Th 19a

APPENDIX A

Correspondence

Consistency Certification No. CC-018-07
Foothill/Eastern Transportation Corridor Agency (TCA)
Foothill Transportation Corridor South (FTC-S)

In addition to the attached correspondence, the Commission also received (as of September 26, 2007) 14 additional letters, approximately 5,440 postcards, and approximately 3,980 e-mails opposing the project. The Commission also received 40 e-mails in support of the project.

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California State Senate

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17821 EAST 17TH STR
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TUSTIN, CA 92780
TEL (714) 573-1853
FAX (714) 573-1859

DICK ACKERMAN
SENATE REPUBLICAN LEADER
SENATOR, THIRTY-THIRD DISTRICT

RECEIVED
SEP 21 2007
CALIFORNIA
COASTAL COMMISSION

September 19, 2007

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Foothill-South Toll Road CZMA Consistency Certification (hearing date, Oct. 11, 2007) SUPPORT

Dear Chairperson Kruer and Members of the Commission:

I am writing to urge you to support the Foothill/Eastern Transportation Corridor Agency's application for a Coastal Consistency Certification. The project was planned to balance the need for traffic relief and environmental protection with special attention to the coastal zone.

The road will provide a much-needed alternative to Interstate 5. Local and regional traffic relief is a priority for thousands of residents who already spend too much time trapped in traffic. In addition to keeping workers and goods moving, this project would offer a vital escape route in times of emergencies.

Residents from all over Southern California have a right to enjoy the beautiful coastline in Orange County and San Diego. Completing the 241 will give more people the opportunity to visit coastal areas that are inaccessible unless residents want to battle ever-worsening congestion. Coastal California belongs to all, not a fortunate few.

Elected officials from the regional and local communities responsible for the mobility of their constituent residents and businesses have conducted more than 20 years of study and have spent more than $20 million in environmental reviews to determine the best route for State Route 241.

The Transportation Corridor Agencies have a successful environmental record. The agencies have taken great care to ensure that this road will be built with sensitivity to the environment. Please approve this important project.

Sincerely,

DICK ACKERMAN
Senator, 33rd District

cc:
Governor Arnold Schwarzenegger
Lt. Governor John Garamendi
Speaker Fabian Nunez
Senate President Pro Tem Don Perata
State Controller John Chiang
Congressman Ed Royce
Congressman Gary Miller
Congressman Ken Calvert
Congressman Dana Rohrabacher
Congresswoman Loretta Sanchez
Congressman John Campbell
Congressman Darrell Issa
Commissioner Steve Blank
Commissioner Sara Wan
Commissioner Dr. William A. Burke
Commissioner Steven Kram
Commissioner Mary K. Shallenberger
Commissioner Patrick Kruer, Chair
Commissioner Bonnie Neely
Commissioner Mark Delaplaine
Commissioner Mike Reilly
Commissioner Dave Potter
Commissioner Khatchik Achadjian
Commissioner Larry Clark
Commissioner Ben Hueso
Commissioner April Vargas
Commissioner Dan Secord
Commissioner Deborah Schoenbaum
Commissioner Adi Liberman
Commissioner Sharon Wright
Commissioner Steve Kinsey
Commissioner Brooke Firestone

Commissioner Suja Lowenthal
Commissioner Lorena Gonzalez
Secretary Michael Chrisman
Karen Scarborough
Brian Baird
Paul Thayer
Dale E. Bonner, Secretary
Majorie M. Berte, Undersecretary
Mr. Peter Douglas

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Assembly
California Legislature

VAN TRAN
ASSISTANT REPUBLICAN LEADER
ASSEMBLYMAN, SIXTY-EIGHTH DISTRICT

COMMITTEES:
VICE CHAIR
JUDICIARY
MEMBER
UTILITIES AND COMMERCE
GOVERNMENTAL ORGANIZATION

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CALIFORNIA
COASTAL COMMISSION

September 24, 2007

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Foothill-South Toll Road CZMA Consistency Certification (hearing date, Oct. 11, 2007) SUPPORT

Dear Chairman Kruer and Members of the Commission:

I am writing to urge you to support the Foothill-South Toll Road application for Consistency Certification. The roadway is a vital link in our regional transportation system. The completed 241 is already part of Orange County and San Diego regional transportation plans.

The project has been the subject of major planning efforts for decades, and has been on the County's Master Plan of Arterial Highways since 1981. Since 1996, TCA has worked with the Federal Highway Administration (FHWA), U.S. Environmental Protection Agency (EPA), U.S. Fish & Wildlife Service (USFWS), U.S. Army Corps of Engineers (ACOE) and Caltrans as part of a comprehensive federal environmental review process of project alternatives to relieve traffic in South Orange County.

Mobility is a critical element to public safety and this route would give thousands of California residents an escape route in case of a national disaster or other emergency. It would also decrease response time for emergency and safety workers.

Besides bolstering public safety, the final segment of the 241 will provide a valuable alternative to Interstate 5. By 2020, traffic on the I-5 in this area is expected to increase by 60 percent. With congestion at that level, people who live in my district are forced to battle traffic just to spend a day at the beach. This road would mean more residents would have the opportunity to enjoy the coastal resources in the region.

TCA has an exemplary environmental record and has taken care to plan this road with every consideration to environmental concerns. The route selected is the best option for both environmental stewardship and traffic relief.

Sincerely,

VAN TRAN
Assemblyman, 68th District

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Assemblymember.Spitzer@assembly.ca.gov
WEB SITE:
www.assembly.ca.gov/spitzer

Assembly
California Legislature

TODD SPITZER
ASSEMBLYMEMBER, SEVENTY-FIRST DISTRICT
CHIEF REPUBLICAN WHIP

COMMITTEES:
HUMAN SERVICES
REVENUE AND TAXATION
RULES (ALTERNATE)

JOINT COMMITTEES:
LEGISLATIVE AUDIT

SELECT COMMITTEES:
CHAIR, PRISON CONSTRUCTION AND OPERATIONS

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SEP 25 2007
CALIFORNIA
COASTAL COMMISSION

September 24, 2007

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: SUPPORT Oct. 11 Foothill-South Toll Road CZMA Consistency Certification

Dear Chairperson Kruer and Members of the Commission:

The final 16 miles of the 241 Toll Road, Foothill-South, are an important component of our regional transportation system. The route is part of long-range transportation plans for both San Diego and Orange County. After exhaustive study of dozens of routes, the final alignment was selected because, while being sensitive to the environment, it relieves traffic congestion without taking any homes or businesses.

Free-flowing traffic continues to be integral to our economic strength and tourism trade. Residents consistently rank traffic relief as a top concern. The completion of Foothill-South, which will streamline travel for hundreds of thousands of travelers along Interstate 5 in Orange County and northern San Diego County, is critical.

In addition to traffic relief, this project will also improve access to our coast. The growing communities to the east of Orange County have very few transportation options. For those residents, access to beaches and camping depend on having an alternative to Interstate 5.

The Foothill/Eastern Transportation Corridor Agency has spent six years and $20 million working in partnership with federal and state resource agencies in an effort to find a way to balance the need for local and regional traffic relief with the desire to protect the natural resources of our environment. This project can accomplish both.

Please approve the Foothill/Eastern Transportation Corridor Agency's application for a Coastal Consistency Certification.

Sincerely,

Assemblyman Todd Spitzer
71st Assembly District

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Assembly
California Legislature

BOB HUFF
REPUBLICAN CAUCUS CHAIR
ASSEMBLYMAN, SIXTIETH DISTRICT

COMMITTEES
EDUCATION
HEALTH
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BUDGET SUB. 5,
INFORMATION TECHNOLOGY
AND TRANSPORTATION

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CALIFORNIA
COASTAL COMMISSION

September 24, 2007

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Foothill-South Toll Road CZMA Consistency Certification (hearing date, Oct. 11, 2007)
SUPPORT

Dear Chairperson Kruer and Members of the Commission:

I'm writing to urge you to support the Foothill-South Toll Road application for Consistency Certification. The Texas Transportation Institute this week released its annual urban mobility report, naming the Orange County/Los Angeles region as the most congested in the nation. San Diego followed as sixth worst. Traffic is getting worse each month while a project that could help solve the problem is delayed.

Foothill-South would not only offer commuters an alternative to increasing daily traffic, but an escape route during emergencies. Some opponents to this traffic relief alternative advocate widening the I-5, but no matter how wide the freeway is, if it ever is shut down, alternatives are needed.

The 241 completion route was determined by a historic collaborative effort between at least six different agencies. The U.S. Fish and Wildlife Service, Environmental Protection Agency, U.S. Army Corps of Engineers, Federal Highway Administration, Caltrans and Camp Pendleton were all involved in selecting the alignment. Dozens of options were considered. Six toll road alternatives and two non toll road alternatives were extensively analyzed. The route ultimately selected provides the most traffic relief, requires no removal of homes and doesn't interfere with military operations at nearby Camp Pendleton. No other route will work.

TCA has a record of environmental excellence. The Agencies have taken great care to ensure that water quality in the area will be protected, sensitive wetlands will be avoided and the road will have as little environmental impact as possible.

Please consider the benefits of this project and approve the Foothill/Eastern Transportation Corridor Agency's application for Coastal Consistency Certification.

Sincerely,

Bob Huff

Assemblyman Bob Huff
60th Assembly District

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Assembly
California Legislature

MARTIN GARRICK
ASSEMBLYMEMBER, SEVENTY-FOURTH DISTRICT

COMMITTEES
VICE CHAIR
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MEMBER
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COASTAL COMMISSION

September 21, 2007

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Foothill-South Toll Road CZMA Consistency Certification (hearing date, Oct. 11, 2007) SUPPORT

Dear Chairperson Kruer and Members of the Commission:

Foothill-South is the final piece of a 67-mile toll road system that was planned more than 20 years ago to accommodate the growing communities in the region. Foothill-South and additional transportation improvement projects are needed to alleviate traffic congestion on existing roads.

Our region's major freeways all have segments that move at less than 10 miles per hour during the most heavily traveled times of the day. The final 16 miles of the 241 Toll Road will streamline travel for the hundreds of thousands of drivers along Interstate 5 in Orange County and northern San Diego County. That is critical for accident response time and in the case of larger emergencies.

The route was determined by a historic collaborative effort between at least six different agencies, the Fish and Wildlife Service, the Environmental Protection Agency, the Federal Highway Administration, Caltrans, the Marine Corps and the Army Corps of Engineers. No other route is viable. Indeed, an alternative widening of Interstate 5 in South Orange County would require bulldozing 838 homes and shuttering 382 businesses. And it would cost more than $2 billion, none of which has been planned or budgeted by Caltrans.

Completion of the 241 will contribute to congestion relief, economic strength and job growth. It is a needed project that will only improve the quality of life in the area. I urge you to approve the project's application for Coastal Consistency.

Sincerely,

Assemblyman Martin Garrick
74th Assembly District

cc.
Commissioner Steve Blank
Commissioner Sara Wan
Commissioner Dr. William A. Burke
Commissioner Steven Kram
Commissioner Mary K. Shallenberger
Commissioner Patrick Kruer, Chair
Commissioner Bonnie Neely
Commissioner Mark Delaplaine
Commissioner Mike Reilly
Commissioner Dave Potter
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Commissioner Brooke Firestone
Commissioner Suja Lowenthal
Commissioner Lorena Gonzalez
Peter Douglas, Executive Director, California Coastal Commission
The Honorable Arnold Schwarzenegger, Governor, State of California
The Honorable John Garamendi, Lieutenant Governor, State of California
The Honorable John Chiang, California State Controller
The Honorable Don Perata, Senate President Pro Tem
The Honorable Fabian Nunez, Speaker, California State Assembly
Mr. Michael Chrisman, Secretary of the California Resources Agency
Mr. Dale E. Bonner, Secretary of the Business, Transportation and Housing Agency
Ms. Karen Scarborough, Undersecretary of the California Resources Agency
Ms. Marjorie M. Berte, Undersecretary of the Business, Transportation and Housing Agency
Mr. Brian Baird, Assistant Secretary of Ocean and Coastal Policy, California Resources Agency
Mr. Paul D. Thayer, Executive Officer, California State Lands Commission

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California State Senate

SENATOR
MARK WYLAND
THIRTY-EIGHTH SENATE DISTRICT

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VETERANS AFFAIRS
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EDUCATION
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BUDGET AND FISCAL REVIEW
HEALTH
GOVERNMENTAL ORGANIZATION

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COASTAL COMMISSION

September 20, 2007

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Foothill-South Toll Road CZMA Consistency Certification (hearing date, Oct. 11, 2007) SUPPORT

Dear Chairperson Kruer and Members of the Commission:

The completion of State Route (SR) 241 would provide significant benefits to Southern California. The completion of this project would create 21,000 high-paying jobs in the region. It is part of responsible planning for the thousands of residents that will move into housing developments that have already been approved.

The final segment of SR-241 will provide a much-needed alternative to Interstate 5. I would urge you to consider what commerce between the San Diego border and the Orange County/Los Angeles area will look like when commercial trucks and service vehicles come to a grinding halt in traffic, which is projected to increase by 60 percent at the Orange County/San Diego County line by 2025.

An alternative widening of Interstate 5 in South Orange County would cost more than $2 billion, none of which has been planned or budgeted by Caltrans, and require the bulldozing of 838 homes and shuttering 382 businesses. The route was determined by a historic collaborative effort between at least six different agencies, the Fish and Wildlife Service, the Environmental Protection Agency, the Federal Highway Administration, Caltrans, the Marine Corps and the Army Corps of Engineers. No other route is viable.

Completion of SR-241 was planned with extraordinary attention to water quality, native habitat protection and quality of life for those who reside and work here. There has been a great deal of misinformation put forth about what might happen to the surf break at Trestles at San Onofre State Beach. TCA specifically analyzed potential impacts to coastal surf spots. Studies concluded that there will be no effect in sediment movement and therefore no effect on surf breaks.

I respectfully request that you approve the Foothill/Eastern Transportation Corridor Agency's application for a Coastal Consistency Certification. Should you have any further questions or concerns, please do not hesitate to contact my office.

Sincerely,

Mark Wyland

Mark Wyland
Senator, 38th Senate District

cc.
Commissioner Steve Blank
Commissioner Sara Wan
Commissioner Dr. William A. Burke
Commissioner Steven Kram
Commissioner Mary K. Shallenberger
Commissioner Patrick Kruer, Chair
Commissioner Bonnie Neely
Commissioner Mark Delaplaine
Commissioner Mike Reilly
Commissioner Dave Potter
Commissioner Khatchik Achadjian
Commissioner Larry Clark
Commissioner Ben Hueso
Commissioner April Vargas
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Commissioner Deborah Schoenbaum
Commissioner Adi Liberman
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Commissioner Steve Kinsey
Commissioner Brooks Firestone
Commissioner Suja Lowenthal
Commissioner Lorena Gonzalez
Peter Douglas, Executive Director, California Coastal Commission
The Honorable Arnold Schwarzenegger, Governor, State of California
The Honorable Don Perata, Senate President Pro Tem
The Honorable Fabian Nunez, Speaker, California State Assembly
The Honorable John Garamendi, Lieutenant Governor
The Honorable John Chiang, California State Controller
Mr. Michael Chrisman, Secretary of the California Resources Agency
Mr. Dale E. Bonner, Secretary of the Business, Transportation and Housing Agency
Ms. Karen Scarborough, Undersecretary of the California Resources Agency
Ms. Marjorie M. Berte, Undersecretary of the Business, Transportation and Housing Agency
Mr. Brian Baird, Assistant Secretary of Ocean and Coastal Policy, California Resources Agency
Mr. Paul D. Thayer, Executive Officer, California State Lands Commission

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Assembly
California Legislature

JOSE SOLORIO
ASSEMBLYMAN, SIXTY-NINTH DISTRICT

COMMITTEES
APPROPRIATIONS
EDUCATION
PUBLIC SAFETY (CHAIR)
TRANSPORTATION

September 24, 2007

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Foothill-South Toll Road CZMA Consistency Certification (hearing date, Oct. 11, 2007) SUPPORT

Dear Chairperson Kruer and Members of the Commission:

The final segment of the 241 Toll Road is an important traffic relief measure. It is clear that we need to address traffic congestion in this area. There will be a 60 percent increase in traffic on the I-5, the only major route between two metropolitan areas, by 2025. In the 11 miles from the San Diego County border northward, combined morning and evening peak hour gridlock will be eight hours. With the Toll Road, the projected congestion on that route will be reduced by 500 percent. It will take 58,000 vehicles per day off of I-5.

The 241 Toll Road has other benefits as well. It will help the state achieve critical reductions in greenhouse gas emissions. With the Toll Road completed, there will be an actual decrease of over 568,000 pounds per day of CO2 emissions. That amounts to over 207 million pounds per year of emissions reduced by the 241 extension.

A sophisticated water quality program has been developed to protect water quality along the entire 16-mile route. Additionally, plans have been put in place to collect and treat runoff from a two-mile portion of Interstate 5, which currently has no water quality system to prevent runoff from draining into local streams.

The population is booming and quality of life for people throughout the region depends on having an alternative route. People should not have to waste their valuable time and money stuck in traffic. After more than 20 years of planning and more than $20 million in environmental planning, it is time to move forward with construction of the final segment of the 241 Toll Road.

