

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

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Staff: BP-SD
 Staff Report: 7/26/04
 Hearing Date: 8/11-13/04

AMENDMENT REQUEST
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-02-151-A1

Applicant: North San Diego County Transit Development Board (NCTD)

Agent: BRG Consulting, Inc Agent: Christi Keller

Original

Description: Repairs to the existing railroad bridge crossing Agua Hedionda Lagoon including partial replacement of three bridge pilings and several damaged pile wraps, including one pile wrap that extends approximately 12 inches into the lagoon floor.

Proposed

Amendment: After the fact authorization for additional repair work to include replacement of four damaged bridge pilings with new timber piles, partial replacement of two damaged piles, the addition of one new timber pile and replacement of several pile wraps.

Site: Railroad bridge crossing Agua Hedionda Lagoon, Agua Hedionda, Carlsbad, San Diego County

Substantive File Documents: "North County Transit District Bridge 230.6 Maintenance Repairs Technical Specifications and Special Provisions", prepared by BRG Consulting, Inc., submitted 4/28/04, Agua Hedionda Lagoon LUP

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends the Commission approve the proposed amendment as submitted. The applicant has documented that repairs to the existing railroad bridge are needed. The project would result in permanent impacts to less than 1 square foot of unvegetated lagoon bottom as a result of the installation of the one new pile; the Commission's ecologist/wetlands coordinator has determined that no mitigation is necessary because the impact area supports no sensitive species and is only occasionally under water. The special conditions of the Commission's previous approval remain in full force and effect.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve the proposed amendment to Coastal Development Permit No. 6-02-151 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the amendment 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 A PERMIT AMENDMENT:

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Special Conditions.

The permit is subject to the following conditions:

1. Prior Conditions of Approval. All special conditions of the original permit actions (CDP#'s 6-01-151, 6-03-102-G) remain in full force and effect.

III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Amendment Description. In March 2003 the Commission approved CDP #6-02-151 for repairs to the existing railroad bridge crossing Agua Hedionda Lagoon in Carlsbad. The repairs included partial replacement of three bridge pilings and several damaged pile wraps, including one pile wrap that extends approximately 12 inches into the lagoon floor. A pile wrap is a formed concrete encasement which protects the pilings which support the trestle. While no permanent impacts were approved to coastal resources, several special conditions were approved

including a debris containment plan, requirements to prevent the introduction of toxins into the marine environment associated with the use of proposed plastic wrapped pilings (PVC pilewrap) and a survey to check for the invasive species *Caulerpa taxifolia*. The permit conditions were subsequently satisfied and the permit was issued.

While conducting the authorized repairs, the applicant discovered that several existing piles were deteriorated such that repair was not possible and replacement was necessary. Engineers determined that due to extensive marine borer damage into the timber trestle piles, the trestle was unable to safely support required train loads and replacement of the damaged piles was necessary immediately. The marine borer is any mollusk or crustacean that lives in warm waters and destroys wood by boring into and eating it. The gribble and shipworm are the best known.

On October 10, 2003, Emergency Permit #6-03-102-G was approved for the replacement of three damaged piles with new timber piles wrapped in PVC and the addition of one new timber pile in the lagoon. When completing the repairs, additional damaged piles were identified resulting in the need to repair and re-wrap them.

The subject amendment includes the follow-up authorization for repairs completed under the emergency permit as well as after-the-fact authorization for the additional repairs completed at that time. These include: replacement of four damaged piles with new timber piles wrapped in PVC; the addition of one new timber pile in the lagoon (pile #5-2); and partial replacement of two piles and replacement of several pile wraps.

The subject work is on the railroad bridge that spans Agua Hedionda Lagoon within the City of Carlsbad. The City of Carlsbad has a certified local coastal program (LCP). However, the subject bridge is located within an area of deferred certification so Chapter 3 policies of the Coastal Act are the standard of review for the proposed amendment.

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

Section 30230

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where

feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

In addition, Section 30233 of the Coastal Act states, in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.
- (2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.
- (3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.
- (4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- (5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
- (6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- (7) Restoration purposes.
- (8) Nature study, aquaculture, or similar resource dependent activities.

According to the applicant, the subject bridge has been repaired using several different methods over its lifespan to address previous marine borer damage. The repairs are failing and the current work is to repair previous repairs. According to the applicant, the bridge has diminished structural capacity and to minimize the effect of impact loading, rail traffic on the bridge is currently proceeding under a "slow order", with passenger trains at 60 MPH and freight trains at 30 MPH. Engineering estimates indicate that the bridge is currently operating at 50% of its original design capacity. As a result of the diminished operational capacity of the existing bridge structure, the entire bridge structure needs to be replaced. Initial planning for a replacement structure is currently taking place. As such, the applicant indicates the currently proposed repairs (yet already completed), along with the repairs permitted under CDP #6-02-151 are temporary actions being taken to increase the structural capacity and safety of the existing bridge trestle until a new structure can be designed, approved and constructed.

