the railroad tracks each year, necessitating the proposed safety improvements. The project will enhance public access in the area and will serve as a public recreational opportunity of statewide importance.

The proposed project is also an important component of the developing 'California Coastal Trail'. A recent report by the Coastal Conservancy² identifies the San Clemente shoreline as an area that 'needs substantial improvement' to improve public accessibility along the coastline. One of the recommendations for action to implement the Coastal Trail identified in the Conservancy's report includes supporting '...the effort by the City of San Clemente to provide a safe pedestrian and bicycle trail along the railroad right of way west of State Highway 1' [page 54]. Construction of the proposed project would result in the implementation of this recommendation within the 3-year timeframe goal established in the plan.

The project, as proposed, is consistent with the public access and recreation policies of the Coastal Act, as well as the coastal access policies of the certified LUP. If any changes are proposed by the applicants or required by other regulatory agencies, the Commission must reevaluate the project. Special Conditions 1 and 2, discussed previously, require the applicants to submit evidence of approval by other regulatory agencies. The Commission also imposes Special Condition 5, to ensure that the Commission has the opportunity to review any future improvements that could potentially affect public access.

² Coastal Conservancy. 2003. Completing the California Coastal Trail. Report dated January 2003 submitted to the Members of the Legislature pursuant to Senate Bill 908 of 2001.

Construction Impacts

While the project involves construction near existing public accessways and sandy beaches, the applicants have stated that the proposed construction activities will not obstruct either lateral or vertical access. Although the applicants intend to minimize impacts to coastal access during construction, the proposed project may take up to 24 months to complete. As such, construction will occur during the peak beach use season, typically defined as Memorial Day weekend to Labor Day weekend. To guarantee that public access is maintained during this peak beach use season, the Commission imposes Special Condition No. 6. The condition requires that, in the event that any vertical accessways are obstructed during the "off" peak season due to construction, signage shall be posted on site to notify the public of the nearest pedestrian railroad crossing. The condition also requires the applicants to avoid the use of public parking areas during the peak use season. Lastly, the condition requires the applicant to maintain existing lateral public access.

Only as conditioned for maintenance of public access does the Commission find the proposed development consistent with Section 30212 of the Coastal Act.

D. SCENIC AND VISUAL RESOURCES

Section 30251 of the Coastal Act states, in relevant part:

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

The City's certified LUP contains the following scenic resource policies:

Policy VII.3 (in part) *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed:*

a. To protect public views to an along the ocean and scenic coastal areas.

d. Requires that projects be designed and developed to achieve a high level of quality, distinctive character, and compatibility with existing uses and development...

The proposed project will occur along the railroad corridor, a scenic area immediately inland of the City's public beaches. The project involves the erection of new fencing, signal poles, lighting, and vegetative screening. As such, the project has the potential to impact views to and along the shoreline.

All components of the proposed project are intended to appear rustic. For example, trail surfaces will consist of decomposed granite or natural soil, and all new split rail fencing will appear to be wood. (Wood fence alternatives are proposed due to problems with vandalism and maintenance associated with real wood.) A 3'-4' high split rail fence will be used in conjunction with planting to further enhance the barriers between the trail and railroad. Fencing will not extend the entire length of the trail, but will be limited to areas immediately upcoast and downcoast of a vertical access point for a distance of 150 feet on each side of a crossing point. Vegetation will consist of native shrubs, such as saltbush. A new 5'6" high welded wire fence is proposed from Corto Lane to the Marine Headquarters and a 5'6" high welded wire fence is proposed at T-Street to replace a fence washed out by the El Niño storms. These fences are deemed necessary to ensure safe railroad

crossing at the existing restroom facilities, which are located seaward of the railroad tracks. The areas surrounding the restrooms are high pedestrian traffic areas, attracting many families with young children. In addition, the restrooms are ADA compliant, further increasing the demand to cross the tracks at these locations.

To evaluate the view impacts of the proposed improvements, the MND provides visual simulations for selected sites (Exhibit 8). The visual impact analysis indicates that the proposed development will not significantly impact public or private views. (Although not a Coastal Act concern, the majority of private views are available from residences located at higher elevations.) As viewed from the inland side of the railroad corridor, the proposed barrier system (fencing and vegetation) will result in a new view obstruction to the ocean. This will be most apparent when approaching the ocean on foot, rather than in a vehicle. The project will not be visible from a scenic highway. The project will be visible from significant public vantage points such as the Pier and public parking lots at Linda Lane and North Beach. However, the majority of the proposed barrier system will not exceed 4' in height and will not be a completely solid feature. The ocean will remain visible through and over the barrier. As viewed from the ocean, the barrier system will be sufficiently set back to preclude any view blockage of the coastal bluffs. Only a small segment of the fencing will occur seaward of the tracks and this is limited to the Pier area, where other public facilities are located seaward of the railroad tracks. Finally, these barriers are only located at the railroad track crossing points and not the entire 2.37 miles of trail. Thus, the barriers are not continuous features. Thus view impacts will only be present at these crossing points. Therefore, the proposed barriers will not result in significant adverse impacts to public views to and along the shoreline because the location, height and materials used are designed to minimize solid obstructions of views.

Another view impact to consider is the placement of new railroad crossing signals at the vertical access points. The project involves the placement of Number 9 signals on the inland side of the tracks and Number 8 signals on the ocean side. Number 9 signals utilize flashing lights, bells and an automated arm mounted on a single pole to warn pedestrians of an on-coming train, whereas Number 8 signals have only lights and bells mounted on a single pole. Both signal types are 14' high. These are necessary safety features that cannot be avoided. As with the barriers, the new signals will only be located at the railroad track crossing points. Furthermore, while the potential location of the poles is constrained by their safety function, the applicants have situated the poles such that they are set close to the tracks and off of the beach. The proposed signals (two at each of the at-grade crossing points) will have a minimal impact when considered in the context of the entire 2.37-mile long project.

The project will, in fact, create new view benefits. The creation of a formal lateral accessway along the rail corridor will result in new view opportunities that don't presently exist in any formal way. Users of the new trail will be able to enjoy views to and along the shoreline along an aesthetically pleasing, rustic path. In addition, the project is compatible with the topography and will improve visually degraded areas with use of native vegetation. As such, the project will protect coastal views and enhance the visual quality in the subject area.

While not proposed, the CPUC has recommended that the applicants use 5' to 6' high fencing along both sides of the tracks for the entire length of the project. This type of barrier system would have significant adverse view impacts due to the height and continuous length of the system. In addition, construction of long segments of fence on the seaward side of the track would result in significant encroachments upon sandy beach with attendant view (and wave hazard) impacts. The current proposal includes fencing primarily along the inland side of the tracks, immediately upcoast and downcoast of each improved vertical access points. A small segment of fencing will occur seaward of the tracks. However, this will be limited to an approximately 900 foot long stretch in the Municipal Pier area, where other public facilities are located seaward of the railroad tracks. Due to

the narrow width of the beaches in some places along the project area, fencing placed seaward of the tracks would have to be sited either on the existing rip-rap revetment or on the sandy beach. OCTA has indicated that placement of fencing on the rip-rap would present maintenance issues when additional rock placement is necessary. Fencing on the sandy beach would have significant adverse view impacts and be subject to wave uprush, presenting another maintenance issue. Debris from a failed fencing system would present an adverse visual impact, as well as a safety concern for beachgoers.

Another objection raised by CPUC and the rail agencies was that the proposed crossings have insufficient lighting. The project does not propose any lighting for the trail because the trail will be open from dawn to dusk. However, the applicants have indicated their willingness to work with the CPUC and railroads to come up with an adequate lighting scheme that is consistent with coastal requirements. However, a lighting plan has not been submitted for Commission review. Lighting has the potential to create an adverse visual impact to the public depending on the brightness and direction of the light. If the project is modified to include lighting, the applicants should consider limiting all lighting to crossing points only and directing the lighting downward and away from the water and any habitat areas.

To ensure that the Commission has the opportunity to review any plan changes (such as the addition of lighting) that are required by other state and local agencies, the Commission has imposed Special Condition 1. Special Condition 1 requires the applicants to provide evidence that approvals have been granted (or no approval is necessary) from all applicable state and local agencies. Special Condition 5, discussed previously, also ensures that the Commission has the opportunity to review any proposed improvements that could potentially affect public views.

The proposed trail project is compatible with the topography and character of the surrounding area. In addition, the project includes new native plant restoration in areas that are currently devoid of vegetation. As such, the project will enhance visual quality in visually degraded areas. As previously conditioned 1) for evidence of agency approvals and 2) to inform the applicants that future improvements be reviewed by the Commission, the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act.

E. HAZARDS

Section 30235 of the Coastal Act states, in pertinent part:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 30253 of the Coastal Act states in relevant part:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would

substantially alter natural landforms along bluffs and cliffs.

(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The proposed improvements will occur in an area located between the base of a coastal bluff and the sandy beach. The majority of the trail (from North Beach to Corto Lane and from T-Street to Calafia State Park) will be located landward of the railroad tracks and the associated rip-rap revetment. The middle portion of the trail (from Corto Lane to T-Street) will be located seaward of the railroad tracks in a section that is not protected by the revetment.

The revetment is maintained by the Southern California Regional Rail Authority (SCRRA) and the railroad right-of-way is owned by the Orange County Transportation Authority (OCTA). The railroad has a maintenance program in which additional boulders are added to the revetment to protect the track and ballast. During high surf events, the railroad also monitors the conditions of the railroad to ensure that the tracks are not flooded for safe operation of the trains.

The project involves work seaward of the railroad tracks. As such, portions of the project will be subject to periodic wave uprush. Development in such a location is inherently risky. To determine the potential hazard resulting from wave uprush, the applicants submitted a report entitled *Coastal Engineering Analysis for Coastal Trail Accessways* prepared by Coastal Frontiers dated March 2004. The report estimates the scour and wave loading potential at the proposed vertical access points. The report's conclusion provides information to be used in the final structural design of the proposed vertical accessways, including median stone weight for hydraulic stability, horizontal wave forces at the revetment, and maximum uplift forces associated with wave runup on the revetment. The Commission's Senior Coastal Engineer has reviewed the report and supports the conclusions contained therein. Nonetheless, the applicants have not yet submitted final structural drawings for the proposed crossing improvements. The applicants state that stairways will be installed following USACOE standard specifications for stone work installation for coastal shore protection. The proposed stairs will be concrete steps formed between structurally engineered boulder rip-rap. The new stairways will be constructed such that they will in no way depend on the existing protective device for support or upon any shoreline protective device for protection.

Since the recommendations provided by the coastal engineering consultant include measures to mitigate any adverse effects to the stairs from wave uprush, the Commission finds that Special Condition 7 ensures that the consulting engineering expert has reviewed the development plans and verified their conformance with the coastal engineers recommendations. The condition requires the applicants to submit two (2) full-size copies of the project plans that have been reviewed and approved by the engineering consultant prior to issuance of the coastal development permit. As such, Special Condition 7 guarantees that all final development plans are consistent with Section 30253 of the Coastal Act.

The applicants have stated that the new improvements would not necessitate protection from hazards such as flooding and/or wave attack now or in the future. The City is not proposing protection of the trail improvements as part of the current application. However, in hazardous circumstances the applicants could conceivably pursue protection of the structures in the future. As discussed below, a protective device, or enhancement of the existing protective device to protect the proposed development, would result in adverse effects to coastal resources.

Shoreline protective devices can result in a number of adverse effects on the dynamic shoreline system and the public's ability to utilize the beach. First, shoreline protective devices can cause

changes in the shoreline profile, particularly changes in the slope of the profile resulting from a reduced beach berm width. This may alter the usable area under public ownership. A beach that rests either temporarily or permanently at a steeper angle than under natural conditions will have less horizontal distance between the mean low water and mean high water lines. This reduces the actual area in which the public can pass on public property.

The second effect of a shoreline protective device on access is through a progressive loss of sand as shore material is not available to nourish the bar. The lack of an effective bar can allow such high wave energy on the shoreline that materials may be lost far offshore where it is no longer available to nourish the beach. A loss of area between the mean high water line and the actual water is a significant adverse impact on public access to the beach, as it results in less usable sandy beach area.

Third, shoreline protective devices such as revetments and bulkheads cumulatively affect shoreline sand supply and public access by causing accelerated and increased erosion on adjacent public beaches. This effect may not become clear until such devices are constructed individually along a shoreline and they reach a public beach. As set forth in earlier discussion, this portion of San Clemente is subject to severe winter erosion. The Commission notes that if a seasonally eroded beach condition occurs with greater magnitude due to the placement of a shoreline protective device on the subject site, then the subject beach would also accrete at a slower rate. The Commission also notes that many studies performed on both oscillating and eroding beaches have concluded that loss of beach occurs on both types of beaches where a shoreline protective device exists.

Fourth, if not sited in a landward location that ensures that the seawall is only acted upon during severe storm events, beach scour during the winter season will be accelerated because there is less beach area to dissipate the wave's energy. Finally, revetments, bulkheads, and seawalls interfere directly with public access by their occupation of beach area that will not only be unavailable during high tide and severe storm events, but also potentially throughout the winter season.

Section 30253 (2) of the Coastal Act states that new development shall neither create nor contribute to erosion or geologic instability of the project site or surrounding area. Therefore, if the trail improvements require a protective device in the future, it would be inconsistent with Section 30253 of the Coastal Act because such devices contribute to beach erosion.

To assure that no additional protective device will be constructed in the future to protect the proposed trail improvements, the Commission imposes Special Conditions 8 and 9. Since the proposed development is taking place adjacent to the ocean in an area that is potentially subject to wave uprush, the Commission is imposing its standard waiver of liability special condition (Special Condition 8). Special Condition 9 requires that the applicants agree that no additional future shoreline protective device shall be constructed to protect the proposed trail improvements. Through these two special conditions, the applicants are notified that the project site is in an area that is potentially subject to flooding which could damage the proposed trail improvements and that the improvements cannot be protected through a new shoreline protective device or expansion of the existing one to afford protection to the proposed development. The applicants are also notified that the Commission is not liable for such damage as a result of approving the permit for development. In addition, these conditions insure that any potential future owners of the property will be informed of the risks, the Commission's immunity from liability, and that the trail improvements can not be protected through a new or enhanced shoreline protective device.

Section 30235 of the Coastal Act states that an existing structure can be protected when in danger

from erosion provided that the protective structure is designed to eliminate or mitigate adverse impacts on local shoreline sand supply. No work to the existing revetment is proposed. However, the stairways proposed along the seaward side of the revetment will require re-engineering of the existing rip-rap revetment to insure the stability of the stairways. The stairways will function similarly to the existing revetment and will not impact shoreline sand supply. Therefore, the proposed stairways and reconstruction of the surrounding rip-rap will not contribute to erosion of the site, nor place the structures at greater risk than presently exists.

To ensure the project minimizes risks to life and property, the proposed trail improvements must be properly maintained. As previously imposed by the Commission, Special Condition 4 requires the submittal of a Maintenance and Monitoring Plan for the vertical and lateral access improvements. The plan must demonstrate that the crossing structures are inspected and maintained to prevent unsafe access conditions and to ensure that damaged portions of the vertical access improvements do not enter the beach. The plan must also demonstrate that the barrier system along the lateral accessway provides effective safety controls and is functional throughout the life of the project.

As conditioned for conformance with coastal engineering recommendations, assumption of risk, no future shoreline protective device, and submittal of a monitoring and maintenance plan, the Commission finds that the proposed project is consistent with Sections 30235 and 30253 of the Coastal Act.

F. BIOLOGICAL RESOURCES

Section 30108.2 of the Coastal Act states:

"Fill" means earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

Section 30121 of the Coastal Act states:

"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.

Section 30233 (a) of the Coastal Act states,

(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 30240 (b) of the Coastal Act states:

- (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 plans identify multiple vernal basins and sensitive areas within the project area. The *Jurisdictional Wetland Delineation* prepared by Merkel & Associates, Inc. states that two wetland microhabitats were found within the study area. These are located at the base of the slope adjacent to the Mariposa access ramp and immediately north of the Corto Lane pedestrian crossing. The areas are described as Emergent Wetlands, which represent "*unusually low quality habitats.*" The Mariposa wetland is approximately 400 feet in length and varies from about 1.5 to 2.5 feet in width. The Corto Lane wetland is approximately 90 feet in length and varies from 3 to 12 feet in width. Each is a seasonal wetland fed by urban run-off.