Please approve the Foothill-South Toll Road CZMA Consistency Certification.

Sincerely,

Jose Solorio

JOSE SOLORIO
State Assemblyman

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Newport National Corporation

September 20, 2007

Via Fax and Mail

Chairman Patrick Kruer
California Coastal Commission
45 Freemont Street, Ste. 2000
San Francisco, CA 94105

PAT,
We need this
Toll Road ASAP.
thanks
Scott

Re: Extension of 241 Toll Road

Dear Chairman Patrick Kruer:

I support the completion of the 241 Toll Road and am writing to urge you to approve the project's application for Coastal Consistency Certification. The road will provide a much-needed alternative to Interstate 5. In case of emergencies, an alternative could be a life line. Having just one major route between two major metropolitan areas just doesn't make sense. Residents from all over Southern California have a right to enjoy the beautiful coastline in Orange County and San Diego. Completing the 241 will give more people the opportunity to visit coastal areas that may be just a few dozen miles away, but inaccessible unless they want to be trapped in traffic for two hours.

The Transportation Corridor Agencies have a successful environmental record. The agencies have taken great care to ensure that this road will be built with sensitivity to the environment. Please approve this important project.

Sincerely,
Newport National Corporation

Signature on File

Scott R. Brusseau
President

1525 Faraday Ave., Suite 100 • Carlsbad, California 92008 • (760) 607-4282 • Fax (760) 607-4286 • www.newportnational.biz

September 20, 2007

California Coastal Commission
Attn: Chairman Patrick Kruer
45 Freemont Street, Ste. 2000
San Francisco, CA 94105

Dear Chairman Kruer:

I support the completion of the 241 Toll Road and am writing to urge you to approve the project's application for Coastal Consistency Certification. The road will provide a much-needed alternative to Interstate 5. In case of emergencies, an alternative could be a life line. Having just one major route between two major metropolitan areas just doesn't make sense. Residents from all over Southern California have a right to enjoy the beautiful coastline in Orange County and San Diego. Completing the 241 will give more people the opportunity to visit coastal areas that may be just a few dozen miles away, but inaccessible unless they want to be trapped in traffic for two hours.

The Transportation Corridor Agencies have a successful environmental record. The agencies have taken great care to ensure that this road will be built with sensitivity to the environment. Please approve this important project.

Sincerely and with Thanks,

Signature on File

Allen R. Krueger
Director of Government Affairs
949 829-6304

OAKLEY, INC.
ONE ICON
FOOTHILL RANCH
CALIFORNIA 92610

PHONE: 949.951.0991
FAX: 949.699.3500
WWW.OAKLEY.COM

Jeff and Sue Ferrier
188 Avenida La Cuesta
San Clemente, CA 92672
September 20, 2007

California Coastal Commission
45 Freemont Street, Ste. 2000
San Francisco, CA 94105
ATTN: Chairman Patrick Kruer

Dear Mr. Kruer:

We support the completion of the 241 Toll Road and its connection with Interstate 5 at San Mateo Creek. We are writing to urge you to approve the project's application for Coastal Consistency Certification. The road will provide a much-needed alternative to Interstate 5. In case of emergencies, an alternative could be a life line, as San Clemente especially does not have another way out of town in case of a major emergency. Having just one major route between two major metropolitan areas just doesn't make sense. Residents from all over Southern California have a right to enjoy the beautiful coastline in Orange County and San Diego. Completing the 241 will give more people the opportunity to visit coastal areas that may be just a few dozen miles away, but inaccessible unless they want to be trapped in traffic for two hours.

Interstate 5 simply can not tolerate any more traffic through San Clemente. An alternate route is long overdue. Just one accident on the freeway congests our travel routes for hours and miles beyond, and handicaps our exit and entry into our own city. This toll road completion is our best chance to alleviate an already impossible traffic situation that plagues our city and threatens our available options for emergency escape routes.

The Transportation Corridor Agencies have a successful environmental record. The existing toll road system has already been a positive role model both environmentally and publically, and we have full confidence in them to do their do-diligence in complying with reasonable coastal/environmental requirements and needs. The agencies have taken great care to ensure that this road will be built with sensitivity to the environment.

Please approve this important project.

Thank You

Signature on File

Jeff and Sue Ferrier

THE LAW OFFICES OF KIRK F. LAPPLE

4012 Katella Avenue, Suite 201
Los Alamitos, CA 90720

September 20, 2007

California Coastal Commission
Attn: Chairman Patrick Kruer
45 Freemont Street, Ste. 2000
San Francisco, CA 94105
Via Fax 415-904-5400

Re: 241 Toll Road

Dear Chairman Kruer:

I live in the South Orange County California City of Dana Point. I have been commuting to my law office 40 miles each way for the last 13 years. I travel the 5, 405 and 73 toll road. The 5 freeway is a mess especially in South Orange County. A recent article in the OC Register notes that Orange County has the 3rd most congested roads in the country. With the addition of thousands of new homes in the Rancho Mission Viejo Project traffic will only get worse.

I support the completion of the 241 Toll Road and am writing to urge you to approve the project's application for Coastal Consistency Certification. The road will provide a much-needed alternative to Interstate 5. In case of emergencies, an alternative could be a life line. Having just one major route between two major metropolitan areas just doesn't make sense. Residents from all over Southern California have a right to enjoy the beautiful coastline in Orange County and San Diego. Completing the 241 will give more people the opportunity to visit coastal areas that may be just a few dozen miles away, but inaccessible unless they want to be trapped in traffic for two hours.

The Transportation Corridor Agencies have a successful environmental record. The agencies have taken great care to ensure that this road will be built with sensitivity to the environment. Please approve this important project.

Very truly yours,

THE LAW OFFICES OF KIRK F. LAPPLE

Signature on File

By: Kirk F. Lapple
KFL:km

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SEP 20 2007
CALIFORNIA
COASTAL COMMISSION

Gerald J. Hamilton
30 Via Agradar
San Clemente, CA 92673

Chairman Patrick Kruer:

I support the completion of the 241 Toll Road and am writing to urge you to approve the project's application for Coastal Consistency Certification. The road will provide a much-needed alternative to Interstate 5 north from San Clemente. In case of emergencies, an alternative could be a life line. Having just one major route between two major metropolitan areas just doesn't make sense. Moreover, I can only see increasing delays in reaching central Orange County via I5 because of the huge number of new homes under construction in the South County. We need to take steps now to avoid making the South County a less attractive place to reside due to a lack of access.

The Transportation Corridor Agencies have a successful environmental record. The agencies have taken great care to ensure that this road will be built with sensitivity to the environment. Given the road will pass within only a mile of my home, I couldn't support this if I didn't feel that the Toll Roads will follow their usual practice of high quality construction and balanced concern for the environment.

Thanks for your consideration and I hope you will vote in favor of the 241.

Kind Regards,

Signature on File

Gerald J. Hamilton
Senior Vice President, Worldwide Sales
Mindspeed Technologies, Inc.

RECEIVED
SEP 2 5 2007
CALIFORNIA
COASTAL COMMISSION

Chairman Patrick Kruer:

I support the completion of the 241 Toll Road and am writing to urge you to approve the project's application for Coastal Consistency Certification. The road will provide a much-needed alternative to Interstate 5. In case of emergencies, an alternative could be a life line. Having just one major route between two major metropolitan areas is not appropriate for our times. Residents from all over Southern California have a right to enjoy the beautiful coastline in Orange County and San Diego. Completing the 241 will give more people the opportunity to visit coastal areas that may be just a few dozen miles away, but inaccessible unless they want to be trapped in traffic for two hours. The congestion on the I5 adds to pollution through the south county.

The Transportation Corridor Agencies have a successful environmental record. The agencies have taken great care to ensure that this road will be built with sensitivity to the environment. Please approve this important project.

Sincerely

Signature on File

Charles Reader

YAHOO! MAIL Classic

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SEP 2 5 2007
CALIFORNIA
COASTAL COMMISSION

Print Close Window

Date: Thu, 20 Sep 2007 17:55:58 -0700 (PDT)

From: "john frankel" <jfrankel@prodigy.net>

Subject: 241 extension

To: tollroad@coastal.ca.gov

Dear Chairman Patrick Kruer:

We use the I-5 south EVERY weekend to be with our grandchildren at Camp Pendleton. This trip in unbelieveably difficult, if not bordering on impossible. Either southbound or northbound, depending on the time of day, we will envariably encounter huge traffic problems. And of course, we have no other choice.

Our weekend trips are a necessity.....that's another story. But the point is that the extension of the 241 is a logical solution, is opposed for reasons that do not consider the greater good for the most people, and frankly, for those of us living in south Orange County, is a necessity in case of emergency. An earthquake could drop any of the overpass bridges, locking in travelers either north or south, and that would be a disaster.

Please vote, based on the logic. This improvement simply makes sense! Oopposing the improvement would have to assume the arguements made against the project give greater weight to the value judgements made made a very very tiny minority of folks over the overwhelming urgency of a huge majority of population in OC, millions of folks!

John Frankel, PE
7 Rodaja
Rancho Santa Margarita, CA 92688

CHIEF CONSULTANT
JANET DAWSON
PRINCIPAL CONSULTANT
ED IMAI
SENIOR CONSULTANT
ALEJANDRO ESPARZA
CONSULTANT
HOWARD POSNER
COMITTEE SECRETARY
DENISE PLANTS

Assembly
California Legislature

ASSEMBLY COMMITTEE ON TRANSPORTATION
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BETTY KARNETTE
ANTHONY PORTANTINO
IRA RUSKIN
JOSE SOLORIO
NELL SOTO

August 31, 2007

Patrick Kruer, Chair
California Coastal Commission
c/o The Monarch Group
7727 Herschel Ave.
La Jolla, California 92037

Re: Proposed Toll Road through San Onofre State Beach
COPY PROVIDED TO COASTAL COMMISSION STAFF

Dear Commissioner Kruer:

On behalf of the constituents of the 35th District, all Californians who enjoy the coast, as Chair of the Assembly Committee on Transportation, and as former California Coastal Commissioner, I urge you to reject the Coastal Zone Management Act consistency certification before you regarding construction of a proposed Orange County toll road through San Onofre State Beach.

The proposal by the Transportation Corridor Agencies (TCA) to build Foothill-South Toll Road through San Onofre State Beach is inconsistent with the Coastal Act. It will destroy one of southern California's remaining areas of coastal wild lands, and will cause a significant loss of safe, enjoyable coastal access for the public. At a time when the Legislature and policy leaders throughout the state are seeking creative solutions to encourage smart growth and balance infrastructure development with protection of our precious natural resources, the Foothill-South Toll Road moves us in the wrong direction.

Since 1971, San Onofre State Beach has been an important part of California's state park system. It is visited by over 2.5 million Californians each year, making it one of the most popular state parks in the 278-park system. It offers prime, low-cost coastal recreation opportunities, as well as protection of natural and cultural resources. Eleven endangered and threatened species live within the park, many of which thrive because of the pristine quality of San Mateo Creek, which runs through the park. The creek watershed is one of the state's last untouched watersheds, in spite of its proximity to highly-developed Orange County.

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San Onofre State Beach is also home to the Village of Panhé, located on the banks of San Mateo Creek. Members of the Juareño/Acjachemen people claim the Village as an ancestral site, which has been used for ceremonial purposes and as a re-burial site. The threats posed by the proposed toll road are of such significance that the Native American Heritage Commission has filed a lawsuit under the California Environmental Quality Act to stop its destructive path through the state park.

I urge you to uphold protection of California's treasured coast and deny the TCA's consistency application for the Foothill-South toll road.

Sincerely,

PEDRO NAVA
Assemblymember, 35th District

PN:jd
E6

cc: Commissioner Khatchik Achadjian
Commissioner Steve Blank
Commissioner William Burke
Commissioner Larry Clark
Commissioner Ben Hueso
Commissioner Steven Kram
Commissioner Bonnie Neely
Commissioner Dave Potter
Commissioner Mike Reilly
Commissioner Mary Shallenberger
Commissioner Sara Wan
Governor Arnold Schwarzenegger
Peter Douglas, Executive Director, California Coastal Commission
Ruth Coleman, Director, Department of Parks and Recreation

PAM SLATER-PRICE
SUPERVISOR, THIRD DISTRICT
SAN DIEGO COUNTY BOARD OF SUPERVISORS

August 21, 2007

Mr. Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street
San Francisco, CA 94105

RE: San Onofre State Park
Foothill-South Toll Road (SR 241)

Dear Mr. Kruer:

I strongly oppose the proposed alignment of the Foothill-South Toll Road (SR 241), which will go through the San Onofre State Park. While I support the concept of toll roads, the alignment of this project would profoundly compromise the popular San Onofre State Beach and the San Mateo Creek Campground. This is one of the last areas of coastal land available to the public in Southern California, and needs to be protected at all costs.

Trestles Beach, the "Yosemite of surfing," is at risk because the road could compromise the wave formation by altering the natural sediment flow of the San Mateo Creek. I am also concerned that polluted runoff from the road will impact the pristine water quality at Trestles Beach. Not only will the road diminish the beauty and integrity of our coastline, but it will fundamentally set a dangerous precedent for our State Park system. Further, it is worrisome that this road will devastate wildlife habitat and ultimately create urbanization and poorly planned development.

Please protect San Onofre State Park by opposing the proposed alignment of the Foothill-South toll road. Over 20 million people live at the door step of this beautiful park. Families from Los Angeles to San Diego rely on the Park for vacations and recreation — and we need your help to protect it.

Sincerely,

Pam Slater-Price

PAM SLATER-PRICE
SUPERVISOR, THIRD DISTRICT

PCP/eh

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City of Huntington Beach

2000 MAIN STREET CALIFORNIA 92648

Jill Hardy
City Council Member

DRUG USE IS LIFE ABUSE

September 20, 2007

Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street #2000
San Francisco, CA 94105

RE: Foothill-South Toll Road

Dear Mr. Kruer:

I urge you to reject the consistency application for the proposed Foothill-South toll road. The toll road would have devastating consequences for current and future park users. Specifically:

-The toll road would irreparably harm unique, affordable coastal recreation. The popular San Mateo Campground would likely be closed due to the construction of 16-foot sounds walls next to the now-peaceful campground. Access to the beach would become an unpleasant, urban experience due to the replacement trail actually crossing over the toll road. The loss of most of San Onofre State Beach is absolutely unacceptable given the increasing need for high quality and affordable coastal recreation.

-Construction-related erosion would alter the world famous waves at Trestles Beach, putting their quality in jeopardy. Also, water quality in San Mateo Creek is excellent today, but may not remain so if the toll road is built.

Endangered species living along our coast would be pushed toward extinction, irreparably harming coastal resources.

Alternatives that save the park and its rare coastal habitats are available and practical. The good news is that the toll road agency grossly overestimated the number of structures that would be displaced by Interestate-5 improvements. These improvements are as good as or better than the toll road for congestion relief.

I urge you to reject the consistency application - protect San Onofre State Beach and a unique part of California's coast for generations to come.

Yours truly,

Jill Hardy, Council Member

Xc: Mark Delaplane, California Coastal Commission

200 N. Spring Street
City Hall, Room 410,
Los Angeles, CA 90012
(213) 485-3451 Phone
(213) 485-8907 Fax

City of Los Angeles

District Office
163 S. Ave. 24
Room 202
Los Angeles, CA 90031
(213) 485-0763 Phone
(213) 485-8908 Fax

ED P. REYES
Councilmember, First District

September 18, 2007

Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street Suite 2000
San Francisco, CA 94105-2219

Dear Mr. Kruer:

San Onofre State Beach is one of California's most visited State Parks, with over two million visitors to the beach portion each year, and over one hundred and sixty thousand visitors to the park's two campgrounds.

There are many reasons for the popularity of this beach and park. Since it was recognized as a State Beach in 1971, San Onofre has attracted surfers with its outstanding surf, quiet, accessible inland campground (in close proximity to the beach), and an environment that offers Southern California families the opportunity to experience the coast and nature in the middle of an otherwise overwhelmingly urban area.

The Transportation Corridor Agencies' (TCA) plan to build a toll road right through the middle of the park will ruin that for all of us, and for generations to come. *I urge you to vote to stop this damaging proposal when it comes before you in October.*

Earlier this year, the environmental organization, American Rivers, declared San Mateo Creek to be the second most "Endangered Waterway" in the United States, specifically because of the proposed toll road. This creek is the home of several species of fish, including the endangered steelhead trout, arroyo chub, and unarmored threespine stickleback. Even the TCA's own engineers admit that construction of the road would require enormous changes in the surrounding land, and to the creek itself, forever altering the natural water flow and sediment of the creek. Such changes cannot help but affect wildlife and plants in the area, as well as the quality of the park in general.

In the final analysis, you must decide if the benefits of the toll road outweigh the damage that it will do to this important resource thereby setting an unfavorable precedent for our California State park system.

In my opinion they do not, and I hope that you too, in your capacity as protectors of our coastline, will come to share this opinion. If you have any additional questions please feel free to contact Jill Sourial of my staff at 213-473-7001.