The Commission previously found in CDP #6-02-151 that bridge repair work within the lagoon was consistent with Section 30233 of the Coastal Act (i.e. was a permitted use in wetlands and the least environmentally damaging alternative). For the same reasons below, the Commission finds that the additional proposed repair work that is being authorized in this amendment is also consistent with Section 30233 of the Coastal Act.

Section 30233 prohibits fill of wetlands except when it is for one of eight purposes. Where the fill is for an allowable purpose, the fill must be the least environmentally damaging alternative and feasible mitigation measures must be taken to minimize any adverse environmental effects. Section 30233(a)(5) allows filling and dredging of wetlands for incidental public service purposes. The Commission finds the bridge repair qualifies as an incidental public service purpose. The bridge crossing Agua Hedionda Lagoon is an essential part of NCTD's operating infrastructure. NCTD would be unable to provide its standard service without having the bridge supporting its railroad operation and the repair will not increase the capacity of the bridge; therefore, the proposed repairs constitute an incidental public service.

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

Section 30233 requires that all adverse environmental impacts are minimized to the extent feasible. Emergency Permit #6-02-103-G authorized the replacement of three pilings and the addition of another new pile within Span 5 on the southern side of the trestle, approximately five feet into Agua Hedionda Lagoon. This area is covered with water during higher tides and has a dry sandy and rocky surface during lower tides. The

replacement piles were installed in the same footprint as the existing damaged piles; however, the new pile (5-2) was installed in a new location immediately adjacent to a damaged pile resulting in less than 1 square foot of permanent impact to unvegetated lagoon bottom. The damaged pile was not removed to minimize disturbance to the lagoon. Temporary removal of lagoon bottom occurred for replacement of the pile wraps. However, the same dredged material was used as backfill upon completion of the project. In CDP #6-02-151, the Commission found that material dredged from the lagoon and subsequently returned as backfill upon completion of the project was a temporary impact that did not require mitigation. The Commission again makes this finding regarding the proposed amendment. Finally, pile 13-3, which is located in an upland non-vegetated area on the north side of the bridge, was replaced but did not result in impacts to coastal resources. The Commission's staff biologist has reviewed the proposal and determined that no mitigation is necessary because the impact area supports no sensitive species and is only occasionally under water. Thus, the Coastal Act requires no mitigation.

The repair work did not result in an addition to, enlargement, or expansion of the existing railroad service trestle. All preparation work took place within the approved staging and "laydown" areas (a dirt area more than 20 feet from the lagoon). A dinghy was used (rather than having workers walk through the lagoon) to access the damaged pilings to minimize impacts to coastal waters. Divers installing the PVC wrap were instructed to avoid disturbance to the lagoon floor.

In summary, the Commission finds the proposed unavoidable permanent and temporary impacts to wetlands are of a type that is allowable under the Coastal Act and have been minimized to the extent feasible. No changes to the size, structure, or alignment of the bridge are proposed. Therefore, the Commission finds the proposed development is consistent with Sections 30230, 30231 and 30233 of the Coastal Act.

3. Water Quality/Resource Protection. 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.

The project is proposed within the Agua Hedionda Lagoon. All work is proposed to comply with the previously approved Debris Retainment Plan which proposes Best Management Practices (BMPs) to ensure that toxic materials, silt, debris, or excessive erosion do not enter the Agua Hedionda Lagoon during the project's preparation, construction and clean-up. The original permit also requires annual piling inspections to ensure pile/wrap integrity and that corrective action will be taken immediately to

maintain the plastic wrapping and/or integrity of the pile so that plastics will not be released into the marine environment. The permit requires that if future environmentally less-damaging materials or methods are available as a substitute for PVC wrap, they must be used. Those same provisions apply for the proposed amendment. With those conditions, the work covered by this amendment will maintain the biological productivity and the quality of the affected waters consistent with Section 30231 of the Coastal Act. Therefore, the Commission finds the project, as conditioned, is consistent with Section 30231 of the Coastal Act.

4. Public Access/Coastal Act Consistency. Because the proposed development is located between the sea and the first public road, Section 30604(c) requires that a specific access finding be made. In addition, many policies of the Coastal Act address the provision, protection and enhancement of public access to and along the shoreline, in particular, Sections 30210, 30211, 30212 and 30223. These policies address maintaining the public's ability to reach and enjoy the water, preventing overcrowding by providing adequate recreational area, and protecting suitable upland recreational sites.

Although the subject site is located between the first public roadway and the sea, the project will not impede public access to the coast as pedestrian use is not permitted on the railroad and the bridge does not block any public accessway. Moreover, by preventing potential failure of the bridge, the project will help maintain public transportation along the coast. Thus, public access will not be adversely affected and the project is consistent with the public access policies of the Coastal Act.