Neither of the Emergent Wetland areas will be impacted by the proposed project. The applicants have modified the project design to avoid these areas. At Mariposa, the proposed elevated boardwalk will be sited around the wetland area to avoid caisson placement in or near the wetland. At Corto Lane, the trail will avoid the area and a proposed culvert under the railroad crossing waiting area will provide free flow of water between an adjacent ditch and the area supporting marsh characteristics. During construction, a biologist will ensure that the potential wetland areas are fenced to avoid impact. After construction, the wetlands will continue to be protected from impact. Implementation of the trail will lead to better protection of the wetland resources because the trail will confine trail users to a specified corridor that will direct pedestrian and bike traffic away from the wetlands; whereas the current situation doesn't demarcate the wetlands, resulting in trampling of the wetland during the dry season. To ensure that the applicants avoid the wetlands in conformance with the plans submitted, the Commission imposes Special Condition 10. This condition requires that impacts to the drainages and wetlands be avoided and requires buffers around these areas. Consequently, the Commission finds the project consistent with Section 30233 of the Coastal Act.

Four (4) new pre-fabricated bridges are proposed to span existing drainage courses along the lateral trail at El Portal, Trafalgar, Riviera, and Montalvo. The Merkel and Associates report indicates that no direct streambed impacts will occur. However, the report describes evidence of wetland plant communities at Trafalgar Canyon, where an existing service road bridge will be reconstructed and moved further inland from the beach. The proposed bridge replacement will remain on the seaward side of tracks, outside of the extent of any wetland plants. No modifications to the existing drainage courses will occur. No impacts to potentially sensitive riparian habitat or wetland plants will occur. Further, the installation of native vegetation surrounding the trail will add buffering vegetation to the wetland areas and increase the overall presence of native vegetation in the project area, thus improving biological values. Therefore, the Commission finds the project consistent with Section 30233 of the Coastal Act.

The southern extent of the proposed project is located at Calafia State Park. The California Department of Parks and Recreation has reviewed and approved the proposed project and supports its implementation. The project is sited and designed to prevent impacts to the recreation area. In fact, the project will enhance public access and be compatible with the continuance of the recreational use of the site. Therefore, the Commission finds the project consistent with Section 30240 (b) of the Coastal Act.

G. WATER QUALITY

Section 30230 of the Coastal Act states, in pertinent part:

Marine resources shall be maintained, enhanced, and where feasible, restored.

Section 30231 of the Coastal Act states:

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

Section 30232 of the Coastal Act states, in pertinent part:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials.

As described previously, the City of San Clemente proposes to improve lateral and vertical access along the railroad corridor. Segments of the proposed project are located landward of the railroad tracks and seaward of the coastal bluffs paralleling the coast. In some areas, the proposed improvements are located adjacent to storm drain channels leading to the ocean. Due to the project's location, there is the potential that polluted runoff from construction materials and equipment could enter existing storm drain channels, thereby contaminating coastal waters.

Storage or placement of construction materials and equipment, debris, or waste in a location which may be discharged into coastal waters would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance,

construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, sediment discharged to coastal waters may cause turbidity which can reduce foraging avian and marine species ability to see food in the water column. Therefore, to lessen the potential for pollutants and/or debris to appear on the sandy beach or enter coastal waters, the Commission imposes the following special conditions related to water quality. Special Condition No. 11 outlines construction-related requirements to provide for the safe storage of construction materials and the safe disposal of construction debris. Special Condition No. 12 requires that the applicants dispose of all demolition and construction debris at an appropriate location and informs the applicants that use of a disposal site within the coastal zone will require an amendment or new coastal development permit.

The overall drainage area and hydrology of the site will not be affected by the proposed improvements. The project involves the placement of decomposed granite where there is currently soil. As such, runoff from the project site will continue percolate on site, consistent with the Commission's typically recommended water quality practices.

Additionally, the project requires approval by the Regional Water Quality Control Board. While no modifications to the currently proposed project are anticipated at this time, any changes to the project as approved by the Commission shall be submitted to the Executive Director for a determination as to whether the changes require an amendment to this permit. Any changes that require an amendment shall not occur without an amendment to this permit.

Only as conditioned for appropriate storage of construction materials and equipment and appropriate disposal of debris, does the Commission find that the proposed development is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

H. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan portion of the Local Coastal Program. The suggested modifications expired on October 10, 1998. The City re-submitted on June 3, 1999, but withdrew the submittal on October 5, 2000.

The proposed development is consistent with the policies contained in the certified Land Use Plan. Moreover, as discussed herein, the development, as conditioned, is consistent with the Chapter 3 policies of the Coastal Act. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

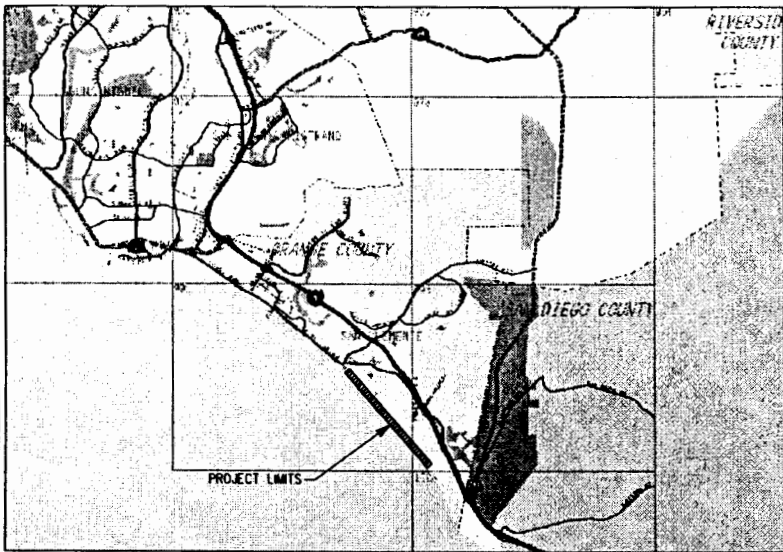
I. Consistency with the California Environmental Quality Act (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned by any conditions of approval, to be 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 effect which the activity may have on the environment.

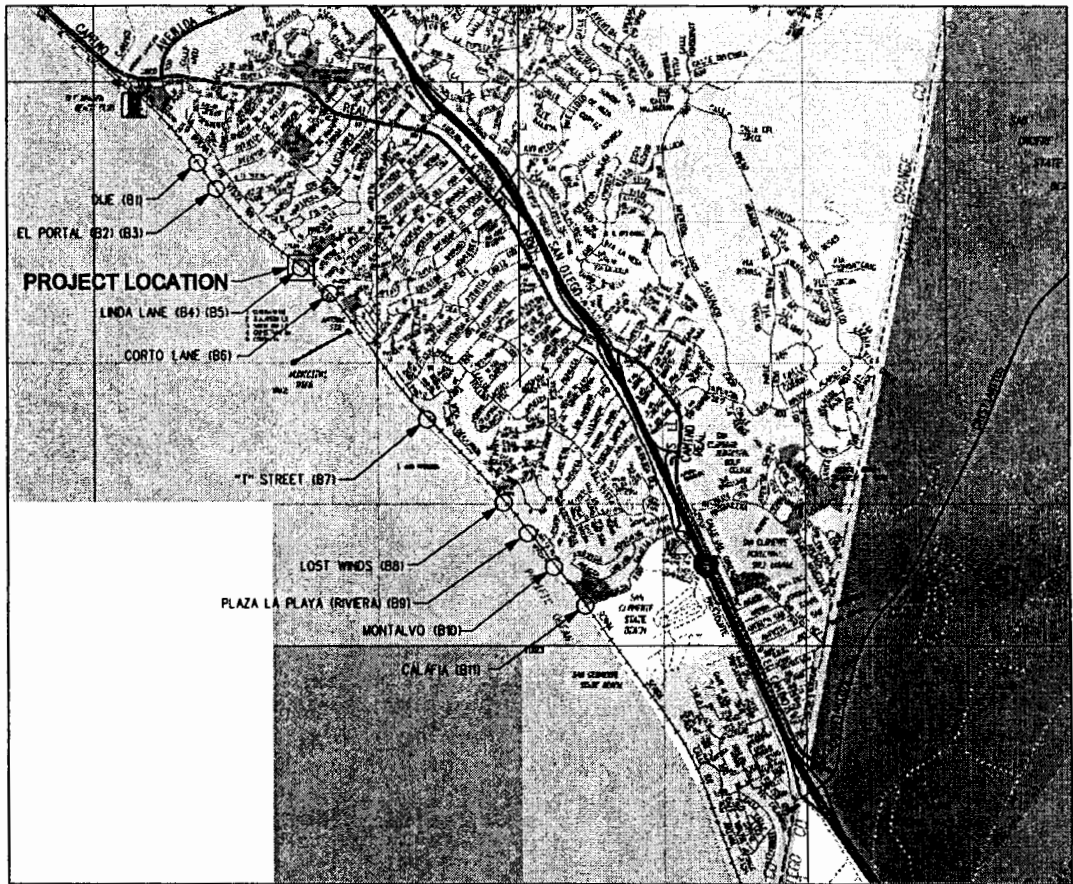
The proposed project has been found to be consistent with the public access policies of the Coastal Act. Mitigation measures, in the form of special conditions, are imposed which require 1) evidence of approval(s) by other State and local agencies; 2) evidence of approval by USACOE; 3) submittal of final sign plan; 4) monitoring and maintenance of access improvements; 5) future improvements come back to the Commission for review; 6) maintenance of public access during construction; 7) conformance with coastal engineering recommendations; 8) assumption of risk; 9) no future protective device or enhancement of existing protective device; 10) wetlands avoidance; 11) construction best management practices; and 12) debris disposal site to be located at an appropriate site.

No further alternatives, or mitigation measures, beyond those imposed by this permit amendment, would substantially lessen any significant adverse impacts which the development would have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.





VICINITY MAP
NTS



PROJECT LOCATIONS
NTS

GRADE CROSSING	PROPOSED CROSSING NUMBER
DUE COURT	101 OR-204.00-D
EL PORTAL	101 OR-204.10-D
EL PORTAL UNDERCROSSING	101 OR-204.11-BD
LINDA LANE UNDERCROSSING	101 OR-204.49-BD
LINDA LANE	101 OR-204.54-D
REEFGATE WEST (CORTO LANE)	101 OR-204.60-D
'I' STREET	101 OR-205.20-D
LOST WINDS	101 OR-205.60-D
PLAZA LA PLAYA (RIVIERA)	101 OR-205.80-BX (EXISTING CROSSING NUMBER)
MONTALVO UNDERCROSSING	101 OR-205.90-BD
CALAFIA PARK	101 OR-206.000 (EXISTING CROSSING NUMBER)

EXHIBIT A-1

PROJECT LOCATION: 101 OR-204.00-D
 CONTRACT NO.: 101 OR-204.00-D
 DRAWING NO.: 101 OR-204.00-D
 SHEET NO.: 101 OR-204.00-D
 DATE: 101 OR-204.00-D
 SCALE: 101 OR-204.00-D
 PROJECT LOCATION: 101 OR-204.00-D
 CONTRACT NO.: 101 OR-204.00-D
 DRAWING NO.: 101 OR-204.00-D
 SHEET NO.: 101 OR-204.00-D
 DATE: 101 OR-204.00-D
 SCALE: 101 OR-204.00-D

COASTAL COMMISSION
 EXHIBIT # 5-08-322
 PAGE 1 OF 1

REV	DATE	DESCRIPTION	APP

DESIGNED BY AC	
DRAWN BY AC	
CHECKED BY MAC	
IN CHARGE CBA	
DATE JULY 18, 2003	



CITY OF SAN CLEMENTE
725 TOWN & COUNTRY ROAD - SUITE 300
ORANGE, CA 92668

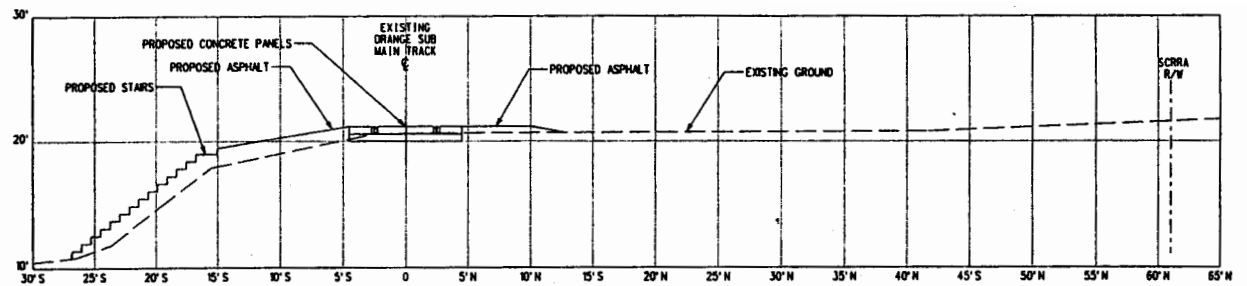
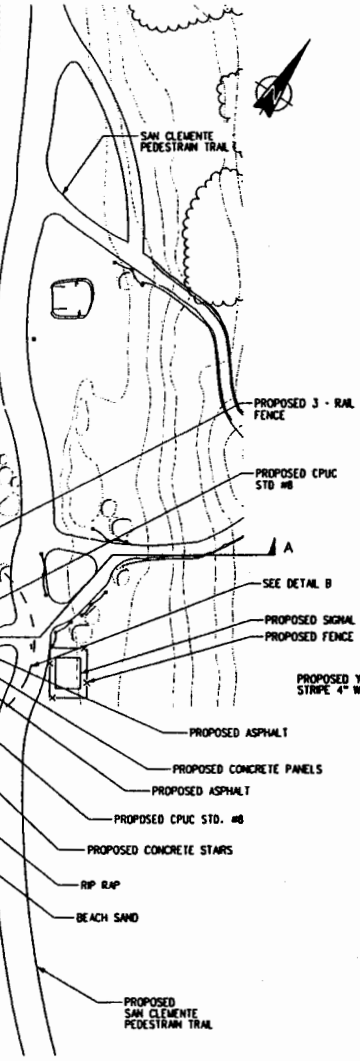
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ORANGE SUBDIVISION SAN CLEMENTE TRAIL MP 204.00 TO MP 206.00		DRAWING NO.
REVISION	SHEET NO.	
SCALE	AS SHOWN	

TO LOS ANGELES
RR WEST

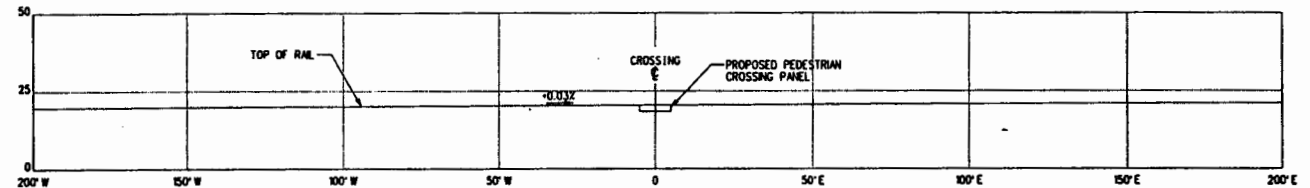
TO SAN DIEGO
RR EAST

PROJECT: SCRRRA
DRAWN BY: AC
CHECKED BY: MAC
IN CHARGE: CBA
DATE: JULY 18, 2003

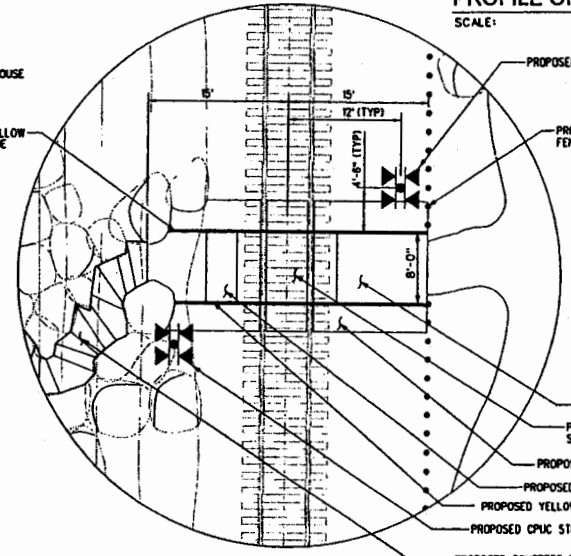
PLAN
SCALE: 1" = 20'



CROSS SECTION A-A
SCALE: 1" = 5'



PROFILE OF RAILROAD TRACK CROSSING
SCALE: 1" = 20'



DETAIL B
SCALE: NONE

NOTES:

1. GRADE CROSSING WARNING DEVICES: 2 CPUC STANDARD #8, WITH 12" FLASHING LIGHTS, CROSS BUCKS, AND CPUC STANDARD 1-D PEDESTRIAN CROSSING SIGN.
2. PAVEMENT MARKINGS: YELLOW WARNING STRIPES
3. CURVES: NONE
4. PASSENGER TRAIN OPERATING SPEED = 40 MPH
FREIGHT TRAIN OPERATING SPEED = 40 MPH
5. CROSSING LOCATION - CITY OF SAN CLEMENTE.
6. RAIL CROSSING SURFACE TYPE: CONCRETE PANEL

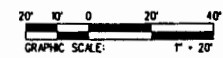


EXHIBIT B-1

COASTAL COMMISSION
EXHIBIT # 5-08-322
PAGE 1 OF 11

DESIGNED BY	AC
DRAWN BY	AC
CHECKED BY	MAC
IN CHARGE	CBA
DATE	JULY 18, 2003



PRETTESSON
RESOURCES, INC.