Sincerely,

ED P. REYES
Councilmember, First District
Chair, Ad Hoc Committee on the Los Angeles River

RESOLUTION

INTERGOVERNMENTAL RELATIONS JAN 20 2006

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, California's first state park was established in 1864 with land granted by President Abraham Lincoln, and the California state parks system was created in 1927 "to preserve outstanding natural, scenic, and cultural values, indigenous aquatic and terrestrial fauna and flora, and the most significant examples of ecological regions of California; and

WHEREAS, from ancient redwoods to desert buttes, from Southern California's iconic beaches to the opulence of Hearst Castle, the California state parks system contains a diverse collection of historical, environmental and recreational resources second to none in the nation; and

WHEREAS, California state parks are the crown jewels of the state, designated for the benefit of all of California residents in order to improve our lives by providing healthy outdoor and educational experiences; and

WHEREAS, California state parks provide a significant economic benefit to the people of California, generating, according to estimates from the Department of Parks and Recreation, about 80 million visitors from around the world who spend approximately $2.6 billion directly with an additional $4 billion in indirect contributions; and

WHEREAS, California state park lands are designated for their protection and preservation on behalf of future generations and should not be warehoused for later development in a manner inconsistent with state park purposes; and

WHEREAS, protection of state park lands is a matter of paramount statewide concern which requires that these lands not become the least costly alternative for major infrastructure projects deemed to be necessary for uses inconsistent with state park purposes; and

WHEREAS, on November 18, 2005, the California State Park and Recreation Commission (Commission), in a resolution entitled "Opposing a Proposed Tollroad Alignment and Request for Action to Protect San Onofre State Beach," reaffirmed the principle that state parks are "designated for their protection and preservation on behalf of this and future generations and should not be used in a manner inconsistent with state park purposes;" and

WHEREAS, the Commission (i) urged abandonment of the proposed toll road, called the Foothill-South Toll Road, that would run "over four miles in length through the heart of the nearly 1,200 acre [inland portion] of San Onofre State Beach" and (ii) requested that the "Governor, in concert with the Attorney General's office, oppose any major transportation arterial thought San Onofre State Beach using all appropriate methods, including litigation if necessary, to defend this valuable and irreplaceable public resource;" and

WHEREAS, the state park at San Onofre State Beach was set aside for the people of California in 1971 by Governor Ronald Reagan who proclaimed that "one of the greatest legacies we can leave to future generations is the heritage of our land, but unless we can preserve and protect the unspoiled areas which God has given us, we will have nothing to leave them" and has since become one of the top five most visited state parks in California; and

WHEREAS, the taking of such park land by a toll road would destroy this unique Southern Californian coastal unit of the state parks system, and set a dangerous state-wide precedent that might in the future be cited in justifying the destruction and degradation of other state parks; and

WHEREAS, the Commission recognized that "viable alternative routes and traffic improvements exist which do not depend upon San Onofre State Beach;" and

WHEREAS, San Onofre State Beach is a resource for Los Angeles City residents as well, even though it is not located in the City, and we should do all we can to preserve our neighboring green spaces;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2005-2006 State Legislative Program SUPPORT of the California State Park and Recreation Commission's actions to oppose a proposed four mile tollroad (Foothill-South Toll Road) through San Onofre State beach and URGE the Foothill/Eastern Transportation Corridor Agency to immediately and permanently withdraw its plans to construct a toll road with an alignment through the state park at San Onofre; and

BE IT FURTHER RESOLVED, that by the adoption of this Resolution, all City Departments are hereby directed to refrain from acquiring any bonds for, or making other financial investments in, the Foothill-South Toll Road Project to be constructed by, the Foothill/Eastern Transportation Corridor.

PRESENTED BY: E. Garcetti

ERIC GARCETTI
Councilman, 13th District

JAN 20 2006

SECONDED BY:

E.G ak 06-0002-S7

County of Santa Cruz

BOARD OF SUPERVISORS

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September 20, 2007

Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Dear Mr. Kruer:

By way of introduction, my name is Tony Campos and I represent the Fourth District on the Santa Cruz County Board of Supervisors. I have represented the Pajaro Valley as an elected official since 1987, first as a City Council Member and later as Mayor. I also sit on numerous advisory boards and commissions.

It is with great interest that I write you today to urge you to vote to stop a proposal that would have a significant negative impact on one of our state parks. The plan to build a toll road right through San Onofre State Beach, one of California's most visited state parks, with over two million visitors to the beach portion each year, and over 160,000 visitors to the park's two campgrounds, would destroy this unique Southern California coastal attraction.

The state park at San Onofre State Beach was set aside for the people of California in 1971 by Governor Ronald Reagan who proclaimed that, "One of the greatest legacies we can leave to our future generations is the heritage of our land, but unless we can preserve and protect the unspoiled areas which God has given us, we will have nothing to leave them." Since that time, this park has become one of the top most visited state parks in California.

The passage of this damaging proposal would set a dangerous statewide precedent that might in the future be cited in justifying the destruction and degradation of other state parks.

I look to members of the Coastal Commission in your capacity as protectors of our coastline to vote against the proposal to build a toll road through San Onofre State Beach.

Sincerely yours,

TONY CAMPOS, Supervisor
Fourth District

TC:pmp

2702P4

State of California • The Resources Agency
Arnold Schwarzenegger, *Governor*

DEPARTMENT OF PARKS AND RECREATION
Ruth Coleman, *Director*
STATE PARK AND RECREATION COMMISSION
P.O. Box 942896, Sacramento, CA 94296-0001
Telephone: (916) 653-0524 FAX: (916) 653-4458

September 18, 2007

The Honorable Patrick Kruer, Chairman
and Members
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105-2219

Dear Chairman Kruer and Commissioners,

On November 3, 2005, the California State Park and Recreation Commission held a public meeting in the coastal city of San Clemente. The purpose of the meeting was to take public testimony on the use of San Onofre State Beach as a preferred alternative for a proposed tollroad connecting Interstate-5 in San Diego County north to Orange County's Ortega Boulevard. More than 1,000 people attended. The large majority voiced strong opposition to the use of San Onofre State Beach as a tollroad route. A transcript of the meeting is available for your review. At the Commission's November 18, 2005 meeting in Tahoe City, nine members of the commission unanimously adopted the enclosed Resolution 66-2005, *Opposing a Proposed Tollroad Alignment and Request for Action to Protect San Onofre State Beach.*

The 278 units of our State Park System were set aside for the health, inspiration, and education of all of California's population. While our Commission is sensitive to traffic congestion concerns and agrees that California residents should spend less time sitting in highway traffic, we also strongly believe that California's public parklands are protected and preserved from such encroachments. Within the 2,110 acres of San Onofre State Beach there are irreplaceable opportunities to access Southern California's last remaining undeveloped coastal canyon available for recreational use south of Crystal Cove State Park. This large and rare coastal public park must not become a tollroad.

As you consider the Consistency Certification request of the Transportation Corridor Agencies at your October 11, 2007 hearing in San Pedro, I urge that you carefully take into account the points raised by our Commission's resolution and oppose any major transportation arterial through San Onofre State Beach and defend this valuable and irreplaceable coastal resource.

Sincerely,

Bobby Shriver, Chair
California State Park and Recreation Commission

Enclosure

Resolution 66-2005
adopted by the
CALIFORNIA STATE PARK and RECREATION COMMISSION
at its regular meeting in Tahoe City, California
November 18, 2005

Opposing a Proposed Tollroad Alignment
AND
Request for Action to Protect San Onofre State Beach

WHEREAS, lands of California's State Park System are designated for their protection and preservation on behalf of this and future generations and should not be used in a manner inconsistent with state park purposes; and

WHEREAS, California State Parks provide a significant economic benefit to the people of California, attracting millions of visitors from around the world; and

WHEREAS, San Onofre State Beach is located on property leased for fifty years from the United States of America and was established in 1971 by Executive Order of President Nixon and at the urging of Governor Ronald Reagan; and

WHEREAS, San Onofre State Beach is one of the five most visited of California's 278 state parks and provides valuable and rare upland and wetland habitats (including unique habitat for eleven protected species listed as threatened or endangered under federal laws), wilderness, coastal beaches, affordable camping, nationally recognized historic and archeological sites; and

WHEREAS, the Foothill/Eastern Transportation Corridor Agency (Foothill Toll Road Agency) has proposed construction of a multi-lane toll road of over four miles in length through the heart of the nearly 1,200 acre inland Cristianitos Subunit portion of San Onofre State Beach; and

WHEREAS, the loss of over 320 acres or 27% of this portion of San Onofre State Beach for a toll road right-of-way would result in the park's fragmentation, adversely affecting the remaining acreage in the park, including the potential for additional recreational opportunities, such as hiking, equestrian use and camping; and

WHEREAS, all the sites in the popular year-round San Mateo Campground are reserved six months in advance and receive more overnight use than any other of San Onofre State Beach's two campgrounds and would be severely impacted by the noise, vibration, and visual intrusion of a major roadway if it were built; and

WHEREAS, San Onofre State Beach includes Trestles Beach, the only surfing World Championship Tour stop in the continental United States, so chosen because of the unique conditions that exist in the undeveloped San Mateo Creek watershed, conditions that provide

CONTINUED ON PAGE 2

CONTINUED FROM PAGE 1

the natural processes of erosion and sediment flows through the creek to the ocean, creating a clean, unique beach and surf, processes that would be altered and blocked by a multi-lane toll road through the watershed;

WHEREAS, critical protection provided by setion 4(f) of the Federal Transportation Act of 1966 designed to protect and preserve public park and recreation lands has, by language contained in a year 2000 appropriations bill, been waived; and

WHEREAS, viable alternative routes and traffic improvements exist which do not depend upon San Onofre State Beach including, but not limited to, the Interstate-5 corridor; and

WHEREAS, on November 3, 2005 the California State Park and Recreation Commission meeting in the City of San Clemente and in a hearing held before a crowd exceeding 1,000, took public testimony which was overwhelmingly in opposition to the use of San Onofre State Beach as a toll road route; and

NOW, THEREFORE BE IT RESOLVED that the record of the hearing of the California State Park and Recreation Commission for the meetings of November 3 and 18, 2005 be transmitted to the Transportation Corridor Agencies for their records; and be it

RESOLVED that the Transportation Corridor Agencies reconsider and abandon a toll road route through San Onofre State Beach; and be it

RESOLVED that the California Department of Transportation be requested to review, investigate and report on alternatives to a toll road route through San Onofre State Beach including, but not limited to, Interstate-5 improvements; and be it

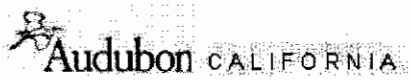
RESOLVED that the Commission requests that the State of California and its agencies take all appropriate and necessary actions within their power to protect the natural, cultural, recreational, and aesthetic resources of San Onofre State Beach; and be it

FURTHER RESOLVED that The Commission respectfully requests that the Governor, in concert with the Attorney General's office, oppose any major transportation arterial through San Onofre State Beach using all appropriate methods, including litigation if necessary, to defend this valuable and irreplaceable public resource.

Attest: This Resolution was duly adopted by the California State Park and Recreation Commission on November 18, 2005, at its duly noticed public meeting in Tahoe City, California.

By: _____ Date: 11-18-05

Louis Nastro
Assistant to the Commission
For Ruth Coleman, Director
California State Parks
Secretary to the Commission



September 17, 2007

Chairman Patrick Kruer
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Re: Foothill Transportation Corridor-South (San Onofre State Beach): Opposition to Coastal Consistency Certification (CCC-079-06)

Dear Chairman Kruer and Honorable Commissioners:

On behalf of Audubon California, California Coastal Protection Network, California State Parks Foundation, Defenders of Wildlife, Endangered Habitats League, Laguna Greenbelt, Inc., Natural Resources Defense Council, Sea and Sage Audubon Society, Sierra Club, Surfrider Foundation, and the millions of members whom they represent, we write in opposition to the Consistency Certification for the proposed Foothill-South Toll Road ("Foothill-South," "Toll Road," or "Project"). This uniquely destructive project, more than any other along the southern California coast in recent memory, is antithetical in numerous significant respects to the letter, the implementing policies, and the underlying spirit of the California Coastal Act, and there is, therefore, no legitimate legal or factual basis for the consistency certification requested.

As appears in detail below, the Project, if constructed as designed and at the location proposed, would unquestionably degrade California's coastal resources, including, but not limited to, devastation of one of California's most popular state parks – the state park at San Onofre State Beach ("San Onofre") – a recreational and natural resource that serves over 2.4 million visitors each year. Indeed, if the intended purpose of the Foothill-Eastern Transportation Corridor Agency ("TCA") was to harm this irreplaceable coastal parkland, it could scarcely have done so more effectively than the Project now before the Commission. The proposed Toll Road – referred to by TCA as the "green" alternative – would bisect San Onofre through its entire four mile length, literally down its center from top to bottom, requiring closure, according to state park officials, of as much as 60% of the park. TCA takes issue with this, contending incredibly that a massive sound wall along the Toll Road's right-of-way can prevent significant harm to the park's recreational or natural values.

Among the numerous Coastal Act provisions and policies manifestly violated by the Project are those relating to protection of environmentally sensitive habitat areas ("ESHAs"), recreational resources, wetlands, biological resources, and water quality. The Toll Road would destroy critical habitat for eleven threatened or endangered species found within the park or the surrounding San Mateo Creek watershed, and it would threaten the water quality not only of the watershed itself but of the coastal waters to which it drains, including the world-class surfing beach known as Trestles. There is no dispute that it would cause the permanent loss of both coastal wetlands and substantial ESHAs, in and around the coastal zone, in direct violation of the Coastal Act. And the project would ruin San Onofre's most popular low-cost visitor serving recreational area – the San Mateo Campground – a critically important coastal recreational resource that the Commission itself required be created in the 1970s to offset the impacts of the San Onofre Nuclear Generating Station.

There is simply no way to mitigate this kind of harm, no way to balance away the extent of the Project's destruction. Although the TCA seeks to justify its project by denying there are feasible alternatives capable of addressing the Toll Road's central purpose – relieving traffic congestion on Interstate 5 ("I-5") – this is demonstrably false. The agency's own data show that a widening of I-5 and selected adjacent arterials would provide equal or greater congestion relief while drastically reducing or eliminating damage to coastal resources. This alternative – the AIP alternative – was never pursued by the toll road agency, ostensibly because of an unacceptable level of displacement of homes and businesses along the I-5. As demonstrated below, however, these improvements can feasibly be designed to avoid more than 95% of the purported property takings upon which the agency based its rejection of this alternative.

Finally, implicitly recognizing the futility of arguing the absence of harm to coastal resources, the TCA also contends that the Project creates a "conflict" among applicable Coastal Act policies and that the Toll Road's benefits to coastal resources outweigh its impacts to those resources. But this purported conflict is illusory. Not a single Coastal Act policy favors construction of the Toll Road, nor is there any evidence that the Toll Road would provide even the slightest benefit to coastal resources, much less a benefit that could outweigh the devastating impacts the Project would inflict. This is not a case, therefore, where balancing is appropriate under the Coastal Act, where the Commission could find that a project's benefits to coastal resources compensate for the countervailing costs. Given the unmitigable harm that this Project would inflict on our coastal resources, the Commission cannot legally approve the TCA's request for a consistency certification on any basis without ignoring the Coastal Act, its policies, and decades of its application by this Commission and the courts.

Requested Action: The California Coastal Commission ("CCC") should object to the proposed consistency certification based on (1) inconsistency with Chapter 3 policies of the California Coastal Act; (2) the availability of feasible alternatives that will not impact coastal resources; and (3) the inapplicability of balancing provisions of the Coastal Act.

CONSISTENCY REVIEW

The California Coastal Commission has jurisdiction to review the Foothill-South Toll Road under the federal Coastal Zone Management Act ("CZMA"). 16 U.S.C. § 1456.

Specifically, the CZMA requires that "any applicant for a Federal license or permit, in or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the state's approved program and that such activity will be conducted in a manner consistent with the program." *Id.* at §1456(c)(3)(A). The applicant must also submit this certification to the state's reviewing agency – in this case, the CCC. *Id.*; *see also* § 1455(d)(6); 15 CFR § 930.11(o). The CCC reviews the project for consistency with the California Coastal Management Program, which includes the Chapter 3 policies of the Coastal Act. *See* Pub. Res Code §§ 30008, 30330. It is TCA's burden to provide the Commission with all of the data and information necessary to support the certification. *See* 15 C.F.R. §§ 930.57(a), 930.58(a)(1)(ii). It is also TCA's burden to "demonstrate that the activity will be consistent with the enforceable policies of the management program." 15 C.F.R. § 930.58(a)(3). It is the Commission's responsibility to determine whether TCA has met these burdens and to lodge a proper objection to the certification if TCA has not. *See* Pub. Res. Code § 30330; 15 C.F.R. § 930.63.

BACKGROUND

The Foothill-South Toll Road was initially proposed in 1981 as an option for alleviating existing and anticipated congestion on Interstate 5 in southern Orange County. In its present configuration, the Project would involve the construction of a six-lane superhighway through sixteen miles of largely undeveloped lands in one of the most environmentally sensitive areas in California. The road would run through lands that are currently set aside for open space, recreational, and preservation purposes, including four miles of San Onofre as well as the inland Donna O'Neill Land Conservancy.