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

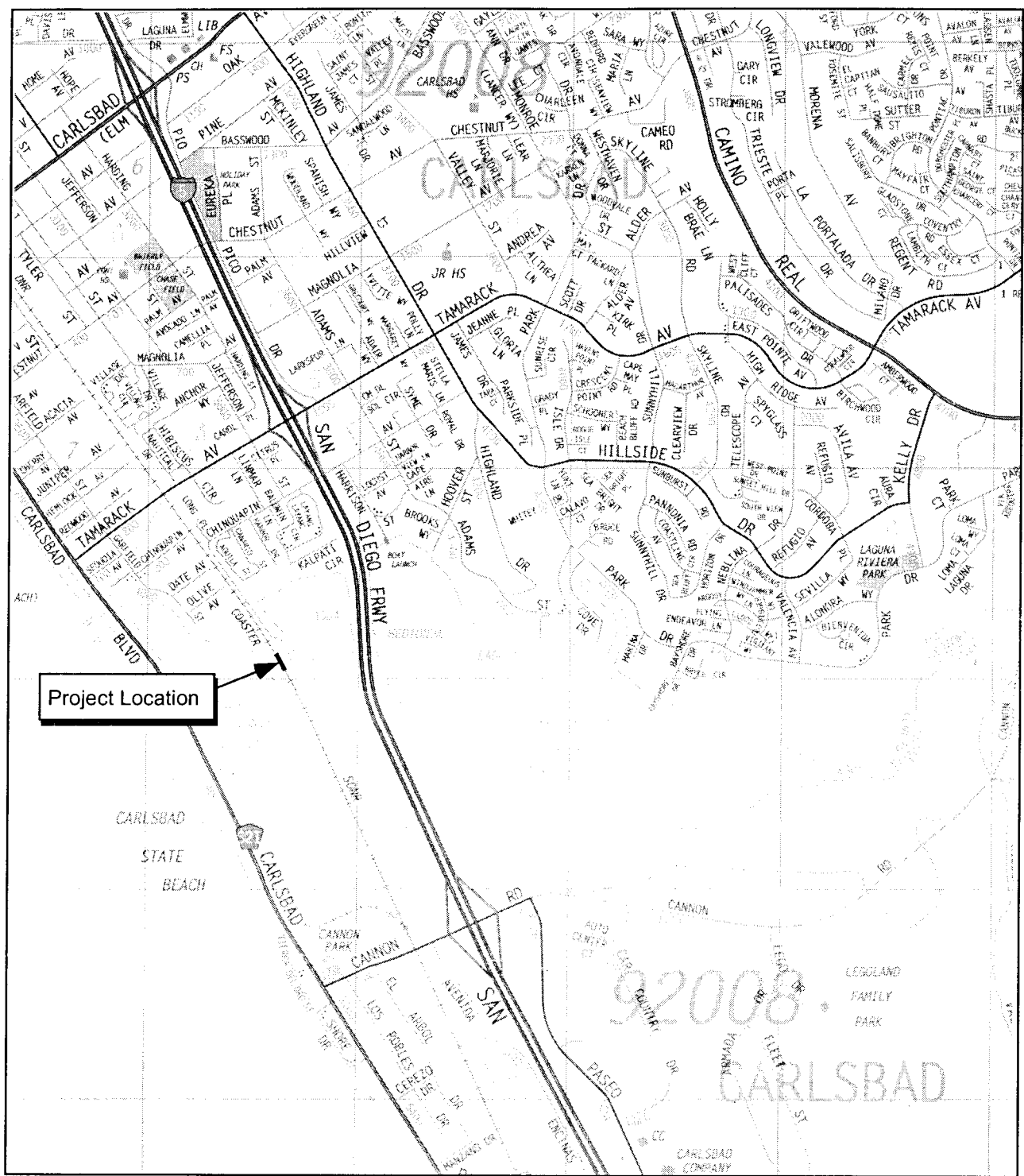
The City of Carlsbad has a certified local coastal program (LCP). However, the subject bridge is located in the Agua Hedionda Lagoon plan area which is an area of deferred certification where the Commission retains permitting authority until an implementation plan is approved. The subject bridge is located over Agua Hedionda Lagoon and the standard of review is the Chapter 3 policies of the Coastal Act. Based on the above discussion, the Commission finds that the proposed amendment is consistent with all applicable Chapter 3 policies of the Coastal Act and no adverse impacts to coastal resources are anticipated. Additionally, approval of the proposed project will not prejudice the ability of Carlsbad to prepare implementing ordinances for the Agua Hedionda Lagoon plan area.

6. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, 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 is consistent with Chapter 3 policies of the Coastal Act. Mitigation measures will minimize all adverse environmental impacts. No feasible alternatives or feasible mitigation measures are available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

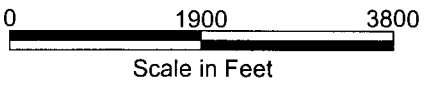
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Project Location



North



Scale in Feet

BASEMAP: Thomas Guide, 2002. SOURCE: Thomas Guide, BRG Consulting, Inc., 2002.