725 TOWN & COUNTRY ROAD - SUITE 300
ORANGE, CA 92668

CITY OF SAN CLEMENTE

METROLINK COMMUTER RAIL SYSTEM

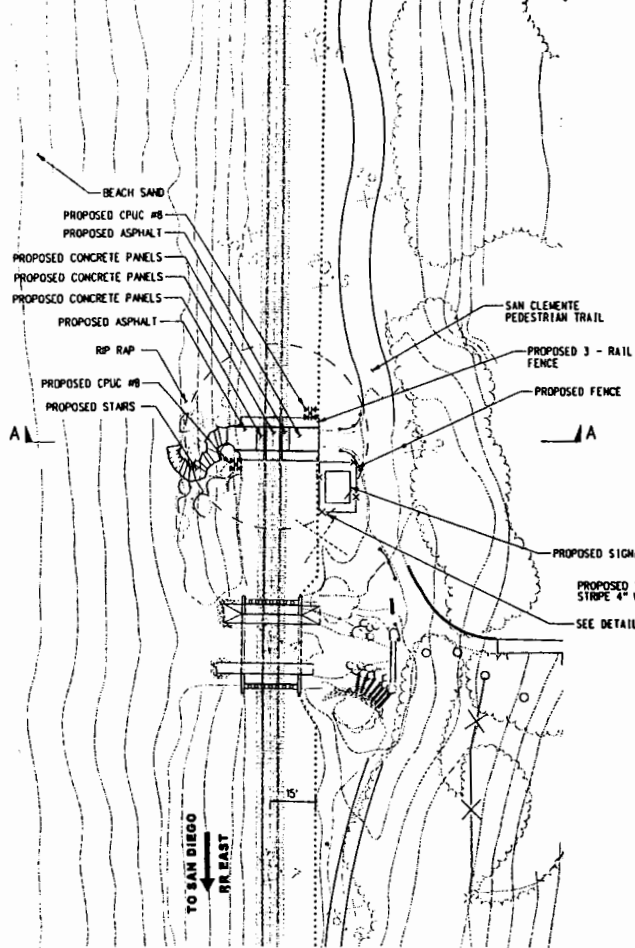
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DJE M.P. 204.00

CONTRACT NO.	
DRAWING NO.	
REVISION	SHEET NO.
SCALE	AS SHOWN

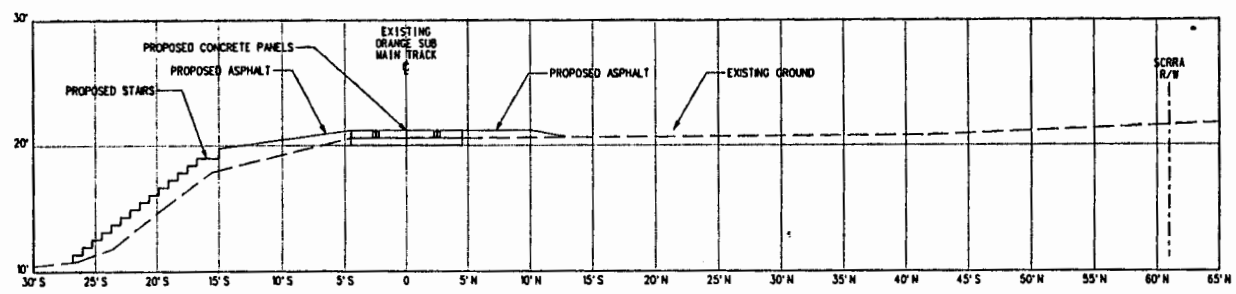
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 08/02/09 PM
 07/18/2003

PROJECT COST: \$1,100,000
 CONTRACT: \$1,100,000
 DATE: 08/02/09 PM
 07/18/2003

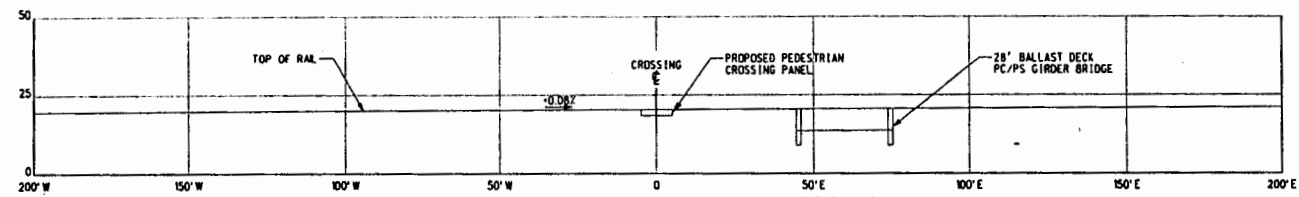
TO LOS ANGELES
 RR WEST
 TO SAN DIEGO
 RR EAST



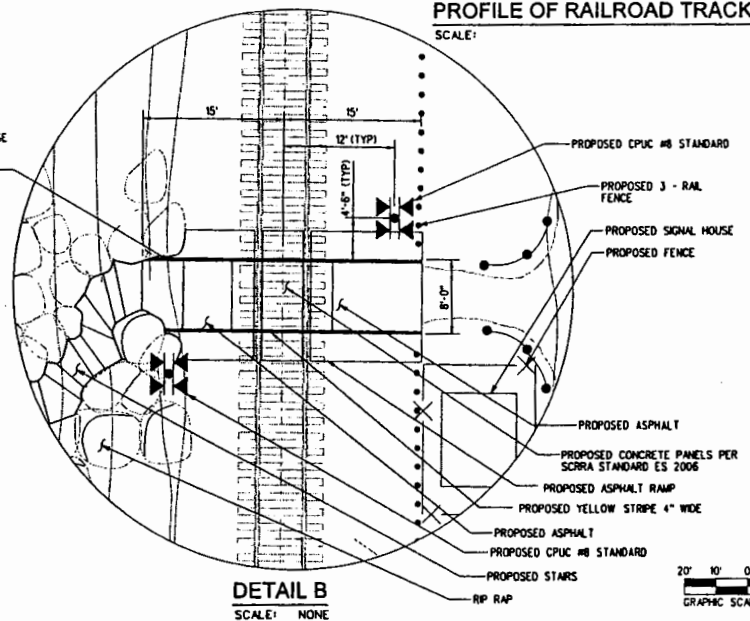
PLAN
SCALE: 1" = 20'



CROSS SECTION A-A
SCALE: 1" = 5'



PROFILE OF RAILROAD TRACK CROSSING
SCALE: 1" = 20'



DETAIL B
SCALE: NONE

NOTES

- GRADE CROSSING WARNING DEVICES: 2 CPUC STANDARD #8, WITH 12" FLASHING LIGHTS, CROSS BUCKS, AND CPUC STANDARD 1-D PEDESTRIAN CROSSING SIGN.
- PAVEMENT MARKINGS: YELLOW WARNING STRIPES
- CURVES: NONE
- PASSENGER TRAIN OPERATING SPEED - 40 MPH
FREIGHT TRAIN OPERATING SPEED - 40 MPH
- CROSSING LOCATION - CITY OF SAN CLEMENTE.
- RAIL CROSSING SURFACE TYPE: CONCRETE PANEL

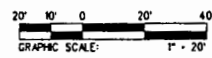


EXHIBIT B-2

REV.	DATE	DESCRIPTION	BY	APP.

DESIGNED BY AC
 DRAWN BY AC
 CHECKED BY MAC
 IN CHARGE CBA
 DATE JULY 18, 2003

CITY OF SAN CLEMENTE
PRITERSON & ASSOCIATES, INC.
 725 TOWN & COUNTRY ROAD - SUITE 300
 ORANGE, CA 92668

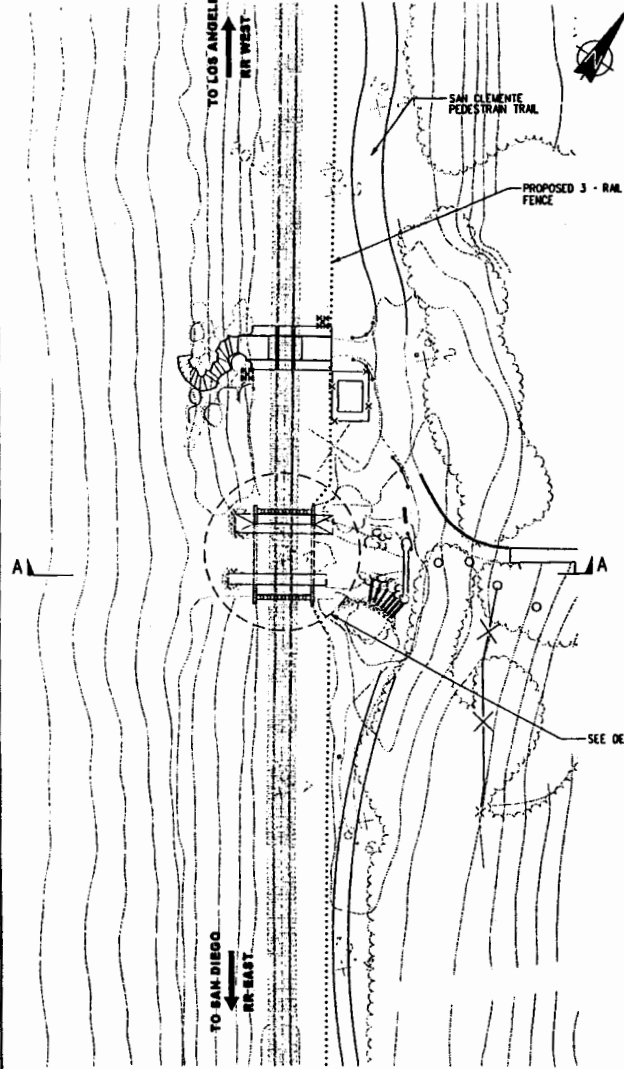
METROLINK COMMUTER RAIL SYSTEM
ORANGE SUBDIVISION
EL PORTAL M.P. 204.10

CONTRACT NO.	
DRAWING NO.	
REVISION	SHEET NO.
SCALE	AS SHOWN

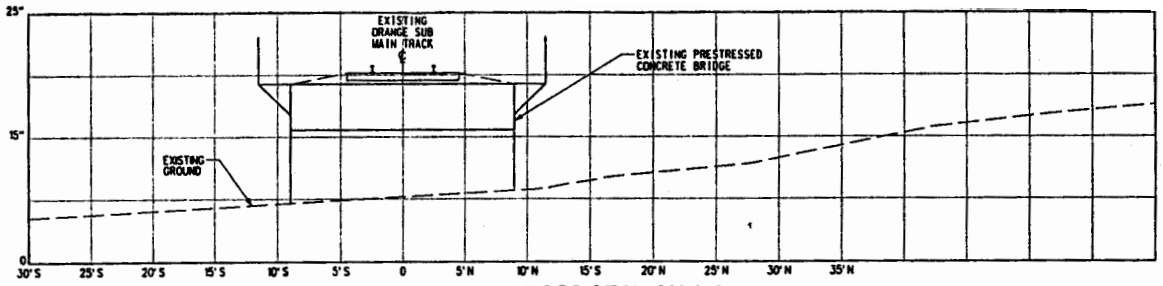
COASTAL COMMISSION
 EXHIBIT # 2
 PAGE 2 OF 11
 5-03-322

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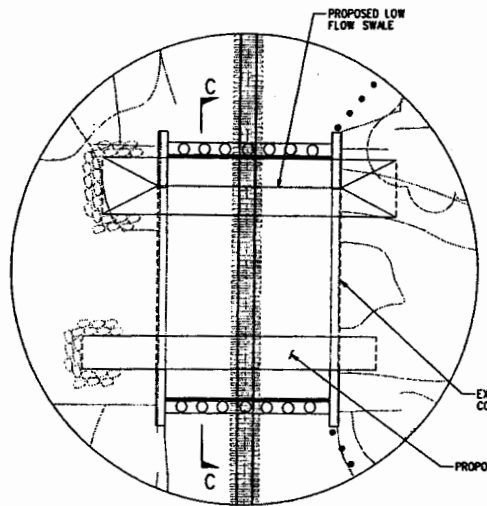
PROJECT COST SHEET
 SHEET NO. 11
 CONTRACT NO. 03-322
 DRAWING NO. 11



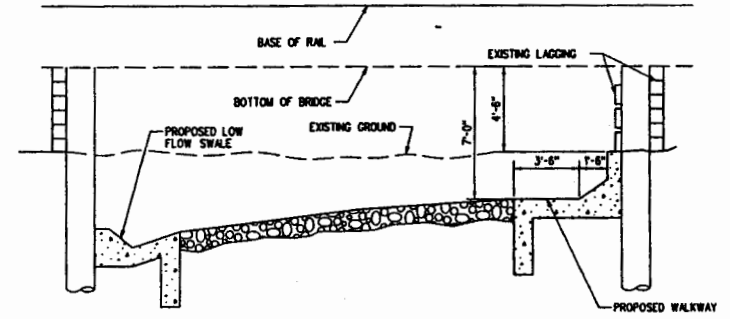
PLAN



CROSS SECTION A-A
 SCALE: 1" = 5'



DETAIL B
 SCALE: NONE



SECTION C-C
 SCALE: NONE

- NOTES:
1. GRADE CROSSING WARNING DEVICES: NONE
 2. PAVEMENT MARKINGS: NONE
 3. CURVES: NONE
 4. PASSENGER TRAIN OPERATING SPEED = 40 MPH
 FREIGHT TRAIN OPERATING SPEED = 40 MPH
 5. CROSSING LOCATION - CITY OF SAN CLEMENTE.
 6. RAIL CROSSING TYPE: UNDER CROSSING

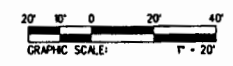


EXHIBIT B-3

REV.	DATE	DESCRIPTION	APP.