San Onofre State Beach, created in 1971, is one of California's most popular state parks. It receives over 2.4 million visitors per year, provides habitat for 11 endangered or threatened species, and offers low-cost recreational opportunities, including camping and surfing, for working-class families. In addition, certain recreational facilities in the park, including the San Mateo Campground, were developed as a condition of the coastal development permit for the San Onofre Nuclear Generating Station ("SONGS") project to offset the loss of coastal access.

The legality of TCA's approval of the Project is being challenged in pending litigation, including two lawsuits filed by the California Attorney General. The first of these, brought on behalf of the People of California and the California State Parks Commission, is one of two lawsuits contending that TCA violated the California Environmental Quality Act ("CEQA") in approving the project. *People ex rel. Attorney General Bill Lockyer and State Park and Recreation Commission v. Foothill/Eastern Transportation Corridor Agency et al.,* No. 06-GIN051371 (S.D. Super. Ct. filed March 23, 2006). The second was filed on behalf of the Native American Heritage Commission for violation of laws protecting Native American resources. *Native American Heritage Commission v. Foothill/Eastern Transportation Corridor Agency et al.*, No. 06-GIN051370 (S.D. Super. Ct. filed March 23, 2006). These lawsuits spotlight TCA's failure to adequately disclose to the public the environmental and cultural impacts of the Project, including impacts to a range of coastal resources.

TCA has also failed to seriously consider alternatives to the Toll Road that would achieve equal or greater traffic benefits without any of the impacts to San Onofre and coastal resources. As discussed in this letter and the accompanying report by Smart Mobility, such alternatives – specifically the widening of I-5 and certain arterials – can be easily designed to avoid more than 95% of the purported displacement impacts that TCA relied upon to reject those alternatives from consideration.

The conservation community has made the protection of San Onofre State Beach from the Toll Road a top priority. The Project not only threatens irreplaceable coastal resources, *but would represent the first time in California that state park lands were taken by a local governmental entity for a major infrastructure project.* Allowing this project to proceed would set a dangerous precedent, threatening coastal parks and open space everywhere in the State. Futher, as discussed below, the Project stands in direct conflict with the requirements of the Coastal Act. Accordingly, the Commission must object to TCA's consistency certification.

ARGUMENT

I. THE PROJECT IS INCONSISTENT WITH THE CALIFORNIA COASTAL ACT

The proposed project would result in significant and unmitigable impacts to coastal zone resources in violation of the Coastal Act. The Toll Road poses a severe threat to the coastal environment and to the State's coastal park resources. The chosen alignment would run primarily through open space that has been set aside for preservation purposes, including four miles through San Onofre State Beach. As a result, the Project would have devastating effects on coastal resources. Among other things, the Project would:

- **Permanently Eliminate EHSA.** Virtually all of the coastal-zone land impacted by the Project is ESHA, including nearly 50 acres of coastal sage scrub. The Project would jeopardize numerous endangered and threatened species including the coastal California gnatcatcher, Pacific pocket mouse, arroyo toad, southern steelhead, and tidewater goby.

- **Destroy San Mateo Campground.** The Project would cause the abandonment of this extremely popular, low-cost coastal recreational facility that is irreplaceable anywhere in the region. The Commission mandated the creation of the campground as beach access mitigation for SONGS. The campground enables 100,000 visitors annually to access Trestles and the other coastal areas within San Onofre.

- **Harm Trestles Beach.** The Project would threaten wave formation at this world-famous surfing beach and would degrade and diminish public access to the beach.

- **Fill Wetlands and Degrade Water Quality.** The Project would directly and indirectly impact wetlands associated with San Mateo Creek – one of the last

remaining high-integrity watersheds along Southern California's coast – and degrade the creek and its estuary through erosion.

These impacts give rise to inconsistencies with Coastal Act policies in virtually every resource category. Each of these inconsistencies is an independent ground for objecting to the consistency certification

A. Environmentally Sensitive Habitat Areas

Environmentally Sensitive Habitat Areas. Coastal Act § 30240: *(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed in those areas. (b) Development in areas adjacent to environmentally sensitive habitat 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 . . . areas.*

Section 30240 affords environmentally sensitive habitat areas ("ESHAs") three levels of heightened protection. First, section 30240(a) strictly prohibits any uses within an ESHA except those that are "dependent" on the resource. *See Bolsa Chica Land Trust v. Superior Court*, 71 Cal. App. 4th 493, 506-07 ("*Bolsa Chica*"); *Sierra Club v. Cal. Coastal Comm'n*, 12 Cal. App. 4th 602, 611 ("*Pygmy Forest*") ("[D]evelopment in ESHA areas themselves is limited to uses dependent on those resources . . . ."). Second, even if a use is dependent on the resources in an ESHA, section 30240(a) prohibits any significant disruption of the ESHA's habitat values. Finally, section 30240(b) requires that development outside but adjacent to ESHAs be sited and designed to prevent impacts that would significantly degrade those areas.

As discussed below, the Foothill-South is not a use that is dependent on any ESHA resources, and is therefore a prohibited use within an ESHA. Moreover, regardless of how the use is characterized, the Toll Road's direct occupation, destruction, and disruption of habitat values in the ESHAs within San Onofre render it inconsistent with section 30240(a).

ESHAs Within San Onofre. It is not disputed that the Foothill-South project will directly occupy and thereby destroy ESHAs within the coastal zone. Section 30107.5 of the Coastal Act defines an ESHA as "any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed by human activities and developments."

Habitat within San Onofre meets both elements of this statutory definition and therefore must be designated as ESHA. *See Pygmy Forest*, 12 Cal. App. 4th at 617. TCA's consistency application materials point to no evidence that an ESHA designation would be inappropriate; indeed, TCA does not argue that any particular habitat area within the coastal zone is ineligible for an ESHA designation, and in fact appears to acknowledge that the coastal sage scrub and gnatcatcher habitat impacted by the Project is ESHA.[1]

[1] *See* Transportation Corridor Agencies, Coastal Consistency Certification and Analysis for the Foothill Transportation Corridor – South (FTC-S), March 23, 2007 (hereafter "*Consistency Application*") at 59.

Numerous plants, animals, and habitats within the coastal areas of San Onofre are both rare and especially valuable due to their roles in the coastal ecosystem and thus satisfy the first element of the ESHA definition in section 30107.5. These areas contain a rare, largely intact coastal assemblage of riparian habitat, wetlands, marsh vegetation, estuarine environs, coastal sage scrub, and other upland areas which indisputably qualify as ESHA. Coastal sage scrub provides essential habitat for the threatened California gnatcatcher, provides potential recovery habitat for the critically endangered Pacific pocket mouse, and is used for upland foraging, dispersal and wintering habitat by the endangered arroyo toad.[2] Riparian and wetland areas are also vital for the toad. The southernmost known population of the endangered steelhead trout inhabits San Mateo Creek and its estuary, and the endangered tidewater goby makes its home in the San Mateo lagoon.

This particular ESHA complex is especially biologically valuable and unique because coastal wetland-upland mosaics, like the area along San Mateo Creek, are highly depleted in Southern California. It lies at the mouth of the most pristine – and the only undammed – major coastal watershed in California south of Ventura. According to an analysis by the Conservation Biology Institute of watersheds between Los Angeles and the Mexican border, the San Mateo Creek and San Onofre Creek watersheds have the highest ecological integrity,[3] as measured by the amount of land cover changes from development and roads, of any coastal watersheds.[4] Thus, these two watersheds have the highest level of natural watershed functions in the region. A map of critical habitat designated by the United States Fish and Wildlife Service for endangered and threatened species shows an amazing confluence of these designations in and around the coastal zone at lower San Mateo Creek, making it a true "hotspot" of biological diversity.[5] All of these characteristics are indicative of rare and valuable habitat that must be protected as ESHA. *See, e.g., Pygmy Forest*, 12 Cal. App. 4th at 613-15.

These ESHAs would be directly occupied and significantly impacted by the loss of almost 50 acres of coastal sage scrub, encroachment into wetlands, and irreversible habitat fragmentation and edge effects from the Toll Road structure and operations.

1. The Toll Road Is Not a Resource-Dependent Use and Is Therefore Absolutely Prohibited in EHSA, Regardless of Off-Site Mitigation.

The Foothill-South is not a resource-dependent use. Accordingly, its construction through ESHA in San Onofre is prohibited. TCA does not even attempt to address this requirement and presents no argument for why the Project might be a resource-dependent use. The Project is not, for example, a restoration-type project that would depend on coastal resources. *See, e.g., Sierra Club v. California Coastal Com. ("Batiquitos Lagoon")*, 19 Cal. App.

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[2] *See* W.D. Spencer, PhD, Letter to California Coastal Commission, August 17, 2007 at 2-3.

[3] Ecological integrity refers to degree to which the natural characteristics and functions of the watershed are intact or unmodified by humans.

[4] Figure 9, Ecological integrity of watershed basins in the region, *Conservation Significance of Rancho Guejito*, Conservation Biology Institute, 2005, http://www.consbio.org/cbi/projects/show.php?page=ranchoguejito/guejito-pdf.htm.

[5] *Critical Habitat for Species within San Onofre State Beach*, GreenInfo Network, 2007.

4th 547 (Cal. Ct. App. 1993). Accordingly, no part of the Toll Road may be constructed within an ESHA.

Yet it is undisputed that the Project would directly occupy and destroy ESHA. TCA concedes that nearly 50 acres of coastal sage scrub habitat and three gnatcatcher use areas will fall "within the project's disturbance limit" – that is, these areas will be physically occupied and destroyed by the project.[6] Indeed, as discussed in more detail below, virtually all of the coastal-zone lands disturbed by the Project qualify as ESHA.

TCA is apparently taking the position that it can construct the project in ESHA because it is providing off-site mitigation some 15-20 miles inland in another watershed. The California courts, however, have flatly rejected this approach. In *Pygmy Forest*, for example, the court clearly stated that the resource-dependent use requirement is independent of, and in addition to, any requirement to prevent significant disruption of habitat. *See Pygmy Forest*, 12 Cal. App. 4th at 617. Non-resource-dependent uses simply are not allowed in ESHAs, even where mitigation measures that provide habitat protection have been formulated. *Id.* TCA's failure to show how the Toll Road qualifies as a resource-dependent use is absolutely fatal to its consistency application.

The court in *Bolsa Chica* likewise held that direct impacts to coastal ESHAs cannot be mitigated through identification of replacement habitat or "habitat values" elsewhere. Section 30240 "does not permit a process by which the habitat values of an ESHA can be isolated and then recreated in another location. Rather, a literal reading of the statute protects *the area* of an ESHA from uses which threaten the habitat values which exist in the ESHA." *Bolsa Chica*, 71 Cal. App. 4th at 507 (emphasis in original). The court observed that while section 20340 is intended to protect the habitat values of ESHAs, "the express terms of the statute do not provide that protection by treating those values as intangibles which can be moved from place to place to suit the needs of development."[7] *Id.*

Like the developer in *Bolsa Chica*, what TCA proposes here is essentially "the isolation and transfer of ESHA habitat values to more economically convenient locations." *Id.* at 508. Such a system, of course, is "completely contrary to the goal of the Coastal Act, which is to protect *all* coastal zone resources and provide enhanced protection to ESHA's." *Id.* (emphasis in original). The habitat values of the coastal sage scrub ESHA in San Onofre cannot simply be moved 15 or 20 miles inland. The Coastal Act requires that these resources be treated as unique and irreplaceable, not fungible and portable. The failure of the Project to avoid ESHA renders it inconsistent with the Coastal Act.

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[6] *Consistency Application* at 59.

[7] This is true even if the ESHA has been compromised or degraded. *See Bolsa Chica*, 71 Cal. App. 4th at 508 ("There is simply no reference in section 30240 which can be interpreted as diminishing the level of protection an ESHA receives based on its viability. Rather, under the statutory scheme, ESHA's, whether they are pristine and growing or fouled and threatened, receive uniform treatment and protection.") (*citing Pygmy Forest*, 12 Cal. App. 4th at 617).

2. The Project Would Significantly Disrupt Habitat Values in ESHA.

As discussed above, the Project's physical occupation of ESHA is enough to render it inconsistent with section 30240(a). Moreover, the Project is also inconsistent with that section's mandate to avoid "any significant disruption of habitat values" of ESHA. The purported mitigation measures offered by TCA do not come close to replacing the loss of habitat values caused by the Project.

a. Habitat For Numerous Sensitive Species Will Be Destroyed Or Severely Impacted By the Project.

TCA wrongly claims that a number of sensitive species do not have habitat within the coastal zone or will not be significantly affected by the Toll Road. In fact, the Project would occupy and significantly disrupt the coastal-zone habitat of several species key to the biological diversity of the California coast, and would even push one critically endangered species – Pacific pocket mouse – to the verge of extinction. These species include, but are not limited to, the following:

Coastal California Gnatcatcher. Coastal sage scrub is breeding habitat for the coastal California gnatcatcher, a threatened species under the federal Endangered Species Act ("ESA"), 16 U.S.C. §§1531-1544. TCA concedes that the Toll Road will impact at least 49.75 acres of coastal sage scrub ESHA in the coastal zone alone, including three California gnatcatcher use areas of undefined acreage.[8] This area plainly qualifies as an ESHA under section 30107.5, and its loss would constitute a highly significant disruption of the biological value of the ESHA.

The only specific mitigation TCA offers to offset the loss of this ESHA is the utilization of coastal sage scrub "credits" in the agency's Chiquita Canyon Conservation Bank, located in a conservation area far inland of the coastal zone.[9] As discussed above, TCA's attempt to recreate the lost biological value of this habitat elsewhere does not cure the inconsistency with the Coastal Act. *Bolsa Chica*, 71 Cal. App. 4th at 507-08.

But in any event, this inland location cannot replace the unique values to the gnatcatcher which derive from a maritime location. These values include higher reproductive rates, lower winter mortality, and greater resistance of the coastal sage scrub to "type conversion" to weedy species as a result of drought, fire, and exotic species invasions.[10] Thus, even if habitat preservation and restoration occurred inland, it would not compensate for the elimination of distinctive *coastal* resources nor change the fact that a major disruption of the coastal sage scrub ESHA had occurred.[11]

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[8] *Consistency Application* at 59.
[9] *Id.* at 60.
[10] W.D. Spencer, PhD, Letter to California Coastal Commission, August 17, 2007 at 3.
[11] *Id.*.

Pacific Pocket Mouse. TCA's analysis of potential impacts on the Pacific pocket mouse ("PPM") is deeply flawed. This species is listed as "endangered" under the ESA and as "critically endangered" – the highest threat rating short of extinct in the wild – on the International Union for the Conservation of Nature's "Red List."[12] A quintessential coastal species, its habitat is restricted to sandy soils near the Pacific Ocean. It was once thought extinct but was rediscovered in 1993. It now has documented populations at only three limited locations along the coastline, two of which are on Camp Pendleton.[13] One of these sites – San Mateo Creek – supports two small and precarious populations, one north of the creek adjacent to the coastal zone, and the other south of the creek.

The Foothill-South would directly impact the San Mateo-North population and the ESHA upon which it depends. Indeed, it would have a devastating effect on the Pacific pocket mouse, and, according to a mammalogist with extensive field experience with this species, would substantially increase its risk of actual extinction.[14] This is because the health of *each* remaining population is of critical importance. According to the Recovery Plan for the PPM prepared by the United States Fish and Wildlife Service:

- "Loss or degradation of any of the populations at the three known extant locales could irretrievably diminish the likelihood of the subspecies' survival. All extant populations are essential. These populations should be protected and secured from significant potential impacts."[15]

- "[F]urther losses of occupied *or potential* habitat would seriously reduce the probability of the persistence of the subspecies."[16]

- "Population persistence and expansion should be maintained by precluding actions which result in physical barriers to movement, habitat fragmentation, or an increase in edge effects."[17]

Critical to the biology of the Pacific pocket mouse is the ability to expand its numbers in good years, as this is vital to ensuring *bare survival* in bad years. Yet flying in the face of all scientific recommendations, the Toll Road would trap the San Mateo-North

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[12] USFWS Threatened and Endangered Species System, http://ecos.fws.gov/tess_public/SpeciesReport.do?kingdom=V&listingType=L (last visited September 9, 2007) ("USFWS Endangered Species List") and http://ecos.fws.gov/speciesProfile/SpeciesReport.do?spcode=A0BY (last visited September 9, 2007) ("Species Profile"); 2007 IUCN Red List of Threatened Species, http://www.iucnredlist.org (last visited September 17, 2007).

[13] Wayne Spencer, Ph.D. & Robert Hamilton, *Review of Biological Resources Analysis in SOCTIIP Draft Environmental Impact Statement/ Supplemental Environmental Impact Report*, prepared for Shute, Mihaly & Weinberger (August 2004) (hereafter "*Biological Resources*") at 3.

[14] W.D. Spencer, PhD, *Review of Impacts to the Endangered Pacific Pocket Mouse by Eastern Alignments of the Proposed Southern Orange County Transportation Improvement Project*, Letter to US Fish and Wildlife Service, August 11, 2005 (hereafter "*Spencer 2005 Letter*") at 9.