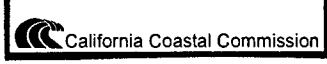
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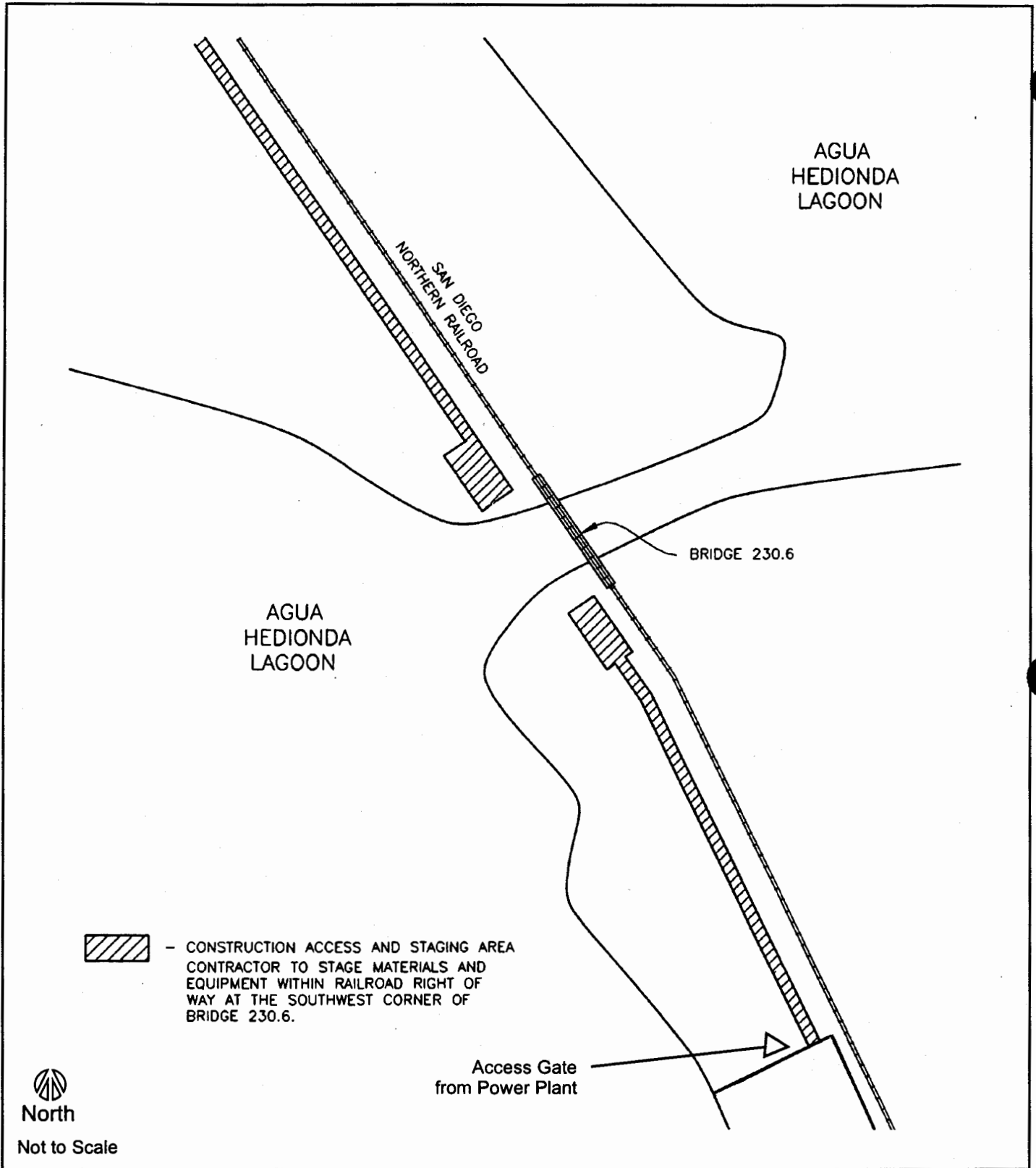


Railroad Bridge 230.6 Revised CDP Amendment Application

Vicinity Map

EXHIBIT NO. 1
 APPLICATION NO.
6-02-151-A1
 Location Map





Source: Simon Wong Engineering, 2002.