DESIGNED BY AC
 DRAWN BY AC
 CHECKED BY MAC
 IN CHARGE CBA
 DATE JULY 18, 2003

CITY OF SAN CLEMENTE

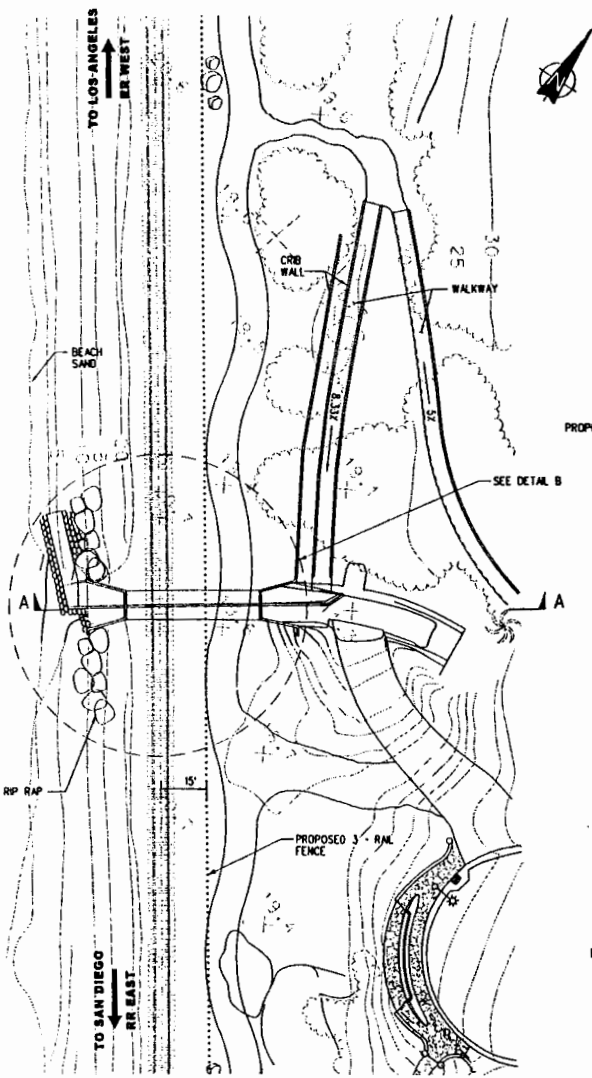
 725 TOWN & COUNTRY ROAD - SUITE 300
 ORANGE, CA 92668

METROLINK COMMUTER RAIL SYSTEM
ORANGE SUBDIVISION
EL PORTAL M.P. 204.11

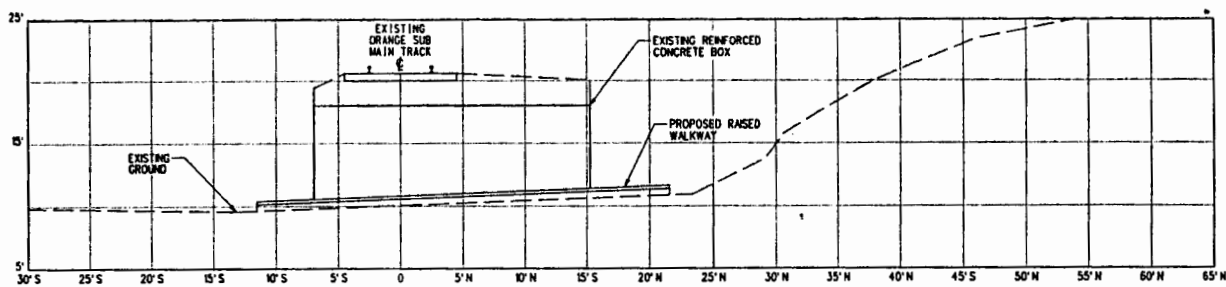
CONTRACT NO.	
DRAWING NO.	
REVISION	SHEET NO.
SCALE	AS SHOWN

COASTAL COMMISSION
 EXHIBIT # 03-322
 PAGE 3 OF 11

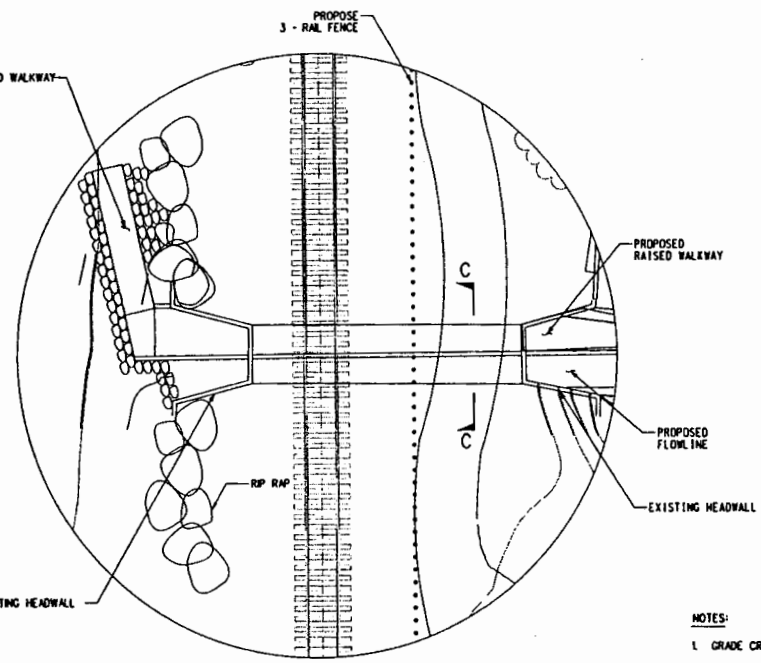
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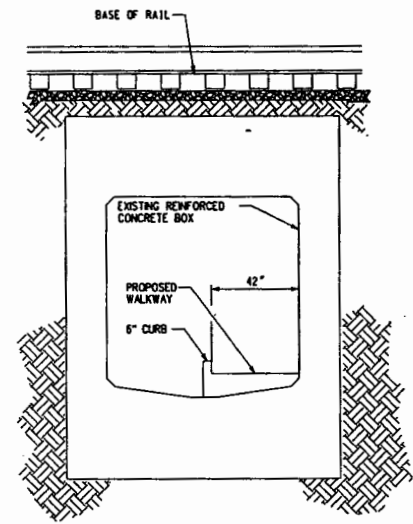
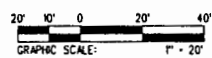
PLAN
SCALE: 1" = 20'



CROSS SECTION A-A
SCALE: 1" = 5'



DETAIL B
SCALE: NONE



SECTION C-C
SCALE: NONE

- NOTES:**
1. GRADE CROSSING WARNING DEVICES: NONE
 2. PAVEMENT MARKINGS: NONE
 3. CURVES: NONE
 4. PASSENGER TRAIN OPERATING SPEED - 40 MPH
FREIGHT TRAIN OPERATING SPEED - 40 MPH
 5. CROSSING LOCATION - CITY OF SAN CLEMENTE.
 6. RAIL CROSSING TYPE: UNDER CROSSING

EXHIBIT B-4

REV.	DATE	DESCRIPTION	BY	APP.

DESIGNED BY: AC
 DRAWN BY: AC
 CHECKED BY: MAC
 IN CHARGE: CBA
 DATE: JULY 18, 2003

SCRR
PITTERSON & ASSOCIATES, INC.
 725 TOWN & COUNTRY ROAD - SUITE 300
 ORANGE, CA 92668

CITY OF SAN CLEMENTE

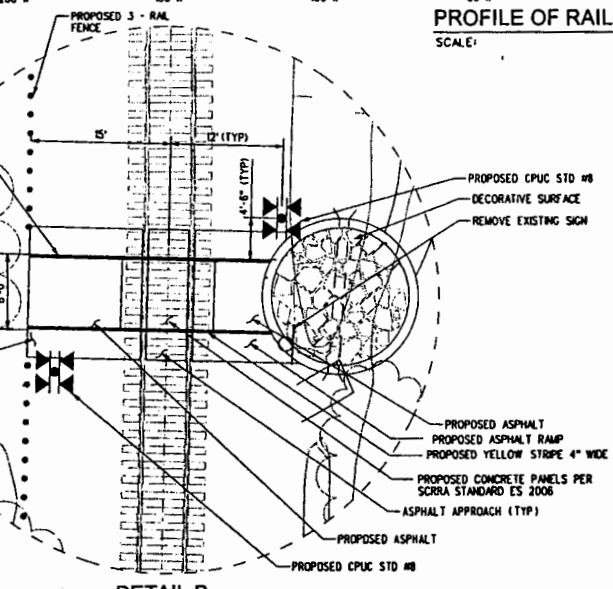
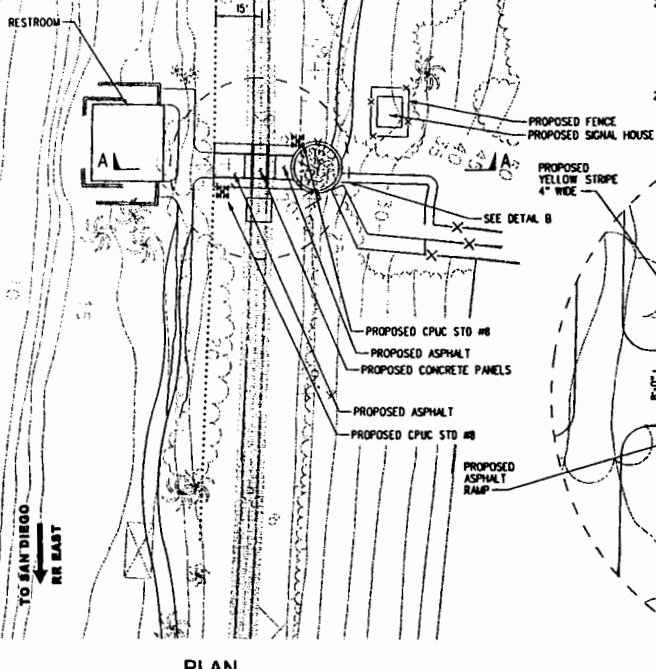
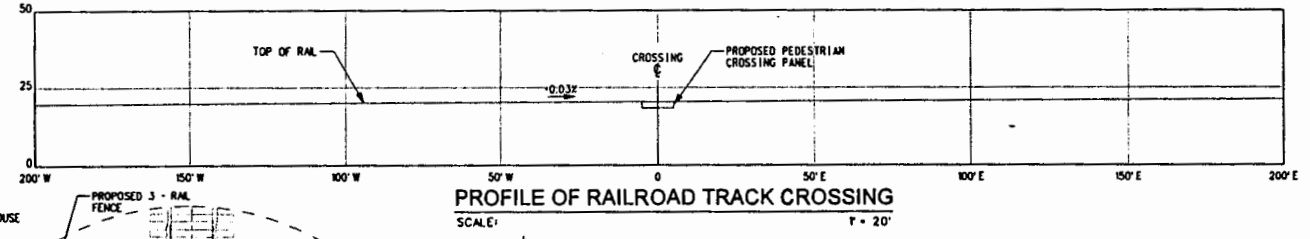
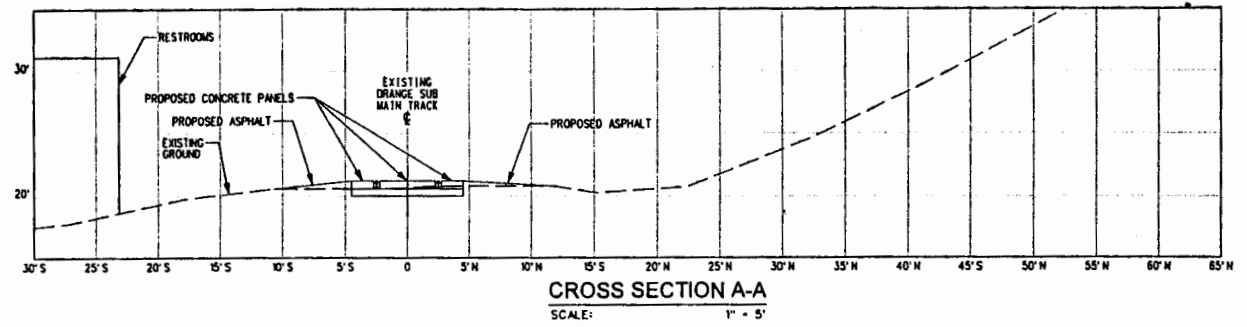
METROLINK COMMUTER RAIL SYSTEM
ORANGE SUBDIVISION
LINDA LANE UNDERCROSSING M.P. 204.49

CONTRACT NO. _____
 DRAWING NO. _____
 REVISION SHEET NO. _____
 SCALE AS SHOWN

COASTAL COMMISSION
 EXHIBIT # 2
 5-03-322
 PAGE 4 OF 11

↑ TO LOS ANGELES
RR WEST

↓ TO SAN DIEGO
RR EAST



NOTES:

1. GRADE CROSSING WARNING DEVICES: 2 CPUC STANDARD #8, WITH 12" FLASHING LIGHTS, CROSS BUCKS, AND CPUC STANDARD 1-D PEDESTRIAN CROSSING SIGN.
2. PAVEMENT MARKINGS: YELLOW WARNING STRIPES
3. CURVES: NONE
4. PASSENGER TRAIN OPERATING SPEED - 40 MPH
FREIGHT TRAIN OPERATING SPEED - 40 MPH.
5. CROSSING LOCATION - CITY OF SAN CLEMENTE.
6. RAIL CROSSING SURFACE TYPE: CONCRETE PANEL

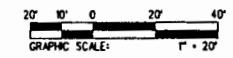


EXHIBIT B-6

PROJECT: COASTAL COMMISSION
LINE: 11-03-322
CONTRACT: 11-03-322
DATE: 07/18/03
DRAWN BY: AC
CHECKED BY: MAC
IN CHARGE: CBA
DATE: JULY 18, 2003

COASTAL COMMISSION
EXHIBIT # 11-03-322
PAGE 6 OF 11

DESIGNED BY: AC
DRAWN BY: AC
CHECKED BY: MAC
IN CHARGE: CBA
DATE: JULY 18, 2003



CITY OF SAN CLEMENTE

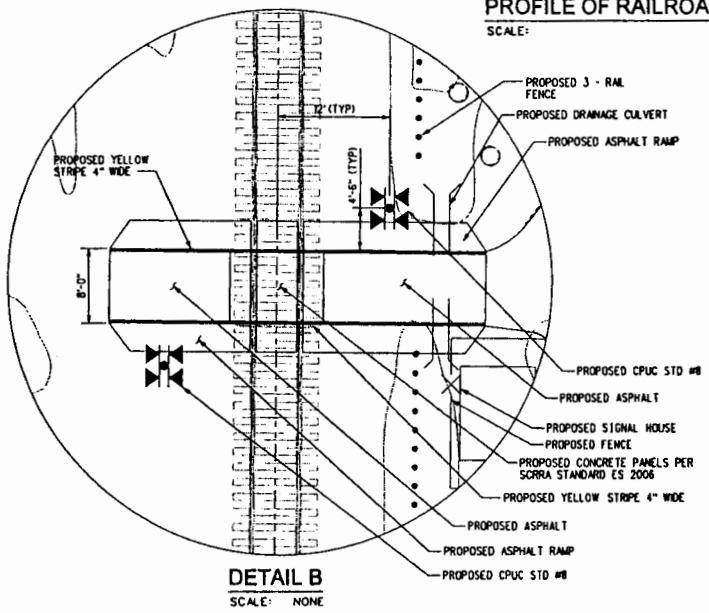
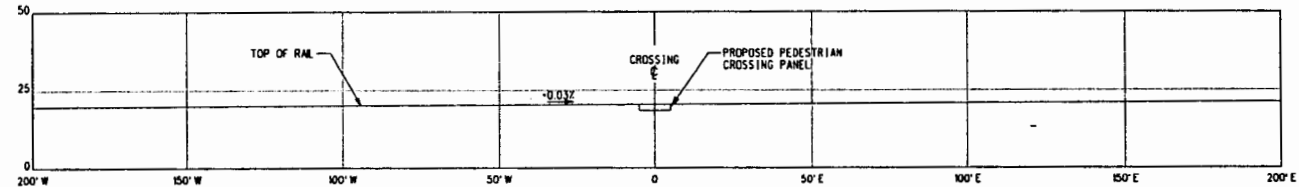
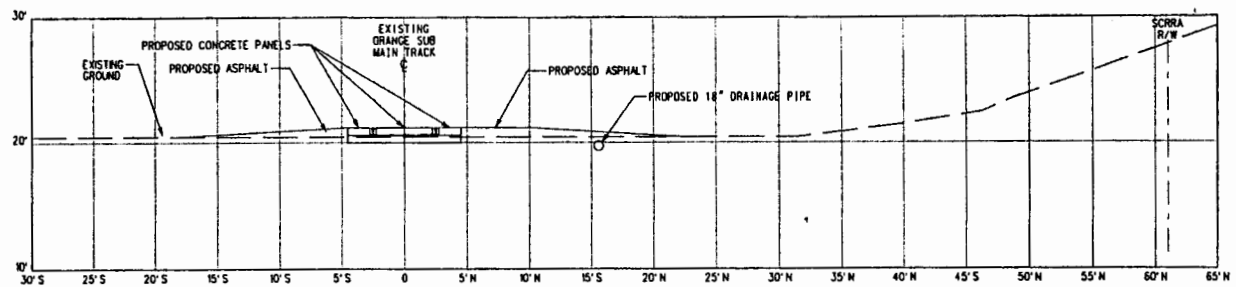
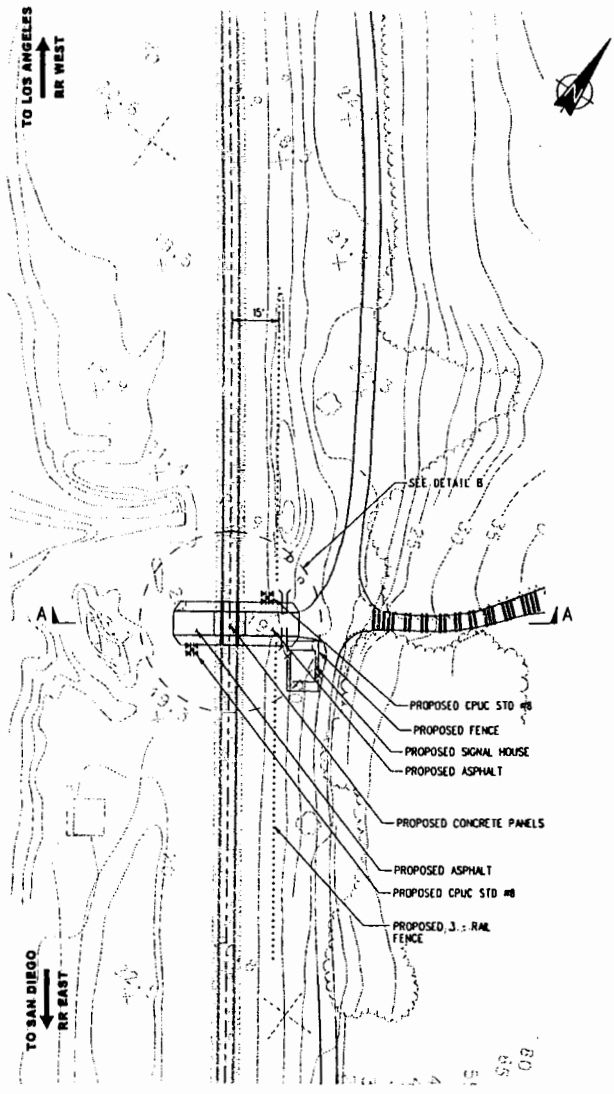
PITZERSON & ASSOCIATES, INC.
725 TOWN & COUNTRY ROAD - SUITE 300
ORANGE, CA 92668