[15] P. Brylski. PhD, et al., *Pacific Pocket Mouse Recovery Plan* (USFWS 1998) at 37, available at http://ecos.fws.gov/docs/recovery_plans/1998/980928c.pdf.

[16] *Id.* at 34 (emphasis added).

[17] *Id.* at 21.

population in a highly constrained area between urban San Clemente and the highway. It would physically *eliminate* some currently occupied habitat, as well as a large amount of the *suitable* habitat needed for population expansion – both termed "essential" by the Recovery Plan. In addition to the direct taking, virtually all the rest of the expansion habitat would be degraded by fragmentation, loss of connectivity, and edge effects such as noise and light pollution.[18] *A significant portion of this essential expansion habitat – which qualifies as ESHA due to its special and valuable role in the ecosystem – lies within the coastal zone.*[19]

This absolute reduction in available habitat, and the resultant inability of the population to adapt to changing circumstances, severely increases the risk of extirpation of the San Mateo-North population. The range of individuals captured in different years at San Mateo-North has ranged from just 4 to 37, showing how susceptible this fluctuating population is to extirpation. In addition, the Toll Road would sever connectivity between the San Mateo-North and the San Mateo-South populations, now primarily separated by old agricultural fields. It would block mice from these different groups from interbreeding and reduce the propagation of genetic diversity essential to the species' survival.[20]

TCA claims that an undercrossing will mitigate this impact, but such measures are completely experimental with respect to small mammals such as mice and there is no evidence that it would result in any mitigation of impacts to this species.[21] TCA has acknowledged elsewhere that while larger mammal species are more capable of finding and using undercrossings, smaller wildlife species may simply attempt to cross deadly road alignments directly.[22] The experimental undercrossing proposed by TCA leads to a detention basin for polluted runoff.[23] In addition, the Toll Road would block the PPM from accessing the former agricultural fields in Camp Pendleton, which are partially within the coastal zone and, if restored, would greatly enhance connectivity between populations.

Finally, the Toll Road would introduce a myriad of edge effects, such as runoff, exotic species, and night lighting. Also, by reducing the area available to house and feral cats originating in San Clemente, it would concentrate predation within the area occupied by the mice.[24]

Small, precarious populations like that of San Mateo-North are vulnerable under best of circumstances. This is why, referring to San Mateo Creek, the Recovery Plan states, "All further actions in this area should improve ecosystem function and habitat

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[18] *Spencer 2005 Letter* at 8, Attachment A.
[19] *Id.* at Attachment A.
[20] *Id.* at 8-9.
[21] *Id.* at 9.
[22] Transportation Corridor Agencies, South Orange County Transportation Infrastructure Improvement Project (SOCTIIP): Final Subsequent Environmental Impact Report (December 2005) (hereafter "FSEIR"), vol. VI (Response to Comments) at 3-344.
[23] Exhibit 3A, General Layout Plan, March 2007, Transportation Corridor Agencies.
[24] *Spencer 2005 Letter* at 9.

linkage/connectivity."[25] To the contrary, the loss of *essential* habitat – which cannot be compensated for by mere management measures – plus the addition of edge effects and fragmentation, would jeopardize the very existence of this on-the-brink species.[26]

Arroyo Toad. The TCA fails to account for impacts to the southwestern arroyo toad, another severely endangered species. San Mateo Creek is home to one of the most important remaining populations of the arroyo toad, which breeds in gravel terraces and uses adjacent riparian habitat and uplands for aestivation and foraging. On Camp Pendleton, the species has been documented to range at least 1.2 kilometers from the streamcourse as it forages for food.[27]

Contrary to the TCA's assertions, the arroyo toad *does* occupy significant habitat within the coastal zone. Indeed, according to an arroyo toad expert with extensive field experience in this very area, "Occupied and known arroyo toad habitat would be directly and significantly disrupted within the coastal zone of lower San Mateo Creek. Arroyo toads are well known as inhabiting the lower portions of San Mateo Creek, even west of I-5 (Griffin and Case 2001, Holland and Goodman 1998)."[28] This includes significant areas of coastal sage scrub in the uplands along the creek that would be lost.[29]

The coastal sage scrub uplands in the coastal zone of lower San Mateo Creek clearly qualify as ESHA due to their occupancy by this endangered species. As discussed above, the Project's grading and occupation of this ESHA is absolutely prohibited by section 30240. In addition to this direct loss of ESHA, the Project would block arroyo toad access to areas of ESHA on the other side of the highway, causing further significant disruption to its biological value.[30]

These effects continue upstream, where access to vital uplands would be blocked along important drainages in the San Mateo Creek and San Juan Creek watersheds. At the same time, the Toll Road would interfere with the necessary interbreeding between populations.[31] The end result would a loss in population viability for arroyo toads both within and without the coastal zone.[32]

In general, the arroyo toad is highly sensitive to habitat fragmentation, as occurs with highways. It has reliably disappeared from watersheds throughout southern California where habitat contiguity has been lost. Only in the most intact watersheds – like San Mateo Creek and its tributaries – does it still survive.[33] "The tollroad in this location would degrade and fragment this extraordinary relict of a once-larger functional ecosystem in Southern California."[34]

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[25] *Pacific Pocket Mouse Recovery Plan* at 52.
[26] *Spencer 2005 Letter* at 9.
[27] R.E. Lovich, *Letter to California Coastal Commission*, August 16, 2007 (hereafter "*Lovich 2007 Letter*") at 2.
[28] *Lovich 2007 Letter* at 2.
[29] R.E. Lovich, *Occupied Arroyo Toad Habitat in the Coastal Zone,* Sept. 2007 (based on FSEIR Fig. 4.11-1j).
[30] *See Lovich 2007 Letter* at 4.
[31] *Id.* at 3-4.
[32] *Id.*at 5.
[33] *Id.* at 4-5.
[34] *Id.* at 4.

As previously discussed, the arroyo toad's coastal habitat indisputably qualifies as ESHA. Foothill-South is not a resource-dependent use, and its construction will cause serious long-term habitat loss and connectivity, substantially disrupting this ESHA's habitat value in violation of the Coastal Act. *See* Pub. Res. Code § 30240(a); *Bolsa Chica*, 71 Cal. App. 4th at 506-07. Nor does the Coastal Act permit TCA to mitigate for this disruption by creating "habitat value" elsewhere. *Id.* at 507-08. Even if it did, TCA's proposed mitigation would be woefully inadequate. TCA's measures are largely limited to temporary construction impacts and fail to address more serious long-term threats to the species. Mitigation measures referenced in the consistency application include construction management plans, mapping of arroyo toad habitat areas, fencing, surveys, relocation, and recreation of habitat after construction.[35] None of these measures, however, addresses habitat fragmentation and loss of population viability. They are "insufficient."[36] TCA's application thus completely fails to address a significant impact to California's coastal resources.

Southern Steelhead and Tidewater Goby. Both of these species are federally endangered,[37] and their habitats would be degraded by the Toll Road. Research on historic population sizes suggests that San Mateo Creek may have once been one of the most populated steelhead streams in the region.[38] TCA's consistency certification states that the probability of impacts on southern steelhead is extremely low because they are predicted to occur in low numbers.[39] But the San Mateo watershed is the only watershed south of Malibu Creek to support a breeding population of southern steelhead and is considered critical to recovery of this listed species.[40]

Young steelhead (fry) are especially sensitive to fine sediments and turbidity,[41] both of which may be multiplied many times over by road construction projects.[42] Over the long term, the area of disturbance (from impervious surface and cut and fill) to each of the eight subwatersheds near the mouth of the creek will be around 40% on average, which will lead to destabilization and erosion of channels.[43] Because the proposed settling basins will be inadequate to control the amount of fine sediment runoff during flow events from these destabilized steep canyons, siltation of the creek system may occur, degrading water quality and habitat conditions.[44]

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[35] *See Consistency Application* at 64; FSEIR at 4.10-17 to 4.10-20, 4.12-32 to 4.12-34.
[36] *Lovich 2007 Letter* at 3.
[37] *See* 71 Fed. Reg. 833 (January 5, 2006) (listing southern California coast steelhead as "endangered"); 59 Fed. Reg. 5494 (February 2, 1994) (listing tidewater goby as "endangered").
[38] Wayne Spencer, et al., *On the Global and Regional Ecological Significance of Southern Orange County: Conservation Priorities for a Biodiversity Hotspot*, Prepared for Endangered Habitats League (2001) ("*Spencer Conservation Priorities*") at 26
[39] *Consistency Application* at 63.
[40] *Spencer Conservation Priorities* at 36.
[41] K.B. Suttle, et al., *How Fine Sediment in Riverbeds Impairs Growth and Survival of Juvenile Salmonids, Ecological Applications*, Vol. 14 No 4, August, 2004 at 969-974.
[42] A.P. Wheeler, et al., *Impacts of New Highways and Subsequent Landscape Urbanization on Stream Habitat and Biota*, 13 Reviews in Fisheries Science 141, 144-45 (2005).
[43] Philip Williams & Associates, Ltd., *Letter to Surfrider Foundation*, August 31, 2007 ("*PWA 2007 Analysis*") at 2-3.
[44] *Id.* at 3.

Tidewater gobies are found only in the coastal wetlands and estuaries of California, and are now restricted to a fraction of their former range.[45] TCA concedes that the San Mateo Creek Lagoon is habitat for the tidewater goby, but insists that the species will not be affected by Foothill-South, either during construction or afterwards. This is inaccurate. The subwatersheds and tributaries to San Mateo Creek, including its estuary and lagoon, play a special role in the aquatic ecosystem on which both steelhead and tidewater goby depend for their survival and recovery. As described above, due to extensive degradation of subwatersheds by the Toll Road and inadequate mitigation measures, erosion and fine sediment delivery to the lagoon at the creek mouth has the potential to change its ecology over time.[46] This would be highly detrimental to the tidewater goby, which is threatened by both siltation and urban development leading to loss of coastal saltmarsh habitat.[47]

b. The Project's Impacts on Habitat Values Are Not Mitigated by Regional Conservation Plans.

TCA relies heavily on the existence of the Natural Communities Conservation Plan/Habitat Conservation Plan ("NCCP/HCP") for the southern Orange County area and the Integrated Natural Resource Management Plan ("INRMP") for Camp Pendleton[48] to attempt to mitigate for the loss of habitat values caused by the Project. But the Toll Road is not part of, or covered by, either of these conservation plans. Its impacts were not addressed or mitigated through the NCCP/HCP.[49] Indeed, the impacted portion of the coastal zone – and the entirety of San Onofre State Beach – are located in San Diego County and are entirely *outside* of the NCCP/HCP Planning Area.[50] Furthermore, the Integrated Natural Resources Management Plan ("INRMP") for Camp Pendleton simply recognizes the Toll Road as a potential *future* project and states that any adverse environmental impacts that result from the Project must be fully and properly mitigated; the INRMP itself does not provide any mitigation for the project's impacts.[51] TCA's numerous references to these plans are therefore irrelevant.

But even if this mitigation plan were relevant, the Toll Road cannot be found consistent with the Coastal Act. No mitigation compensates for the fact that the Toll Road would not just significantly disrupt, but would completely destroy, critical portions of ESHAs as defined in § 30107.5 of the Act. The razing of dozens of acres of this rare mosaic of riparian habitat, wetlands, marsh and estuarine vegetation, and coastal sage scrub – and the resulting damage to the suite of protected species found there – would be unprecedented in the history of the Coastal Act. Section 30240(a) of the Act unqualifiedly prohibits such disruption of protected ESHAs.

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[45] Sacramento Fish & Wildlife Office: Tidewater Goby, http://www.fws.gov/sacramento/es/animal_spp_acct/tidewater_goby.htm (last visited September 9, 2007).
[46] *PWA 2007 Analysis* at 3.
[47] Sacramento Fish & Wildlife Office: Tidewater Goby, http://www.fws.gov/sacramento/es/animal_spp_acct/tidewater_goby.htm (last visited September 9, 2007).
[48] *See Consistency Application* at 59-61.
[49] Southern Subregion Natural Community Conservation Plan ("SSNCCP"), EIR/EIS at 1-26 to 27, http://www.ocplanning.net/docs/ssnccp/EIR-EIS/nccp_eir_ch_01.pdf.
[50] SSNCCP, Figure 3-M, http://www.ocplanning.net/docs/ssnccp/Mapbook/figure003_m.pdf.
[51] *See* Marine Corps Base Camp Pendleton, Integrated Natural Resources Management Plan (March 2007) (hereafter "2007 INRMP") at 2-49, available at http://www.cpp.usmc.mil/base/environmental/inrmp.asp (last visited September 14, 2007).

Even under the untenable assumption that no "significant disruption" of an ESHA would occur, a highway project intended to address regional transportation issues such as the Toll Road is a not "resource dependent use" under any reasonable interpretation of the term. It is thus inconsistent if it has *any* use of or impact on a protected ESHA . The TCA concedes that the Toll Road will directly impact resources that, in light of the facts above, are protected ESHAs. The Toll Road is therefore *per se* inconsistent with the § 30240(a) of the Coastal Act.

B. Parks, Recreation and Public Access

Access to recreational opportunities. Coastal Act § 30210: *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Lower cost visitor and recreational facilities. Coastal Act § 30213: *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred*

Protection of certain water-oriented activities. Coastal Act § 30220: *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Oceanfront land; protection for recreational use and development. Coastal Act § 30221: *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Protection of upland areas for recreational uses. Coastal Act § 30223: *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Protection of Parklands. Coastal Act § 30240(b): *Development in areas adjacent to . . . 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. . . recreation areas. (Emphasis added.)*

The Coastal Act contains strong policies mandating maximum coastal access and protection of coastal park and recreational areas. Tellingly, there is not a single policy in the Act which recognizes new development within park or recreation lands. Section 30240(b) of the Act requires that any development in areas *adjacent* to park and recreation areas shall be compatible with and prevent impacts to those areas. The legislature never conceived that development would actually occur *within* park lands. It was assumed these areas are and would remain permanently protected.

The Foothill-South would not only severely impact but would *run right through* one of California's most popular parklands, the state park at San Onofre State Beach. The massive six-lane superhighway would directly occupy approximately *four miles* and over *320 acres* of the park, and fragment and degrade the remaining lands, including those within the coastal zone.[52] The highway would literally run through the center of the Park's entire inland subunit (Subunit 1) splitting the park along its spine. The California Department of Parks and Recreation ("Parks Department") – in a study commissioned by TCA itself – concluded that it would likely be forced to abandon nearly all of Subunit 1, over 1,000 acres (approximately 60% of the park). This includes the closure/abandonment of San Mateo Campground, the park's most popular campground, and the trails that lead from the campground to Trestles Beach.[53]

Never before in California has a local governmental entity like TCA sought to take state parkland to develop a major infrastructure project, much less a project of this scale. The loss of state parkland and major coastal access facilities inflicted by this Project, as well as its indirect impacts on coastal and water recreational resources, is unprecedented and in direct violation of the Coastal Act's public access and recreation provisions. The Project's impacts on San Mateo Campground and Trestles Beach are discussed in more detail below.

1. San Mateo Campground

a. San Mateo Campground Is an Irreplaceable Coastal Resource

San Mateo Campground – located just outside the coastal zone and connected by a trail to Trestles Beach – is one of the most important coastal recreational resources in the region.

The creation of San Mateo Campground was mandated by this Commission as a condition to amending the Coastal Development Permit for the San Onofre Nuclear Generating Station (SONGS) in 1982. SONGS had sought new restrictions on public access to the beach near the station. The Commission required the development of the campground with a trail to the beach, to mitigate for the loss of beach access.[54] As recited in the Permit, the condition was necessary to ensure conformance with the Coastal Act.[55] Thus, San Mateo Campground is by definition of the Commission's action a coastal resource, and one that was effectively created by the Commission to further the purposes of the Act.

The campground was intended to expand public access to the park's beaches. As the Commission stated in its findings on the SONGS permit:

> Opening a new segment of the park [in San Mateo Canyon] will serve one important segment of the general population affected by the lost access at SONGS – those from

[52] California Department of Parks and Recreation, *Map of Area Impacted by the Foothill-South*, Jan. 9, 2006.
[53] California Department of Parks and Recreation, *Mitigation Assessment of FTC-South Impacts on San Onofre State Beach* (Aug. 1997) ("*Parks Dept. Mitigation Assessment*") at 6; California Department of Parks and Recreation, *Comment Letter to TCA*, January 10, 2006 ("*Parks Dept. Comment Letter*") at 5.
[54] CDP # 183-73, Amendment # 6-81-330-A.
[55] *Id.*, Exh. 2 at 8 (Condition E.)

upland and inland areas who gain access to the beach by camping nearby. There is a great demand for additional camping facilities in the area. Development of new facilities is restricted because of the 15-mile long expanse of Camp Pendleton to the south. During the warm months, campgrounds in the area must turn away tens of thousands of persons. ***The Commission expects the new facility at Parcel 1 to significantly increase and enhance public access to the beach segments of the State Beach.***[56]

The Commission's expectations have come to pass. Today, San Mateo Campground receives over 100,000 visitors a year.[57] The San Mateo Campground's popularity comes from its relatively isolated location in an undeveloped coastal canyon along San Mateo Creek.[58] In addition, the campground provides low-cost accommodations for coastal visitors that are increasingly rare in the region. San Mateo Campground accounts for more than 10% of coastal campsites within a 50 miles radius.[59] As the Parks Department has stated about the campground, "the affordability of this coastal resource for middle and lower income visitors makes it even more important that it be kept intact and undiminished."[60]

The Campground not only provides public access to the coast, but it is an intrinsic and essential part of what makes Trestles Beach a unique experience for visitors. Trestles is one of the only remaining beaches in Southern California that is not directly accessible by automobile and must be hiked into. One of the beach's primary attractions is the highly scenic trail linking it to San Mateo campground, which runs through "a relatively unspoiled wetlands area" down to the beach, allowing visitors to experience the natural transition of the native landscape.[61] The Campground itself is also part of the coastal experience. Visitors who camp or picnic in the inland portions also walk to the coast to swim, surf, relax on the beach, and explore the Park's successive habitats, including surf, reef, beach, coastal bluff, wetland, grassland, sycamore groves, scrub, hills, arroyos, and valleys, along with abundant wildlife, all of which together make San Onofre unique.