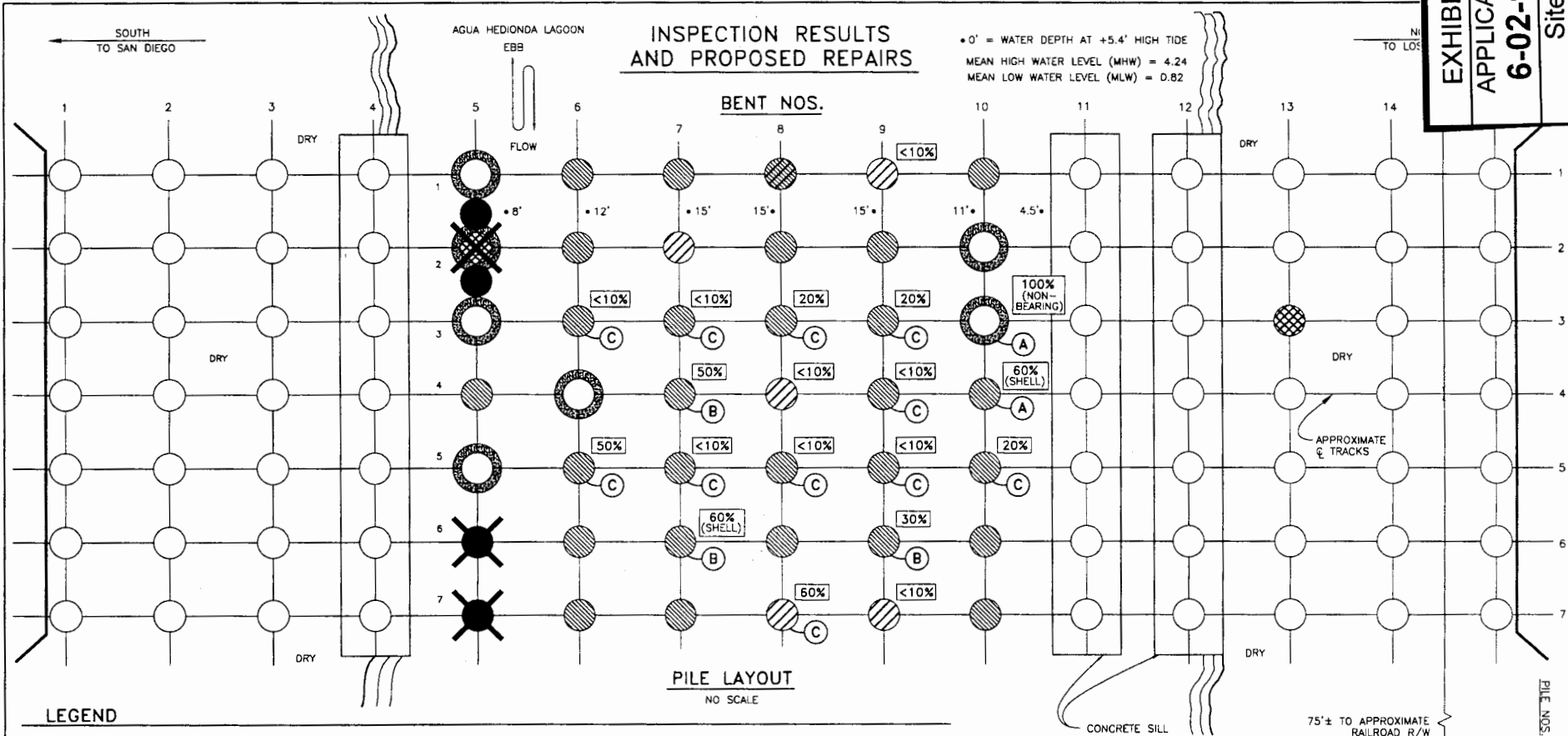
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Railroad Bridge 230.6 Revised CDP Amendment Application

Site Plan

EXHIBIT NO. 2
APPLICATION
6-02-151-A1
Location Map



CONFIDENTIAL INFORMATION: All plans, drawings, specifications, and/or information furnished hereon shall remain the property of the North San Diego County Transit Development Board, and shall not be used for any purpose not provided for in agreements with the North San Diego County Transit Development Board.		DESIGNED BY: M. PLOTNIKIEWICZ DRAWN BY: T. BRITAIN CHECKED BY: H. GENTILE APPROVED BY: H. GENTILE DATE: 9/4/07		NORTH COUNTY TRANSIT DISTRICT BRANCH WONG ENGINEERING PHYSICAL AND BRIDGE ENGINEERING 6885 Alhambra Street, Suite 202 San Diego, CA 92121 (619) 584-3113	APPROVED: JIM MERRITT MANAGER, MAINTENANCE OF WAY	NORTH COUNTY TRANSIT DISTRICT BRIDGE 230.6 MAINTENANCE REPAIRS PILE LAYOUT	SCALE: AS SHOWN CONTRACT NO. DRAWING NO. REV. SHEET NO.
REV.	DATE	DESCRIPTION	BY	APP			

NUMBER: 230.6 BRIDGE 230.6
 DATE: 08/11/07

**NCTD Railroad Bridge 230.6 Amended Repair Activities
Project Description**

Additional repairs to Railroad Bridge 230.6 are necessary as a result of the discovery of extensive marine borer infestation into the timber trestle piles. The original scope of repair work was authorized under Coastal Development Permit (CDP) 6-02-151, Regional Water Quality Control Board (RWQCB) File No. 02C – 122, and U.S Army Corps File No. 200300158-SKB.

Bridge 230.6 has been repaired using several different methods over its lifespan to address previous marine borer damage, and now, the repairs are failing and the current work is repairing the previous repairs. The degraded state of the existing bridge translates to diminished structural capacity. To minimize the effect of impact loading, rail traffic on Bridge 230.6 is currently proceeding under a "slow order", with passenger trains at 60 MPH and freight trains at 30 MPH. The structure is monitored periodically for excessive movement under rail loading and additional damage. Since the actual damage is very difficult to determine, the actual structural capacity of the bridge is also difficult to quantify; however, Simon Wong Engineering (SWE) estimates Bridge 230.6 is currently operating at 50% of its original design capacity.