METROLINK COMMUTER RAIL SYSTEM

ORANGE SUBDIVISION
CORTO LANE 204.60

CONTRACT NO.
DRAWING NO.
REVISION SHEET NO.
SCALE AS SHOWN

PROJECT TITLE: SCRRRA (San Clemente) Phase 2a (2003) 03-03-22
 CONTRACT ELEMENT: CIVIL
 DRAWING NO.: 03-03-22
 SHEET NO.: 8 OF 11



- NOTES:**
- GRADE CROSSING WARNING DEVICES: 2 CPUC STANDARD #8, WITH 12" FLASHING LIGHTS, CROSS BUCKS, AND CPUC STANDARD F-D PEDESTRIAN CROSSING SIGN.
 - PAVEMENT MARKINGS: YELLOW WARNING STRIPES
 - CURVES: NONE
 - PASSENGER TRAIN OPERATING SPEED - 40 MPH
FREIGHT TRAIN OPERATING SPEED - 40 MPH.
 - CROSSING LOCATION - CITY OF SAN CLEMENTE.
 - RAIL CROSSING SURFACE TYPE: CONCRETE PANEL

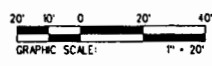


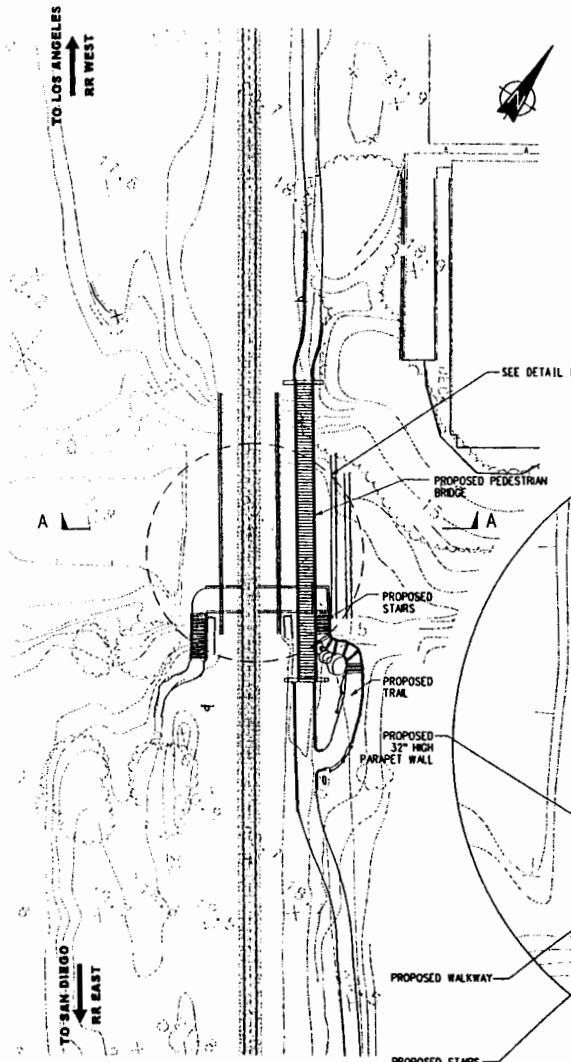
EXHIBIT B-8

DESIGNED BY: AC DRAWN BY: AC CHECKED BY: MAC IN CHARGE: CBA DATE: JULY 18, 2003	 CITY OF SAN CLEMENTE 725 TOWN & COUNTRY ROAD - SUITE 300 ORANGE, CA 92668	METROLINK COMMUTER RAIL SYSTEM		CONTRACT NO.
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			REVISION SHEET NO.	SCALE AS SHOWN

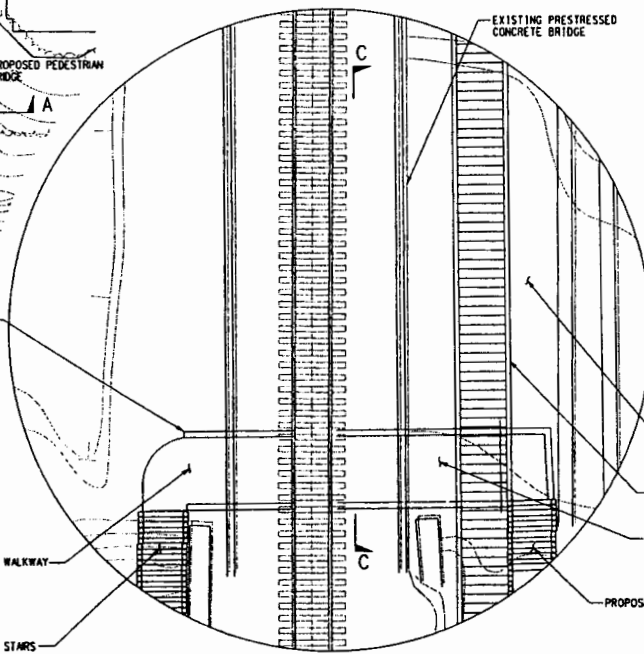
COASTAL COMMISSION
 5-03-322
 EXHIBIT # 2
 PAGE 8 OF 11

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08/14/07 PM
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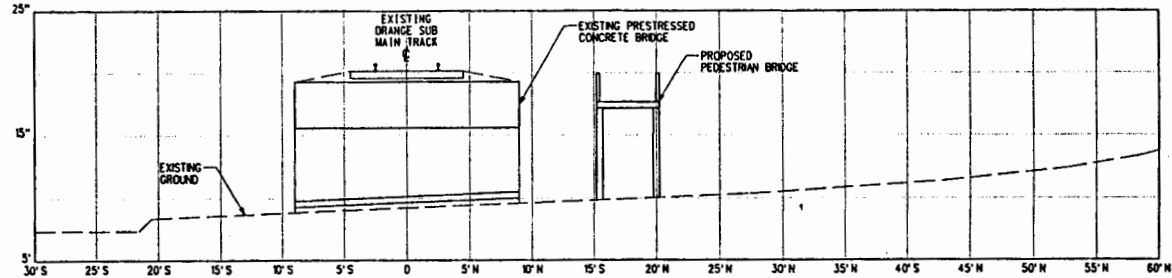
CONTRACT NO.	03-322
PROJECT NAME	ORANGE SUBDIVISION
DATE	08/14/07
SCALE	AS SHOWN



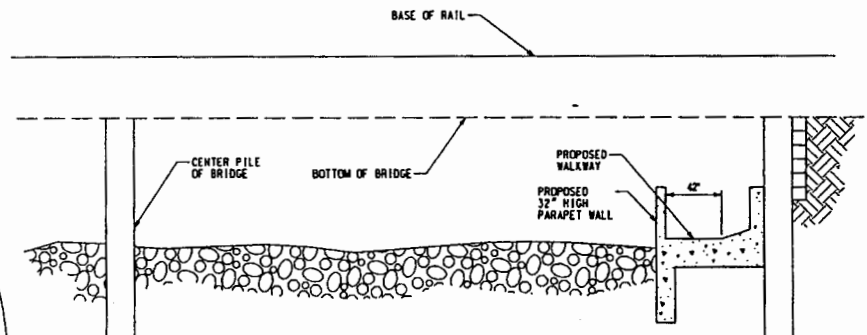
PLAN
SCALE: 1" = 20'



DETAIL B
SCALE: NONE



CROSS SECTION A-A
SCALE: 1" = 5'



SECTION C-C
SCALE: NONE

NOTES

1. GRADE CROSSING WARNING DEVICES: NONE
2. PAVEMENT MARKINGS: NONE
3. CURVES: NONE
4. PASSENGER TRAIN OPERATING SPEED - 40 MPH;
FREIGHT TRAIN OPERATING SPEED - 40 MPH
5. CROSSING LOCATION - CITY OF SAN CLEMENTE.
6. RAIL CROSSING TYPE: UNDER CROSSING

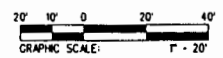


EXHIBIT B-10

COASTAL COMMISSION
 EXHIBIT # 5-03-322
 PAGE 10 OF 11

DESIGNED BY AC
 DRAWN BY AC
 CHECKED BY MAC
 IN CHARGE CBA
 DATE JULY 18, 2003



CITY OF SAN CLEMENTE
 725 TOWN & COUNTRY ROAD - SUITE 300
 ORANGE, CA 92668

METROLINK COMMUTER RAIL SYSTEM		CONTRACT NO.
ORANGE SUBDIVISION		DRAWING NO.
MONTALVO M.P. 205.9		REVISION SHEET NO.
SCALE AS SHOWN		

RECEIVED
South Coast Region

DEC 8 2003

CALIFORNIA
COASTAL COMMISSION

In the Matter of the Application of the City of San Clemente for an order authorizing the construction of five, permanent one-track at-grade crossings and three permanent one-track grade separated crossings and improvement of three existing crossings for the San Clemente Pedestrian Trail, known as the San Clemente Beach Safety Enhancement Project located on the Southern California Regional Rail Authority Orange Subdivision between railroad milepost 204.0 and 206.0 in the City of San Clemente, County of Orange, California.

Application 03-10-052
(Filed October 27, 2003)

**PROTEST OF THE RAIL CROSSINGS ENGINEERING SECTION
OF THE CONSUMER PROTECTION AND SAFETY DIVISION**

PATRICK S. BERDGE

Attorney for the Consumer Protection and
Safety Division

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
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December 1, 2003

COASTAL COMMISSION
5-03-322
EXHIBIT # 4a
PAGE 1 OF 8

**PROTEST OF THE RAIL CROSSINGS ENGINEERING SECTION
OF THE CONSUMER PROTECTION AND SAFETY DIVISION**

Pursuant to Rules 6(a)(2) and 44.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the Rail Crossings Engineering Section (Staff) of the Consumer Protection & Safety Division files this protest to Application (A.) 03-10-052 of the City of San Clemente (City) for authority to construct five new at-grade and three grade-separated crossings, and to modify three existing crossings, of a proposed pedestrian trail across one heavy rail track of Orange County Transportation Authority (OCTA), in the City of San Clemente, Orange County.

**I. STAFF OPPOSES THE CONSTRUCTION OF THE
PROPOSED AT-GRADE CROSSINGS AS SERIOUS SAFETY
HAZARDS**

On numerous occasions, Staff has observed pedestrians trespass across the track along the rail corridor. Nevertheless, the City is proposing to construct a trail at-grade close to the tracks with both at-grade and grade-separated crossings. The rail corridor is used by (1) Southern California Regional Rail Authority (SCRRA) operators of Metrolink commuter trains; (2) National Railroad Passenger Corporation operators of Amtrak passenger trains; and (3) Burlington Northern Santa Fe Railway Company (BNSF) operators of freight trains. This rail corridor has heavy freight, passenger, and commuter train traffic.

The application states "Although this project has the appearance of creating new crossings, in many respects the project seeks to eliminate the numerous crossing points currently used by the public, consolidating them into several protected crossings with carefully considered warning and safety features."¹ Staff is concerned with the number and design of the crossings as well as the inadequate measures the City has provided to prevent pedestrians from trespassing onto the

¹ Application 03-10-052, Item 20, page 20.

EX. 4a
2/8

track. The proposed at-grade crossings are too numerous and too close together.

According to SCRRA and BNSF, 52 passenger trains and two freight trains operate each day on the rail corridor. SCRRA voluntarily restricts maximum train speed to 40 miles per hour (mph) through this corridor between milepost (MP) 203.7 on the north end and MP 206.3 on the south. Nonetheless, SCRRA could choose to operate at higher speeds in the future and currently operates at maximum speeds of 90 mph immediately to the north of the San Clemente corridor, and 70 mph to the south. The City proposes to add five, and modify two existing, at-grade crossings, in addition to a third existing at-grade crossing at the Pier that will not be altered. The City proposes to have these crossings in close proximity to each other. Within approximately a two-mile segment of the rail corridor, the City proposes to have eight at-grade crossings.

This is contrary to the Commission's and the U.S. Department of Transportation's policy of reducing the number of at-grade crossings, especially in a particular corridor or over a relatively short segment of track. Under the City's proposal, the 54 trains operating through this corridor will be required to sound their horns continuously in compliance with railroad operating rules, state, and federal laws.² In addition to the on-board train horns, the bells on the proposed automatic warning devices must sound every time they are activated.³ Staff does not believe the city has fully contemplated the consequences resulting from an increase in locomotive horn and crossing warning device bell noise.

² SCRRA, Amtrak and BNSF prescribe to the General Code of Operating Rules (GCOR) 5.8.1 which requires the ringing of the bell and sounding of the engine whistle when approaching public crossings at grade starting not less than ¼ mile before reaching the crossing, and until the engine occupies the crossing. California Public Utilities Code § 7604 similarly requires the sounding of the engine bell and whistle ¼ mile in advance of, and continuing until the engine enters the crossing. The FRA is currently developing rules that will create a national standard requiring the use of the locomotive whistle at all public crossings.

³ Commission General Order 75-C, referring to automatic railroad warning devices in Section 7.8 states "Unless omitted by permission of the Commission, the warning aspect shall be accompanied by the sounding of a bell."

A. The Safety Protections Proposed At The At-grade Crossings Are Insufficient

The City proposes to install only Commission Standard No. 8 warning devices (flashing light signals) at the at-grade crossings. Staff contends that the City's proposal is inadequate and unsafe and recommends that the City install Commission Standard No. 9's (flashing light signals with automatic gates).

B. The City Has Failed To Demonstrate That Grade Separations Are Not "Practicable" At These Crossings

The application does not fully provide justification for not grade-separating the proposed at-grade crossings in compliance with Rule 38(d) of the Rules of Practice & Procedure, which requires that the application contain a statement showing why a separation of grades is not "practicable".