The campground is not only an essential coastal resource – it is irreplaceable. Aside from a planned facility at Crystal Cove State Beach that will replace an existing trailer park, the Parks Department has been unable to add a single campground along California's coast in the 16 years since San Mateo Campground was constructed. And there are no sites left in the region that would be capable of providing comparable public access and recreational value. According to the Parks Department, "the existence and convenient availability of such an increasingly rare resource and experience to the large Southern California population serves an important societal function which once lost cannot be replicated in whole elsewhere in this region."[62]

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[56] *Id.* at 14 (emphasis added).
[57] *Parks Dept. Comment Letter* at 6.
[58] *Id.*
[59] Figure, *Southern California Campgrounds*, California State Parks Foundation and GreenInfo Network, 2007.
[60] *Parks Dept. Mitigation Assessment* at 2-3.
[61] *Parks Dept. Mitigation Assessment* at 2.
[62] *Parks Dept. Comment Letter* at 5.

b. The Toll Road Would Destroy the Campground

San Mateo Campground would be effectively shut down by the Toll Road. According to TCA, the Project footprint would avoid the campsites themselves. However, the Toll Road would come within 200 feet of the campsites. The Project would place the Campground – now located in a quiet, undeveloped coastal canyon – in the shadow of a superhighway, with a view of massive soundwalls on engineered hillsides. Campers, hikers and picnickers would be plagued by construction noise in the short term, and traffic noise permanently.[63] In short, the Campground's "spirit of place" – a term used by the Parks Department – would be destroyed.[64] So much so, that the Department has concluded that if the Toll Road is built they will likely have to abandon all of Subunit 1 (except for parking near the trail to Trestles), which includes all 161 sites in the campground and over 1000 acres.[65]

In its letter to TCA, the Department states:

> It does not take an expert to understand that locating a multi-lane, limited access highway within a few hundred feet of a secluded campground will so destroy the recreational value of the campground and sense of place as to render it valueless. . . . [P]eople who use San Mateo Campground do so because of its relative quiet and seclusion. They do not go camping to be next to a multi-lane highway and have their views truncated by a 16' high soundwall.[66]

The abandonment of San Mateo Campground would mean the loss of a major coastal resource – a resource that was mandated by this Commission in order to achieve compliance with the Coastal Act. The 100,000 annual State Beach visitors who use the Campground – including working families and other users who rely on this affordable facility – would be severely impacted. The expanded public access to the coast that the Commission required as compensation/mitigation for the significant loss of access caused by SONGS would be lost.

In addition, the existing highly scenic trail connecting San Mateo Campground to Trestles Beach – which runs under the interstate but is an essential natural experience, traversing the native landscape – would be destroyed and replaced by an urban pedestrian overpass that follows the Toll Road and actually requires crossing *over* it.[67] This highway-dominated route would constitute a fundamental change in the unique visitor experience of Trestles.

TCA fails to acknowledge that the Project will have any impacts to the Campground or the public access and coastal recreational opportunities it provides. TCA appears to rely in part on the fact that the Campground "is not located within the coastal zone."[68] But consistency review applies equally to activities inside *and* outside the coastal zone whenever direct or indirect impacts on the coastal zone and the use of the lands within it are reasonably foreseeable.

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[63] *Parks Dept. Mitigation Assessment*, Appendix B.
[64] *Id.* at 2; *see also id.*, Appendix A at A-3 to A-4.
[65] *Parks Dept. Comment Letter* at 5.
[66] *Parks Dept. Comment Letter* at 4-5.
[67] FSEIR at 4.25-27; TCA, Trail Location, Exh. 3, March 2007.
[68] *Consistency Application* at 15.

See 16 U.S.C. § 1456(c)(3)(A) (consistency certification required for projects outside coastal zone that affect resources within); *California ex rel. California Coastal Commission v. Norton*, 150 F.Supp.2d 1046, 1052 (N.D. Cal. 2001) (federal activities "within or outside the coastal zone" that affect coastal-zone resources shall be consistent with coastal laws pursuant to CZMA); *see also Millennium Pipeline Co., L.P. v. Gutierrez*, 424 F. Supp. 2d 168, 177-78 (D.D.C. 2006) (because potential pipeline rupture at inland location could interrupt water flow of aqueduct to New York City and thereby impact coastal resources, finding of inconsistency was proper). The loss of the Campground would have a major, adverse effect on the ability of the public to access, use and enjoy Trestles Beach.

TCA repeatedly cites the fact that the park is situated on federal land not owned by the State, but the ownership of the land is immaterial. The park provides the same benefits to the public whether leased or owned by the State. Moreover, since its inception, it has been understood that the park is permanent. President Nixon, Governor Reagan, and the California Legislature have all made clear that San Onofre is to forever remain a state park. When President Nixon presided over the creation the state park at San Onofre, he declared that, as soon as it is possible for the federal government to declare the property surplus, the lease will be terminated and the property "will be *deeded* to the State of California for park purposes."[69] Governor Reagan agreed: "This expanse of acreage, San Onofre Bluffs [sic] State Beach, *now has its future guaranteed* as an official state park."[70] The intent to permanently preserve the land as a park is reflected in California law, which provides that "if the Camp Pendleton Marine Base in the County of San Diego ceases to be used as a federal facility, *it shall be converted to an open-space area or greenbelt* that shall be administered by the [Parks] [D]epartment." Pub. Res. Code § 5096.400 (emphasis added). State law further provides that "[a]ll real property acquired for park and recreation purposes by the state which was formerly part of Camp Pendleton *shall be used solely for park and recreation purposes and no part thereof shall be declared surplus or disposed of.*" Gov't Code §11011.7 (emphasis added).

TCA also improperly relies on a right-of-way reservation in the State's lease with the Navy. Contrary to TCA's assertions, that provision in no way authorizes a six-lane highway through the park. The lease allows the Navy to grant *only* those easements or rights-of-way that will not "unreasonably interfere with the use of [State Parks] improvements."[71] The six-lane toll road, which would interfere with (and indeed likely shut down) the entire San Mateo Campground, would plainly violate this lease restriction. But in any event, the lease provision is a red herring. Even if the road were allowed under the lease (which it is not), that fact would in no way lessen the Project's impacts on coastal access or its inconsistency with Coastal Act policies.

TCA's failure to acknowledge any public access or recreational impacts from the Project is mirrored by its failure to provide any meaningful mitigation for those impacts. The FSEIR does not identify any specific measures to replace lost park lands or provide substitute recreational resources. Rather, TCA merely promises to "consult" and "negotiate" with owners

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[69] President Richard Nixon, *Press Statement*, March 31, 1971.

[70] California Governor Ronald Reagan, *Press Statement*, April 3, 1971 (emphasis added).

[71] *See* Agreement of Lease Between State of California Department of Parks and Recreation and United States of America (No. NF(R) 13233) (Aug. 31, 1971), Part II at 2.

or operators of affected recreational resources at some unspecified point in the future.[72] As the Parks Department itself put it in a letter to TCA regarding the FSEIR, these "promises to talk" mitigate nothing and commit TCA to nothing.[73] Indeed, as discussed above, these resources are unique in the region and are literally irreplaceable.[74] TCA's consistency application demonstrates that the agency persists in refusing to confront the Toll Road's impacts on San Onofre – an attitude the Parks Department correctly identified as "simply not grounded in reality."[75]

There is simply no conceivable rationale under which a major coastal recreational facility created at the insistence of the Coastal Commission to satisfy the requirements of the Coastal Act can now be eliminated consistent with the Act. The severe loss of public access and coastal recreational opportunities that would be caused by the loss of San Mateo Campground renders the Project inconsistent with the Act's policies requiring maximum public access, protection of lower cost coastal recreational opportunities, and avoidance of impacts to parks.

2. Trestles Beach.

The Foothill-South also directly impacts Trestles Beach – a world-class surfing destination.[76] Trestles Beach is known among surfers as the "Yosemite of surfing" and has attracted the likes of some of the world's most famous surfers, including Kelly Slater, who won a surfing competition there in 1990. It is the *only* beach in the continental United States where the Association of Surfing Professionals' World Championship Tour holds a competition,[77] and is host to numerous other professional and amateur surfing competitions throughout the year, including the National Scholastic Surfing Association's national championships. This is not your average surf spot – so many people visit Trestles that there is a "crowd in the water" for just about any given swell.[78] Trestles Beach was first discovered by pioneering local surfers in 1933 and is now historically recognized as having played a significant role in the evolution of surfing as a sport. In fact, Trestles is potentially eligible for nomination as a State Historic District, as a California State Point of Historic Interest (on the California Register of Historic Resources), and to the National Register of Historic Places.[79]

In addition to the public access impacts to Trestles that would be caused by the loss of San Mateo Campground, the Toll Road threatens to impact the internationally renowned surfing

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[72] FSEIR at 4.25-28 to 4.25-29.
[73] *Parks Dept. Comment Letter* at 7.
[74] *See id.* at 8.
[75] *Id.* at 4.
[76] The Trestles beach includes several surfing hot spots in the coastal zone that would be affected by the project, including Cotton's Point, Upper Trestles, and Lower Trestles. See M. Hagemann, SWAPE, Comments on the EIR/SEIS for the SOCTIIP (July 28, 2004) (hereafter "*SWAPE*") at 17, reproduced in FSEIR, vol. IX, comments O21-351 to O21-423.
[77] ASP World Tour, http://64.78.18.131/asp2005/2006news.asp?rView=w&rEventName=&rEvent=trestles06&rCode=5943 last visited July 26, 2007).
[78] Phillip Williams & Associates, Ltd., "Potential Toll Road Impacts on San Mateo Creek Watershed Processes, Mouth Morphology and Trestles Surfing Area," January 11, 2006 ("*PWA 2006 Report*") at 3.
[79] California State Parks and Recreation Department, *Letter from Historian A. Bevil to M. Rauscher*, dated Aug. 31, 2007.

conditions found at Trestles. These conditions are created and maintained by sediment influx from San Mateo Creek and its tributaries, including Cristianitos Creek. Cobblestone rocks are carried down the creek and deposited in a delta, which leads to the world class waves that break left and right year-round.[80]

TCA refuses to acknowledge the potentially drastic effect the Toll Road could have on Trestles, claiming that no significant permanent adverse effects would damage coastal surfing. TCA asserts that the supply of sediment from inland would not be significantly changed and that, therefore, the cobblestone delta which supports wave formations would remain stable.[81] However, TCA's analysis is fatally flawed.

TCA erroneously focuses on the amount of new impermeable surface relative to the entirety of a large watershed, and fails to account for the devastating effects of the Toll Road on 20 subwatersheds proximate to the mouth of San Mateo Creek, which have a disproportionate effect due to proximity.[82] These steep canyons are sources of fine sediments. An engineering study, which included field reconnaissance, shows that paving and cut and fill from the Toll Road will "result in massive hydrological changes" to these fragile subwatersheds.[83] Indeed, the eight subwatersheds closest to the mouth of the creek would be disturbed 40% on average,[84] a level associated with severe erosion and channel degradation in the vicinity of the Project.[85] Within many of the destabilized canyons, the sediment transport and hydrology of streamcourses will be "highly altered."[86] The resulting erosion of fine sediments will overwhelm the inadequate capacity of the proposed settling basins during 2-year storm events, and control of siltation in the creek is therefore unlikely to occur.[87]

Increased delivery of silty sediments will affect coble deposition, and thereby alter wave formation, in two ways. First, a sediment mix richer in fine materials will tend to deposit gravel and cobble in the creek bed, and carry the finer sediments out to the mouth, reducing delivery of cobble to Trestles.[88] Second, once exposed to wave action, the changes in the relative amounts of fine and coarse sediments will alter the "porosity" of the mix, resulting in cobble moving onshore or offshore.[89] These changes in cobble transport and deposition may change the morphology of the delta and alter wave formation.[90] Because the TCA looked only at *total* sediment delivery rather than the effects of changed sediment *composition*, its conclusion that wave form will not be altered by the Toll Road is not supportable.[91]

The waves at Trestles are one of California's unique and historic natural treasures. If the

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[80] *SWAPE* at 18.
[81] *Consistency Application* at 24.
[82] *PWA 2006 Report at 12.*
[83] *Id. at 13.*
[84] *PWA 2007 Analysis* at 1.
[85] *PWA 2006 Report* at 2.
[86] *Id.* at 21.
[87] *Id.* at 2.
[88] *PWA 2006 Report* at 11-12.
[89] *PWA 2007 Analysis* at 2.
[90] *Id.* at 3.
[91] *PWA 2006 Report* at *12.*

sediment regime of San Mateo Creek is altered by the Toll Road, the wave formations that make Trestles the "Yosemite of surfing" could be irreparably lost. The Project is inconsistent with the Coastal Act's requirement that parks and areas suited for water-oriented recreational activities be protected.

C. Wetlands

Filling and Dredging of Wetlands. Coastal Act § 30233. Section 30233(a) of the Coastal Act prohibits diking, filling, or dredging of coastal wetlands unless: (1) the project falls into one of seven listed categories; (2) "there is no feasible less environmentally damaging alternative"; and (3) "feasible mitigation measures have been provided to minimize adverse environmental effects." The Foothill-South fails **all three** parts of this test.

TCA's estimates of wetlands impacts have varied from 0.16 to .46 acres of permanent impact and 6.64 to 7.70 acres of temporary impacts.[92] There has been no cogent explanation of what changes in the "digital data base" or other factors necessitated these fluctuations in the estimated areas of impact.[93] Moreover, all these numbers are thrown into question by the fact that TCA's methodology for delineating wetlands did not utilize field indicators to investigate wetlands hydrology and hydric soils, but rather relied on "historic data and visual observations."[94] The scale of the hydric soils maps used by TCA are inappropriate to the fine jurisdictional delineations necessary at the ground level, and standard practice would have been to use field testing.[95] Because the Commission defines a wetland as meeting any *one* of three criteria (vegetation, hydrology, or soils), the failure to fully assess hydrology and soils may have led to an underestimation of wetlands within the Commission's jurisdiction.

In addition to these serious deficiencies, TCA failed to do a *functional* assessment of the wetlands (as compared to a simplistic numerical account of acreages).[96] TCA thus did not disclose the ecosystem values of these rare coastal wetlands. It also failed to assess *indirect* impacts of the Toll Road on wetlands, such as edge effects.[97] For all these reasons, TCA's impact calculations significantly understate the true impacts of the Project on coastal wetlands.[98]

But as discussed below, even the impacts acknowledged by TCA are enough to render the Project inconsistent with the Coastal Act's wetland policies.

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[92] Compare *Consistency Application* at 43 with Glenn Lukos Associates, *Letter to Transportation Corridor Agencies*, Aug. 31, 2007 at 1.
[93] M.D. White, *Letter to Endangered Habitats League*, Sept. 13, 2007 at 2.
[94] Glenn Lukos Associates, *Letter to Transportation Corridor Agencies*, Aug. 31, 2007 at 3.
[95] M.D. White, *Letter to Endangered Habitats League*, Sept. 13, 2007 at 2.
[96] Glenn Lukos Associates, *Letter to Transportation Corridor Agencies*, Aug. 31, 2007 at 4, 10 ("Jurisdictional totals strictly represent the surface area of each feature and do not include an assessment of the quality of each feature"; "Impact totals represent only the surface area expected to be subject to regulation by the CCC and do not represent a relative assessment of function.").
[97] M.D. White, *Letter to Endangered Habitats League*, Sept. 13, 2007 at 3.
[98] *Id.* at 3.

1. The Foothill-South is not an allowable use for fill of wetland resources under Section 30233(a)(1)-(7).

TCA claims that the Toll Road serves an "incidental public service purpose" under section 30233(a)(4) and is therefore not absolutely prohibited in coastal-zone wetlands.[99] This claim is baseless. The plain language of this provision lists "burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines" as examples of the types of projects that are properly considered "incidental public service purposes." Clearly, a new six-lane superhighway is of a much different character than burying cables or maintaining outfall lines. Such a project would create much more extensive environmental harm than the type of projects contemplated by the statutory language and can in no way be considered "incidental."[100] *See Barrett v. Superior Court*, 222 Cal. App. 3d 1176, 1190-91 (1990) (where specific examples follow a general term in a statute, application of the general term is limited to things of the same type as the specific examples).