As a result of the diminished operational capacity of the existing bridge structure, SWE has recommended to North County Transit District (NCTD) that the entire bridge structure needs to be replaced. Initial planning for a replacement structure is currently taking place. As such, the additional repairs are temporary actions being taken to increase the structural capacity and safety of the existing bridge trestle until a new structure can be designed, properly authorized, and implemented.

Previous Emergency Repairs

The need for emergency repairs was discovered during originally permitted repair activities, due to unanticipated conditions encountered by the contractor performing the maintenance repairs. While in the process of posting one of the two piles scheduled for posting in Bent 5, the existing pile bottom was displaced. On Monday, September 22, 2003, further investigation directed by Simon Wong Engineering staff, and performed by the contractor's diver below the mudline, revealed that the pile was completely deteriorated, unstable, and could not be used to support train load. Subsequent investigation revealed more severe deterioration buried below the mudline on the other piles in Bent 5. As a result, under the Emergency Permit, three pilings in Bent 5 were completely replaced, and a new pile was driven adjacent to a fourth pile estimated at 50 percent of its intended support capacity, with the existing pile remaining in place. Bent 5 is located on the southern side of the trestle, approximately five feet into the Lagoon from the base of rock rip rap along the Lagoon's bank.

Description of Supplemental Repairs

During the originally permitted project repairs to Pile 13-3, the contractor began posting pile 13-3 by cutting the pile off 1' above the ground line and found that the pile was deteriorated at the location of the cutoff, no sound pile could be found approximately 5' below the ground line, and that the pile was approximately 80% deteriorated 5' below the ground line. Therefore, replacement of Pile 13-3 included the following:

- Form a footing with a diameter approximately 1' larger than the outside of the existing pile
- Pour approximately 3.5 CY of 3250 PSI concrete to encapsulate the remaining 20% of the stub pile and to provide a base for posting.

In the originally permitted plans, 18' pile wrap extensions were the planned repairs for piles 8-4, 8-7 and 9-7. Pile wrap extensions include the removal of the existing pile armor and pile wrap from the

*North County Transit District
Railroad Bridge 230.6 Additional Repair Work
December 16, 2003*

EXHIBIT NO.
APPLICATION NO.
6-02-151-A1
Applicant's letter of Project description

pile, cleaning the existing pile, and installing new PVC wrap on the pile from 1' below the mudline. Upon removal of the existing pile armor and pile wrap, Piles 8-4, 9-1, and 9-7 had no significant damage and were re-wrapped. However, Pile 8-7 had significant marine borer damage at the waterline. Approximately 60% of the pile is deteriorated and will need to be repaired prior to re-wrapping. After discovering the damage to Pile 8-7, Pile 13-3, and to the piles in Bent 5, Simon Wong Engineering recommended additional in-depth inspections for a total of 15 piles at Bridge 230.6 including the following tasks:

- Remove the existing pile wraps and pile armor from piles 6-3, 6-5, 7-3, 7-4, 7-5, 7-6, 8-3, 8-5, 9-3, 9-4, 9-5, 9-6, 10-3, 10-4, 10-5 (total of 15 piles).
- Inspect, including photographs / video, the existing pile conditions
- Re-wrap the undamaged or minimally damaged piles with 150-mil HDPE wrap or as directed by the Engineer.

15 piles (6-3, 6-5, 7-3, 7-4, 7-5, 7-6, 8-3, 8-5, 9-3, 9-4, 9-5, 9-6, 10-3, 10-4, and 10-5) at Bridge 230.6 have been cleaned, unwrapped, and investigated. Of the 15 piles stripped and investigated, 3 piles (6-3, 9-4, and 9-5) had minimal marine borer damage and were completely re-wrapped with 150-mil HDPE wrap. 3 other piles (7-3, 7-5, and 8-5) also had minimal marine borer damage but were only partially re-wrapped due to budget constraints. The remaining 9 piles have more substantial marine borer deterioration: 4 have approximately 20% to 30% marine borer deterioration and 5 have over 50% marine borer deterioration. In addition, while performing the planned work at pile 8-7, substantial marine borer deterioration was discovered. A total of 10 piles need to be repaired or re-wrapped, plus piles 7-3, 7-5, and 8-5 need to be completed. These piles will need to be repaired as follows (See Attached Project Plan Sheet):