C. The Application Fails To Provide Adequate Measures To Prevent Trespassing By Pedestrians

Staff recommends that fencing be installed on both sides of the track along the entire length of the trail (as currently installed in the vicinity of the pier crossing) to prevent trail users, especially children, from trespassing onto the track into oncoming trains. The City proposes to use fencing and vegetation to channel trail users to the formal crossings, however, the plans submitted with the application only show fencing between the railroad track and trail along certain segments of the corridor, and predominantly, only on one side of the track. Staff has investigated fatal train-versus-pedestrian accidents along this corridor resulting from individuals trespassing on the tracks. The most recent accident occurred on October 5, 2003, in which a local resident was struck and killed by a train.

D. The Proposed Grade-Separated Undercrossings Are Not Safe Nor Reliable

The City proposes to modify existing storm drains and a ravine for pedestrians to use as a means to cross under the track and gain access to the beach. These locations are subject to flooding during storms and high tide episodes.

According to A.03-10-052, these proposed crossings will not be safe and usable during storm and high tide periods. The safety and reliability of these under-crossings must be addressed in hearings before the Commission.

E. The Application's Plans Do Not Provide Sufficient "Landing Areas" For Pedestrians

Extending along the rail corridor is an assemblage of boulders forming a riprap constructed as an erosion barrier between the beach and the railroad track. The City proposes to install stairways on the riprap adjacent to some of the at-grade crossings, to facilitate pedestrian travel to and from the beach. The City also proposes to construct a "landing area" for these stairways at railroad track level extending 15 feet from the centerline of the track. Plans attached to the application show that the centerline of the flashing light signals to be installed will be placed 12 feet from the centerline of the track, leaving just three linear feet of the landing area available for pedestrians to stand in when trains are passing. The City should demonstrate that its design will provide adequate safety for pedestrians.

F. The Application's Proposed Crossings Have Insufficient Lighting

The beachfront, where the rail corridor exists, is an area without illumination. The City does not intend to illuminate the proposed at-grade crossings. Staff is concerned that the ability of pedestrians to safely negotiate the crossings at dusk or at night will be reduced without proper lighting. Lighting the crossings will also assist train operators in observing pedestrians on or near the crossings, allowing the train operators additional time to sound the train's horn as a warning. The City should explain why it does not intend to illuminate the crossings.

Ex. 4a
5/8

G. The Application Fails To Address Enforcement Against Trespassers Using the Railroad Right-of-Way

The application does not address enforcement of trespass laws as set forth in Penal Code §§ 369(i)(a)⁴ and 555⁵. Staff contends the City should develop a policy of strict enforcement of trespass laws at these crossings.

H. Applicant Has Failed To Comply With The Commission's Prior Decision Concerning The Calafia Beach At-grade Crossing

In Decision (D.) 89-08-025 the Commission granted the authority requested by A.87-06-032 to construct a pedestrian at-grade crossing at Calafia Beach. D.89-08-025 required that a stairway be constructed on the riprap to safely facilitate pedestrian travel to and from the beach. Staff recently inspected the crossing, noted the absence of the stairway, and observed pedestrians standing in the small, inadequate and unsafe landing area between the riprap and the track. Staff contends this crossing, as constructed, is unsafe because it encourages pedestrians to become stranded between the riprap and track during the passage of trains.

The City and the County of Orange (County) collaborated on A.87-06-032, however, the City claims the County was responsible for the installation of the stairway. The construction of the stairway was delayed while permits were being

⁴ "Any person who enters or remains upon the property of any railroad without the permission of the owner of the land, the owner's agent, or the person in lawful possession and whose entry, presence, or conduct upon the property interferes with, interrupts, or hinders, or which, if allowed to continue, would interfere with, interrupt, or hinder the safe and efficient operation of any locomotive, railway car, or train is guilty of a misdemeanor. As used in this subdivision, "property of any railroad" means any land owned, leased, or possessed by a railroad upon which is placed a railroad track and the land immediately adjacent thereto, to the distance of 20 feet on either side of the track, which is owned, leased, or possessed by a railroad." (Cal. Penal Code § 369(i)(a).)

"It is unlawful to enter or remain upon any posted property without the written permission of the owner, tenant, or occupant in legal possession or control thereof. Every person who enters or remains upon posted property without such written permission is guilty of a separate offense for each day during any portion of which he enters or remains upon such posted property." (Cal. Penal Code § 555.)

Ex. 4a
6/8

obtained, and shortly after the structure was approved, the County declared bankruptcy and the project was put on hold.

The City inherited the completion of the crossing from the County and the City claims that the Coastal Commission (and other environmental organizations) is now opposed to the original design, again delaying the completion of the crossing.

The City may be in violation of D.89-08-025 and, therefore, should immediately complete the crossing as originally designed. Staff is also concerned that if new crossings are approved, obstacles encountered in obtaining the proper permits could delay the completion of the crossings. The Commission should not consider the crossings for approval until the City successfully obtains the proper permits.

On November 9, 1989, D.89-08-025 was modified by D.89-11-035 in which Ordering Paragraph 5a was added. Ordering Paragraph 5a states, "The fencing shall be provided, constructed, installed, and maintained at the entire expense of the County and City." The fencing was to be installed from bluff to bluff at Calafia Beach as a means to channel pedestrians to the crossing.

During its inspection of the crossing, Staff noted that the fencing was not being properly maintained. The gates were unlocked, so pedestrians could enter and trespass onto the track. The City claims it does not use Calafia Beach to gain access to the railroad right-of-way, so it wasn't the City that failed to close them. In any event, the City is in violation of D.89-11-035 for failure to prevent trespassers from entering the right-of-way. Although the City may have not used the gates, it is responsible for maintaining the fencing, thus the City should have a program in place to inspect the fencing on a routine basis. If the City discovers deficiencies in the fencing, it immediately should take corrective action.

Staff is concerned that if A.03-11-02 is approved, the fencing and vegetation barriers proposed by the City may not be properly maintained.


Ex. 4a
7/8

Therefore, Staff requests that the ALJ require the City to file an amendment to A.03-10-052 with a program for maintaining the necessary fencing and vegetation barriers.

II. CONCLUSION

Even though Staff has expressed its concerns on these issues to the City on several occasions, the City, nonetheless, has filed this application for multiple at-grade pedestrian crossings lacking necessary safety. As Staff and the City have not been able to come to an agreement, Staff requests that hearings be held concerning the issues described above. Accordingly, Staff requests that a prehearing conference be held to establish a schedule for the remainder of this proceeding.

Respectfully submitted,


Patrick S. Berdge
Staff Counsel

Attorney for the Rail Crossings
Engineering Section of the Consumer
Protection and Safety Division

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-1519
Fax: (415) 703-4432
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December 1, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Application of the City of San Clemente for an order authorizing the construction of five permanent one-track at-grade crossings and three permanent one-track grade separated crossings and improvement of three existing crossings for the San Clemente Pedestrian Trail, known as the San Clemente Beach Safety Enhancement Project located on the Southern California Regional Rail Authority Orange Subdivision between railroad mile post 204.0 and 206.0 in the City of San Clemente, County of Orange, California.

No. A03-10-052
(filed October 27, 2003)

**PROTEST AND REQUEST FOR HEARING BY
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**

I

This is the protest of THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY ("BNSF") to the subject application wherein the City of San Clemente ("City") is seeking authorization to construct five (5) new pedestrian at-grade crossings and three (3) new pedestrian grade separated crossings and to improve three (3) existing pedestrian crossings. The project, known as the "San Clemente Beach Safety Enhancement Project", also includes the construction of a pedestrian walkway, landscaping, fencing, retaining walls, rip-rap, pile and rope barriers, gates, handrails, signage, drainage facilities (including culverts, culvert extensions, inlets, drainage pipes, swales and ditches), paving, steps, lighting and benches, all within the

COASTAL COMMISSION
5-03-322
EXHIBIT # 46
PAGE 1 OF 4

limits of an existing high speed mainline railroad right-of-way. All communications and notices to BNSF with respect to this matter should be addressed to:

Mr. John C. Shurson
Assistant Director Public Projects
The Burlington Northern and Santa Fe
Railway Company
740 E. Carnegie Drive
San Bernardino, CA 92408-3571
Telephone: (909) 386-4470
Facsimile: (909) 386-4479

with a copy to:

Mr. R. Curtis Ballantyne
Hill, Farrer & Burrill LLP
One California Plaza, 37th Floor
300 South Grand Avenue
Los Angeles, California 90071-3147
Telephone: (213) 620-0460
Facsimile: (213) 624-4840

Attorneys for The Burlington Northern
and Santa Fe Railway Company

For the reasons hereinafter stated, a public hearing on this application is requested.

II

As an operator over this heavily used rail corridor, BNSF has consistently voiced its opposition to the proposed project. Despite the City's contention to the contrary, BNSF believes that public safety will not be enhanced. Interestingly, the City, in the "Mitigated Negative Declaration Executive Summary" attached to the within application, refers to a meeting held on May 15, 2003 with the CPUC, BNSF, Amtrak, Metrolink and OCTA to discuss the project:

"The CPUC and railroad agencies expressed numerous concerns. Some of their concerns included consolidation of at-grade crossings, changing the proposed split rail fence to a welded wire mesh fence, at-grade crossing and signal design recommendations, increase in train speeds and noise impacts of trains sounding their

Ex. 4b
2/4

horns if new at-grade crossings are approved. *The City is unsure that if we changed the project to meet some or most of their concerns, it will change their opinion toward the project. This being the case, the City staff is not recommending any changes to the project.*" (Application, Exhibit D, page 2) Emphasis added.

A project which will result in an anticipated increase in pedestrian traffic on the right-of-way is incompatible with the right-of-way's use as a high speed rail corridor. Moreover, the City's unwillingness to adequately address the numerous safety concerns expressed by CPUC staff and the railroads is imprudent to say the least.

III

The City's request for authorization to construct additional at-grade crossings is also inconsistent with the current policy promoted by members of the Association of American Railroads, the California Department of Transportation, and the United States Department of Transportation - Federal Highway Administration which calls for the elimination of existing railroad grade crossings. In accordance with this policy, any proposed crossings of the railroad right-of-way should be grade separated.

IV

As appears from the Exhibits attached to the City's application, the proposed pedestrian trail meanders in close proximity to the railroad tracks. The measures taken by City in addressing the safety of the users of the trail and the trains operating along the corridor are woefully inadequate:

"Fencing the trail has been controversial and the community has vehemently expressed their opposition to it. Earlier trail proposals that included fencing the whole length of the trail were vigorously opposed and defeated resulting continued (*sic*) perpetuation of the existing trail and trespassing conditions. The fencing schemes currently proposed with 3-rail fence and 2-rail fence is a compromise that addresses the safety needs of the project, is accepted by the community, does not degrade visual quality and

adheres to the Coastal Commission mandate to encourage coastal access." (Application, p. 9, para. 18)

Public acceptance and aesthetics should not dictate safety considerations.

V

The concerns previously expressed by the CPUC staff and the railroads, which the City admits were ignored, should be addressed.

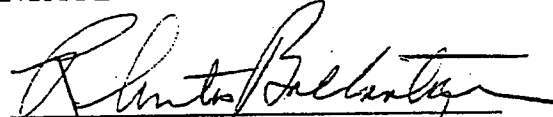
VI

For these reasons, BNSF requests that this matter be set for hearing at which time BNSF will be prepared to offer testimony and evidence on the facts herein stated.

Respectfully submitted,

THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY

By



Hill, Farrer & Burrill LLP
R. Curtis Ballantyne
One California Plaza, 37th Floor
300 South Grand Avenue
Los Angeles, California 90071-3147
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E-mail: cballantyne@hfbllp.com

Its Attorneys

Dated at Los Angeles, California, this 26th day of November, 2003.

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4/4

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South Coast Region

JAN 16 2004

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

CALIFORNIA
COASTAL COMMISSION

In the Matter of the Application of the City of San Clemente for an order authorizing the construction of five permanent one-track at-grade crossings and three permanent one-track grade separated crossings and improvement of three existing crossings for the San Clemente Pedestrian Trail, known as the San Clemente Beach Safety Enhancement Project located on the Southern California Regional Rail Authority Orange Subdivision between railroad mile post 204.0 and 206.0 in the City of San Clemente, County of Orange, California.

No. A03-10-052
(filed October 27, 2003)

SAN FRANCISCO OFFICE

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FILED
PUBLIC UTILITIES COMMISSION

MOTION TO LATE-FILE PROTEST AND REQUEST FOR HEARING BY THE STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION; PROTEST INCLUDED

This is the protest of the State of California Department of Transportation (hereinafter "Department") to the subject application wherein the City of San Clemente (hereinafter "City") is seeking authorization to construct five (5) new pedestrian at-grade crossings and three (3) new pedestrian grade separated crossings and to improve three (3) existing pedestrian crossings. The project, known as "San Clemente Beach Safety Enhancement Project", also includes construction of a pedestrian walkway, landscaping, fencing, retaining walls, rip-rap, pile and rope barriers, gates, handrails, signage, drainage facilities (including culverts, culvert extensions, inlets, drainage pipes, swales and ditches), paving, steps, and benches within the limits of an existing high speed mainline railroad right-of-way.

The City notice of subject application to Department is dated November 24, 2003 (a true and correct copy of which is attached hereto as Exhibit A). The Department respectfully requests that CPUC accept this late protest and request for hearing on the grounds that the Department did not receive the City notice until after December 1, 2003, the deadline for filing a protest and request for hearing on the Application.

All communications and notices to the Department with respect to this matter should be addressed to:

COASTAL COMMISSION

5-03-322

EXHIBIT # 4c

PAGE 1 OF 5

Mr. Warren Weber, Chief
Division of Rail
California Department of Transportation
P. O Box 942874, MS 74
Sacramento, CA 94274-0001
Telephone: (916) 654-2944
Facsimile: (916) 653-4565

with a copy to:

Mr. Matthew B. George
California Department of Transportation
Legal Division
P. O. Box 1438, MS 57
Sacramento, CA 95812-1438
Telephone: (916) 654-2630
Facsimile: (916) 654-6128

Attorney for the California Department of Transportation

For the reasons stated herein, a public hearing on this application is requested.

I

The City's proposed construction projects would take place on the Los Angeles to San Diego ("LOSSAN") passenger rail corridor. The Department contracts with Amtrak for intercity passenger rail service over this heavily used rail corridor. The Department believes that this project would endanger rather than improve public safety and that it would negatively impact the safety of California's passenger rail service. The City, in the following excerpt from the "Mitigated Negative Declaration Executive Summary", attached to their application, refers to a meeting held on May 15, 2003 with the California Public Utilities Commission, the Burlington Northern Santa Fe Railroad, the National Railroad Passenger Corporation ("Amtrak"), the Southern California Regional Railroad Authority ("Metrolink") and the Orange County Transportation Authority to discuss the project:

"The CPUC and railroad agencies expressed numerous concerns. Some of their concerns included consolidation of at-grade crossings, changing the proposed split rail fence to a welded wire mesh fence, at-grade crossing and signal design recommendations, increase in train speeds and noise impacts of trains sounding their horns if new at-grade crossings are approved. *The "City" is unsure that if we changed the project to meet some or most of their concerns, it will change their opinion toward the project. This being the case, the "City" staff is not recommending any change to the project.*" (Application, Exhibit 5D, page 4) Emphasis added.

Ex. 4c
2/5

This project will result in an anticipated increase in pedestrian traffic on the right-of-way. An increase in pedestrian traffic on the right-of-way is incompatible with the right-of-way's use as a federally designated high-speed passenger rail corridor. The City expresses an inexplicable disregard for public safety by its unwillingness to adequately address the numerous safety concerns expressed by CPUC staff, the railroads, the Department, and the Department's service provider, Amtrak.

II

The City's request for authorization to construct additional at-grade crossings is inconsistent with the current policy promoted by members of the Association of American Railroads, the California Department of Transportation, and the United States Department of Transportation-Federal Railroad Administration (hereinafter "FRA"). This policy calls for the elimination of existing railroad grade crossings. In accordance with this policy, any proposed crossings of the railroad right-of-way should be grade separated.