Both the Commission and the courts have made clear that new roadways cannot be considered an "incidental public service purpose" within the meaning of section 30233(a)(4). As the court stated in *Bolsa Chica*:

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

71 Cal. App. 4th at 517 (emphasis added). Thus, only the expansion of an *existing* road to accommodate *existing* capacity may be an incidental public service purpose.[101]

Foothill South is a new six-lane highway designed to provide *increased* roadway capacity to handle traffic from future development. It does not expand an existing road, nor is it limited to accommodating existing capacity. As TCA stated in the FSEIR, the project's purpose is to "help alleviate future traffic congestion and accommodate the need for mobility, access, goods movement and future traffic demands on I-5 and the arterial network in the study area."[102] This is exactly the kind of road expansion that cannot qualify as an "incidental public service purpose." *Bolsa Chica*, 71 Cal. App. 4th at 517.

In contrast, the matters cited by TCA in which the Commission determined a project was an incidental public service purpose are easily distinguishable from this case. Those matters involved the expansion of existing infrastructure – roads, an airport runway, and rail projects –

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[99] *Consistency Application* at 42, 47.

[100] *See Bonnie's Random House Webster College Dictionary* (1991 Ed.) at 880 (the term incidental is defined as "happening or likely to happen in an unplanned or subordinate conjunction with something else.") The Toll Road exists as an independent project and clearly is not happening in an "unplanned or subordinate conjunction" with anything else.

[101] See California Coastal Commission, *Procedural Guidance for the Review of Wetland Projects in California's Coastal Zone*, ch. 1, § III.B.1.iii, available at http://www.coastal.ca.gov/wetrev/wetch1.html.

[102] FSEIR at 1-16. In this light, the statement in TCA's consistency application that Foothill-South "will maintain current levels of capacity to alleviate existing congestion" is both nonsensical and fundamentally misleading.

where no other alternatives were available and the expansion would not increase existing capacity.[103] Again, the Foothill-South is not an improvement to an *existing* road and it is designed specifically to increase roadway capacity to accommodate future development. There is no precedent or persuasive rationale to allow the Foothill-South to qualify as an incidental public use. Accordingly, fill of wetlands for the Project is not permitted.

2. There Are Feasible, Less Damaging Alternatives to the Toll Road.

Even if it qualified as an incidental public service purpose, the Project is not consistent with Section 30233 because there are *feasible less environmentally damaging alternatives*. The problem of traffic congestion in Orange County can be addressed just as well or better by alternative solutions that have not been meaningfully examined by TCA. The most obvious of these alternatives center on improvements to the County's *existing* I-5 corridor and arterial network. TCA's rejection of this alternative as infeasible is not based on any substantial evidence. To the contrary, as discussed below in Section II.A (analyzing Smart Mobility studies), the evidence shows that such alternatives – which would not meaningfully impact the coastal zone and are environmentally superior by TCA's own admission – are economically feasible.

3. Even if Mitigation Criteria Were Relevant, TCA Failed to Identify Effective Mitigation Measures.

As discussed above, TCA is barred from filling wetlands for the Project regardless of any mitigation offered. Where – as here – a project impacting coastal wetlands is not an allowable use under section 30233(a), mitigation measures cannot make the use consistent with the Coastal Act. *See Dunn v. County of Santa Barbara*, 135 Cal. App. 4th 1281, 1297 (Cal. Ct. App. 2006)

But additionally, TCA's mitigation measures are themselves inadequate. TCA proposes to "create" 15.9 acres of wetlands and riparian in the San Juan Creek watershed.[104] The wetlands taken by the Toll Road, however, would be lost from a rare and irreplaceable coastal complex of wetlands, estuary, marsh, and adjacent uplands, all part and parcel of an undammed and relatively pristine watershed. Riverine and estuarine resources at the broad ocean mouth of a creek cannot be replaced by "recontouring uplands"[105] in a canyon 15 to 20 miles inland – well outside the coastal zone and in a different watershed. The species compositions and biological functions and values are all different, and even if successful, would result in a *net loss* of coastal wetland resources.[106]

We understand that TCA has, at the last minute, identified an acre of fallow agricultural land adjacent to I-5 that it proposes to restore to "southern willow woodland" in mitigation for impacts to wetlands within the coastal zone. This proposed mitigation area is within the Project

[103] *See Consistency Application* at 47.
[104] *Consistency Application* at 54.
[105] *Id* at 54.
[106] W.D. Spencer, PhD, *Letter to California Coastal Commission*, August 17, 2007 at 3.

right-of-way in the same location as one of the extended detention basins ("EDBs") that TCA elsewhere claims will treat surface runoff from I-5.[107] This location cannot replace the lost functions and values from the San Mateo Creek complex of riverine, wetland, and upland habitats.[108] Indeed, the TCA never analyzes this unit holistically. The hydrology of the proposed mitigation area, located around a storm water detention basin and its quality degraded by polluted runoff, cannot possibly mimic the hydrology of the natural floodplain.[109] Also, because the entirety of the mitigation area is so close to I-5 and the merging Toll Road,[110] it would *all* be subject to adverse edge effects. With a maximum width of 200 feet, it is well within the range of such effects.[111] Even if the wetlands fill were allowable, the proposed mitigation site is defective.

Finally, the technical efficacy of creating new wetlands is also questionable. The US Department of the Interior has stated that a big problem with mitigation projects is that often "the quality of the resulting mitigation wetland is not equal to the wetland that was destroyed."[112] The DOI also states that "wetland scientists are becoming aware that the many unknowns make it virtually impossible to provide definitive guidelines for successful wetland assessment and design."[113] In addition, a recent review of mitigation projects in California permitted from 1991-2002 found that mitigation wetlands are not similar to those impacted by the permitted project (Ambrose et al. 2006).[114] TCA has not explained how their attempted wetland creation would overcome these problems.

According to an aquatic biologist with over 20 years of experience and specific expertise in assessing watershed integrity within the area of the project:

> The proposed FTC-S project would produce a much greater level of impact to these resources than is acknowledged by the project proponents, and these impacts are not adequately mitigated by their proposed mitigation measures. There would clearly be a net loss of wetland functions and values and "significant disruption of habitat values" as a result of the FTC-S project, which is at odds with National and State policies on wetlands protection.[115]

In sum, section 30233(a) flatly prohibits any filling of wetlands for the Toll Road, regardless of any mitigation is provided. The Project's proposed wetlands fill is therefore inconsistent with the Act. Moreover, the only mitigation offered by TCA – wetland creation miles away from the coastal zone and, now, restoration within a proposed treatment facility for

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[107] *Compare* Glenn Lukos Associates, SOCTIIP Mitigation Area D, Ex. 8, ***with*** DSEIR Appendix A.1, Route Plan for A7C-FEC-M Initial at 6 (Sheet 5).
[108] M.D. White, *Letter to Endangered Habitats League*, Sept. 13, 2007 at 3.
[109] *Id.* at 3.
[110] Trail Location, Exhibit 3, March 2007, Transportation Corridor Agencies.
[111] M.D. White, Letter to Endangered Habitats League, Sept. 13, 2007 at 3.
[112] Randall J. Hunt, *Do Created Wetlands Replace the Wetlands that are Destroyed*? US Department of the Interior-US Geological Survey, available at http://wi.water.usgs.gov/pubs/FS-246-96/FS_246-96.pdf.
[113] *Id.*
[114] M.D. White, *Letter to Endangered Habitats League*, Sept. 13, 2007 at 3.
[115] *Id.* at 3-4.

polluted runoff – would not replace the coastal wetland values that would be lost. Thus, even if the Project were an allowable use, it would fail to meet the mitigation requirements of the Act.

D. Water Quality

***Biological productivity; water quality. Coastal Act § 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.*

***Marine resources. Coastal Act § 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.*

Water quality would be significantly impacted by the proposed six-lane toll road. Currently the San Mateo watershed is one of the healthiest watersheds remaining in Southern California, with San Mateo Creek being the last undammed and undiverted major drainage basin south of Ventura.[116] The Toll Road would cut, fill and pave over miles of "the core of the relatively less-disturbed and naturally functioning portions of the San Mateo watershed."[117] This includes 12 subwatersheds that drain into the tributary Cristianitos Creek (five of which are within the undisturbed Donna O'Neil Land Conservancy), and eight that drain to the lower San Mateo Creek mainstem, immediately upstream of Trestles.[118] Water from these subwatersheds ultimately reaches that portion of San Mateo Creek within the coastal zone, including the lagoon, estuary, and Trestles.[119] Thus, both upstream and coastal-zone disturbance activities in these subwatersheds will impact coastal resources and must be evaluated for consistency with the Coastal Act's water quality policies. 16 U.S.C. § 1456(c)(3)(A); *see also Millennium Pipeline*, 424 F. Supp. 2d at 177-78.

The construction of the Toll Road through the steep, natural terrain of the San Mateo watershed will result in massive changes to the hydrology of the subwatershed drainages, causing stream destabilization and a significant increase in erosion and sediment production.[120] As discussed earlier, the increase in fine sediment delivery would adversely impact fish habitat in San Mateo Creek and lagoon, particularly for the federally endangered southern steelhead and tidewater goby.

TCA seeks to minimize the severity of these impacts by comparing the area of disturbance caused by the Project against the entire 136 square mile San Mateo Creek watershed,

[116] *Spencer Conservation Priorities* at 36.
[117] *PWA 2006 Report* at 13.
[118] *Id.* at 2, 15-17 (Figs. 5-7), 21.
[119] *Id.* at 2, 4 (Fig. 1).
[120] *Id.* at 13.

and concluding that the change in peak runoff *for the watershed as a whole* would be less than 3%.[121] But this approach masks the true impacts of the Project, which will have enormous impacts on the 20 subwatersheds within and just upstream of the coastal zone. The Project's disturbance (i.e., cut and fill) limits would occupy over 40% on average (and up to 100% in some cases) of the land area of the eight subwatersheds closest to the creek mouth.[122] Impermeable surfaces would cover up to 29% of the area of individual subwatersheds.[123] These are very large percentages.[124] Impacts on this level are associated with destabilization of canyons, highly altered hydrology, and severe erosion.[125] Erosion and siltation impacts therefore could affect the ecology of the San Mateo Creek mouth and lagoon.[126]

TCA's proposed mitigation basically consists of design and treatment Best Management Practices ("BMPs").[127] As discussed earlier, the proposed settling basins are unlikely to control runoff during 2-year storm events, which contribute the majority of sediment in most watersheds.[128] It is highly unlikely that the impacts of silt delivery to San Mateo Creek and lagoon can be mitigated with the proposed BMPs.[129]

TCA has also proposed constructing treatment facilities for an existing stretch of I-5, in an effort to portray the Project as having a net "benefit" to water quality. The I-5, however, crosses only a *single* subwatershed within the San Mateo Creek watershed, over a distance of less than half a mile. In contrast, the Toll Road would run approximately seven miles through *20* largely undisturbed subwatersheds of San Mateo Creek.[130] It is this massive new disturbance in one of the last high-integrity watersheds anywhere in southern California that poses the real threat to water quality, not the existing I-5. Indeed, there is no evidence of any significant water quality problem in the Creek today.[131] The "benefit" provided by TCA's proposed mitigation is illusory. And as discussed in Section III below, providing new treatment facilities for the I-5 in no way depends on the construction of the Toll Road. Such facilities can be constructed as part of any alternative to the Toll Road, including the one described in Section II below, or indeed can be mandated by the Regional Board as a condition of Caltrans' stormwater permit.

The Toll Road, by devastating some of the most important watershed land left in the region, will increase fine sediments in the creek system and the lagoon, significantly reducing water quality and threatening two endangered fish species. The Project is inconsistent with the Coastal Act's requirement that water quality, biological productivity, and marine resources be maintained, and that special protection be given to areas and species of special biological significance. Coastal Act §§ 30231, 30230.

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[121] *PWA 2006 Report* at 2.
[122] *PWA 2007 Analysis* at 3; *PWA 2006 Report* at 2, 16-17 (figs. 6-7), 18 (Table 1).
[123] *Id.*
[124] *PWA 2006 Report* at 12.
[125] *PWA 2007 Analysis* at 3; *PWA 2006 Report at 1, 21.*
[126] *Id.*
[127] *Consistency Application* at 35-37.
[128] *PWA 2006 Report* at 2.
[129] *PWA 2007 Analysis* at 1-3.
[130] *PWA 2006 Report* at 15, Figure 5, *Subbasins Disturbed within the San Mateo Creek Watershed.*
[131] No water bodies at San Onofre have been identified by the Regional Board as impaired. *See* San Diego Regional Water Quality Control Board, *2006 Clean Water Act Section 303(d) List of Water Quality Limited Segments*, http://www.waterboards.ca.gov/tmdl/docs/303dlists2006/approved/r9_06_303dlist.pdf (last visited Sept. 7, 2007).

E. Cultural Resources

Native American Resources. Coastal Act § 30244: *When development adversely impacts archaeological or paleontological resources identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

The State Historic Preservation Officer has identified numerous archaeological and paleontological resources that would be affected by the Project. These resources include the historic Juaneño Village of Panhé, located on the banks of San Mateo Creek in San Onofre State Beach, which is the ancestral home Juareño/Acjachemen people, whose history dates back 10,000 years. It plays a central role in the people's heritage and is actively used as a ceremonial and re-burial site. *Panhé* was the largest Indian village in this region in prehistoric and early historic times. Today, evidence of the village includes midden deposits, aboriginal artifacts, human burials, relics of houses and fire hearths, other cultural remains, as well as the memory of living Acjachemen people.[132] This site also is listed on the Sacred Lands file at the Native American Heritage Commission[133] and likely qualifies as a Traditional Cultural Property under the federal National Historic Preservation Act. 16 U.S.C. §§ 470, *et seq.* It is currently one of seven sites included within the San Mateo Archaeological National Register District and is eligible for listing on the National Register of Historic Places.[134]

Portions of the Village and its cultural resources are, according to State Archeologists, within the coastal zone and would be impacted by the Toll Road.[135] The Foothill-South would run adjacent to and through the Village of Panhé and its construction would pass within feet of the village's cemetery and interfere with traditional ceremonial uses.[136] In addition, if the road is built, increased scavenging and damage by relic collectors are anticipated. On February 15, 2006, the Native American Heritage Commission held a public hearing on the Toll Road, and determined that it would cause severe and irreparable damage to important cultural resources within San Onofre State Beach.[137]

According to the TCA's own EIR, there will be "substantial adverse impacts related to archaeological and historic resources that cannot be fully mitigated."[138] Nevertheless, TCA fails to recognize the overwhelming spiritual importance of this area, which is a profoundly sacred site currently used for ceremony, song, and education by the living descendants of the people who once lived there.[139] According to a letter from the Acjachemen Nation, the Toll Road's impacts on these values will be tremendous, permanent, and impossible to mitigate.[140] In particular, "[t]he known presence of burials at this site elevates its importance beyond any

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[132] Associate State Archeologist Michael Sampson, *Letter to Endangered Habitats League*, Sept. 7, 2007.
[133] *Id.*
[134] *See* FSEIR at 4.16-16; FSEIR, vol. IX, Comment Letter O-26 (from Christopher A. Lobo, Secretary/Treasurer and CEO, Juaneno Band of Mission Indians, Acjachemen Nation, Aug. 6, 2004).
[135] Associate State Archeologist Michael Sampson, *Letter to Endangered Habitats League*, Sept. 7, 2007.
[136] *See* Native American Heritage Commission, *Complaint for Injunctive Relief*, No. 06-GIN051370 (S.D. Super. Ct. filed March 22, 2006).
[137] *Id.*
[138] SOCTIIP Final EIS/SEIR, Executive Summary at 110.
[139] See FSEIR, vol. IX, Comment Letter O-26 (from Christopher A. Lobo, Secretary/Treasurer and CEO, Juaneño Band of Mission Indians, Acjachemen Nation, Aug. 6, 2004).
[140] *Id.*

possibility for impact mitigation."[141] The mitigation measures outlined in the consistency application, such as monitoring, cannot begin to compensate for such severe impacts. There is no "reasonable mitigation" that can address impacts to these ongoing cultural values. As a result, the project is inconsistent with section 30244 of the Coastal Act.

F. Scenic and Visual Impacts

Coastal Act § 30251: *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. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Visitors to San Mateo Creek, including hikers, picnickers, and campers, presently enjoy a quiet relatively unobstructed wilderness experience. But if the Foothill-South is built, they will find themselves below a massive concrete soundwall that would irrevocably destroy the sense of place and only partially block the traffic sounds that visitors are trying to escape. The Parks Department has concluded that "these unnatural and discordant visual elements will intrude into previous open vistas and impose high volume noise on normal recreation activities, as well as on night quiet."[142] The Parks Department also provided striking visual depictions of the changes that would occur if the Toll Road were constructed through the park.[143] In short, the Project would take one of the last remnants of large coastal open space left in Southern California and replace it with the incessant noise and visual blight of a super highway and its infrastructure.

TCA identifies seven viewsheds in the park, but concludes that only one viewshed will experience adverse visual impacts of substantial magnitude. For six of the viewsheds, TCA claims that "the impact is not considered substantial because the difference in quality of existing and proposed conditions is minimal."[144] For the viewshed that TCA concedes would be substantially adversely affected, mitigation procedures would involve retaining walls and landscape requirements.