- Type A - Splash Zone Epoxy and 150-mil HDPE wrap
 - Piles: 6-5, 7-3(1/2 pile), 7-5(1/2 pile), 8-3, 8-5(1/2 pile), 8-7, 9-3, 9-6, and 10-5 (Total 6 plus complete piles 7-3, 7-5, and 8-5)
 - Break up concrete and rock as needed
 - Apply Splash Zone Epoxy to the damaged portions of the piles
 - Wrap pile with 150-mil HDPE wrap from mudline to 8' above mean sea level
- Type B - Fiberglass jacket epoxy grout
 - Piles: 7-4 and 7-6 (Total 2)
 - Clean the existing piles and install the fiberglass jacket wraps per the manufacturer's recommendations. The fiberglass jackets should extend from 1' below the mudline to 8' above mean sea level.
 - Seal all of the joints in the fiberglass jackets per the manufacturer's recommendations.
 - Fill the annular space between the pile and the fiberglass jacket with Hydro Ester epoxy grout per the manufacturer's recommendations. Utilize protective measures to ensure that no grout will enter the lagoon.
- Type C - Pile Posting
 - Piles: 10-3, 10-4 (Total 2)
 - Remove and dispose the existing portion of the pile from the damaged area to the cap
 - Excavate and move rock as needed
 - Cut existing pile down to sound stub
 - Remove bracing as required
 - Post new pile to existing sound stub using a center pin. Apply Splash Zone Epoxy between stub and pile post.
 - Wrap pile with 150-mil HDPE wrap

Site Access/ Construction Staging:

The project site will be accessed from either an access road, parallel to the tracks, from the south or from the north. The point of entry to the southern access road is from an access gate at the northeastern corner of the Encina Power Plant, in the City of Carlsbad. The northern portion of the project site will be accessed from an existing unpaved road, originating from a Sea World Research Building located off of Garfield Street, in the City of Carlsbad. (See Vicinity Map, Figure 1). At the end of each access road are existing cleared areas of dirt to be used as staging areas. The southern staging area measures approximately 75' by 75' and the northern staging area measures approximately 50' by 50' (See Site Map, Figure 5). The exact location of the staging areas within the clearing will be determined by the biological monitor, based upon a minimum 20-foot distance from the edge of the lagoon, and other standard Best Management Practices to protect coastal waters and marine habitat.

The Contractor will place temporary construction fencing and signage to delineate the boundaries of the staging and access areas, thereby limiting the area potentially and temporarily disturbed by the construction activities. All equipment will be stored, maintained, and fueled in the staging area. No debris, sawdust, rubbish, cement or concrete, oil or petroleum products from the activity shall be allowed to enter or be placed where they may be washed by rainfall or runoff into the Agua Hedionda Lagoon. To the maximum extent practicable, debris from underwater repair activities will be collected and disposed of at a proper disposal site.

In addition, a project biologist will perform an onsite inspection during repair work and during the final clean-up. Such inspection will include ensuring previously delineated specific staging area limits are in effect, detailing any new contractors on specific areas and activities to be avoided in order to adequately protect sensitive resources, and a post clean-up inspection of the site. The project biologist will submit a brief letter report to NCTD documenting the results of the inspection. NCTD will also provide the Contractor with copies of any required Resource Agency permits and/or conditions. The Contractor shall comply with such requirements during all project activities.

Environmental Setting and Water Quality

The Carlsbad Hydrologic Unit (HU) is approximately 210 square miles in area extending from the headwaters above Lake Wolhford in the east to the Pacific Ocean in the west, and from Vista and Oceanside in the north to Solana Beach, Escondido, and the community of Rancho Santa Fe to the south. The cities of Carlsbad, San Marcos, and Encinitas are entirely within this HU. There are numerous important surface hydrologic features within the Carlsbad HU including four unique coastal lagoons, three major creeks, and two large water storage reservoirs. The HU contains four major, roughly parallel hydrologic areas (HA). From north to south they are the Buena Vista (901.2), the Agua Hedionda (904.3), the Batiquitos (904.5), and the San Elijo (904.6) HAs. Two smaller HAs, the Loma Alta (904.1) and the Canyon de las Encinas (904.4) are also within the Carlsbad HU. The proposed project is located within the Agua Hedionda HA and the Los Monos Hydrologic Sub Area (HSA).

The largest jurisdictions in terms of land area in the Carlsbad HU are the unincorporated San Diego County areas (66 sq. miles), the cities of Carlsbad (39 sq. miles) and San Marcos (24 sq. miles), and an approximately 27 square mile portion of the City of Escondido. The cities of Carlsbad, San Marcos, and Encinitas are located entirely within the HU. Approximately 48% of the Carlsbad HU is urbanized. The dominant land uses are residential (29%), commercial/ industrial (6%), freeways and roads (12%), agriculture (12%), and vacant/ undeveloped (32%).

Agua Hedionda Lagoon is included on the Clean Water Act (CWA) Section 303(d) List of Impaired Water Bodies for coliform bacteria and sedimentation due to sources of concern such as urban runoff, agricultural runoff, sewage spills, and livestock/domestic animals. The project does not propose any activities which may result in coliform bacteria pollution, and all temporarily disturbed lagoon floor sediment will be backfilled into its original location and allowed to settle.