III

The Department and FRA are the lead agencies for the current Program Level EIR/EIS that is analyzing various improvements in the LOSSAN rail corridor. The City is a participant in this EIR/EIS and has been made fully aware of the need to reduce or eliminate interactions between people and trains, particularly at grade crossings and where pedestrians trespass across rail lines. At-grade crossings are incompatible with the State's plans to provide improved intercity passenger rail service in the LOSSAN corridor. At-grade crossings not only compromise the safety of members of the general public attempting to traverse the rail line, rail passengers, and train crews, they also impair the mobility benefits that will accrue to all California residents through improved passenger rail service in this heavily traveled corridor.

IV

The Department has published the "LOSSAN Corridor Strategic Plan" as an initial step in the development of the Program Level EIR/EIS. Many public meetings were held prior to completion of this plan. The City was a participant in the development of the plan. The strategic plan addresses community and environmental issues, specifically addresses the need to reduce pedestrian activity in the railroad right-of-way, identifies the need to eliminate at-grade crossings and recommends new grade-separated pedestrian crossings. The City, as a participant

Ex. 4c
3/5

in the development of this plan, is aware of the safety issues associated with pedestrian activity in the railroad right-of-way and the need to eliminate at-grade crossings. The City proposal to construct at-grade crossings is inconsistent with the "LOSSAN Corridor Strategic Plan" and would place pedestrians in hazardous locations as well as expose train passengers and crews to a high level of risk.

V

As depicted in the Exhibits attached to the City's application, the proposed pedestrian trail meanders in close proximity to the railroad tracks. The measures taken by City in addressing the safety of the users of the trail and the trains operating along the corridor are woefully inadequate:

"Fencing the trail has been controversial and the community has vehemently expressed their opposition to it. Earlier trail proposals that included fencing the whole length of the trail were vigorously opposed and defeated resulting continued [sic] perpetuation of the existing trail and trespassing conditions. The fencing schemes currently proposed with 3-rail fence and 2-rail fence is a compromise that addresses the safety needs of the project, is accepted by the community, does not degrade visual quality and adheres to the Coastal Commission mandate to encourage coastal access."
(Application, p. 9, para. 18)

While there may be local acceptance and support for the project, the project compromises public safety. The Coastal Commission mandate to encourage coastal access is not frustrated by the Department's position: the Department does not object to all proposed crossings. The Department only protests at-grade crossings (which are documented safety concerns) and other features of the plan which constitute an "attractive nuisance" such as easily compromised fences which invite trespassing.

VI

The City concedes that it has wholly ignored every one of the safety concerns previously expressed by the Department, CPUC staff, the railroads, and the Department's service provider, Amtrak. The Department respectfully submits that these safety considerations must be addressed in order to ensure public safety.

VII

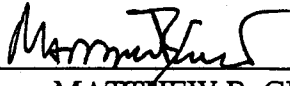
EX. 4c
4/5

For these aforementioned reasons, the Department requests that this matter be set for hearing at which time the Department will be prepared to offer testimony and evidence on the facts herein stated.

Respectfully submitted,

DATED: December 10, 2003.

BRUCE A. BEHRENS, Chief Counsel
BRELEND C. GOWAN, Deputy Chief Counsel
RICHARD A. WEHE, Assistant Chief Counsel
GARY A. GEREN, MATTHEW B. GEORGE

By 
MATTHEW B. GEORGE

Attorneys for State of California, Department of Transportation

In The Matter Of The Application Of The City Of San Clemente For An Order Authorizing The Construction Of Five, Permanent One-Track At-Grade Crossings And Three Permanent One-Track Grade Separated Crossings And Improvement Of Three Existing Crossings For The San Clemente Pedestrian Trail, Known As The San Clemente Beach Safety Enhancement Project Located On The Southern California Regional Rail Authority Orange Subdivision Between Railroad Mile Post 204.0 And 206.0 In The City Of San Clemente, County Of Orange, California.

Application 03-10-052
(Filed October 27, 2003)

**PREHEARING CONFERENCE STATEMENT OF THE
RAIL CROSSING ENGINEERING SECTION OF THE
CONSUMER PROTECTION AND SAFETY DIVISION**

Pursuant to the Rules of Practice and Procedure (Rules) of the California Public Utilities Commission (Commission), Title 20, California Code of Regulations, sections 49 and 87, the Rail Crossings Engineering Section (Staff) of the Consumer Protection and Safety Division respectfully submits this prehearing conference statement pursuant to Administrative Law Judge (ALJ) Simon's Ruling of January 21, 2004.

I. CROSSINGS PROTESTED BY STAFF

Staff's position has not changed from that contained in its Protest dated December 1, 2003. Staff opposes the following proposed crossings as unsafe:

1. Dije Court (Milepost 204.00)—new at-grade

This at-grade crossing is only 0.10 miles from the proposed El Portal at-grade crossing. Further, the City has not shown why a grade separated pedestrian crossing here is not practicable.

2. El Portal (Milepost 204.10)—new at-grade

This at-grade crossing is only 0.10 miles from the proposed Dije Court at-grade crossing. Further, this crossing is very near a blind curve on the railroad line.

3. El Portal (Milepost 204.11)—new, allegedly grade-separated

This at-grade crossing is only 0.01 miles from the proposed El Portal at-grade crossing at Milepost 204.10. Further, this crossing proposes to use an existing storm drain as a grade-separated pedestrian crossing. Storm drains pose a danger to pedestrians from flash floods during the rainy season and are stinky and uninviting during the dry season which will likely result in pedestrians choosing not to use them to cross the railroad tracks. Staff opposes the use of storm drains as a public crossing.

4. Linda Lane (Milepost 204.49)—new, allegedly grade-separated

This crossing also proposes to use an existing storm drain as a grade-separated pedestrian crossing. As with #3 above, Staff opposes the use of storm drains as a public crossing.

5. Linda Lane (Milepost 204.54)—new at-grade

The pedestrian path from Linda Lane Park to the railroad tracks is very steep. Children have been observed by Staff skateboarding down the path to the tracks.¹ There is no proposed means of barring or otherwise preventing skateboarders from entering the railroad right-of-way.

¹ Skateboarding is not the only dangerous activity engaged in by children and young adults on this stretch of railroad track. Attached to this Prehearing Conference Statement (Attachment A) is an accident report describing major injuries suffered by an 18-year old while playing a game of "chicken" with a train at the Calafia pedestrian crossing in the City of San Clemente on January 16, 2004.

6. Reefgate West (aka Corto Lane) (Milepost 204.6)—existing private at-grade

The entire pedestrian trail crosses the railroad tracks at this proposed at-grade crossing. This crossing is only 0.06 miles (317 feet) from the proposed Linda Lane (Milepost 204.54), at-grade crossing—#5 above.

7. "T" Street (Restrooms) (Milepost 205.20)—new at-grade

The entire pedestrian trail also crosses the railroad tracks at this proposed at-grade crossing.

8. Lost Winds (aka Calle Lasuen) (Milepost 205.6)—new at-grade

This at-grade crossing is only 0.40 miles from the proposed Linda Lane Park crossing (#5 above) and 0.20 miles from the proposed Plaza La Playa at-grade crossing (#9 below). Further, the City has not shown why a grade separated pedestrian crossing here is not practicable.

9. Plaza La Playa (Rivera) (Milepost 205.8)—existing, allegedly grade-separated

This crossing proposes to use an existing storm drain as a grade-separated pedestrian crossing. As with crossings 3 and 4 above, Staff opposes the use of storm drains as a public crossing.

10. Montalvo (Milepost 205.9)—existing, allegedly grade-separated

This crossing proposes to use an existing ravine as a grade-separated pedestrian crossing. Watercourses pose a danger to pedestrians during the rainy season. Staff opposes the use of natural watercourses as a public crossing under the railroad tracks.

11. Calafia (Milepost 206.0)—existing public at-grade

This at-grade crossing was previously approved by the Commission but the City has failed to comply with the Commission's orders concerning its construction pursuant to Decision (D) 89-08-025 and/or D.89-11-035.

II. EVIDENTIARY HEARINGS ARE REQUIRED FOR THE ELEVEN CROSSINGS PREVIOUSLY DESCRIBED

Staff asserts that evidentiary hearings will be required for the crossings at Dije Court (Milepost 204.00), El Portal (Milepost 204.10), El Portal (Milepost 204.11), Linda Lane (Milepost 204.49), Linda Lane (Milepost 204.54), Reefgate West (aka Corto Lane) (Milepost 204.6), "T" Street (Restrooms) (Milepost 205.20), Lost Winds (aka Calle Lasuen) (Milepost 205.6), Plaza La Playa (Rivera) (Milepost 205.8), Montalvo (Milepost 205.9), and Calafia (Milepost 206.0), on all the issues identified in Staff's protest.

III. PROPOSED SCHEDULE

Staff contends that five days of evidentiary hearings will be required and suggests that the week of April 5, 2004, through April 9, 2004, as possible hearing dates. Staff recommends that hearings be held in Los Angeles, California, in the Commission's Hearing Rooms at its Southern California headquarters. Staff recommends that two Public Participation Hearings (PPH) be held in San Clemente, California, one during daylight hours and one after working hours to permit as many residents as possible to air their concerns. The PPH could be scheduled at a location convenient to the majority or San Clemente residents in the month of April, following the evidentiary hearings.

IV. FORMAL ENFORCEMENT ACTION

Staff has taken no formal enforcement action against the City for the alleged violations of Decision (D) 89-08-025 and/or D.89-11-035. Staff contends that the issue of the City's failure to comply with the Commission's earlier orders is best considered in the present proceeding, A.03-10-052. Pursuant to page 3 of ALJ

EX. 5
4/11

Simon's Ruling, Staff attaches a copy of a letter (Attachment B) from Michael Robertson of Staff to James Holloway of the City of San Clemente, as the only written statement of Staff's position provided the City.

V. EVIDENTIARY ISSUES FOR HEARINGS

As noted in Staff's protest, train speed on the track is 40 mile per hour (mph) although Southern California Regional Rail Authority (SCRRA) could choose to operate at faster speeds. (Protest at p. 2.) SCRRA operates at speeds up to 90 mph to the north and 70 mph to the south of the crossings in this application. (Ibid.) At the hearings, Staff intends to show that trains operating over these crossings are permitted to travel at 79 mph.

Under California Public Utilities Code section 1202, the Commission has the exclusive power to "require, where in its judgment it would be practicable, a separation of grades at any crossing". Rule 38(d) of the Commission's Rules of Practice and Procedure provide that all "Applications to construct a public road . . .² across a railroad must be made by the municipal, county, state, or other governmental authority which proposes the construction, and shall contain . . . a statement showing why a separation of grades is not practicable." The fact that these requirements apply equally to pedestrian crossings is evident from the fact that nearly from its inception, the Commission has exercised its jurisdiction with respect to pedestrian crossings. See *City of Marysville*, 30 C.R.C. 780 (1927).³ The City here has failed to demonstrate that grade-separations at these crossings are not practicable to construct.

Further, the City proposes to install only Commission Standard No. 8 warning devices (flashing light signals) at the at-grade crossings. (Id. at p. 3.) The landing areas for the pedestrians using the stairs down to the beach are inadequate

² Webster's Third New International Dictionary defines road as "*an open way or public passage for vehicles, persons, and animals.*"

³ A Lexis search for "pedestrian crossing" results in approximately 147 named proceedings at the Commission with respect to these crossings since 1969.

to prevent intrusion into the railroad right-of-way. (Id. at p. 4.) The proposed crossings are inadequately illuminated. (Ibid.) The City has provided nothing in the application to prevent trail users, especially children, from trespassing onto the track and into oncoming trains. (Ibid.) Finally, the City has failed to adequately cite individuals for trespassing on the railroad right-of-way.

VI. CONCLUSION

For all the reasons stated here and in its protest, Staff continues to allege that the City's crossings proposal is inadequate and unsafe.

Respectfully submitted,



Patrick S. Berdge
Staff Counsel

Attorney for the Rail Crossings
Engineering Section of the Consumer
Protection and Safety Division

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-1519
Fax: (415) 703-4432
E-Mail: psb@cpuc.ca.gov

February 2, 2004

ATTACHMENT A
ACCIDENT REPORT
(JANUARY 16, 2004)

EX. 5
7/11

ATTACHMENT B

June 12, 2003 Letter

From Staff to City

Ex. 5
9/11

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 12, 2003

James Holloway
Director of Community Development
City of San Clemente
910 Calle Negocio
San Clemente, CA 92673

RE: Application 87-04-032 and Commission Decisions 89-08-025 and 89-11-035
for a pedestrian at-grade crossing (CPUC Crossing No. 101OR-206.00-D).

Dear Mr. Holloway:

On May 15, 2003, staff from the Commission's Rail Crossings Engineering Section (RCES) inspected the pedestrian beach access at-grade crossing CPUC No. 101-206.00-D, over the track of the Southern California Regional Rail Authority (SCRRA) in San Clemente. Staff learned that the pedestrian crossing was not constructed nor maintained as designed per Application (A.) 97-04-032 and Commission Decisions (D.) 89-08-025 and 89-11-035 (Decisions enclosed).

The pedestrian crossing and immediate area around the crossing were to be constructed and maintained as follows (RCES comments provided):

- Rigid steel chain link fencing from bluff to bluff with a 12-foot locked maintenance road gate. RCES noted two gates in the chain-link fencing that were unlocked; whereby trespassers were crossing at will at any point along the track.
- A means for pedestrians to ingress / egress from the beach to the parking lot as illustrated in Exhibit B of A.97-04-032 (enclosed). RCES noted a large stone rip rap on the west side of the crossing; whereby pedestrians carrying infants or large items would exercise difficulty in negotiating.

On November 9, 1989, D.89-08-025 was modified by D.89-11-035 in which Ordering Paragraph 5a was added to D.89-08-025. Ordering Paragraph 5a states. "The fencing shall be provided, constructed, installed, and maintained at the entire expense of the County and the City."

Ex. 5
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RCES believes the pedestrian crossing, as constructed, is unsafe. Beach goes continuously trespass on the track and the potential exists for pedestrians to become stranded between the rip rap and track during the passage of trains.

Please explain why the pedestrian crossing was not constructed nor maintained as indicated in D.89-08-025 and D.89-11-035 and what plans the City has to complete the crossing as specified in the decisions. Provide the information requested by June 30, 2003.

If you have questions regarding this matter, please contact me at (213) 576-7082.

Sincerely,

Michael Robertson, Senior Engineer
Rail Crossings Engineering Section

C: (Without enclosures)
David Lund, Director of Public Works, San Clemente
Ron Mathieu, Metrolink
John Shurson, Burlington Northern Santa Fe Railway

Ex. 5
" / 11

City Responses to the CPUC objections

The City's proposal is contrary to the U.S. Department of Transportation policy of reducing at-grade crossings. The proposal actually eliminates innumerable existing crossings of the railroad by the public attempting to access the beach (12,000 estimated pedestrian movements per day). This proposal will achieve significant safety benefits, and will result in a dramatically safer corridor than what exists today. (See recent pedestrian death as additional justification).

The City is requesting too many at grade crossings over a 2 mile segment of track. These are pedestrian not vehicular crossings, and consideration must be given to the distance pedestrians will walk before looking for more accessible (albeit illegal) crossings. We have tried to factor in pedestrian travel distances into the proposal, and want to have enough crossings to eliminate pedestrians perceived desire to cross at other than our safe crossings.

General Code of Operating Rules (GCOR) 5.8.1 requires the ringing of the bell and sounding the engine whistle ¼ mile prior to reaching a crossing. This will require the locomotive whistle to sound continually in compliance with railroad operating rules. We will work with the railroads to meet the requirements of P.U.C Code Section 7604 and their operating rules.

The safety protections proposed at the at-grade crossings are insufficient. The safety devices fully comply with PUC General Order 75-C for pedestrian crossings. Standard automatic gates are ineffective at pedestrian crossings and would not add to our already safe proposal.

The City has failed to demonstrate that grade separations are not "practicable" at these crossings. These are crossings to the beach and grade separations would be physically infeasible given the soil, topography, elevation of the railroad tracks and water conditions. Where grade separation is practical, they have been proposed.

The application fails to provide adequate measures to prevent trespassing by pedestrians. The proposal provides a combination of fencing, vegetation, topographic barriers and boardwalks to channel pedestrians to safe crossing points. More heavy-duty fencing would not be compatible with community values or Coastal Commission requirements, and would be the target of considerable attempts to gain entry through construction fences at inappropriate and unnecessary locations.