Beneficial uses of coastal waters within the Carlsbad HU, as identified in the San Diego Region Basin Plan, include Industrial Service Supply (IND), Navigation (NAV), Contact Water Recreation (REC-1), Non-Contact Water Recreation (REC-2), Commercial and Sport Fishing (COMM), Warm Freshwater Habitat (WARM), Estuarine Habitat (EST), Wildlife Habitat (WILD), Biological Habitats (BIOL), Rare, Threatened, or Endangered Species (RARE), Marine Habitat (MAR), Migration of Aquatic Organisms (MIGR), Aquaculture (AQUA), Shellfish Harvesting (SHELL), and Spawning, Reproduction and/or Early Development (SPWN).

Sensitive Species and Habitat Values

The proposed project is located within an area designated as Essential Fish Habitat (EFH) for two Fishery Management Plans (FMPs), the Coastal Pelagic Management Plan and the Pacific Groundfish Management Plan. Because of the small scale of the proposed project, temporary nature of required construction activities and the fact the project does not propose any alteration to the scale or design of the existing railroad trestle, there will be no impact on species protected by these FMPs. In addition, two *Caulerpa toxifolia* protocol surveys of the project site by JNE Associates (March 27 and August 27, 2003) found the project site contained no *Caulerpa toxifolia* or eelgrass, likely due to fast moving and deep water in the narrow channel crossed by the railroad trestle (Bob Hoffman, National Marine Fisheries Service, telephone conversation Sept. 20, 2002). Finally, email correspondence with John DiGregoria of the USFWS on September 30, 2003 regarding the initial emergency repair activities indicated USFWS concurrence that repair activities would have no effect on federally-listed species or critical habitat. Because the additional repairs would likewise occur outside of nesting season (complete by February 14, 2004), the project area is not tidewater goby habitat, and there are no proximate coastal sage scrub or other sensitive areas within the project area, no impacts to listed species or critical habitat are anticipated as a result of any of the proposed repair activities.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA
7575 METROPOLITAN DRIVE, SUITE 103
SAN DIEGO, CA 92108-4402
(619) 767-2370

**EMERGENCY PERMIT**

Applicants: **North County Transit District**
810 Mission Avenue
Oceanside, Ca 92054
Agent: **BRG Consulting, Inc.**

Date: October 10, 2003Emergency Permit No. 6-03-102-G

LOCATION OF EMERGENCY WORK: On Bent #5 of the railroad bridge crossing Agua Hedionda Lagoon, Agua Hedionda, Carlsbad, San Diego County.

WORK PROPOSED: Replacement of three existing deteriorated and damaged timber piles with new timber piles wrapped in 60 mm PVC and the addition of new timber pile to be placed adjacent to an existing damaged pile that will remain in place.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information and our site inspection that an unexpected occurrence in the form of the discovery of four severely damaged piles supporting the railway bridge requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director of the Coastal Commission hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of this permit;
- (b) Public comment on the proposed emergency action has been reviewed if time allows;
- (c) As conditioned, the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the conditions listed on the attached page.

Sincerely,

PETER M. DOUGLAS
Executive Director

By: DEBORAH LEE
Deputy Director

EXHIBIT NO.
APPLICATION NO.
6-02-151-A1
Emergency Permit
6-03-102-G

CONDITIONS OF APPROVAL:

1. The enclosed Emergency Permit Acceptance form must be signed by the PROPERTY OWNER and returned to our office within 15 days.
2. Only that work specifically described in this permit and for the specific location listed above is authorized (ref plans dated 10/6/03 by Simon Wong Engineering). Any additional work requires separate authorization from the Executive Director. If during construction, site conditions warrant changes to the approved plans, the San Diego District office of the Coastal Commission shall be contacted immediately prior to any changes to the project in the field.
3. The emergency work carried out under this permit is considered to be TEMPORARY work done in an emergency situation. The work authorized by this permit must be completed within 60 days of the date of this permit (i.e., by December 9, 2003). In order to have the emergency work become a permanent development, a regular coastal development permit amendment to CDP #6-02-151 must be obtained. An amendment application must be submitted within 30 of the date of this permit. If the amendment application is not approved, the emergency work shall be removed in its entirety within 150 days of the date of this permit (i.e., by March 10, 2004), unless this requirement is waived in writing by the Executive Director.
4. The subject emergency permit is being issued in response to a documented emergency condition where action needs to be taken faster than the normal coastal development permit process would allow. By approving the proposed emergency measures, the Executive Director of the Coastal Commission is not certifying or suggesting that the structures constructed under this emergency permit will provide necessary protection for the stability of the railway bridge trestle. Thus, in exercising this permit, the applicant agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
5. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g. City of Carlsbad, US Army Corps of Engineers, California Department of Fish and Game, etc.).
6. Pre-construction site conditions shall be documented through photographs at the time of construction and submitted to the San Diego District office prior to commencement of construction. Photographs of current construction conditions shall also be submitted with the required follow-up coastal development permit application.

Emergency Permit #6-03-102-G

October 10, 2003

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7. All access and staging area locations and water quality Best Management Practices (BMPs) related to spill prevention and debris retention required under CDP #6-02-151 shall be implemented for the herein approved pile replacement.

If you have any questions about the provisions of this emergency permit, please contact Bill Ponder at the Commission's San Diego Coast Area Office at the address and telephone number listed on the first page.