The proposed grade-separated undercrossings are neither safe nor reliable. The City acknowledges that undercrossings will provide intermittent access, which is the very reason we are request at-grade access points at most locations. However, where opportunities exist with existing train trestles and storm drains to provide grade-separated crossings modifications are proposed to provide additional safe access points.

The application's proposed crossings have insufficient lighting. We can work with the PUC railroads to come up with an adequate lighting scheme that is consistent with coastal requirements.

COASTAL COMMISSION
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EXHIBIT # 6
PAGE 1 OF 2

The application fails to address enforcement against trespassers using the railroad right-of-way. The City will continue with its cooperative agreement with the OCTA to provide enforcement. Efforts, both enforcement and education, will be similar to those employed on the San Francisco Peninsula for CalTrain.

Applicant has failed to comply with the commission's prior decision concerning the Calafia Beach at-grade. The County of Orange was to fund and act as the lead agency for the development of a stairway access down to the beach. Due to the County bankruptcy they did not fulfill this obligation and the City has inherited the project. The City's safety enhancement project provides a safe stairway access down to the beach as part of the proposed project. The City can not complete the design without CPUC approval. The City can not move forward with the previous stairway design approved by the CPUC because environmental conditions have changed. If the approved stairway design was constructed it would lead down into the surfline (due to the loss of sand on the beach), which would be a hazard to the people accessing the beach and to swimmers. Besides not being functional, the design does not have approvals of other regulatory agencies and would not likely be approved by California Coastal Commission, State Lands, Fish and Game, or the Army Core of Engineers due to environmental concerns with the design.

EX. 6
2/2

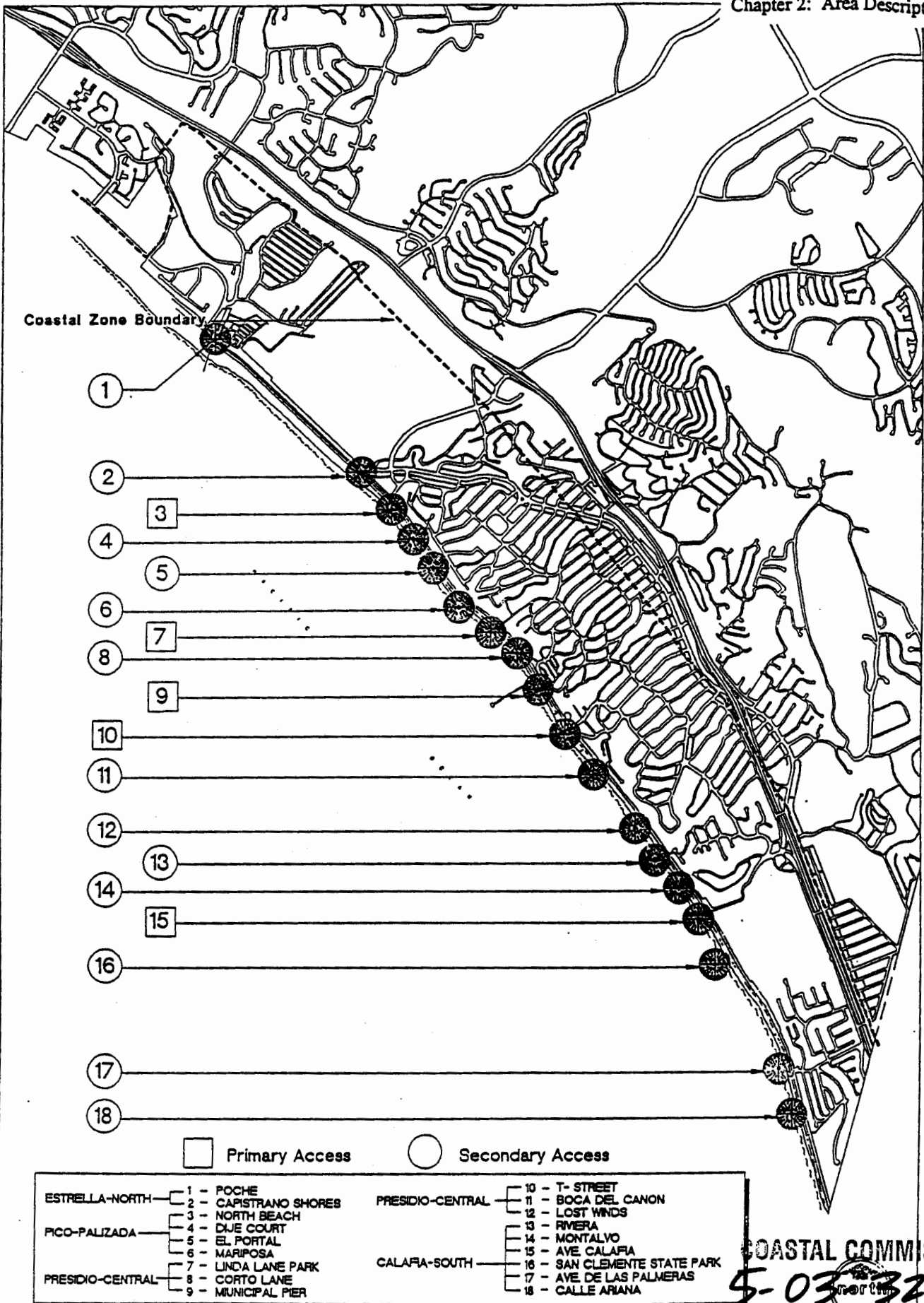


FIGURE 2-5

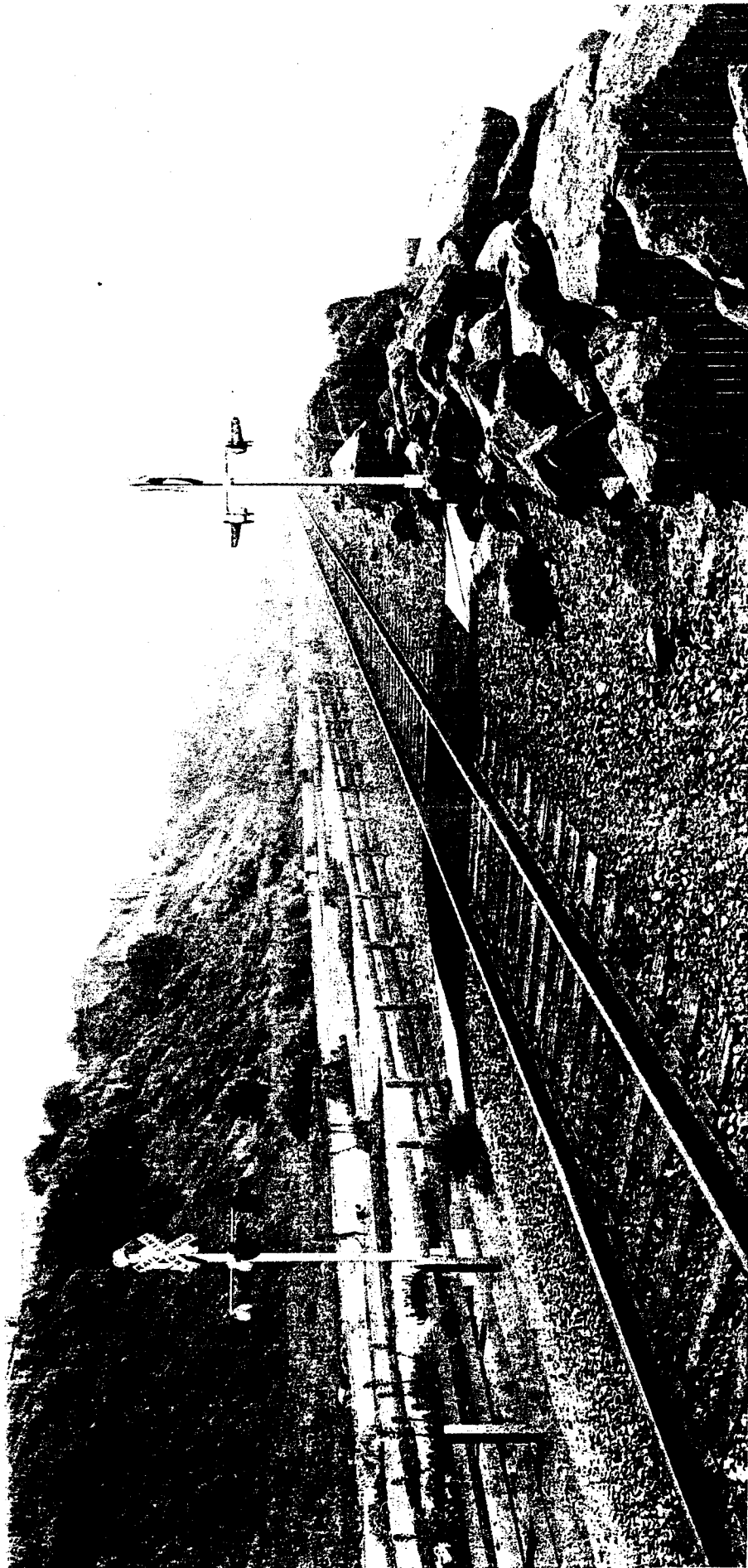
COASTAL COMMISSION
 5-03-322
 EXHIBIT # 7



TABLE 2-2
SUMMARY OF EXISTING SHORELINE ACCESS POINTS IN SAN CLEMENTE

Area Division	Access Point #	Location/Name	Regional Access: Connection to I-5	Type of Developed Public Access	Type of Railroad Crossing	Amenities	# of Parking Spaces		
							Off-St.	On-St.	Total
Estrella/ North	1	Poche	Ave. Pico	Stairs & tunnel beneath PCH	Storm Drain Tunnel	None	0	10	10
	2	Capistrano Shores Mobile Home Park	Ave. Pico	None (Private)	At-Grade	None	0	0	0
Pico/ Palizada	3	North Beach	Ave. Pico	Foot-Path	Asphalt Paved At-Grade	Picnic tables, snack bar, showers, restrooms, child play areas & fire pits	250	100	350
	4	Dije Court	Ave. Pico or Ave. Palizada	Stairway	At-Grade	None	0	10	10
	5	Ave. W. El Portal	Ave. Pico or Ave. Palizada	Stairway	At-Grade/Below Trestle	None	0	10	10
	6	Mariposa	Ave. Pico or Ave. Palizada	Asphalt paved ramp	At-Grade	None	0	15	15
Presidio/ Central	7	Linda Lane City Park	Ave. Palizada/ Ave. Presidio	Foot-Path	Storm Drain Tunnel	Turf picnic area, restrooms, volleyball courts, showers	135	0	135
	8	Corto Lane	Ave. Palizada/ Ave. Presidio	Stairway	At-Grade	Shares Linda Lane Amenities	0	5	5
	9	San Clemente Municipal Pier	Ave. Palizada/ Ave. Presidio	Foot-Path	Underpass & Paved Asphalt At-Grade	Restaurant, tackle, restrooms, showers, picnic tables	133	102	235
	10	"T" Street	El Camino Real	Foot-Path	Overpass	Restrooms, showers, fire pits, picnic tables, volleyball courts	0	150	150
	11	La Boca del Canon	El Camino Real	None (Private)	At-Grade	None	0	0	0
	12	Lost Winds	El Camino Real	Foot-Path/Stairway	At-Grade	None	0	10	10
	13	Riviera	Ave. Calafia	Stairway	Storm Drain Tunnel	None	0	10	10
Calafia/ South	14	Montalvo	Ave. Calafia	Foot-Path/Stairway	Below Trestle	None	0	0	0
	15	Calafia - S. C. State Beach	Ave. Calafia	Foot-Path	At-Grade	Restrooms, snack bar, fire pits, showers	210	0	210
	16	San Clemente State Beach	Ave. Calafia	Foot-Path/Tunnel	At-Grade Underpass	Restrooms, showers, picnic tables, barbecues	200	0	200
	17	Ave. de Las Palmeras	Cristianitos	None (Private)	At-Grade Underpass	None	0	0	0
	18	Calle Ariana	Cristianitos	None (Private)	At-Grade	None	0	0	0
Total							928	422	1,350

EX. 7
2/12



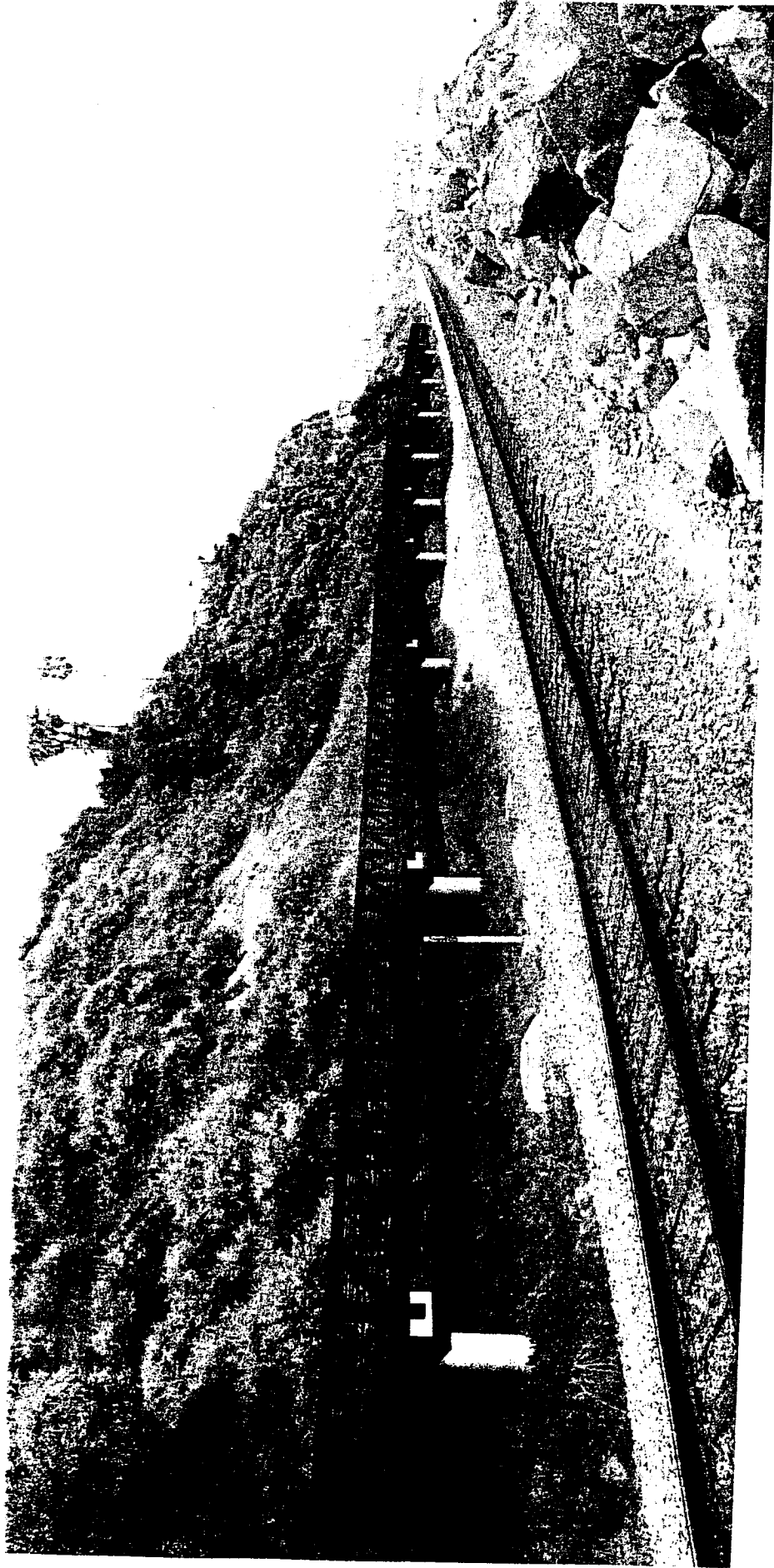
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EXHIBIT # 8

PAGE 1 OF 3

BEACH STRIP CROSSING IMAGE



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EXHIBIT # 8

PAGE 2 OF 3

TRIKIOSA BOARDWALK IMAGE

EXISTING CONDITION



PROPOSED CONDITION

COASTAL COMMISSION

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EXHIBIT # 8

PAGE 3 OF 3