People visit San Onofre for the relatively unobstructed views of nature. The imposition of a massive six-lane toll road would cause a loss of scenic beauty that cannot be mitigated with a soundwall, which is itself an eye-blight. Instead of looking at trees and open space, the public will see massive slabs of concrete. The Parks Department has identified numerous visual impacts affecting the park, including damaged views from the beach caused by the flyway at Basilone Road, and ultimately it concluded that the Foothill-South would likely force them to

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[141] *Id.* at 4.
[142] *Parks Dept. Comment Letter* at 5.
[143] *Parks Dept. Mitigation Assessment*, Appendix C1 (before-and-after analysis showing severe visual disruption from Toll Road).
[144] *Consistency Application* at 75.

close the entire inland portion of the park due to the noise and visual blight.[145] Thus, the Foothill-South's impact on park views would be dramatic and inconsistent with the scenic protections of the Coastal Act.

A massive interchange and new superhighway in the midst of a state park and within an undeveloped coastal refuge is the paradigm case of development that is fundamentally "incompatible with the character of surrounding areas" within the meaning of § 30251.

II. THERE ARE FEASIBLE AND EFFECTIVE ALTERNATIVES TO THE TOLL ROAD THAT WILL DRASTICALLY REDUCE OR ELIMINATE IMPACTS TO COASTAL RESOURCES.

The TCA in its application insists that project purposes can only be carried out by building a massive highway down the spine of a state park, connecting with the I-5 in the middle of one of California's last unspoiled watersheds. This massively destructive project, TCA insists, is the *least* environmentally destructive way to address South Orange County's traffic congestion problem.

But this is demonstrably not so. Better traffic solutions exist that, if implemented, will both protect our environment and expedite traffic relief. And there are studies to prove it.

Specifically, strategic improvements to the Interstate 5, including adding one High Occupancy Vehicle (HOV) lane to either side from the San Diego County line north to Lake Forest, Orange County, as well as improvements to some parallel arterials, *relieves projected traffic congestion as well as or better than any of the Toll Road proposals, including the proposed project.* Moreover, improving existing roads can be done at a cost comparable to the Toll Road, with a minimum of social and economic dislocation. This alternative would dramatically reduce if not completely eliminate impacts to coastal resources and environmentally sensitive habitat and wetlands. Unlike the Foothill-South, this alternative would not obliterate open space and would not destroy a state park. The existence of this feasible and environmentally superior alternative precludes granting a consistency certification to the Foothill-South.

A. Improving I-5 and Existing Arterials Would Provide Superior Traffic Benefits While Avoiding the Environmental Impacts of the Toll Road

This alternative has been described in detail by experts at Smart Mobility, Inc. ("Smart Mobility"), Phillip Williams & Associates, and Oman Associates in "*An Environmentally Sound Alternative to the Proposed Foothill South Toll Road*" (September 17, 2007) ("Smart Mobility 2007 Study"),[146] as well as in two earlier Smart Mobility studies.[147] The AIP-Refined alternative ("AIP-R"), as it is described in the study, is based on the Arterial Improvements Plus

[145] *Parks Dept. Comment Letter* at.6; *Parks Dept. Mitigation Assessment*, Appendix C1.
[146] Smart Mobility, Inc., *An Environmentally Sound Alternative to the Proposed Foothill South Toll Road*, Sept. 17, 2007 (hereafter, "*Smart Mobility 2007 Study*").
[147] Smart Mobility, Inc., *AIP Alternative Refinement for the San Clemente I-5 Interchanges*, Feb. 2006; Smart Mobility, Inc., *A Practical, Cost Effective, and Environmentally Superior Alternative to a New Toll Road for the South Orange County Infrastructure Improvement Project*, July 2005 (hereafter, "Smart Mobility 2005 Study").

alternative ("AIP") that TCA itself developed in a 2003 traffic study (the "Austin Faust Study").[148] The Austin Faust study showed, *using its own data and assumptions*, that the AIP alternative met project purposes as *well as or better than the Foothill-South.*[149] The AIP-R alternative is functionally identical to the AIP alternative in all respects relevant to traffic performance.

But the biggest benefit of the AIP-R alternative relevant to the CZMA consistency process is that it provides all of the traffic benefits of the Foothill South *without its devastating impacts on biological and recreational resources.* By improving an existing road in urbanized areas, the AIP-R completely avoids impacts to San Onofre State Beach, including the loss of San Mateo Campground, impacts to Trestles, and all of the impacts to habitat and water quality associated with the Toll Road's route through the San Mateo Creek watershed. TCA's own FSEIR for the Project concluded that the AIP alternative was environmentally superior to all the Toll Road alternatives, including the proposed project.[150]

Moreover, as part of the AIP-R alternative, the current stretch of the I-5 that crosses the San Mateo Creek watershed within the coastal zone could be retrofitted with extended detention basins like those included in the Toll Road project, thus providing the same level of treatment for this segment without the corresponding degradation of the entire lower reaches of San Mateo Creek.

B. The AIP-R Alternative Would Avoid Virtually All Property Displacements and Is Feasible

The TCA summarily rejected the AIP alternative, and refused to analyze it in detail in the CEQA process, because TCA concluded that its construction would require the costly displacement of well over 1,000 residences and businesses, and was therefore economically infeasible. Notably, this conclusion was not supported by any meaningful analysis TCA's displacement figures originated in a document entitled "Relocation Impacts Technical Report" (December 2003), but no analysis or evidentiary support for those figures was provided in that document. In response to a Public Records Act request asking for all documents relating to TCA's evaluation of displacement impacts for the AIP and other alternatives involving the improvement of the I-5 or existing arterials,[151] TCA produced only two studies – both relating to *toll road* alignments (the B and BX alternatives) – and stated that it had *no other documents* responsive to the request.[152]

Nor are TCA's displacement figures based on any analysis by Caltrans. Caltrans has recently acknowledged it had no substantive involvement with the TCA's alternatives analysis. The Endangered Habitats League recently sought all information in the possession of Caltrans

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[148] Austin-Foust Associates, *South Orange County Transportation Infrastructure Improvement Project Traffic and Circulation Technical Report*, December 2003 (hereafter "*Austin-Foust Report*").
[149] *See* Smart Mobility 2005 Study at 2-4, 5-11 (discussing and citing results of Austin Faust Study).
[150] FSEIR, Executive Summary at 32 (the AIP alternative performed "well in impacts to riparian ecosystems, CSS and gnatcatchers"); *see also* FSEIR at Table 2.6-1 (summarizing comparative impacts; none of the Toll Road alternatives, including the selected alternative, performed as well as the AIP alternative in these categories).
[151] *Letter* from William J. White, Esq. to Carolyn LeBail of TCA, dated Nov. 10, 2005 (request III, Item 6(d)) at 3.
[152] *Letter* from Carolyn LeBail of TCA to William J. White, dated Dec. 23, 2005 at 1.

relating to the evaluation of alternatives during the SOCTIIP environmental review. On February 15, 2006, Caltrans responded as follows:

> Your California Public Records Act request also requested any documents showing Caltrans review of I-5 improvement alternatives evaluated by the Transportation Corridor Agencies for the South Orange County Transportation Infrastructure Improvement Project.
>
> *Caltrans District 12 office has no review documents for the South Orange County Transportation Infrastructure Improvement Project*, as the Transportation Corridor Agencies were responsible for evaluation of the proposed project.[153]

The Smart Mobility study now demonstrates that the displacements TCA claims would be caused by building the AIP alternative can be easily avoided through standard design techniques. By applying context sensitive engineering refinements, such as replacing partial cloverleaf interchanges with more land-efficient single point and tight diamond interchanges, *displacements can be reduced by over 97% from TCA's estimates*. Instead of 898 residences taken, as TCA claims, only 11 residences would need to be relocated under the AIP-R. And instead of 339 commercial properties taken, as TCA claims, only 39 takings would occur after feasible project refinements, and 19 of these would be only partial.

Thus, instead of adding a prohibitive $1.15 *billion* to the project cost, as TCA claims, the AIP-R alternative would add only about $27 million to the total project cost. This results in an approximate $1.15 billion reduction in estimated cost, meaning that the AIP-R alternative is roughly cost-competitive with the Foothill-South project – whose cost is now approaching the $1 billion range.

TCA has also asserted that the AIP-R alternative is infeasible because no funds are currently available to construct it. As discussed above, TCA has been assuming a cost for the alternative that is about $1 billion too high. In terms of financing, the Foothill-South is in the same position; the Toll Road also has not secured the necessary funding. More fundamentally, the lack of current funding for the AIP alternative is not due to a shortage of funds, but rather to the fact that funding for alternatives to the Toll Road has not been sought to date by regional transportation authorities. If the Foothill South ceases to become viable, real efforts to raise funds for an alternative, such as the AIP-R, will begin in earnest. Indeed, the OCTA has already begun long-range planning efforts that include most of the elements of the AIP-R.[154]

Finally, TCA has previously claimed that it lacks the authority to implement improvements on the I-5. TCA is a special entity created specifically to construct new thoroughfares funded by toll revenues, but it is made up of the County of Orange and nearly a dozen Orange County cities. Orange County and some of these same cities within the County also make up the governing board of the Orange County Transportation Authority ("OCTA"), the organization responsible for proposing and seeking funding for I-5 improvements in Orange

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[153] *Letter* from Pam Gorniak of Caltrans to Dan Silver of EHL, dated Feb. 15, 2006 (emphasis added).

[154] Orange County Transportation Authority Stakeholders Working Group, *South Orange County Major Investment Study*, July 25, 2007, Alternative E – Alt C+HOT Lane Freeway Widening + High Transit (showing interchange upgrades and additional HOV lanes along I-5 in South OC).

County. It is therefore disingenuous for the TCA to claim that it lacks authority to implement anything other than a new toll road, when its governing entities are key decision-makers on the OCTA Board of Directors.

Indeed, as of January 2007, the following jurisdictions were currently directly represented on both the TCA and OCTA Boards: Orange County, Tustin, Lake Forest, and Anaheim. But because *all* Orange County cities are in effect represented on the OCTA Board at some time, there is really a complete overlap in jurisdiction between TCA and OCTA. *See* Pub. Utilities Code §§ 130050, 130052 (showing statutory rules regarding OCTA Board membership providing for eligibility for all Orange County cities). Even if there were no complete overlap, the OCTA and the TCA have the legal ability to enter into partnerships to accomplish projects jointly, including improving arterials and the I-5, or even to create a new entity. *See* Pub. Utilities Code § 130240.1 (providing broad authority for OCTA to enter into partnerships). There is thus no basis for TCA to claim that its constituents have no ability to implement the AIP-R alternative.

In short, neither TCA nor Caltrans has ever seriously investigated the feasibility of providing the needed additional capacity on existing roads with minimal environmental damage, and with virtually no impacts on the coastal zone. The Smart Mobility study now shows that it can be done with a minimum of displacements and at a roughly comparable cost. The existence of this environmentally superior, feasible alternative thus precludes a finding of consistency under the CZMA for the Foothill-South project.

III. THE BALANCING PROVISION OF THE COASTAL ACT DOES NOT ALLOW FOR APPROVAL OF THIS PROJECT

The Foothill-South Toll Road is clearly inconsistent with numerous sections of the Coastal Act that protect ESHA, parklands, wetlands, water resources, and public access and recreation. *See* Section I, *supra*. Yet TCA claims that these serious impacts are justified because, on balance, they are outweighed by the Toll Road's purported benefits to coastal resources. *See* Pub Res. Code § 30007.5. These benefits, TCA alleges, are increased public access, improved water quality, and needed emergency evacuation routes in case of a nuclear melt-down at San Onofre Nuclear Generator Station.[155]

The balancing provision of the Coastal Act, however, does not apply to this Project. The Toll Road is a transportation project, not a project that meaningfully advances the purposes of the Coastal Act, and all of the purported "benefits" of the Toll Road could be provided by feasible alternatives that are consistent with the Act. In such cases there is no "conflict" to trigger the balancing test under Section 30007.5 in the first place.

Moreover, even if there were no feasible alternatives, the benefits of the Project claimed by TCA are largely illusory, and are vastly outweighed by the serious damage that would result to the coastal zone from this multi-lane toll road.

[155] *Consistency Application* at 8-10.

A. The Balancing Provision Is Triggered Only When the Project Is a Prerequisite to Advancing the Policies of the Coastal Act

In certain limited circumstances, a project may raise conflicts between two or more policies in a manner that warrants the balancing test prescribed in Coastal Act section 30007.5. That section provides:

> The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.

Pub. Res. Code § 30007.5. This Section has been interpreted to apply only when there is no way to advance the Coastal Act policy at issue without creating a conflict with another Coastal Act policy. *Sierra Club v. California Coastal Com. ("Batiquitos Lagoon")*, 19 Cal. App. 4th 547 (1993).

In *Batiquitos Lagoon*, the project at issue was a fish-habitat restoration project at a lagoon in Carlsbad that involved "conflicting interests of fish and fowl." *Id.* at 550. The primary purpose of the project was to provide a benefit to the coastal zone by opening the lagoon to tidal flows and thereby improving fish habitat. *Id.* at 553-554. A conflict arose because while increased tidal flows would restore fish populations in the lagoon in the long term, it would also reduce bird habitat in the short term. *Id.* at 552, 554 (noting a direct conflict between Coastal Act section 30230 (marine resources) and section 30233 (prohibiting dredging which would significantly disrupt marine life and wildlife habitats)). Because enhancement of the fish habitat could not be achieved without impacting bird habitat, the court held that the Commission properly sought to balance these considerations under Section 30007.5. *Id.* at 559-540.

However, the courts have rejected attempts to stretch the application of the balancing test under Section 30007.5 beyond the narrow circumstances present in *Batiquitos Lagoon*. In *Bolsa Chica Land Trust v. Superior Court ("Bolsa Chica")*, 71 Cal. App. 4th 493, 509 (1999), the court sharply distinguished the housing development at issue from the habitat restoration project in *Batiquitos Lagoon*. The project proponent argued that notwithstanding the project's occupation of an ESHA in violation of the Act, the project was permissible under the balancing provision of section 30007.5 because it would create better raptor habitat offsite. *Id.* at 506-09. The court rejected this argument, ruling that there was no conflict in the first instance because "nothing in the record or briefs of the parties suggests there is such an acute need for development of residential housing in and around the eucalyptus grove that it cannot be accommodated elsewhere." *Id.* at 509. The court held that while the Commission may have a legitimate interest in preserving raptor habitat over the long term, there was no indication that building the project in an ESHA was the only way to effectuate that interest:

> [T]here is no evidence in the record that destruction of the grove is a prerequisite to creation of the proposed [off site] habitat. In the absence of evidence as to why preservation of the raptor habitat at its current location is unworkable, we cannot

reasonably conclude that any genuine conflict between long-term and short-term goals exists.

Id. at 509

Unlike the habitat restoration project in *Batiquitos Lagoon*, the Toll Road is not a project whose purpose is to effectuate an important public policy under the Coastal Act. It is a transportation project designed to benefit drivers in southern Orange County. TCA's claim that the project will also have incidental benefits to coastal resources is not enough to create a "conflict" that would trigger balancing under Section 30007.5. That section would apply only if the purported benefits could only be attained by constructing the Toll Road. This is plainly not the case.

Like the project proponent in *Bolsa Chica*, TCA seeks to create a policy "conflict" by offering to construct mitigation – in this case, facilities to treat stormwater from the I-5 – that will allegedly improve existing environmental conditions. However, as in *Bolsa Chica*, there is no evidence that the project is a prerequisite to the mitigation. It is not necessary to build a six-lane toll road through the San Mateo Creek watershed in order to add stormwater treatment facilities to I-5. Such facilities could just as easily be made part of the I-5 widening alternative described in Section II above, or indeed could simply be constructed as a stand-alone project.

TCA's assertion that neither TCA nor Caltrans could not be "legally required" to construct these detention basins is not only wrong (as discussed in Section B below), but is irrelevant. In *Bolsa Chica*, there was no legal requirement to create the new raptor habitat offered by the developer, yet the court held that the balancing provision was inapplicable because there was no evidence the new habitat could *only* be created via the proposed project. *Bolsa Chica*, 71 Cal. App. 4th at 509. Likewise, the proposed I-5 detention basins are not in any way dependent upon the construction of a toll road through coastal resources. Accordingly, the proposed basins cannot be used to justify the Project's inconsistency with Coastal Act policies.

The only other alleged benefits of the Toll Road – public access and public safety – are based on the Project's traffic-related benefits, all of which could be attained through other alternatives while also avoiding impacts to coastal resources, including the loss of San Mateo Campground. As discussed in Section II above, widening I-5 and arterials is feasible and would provide equal or better congestion relief. In addition, alternative egress routes will also be provided by the planned extension of La Pata to Antonio Parkway.[156]

Because there is no evidence that the Toll Road must be built to attain the alleged coastal benefits of the project, the balancing provisions of Section 30007.5 are not applicable.

B. The Project's Benefits to Coastal Resources Are Insubstantial and Are Not Comparable to the Severe and Irreparable Damage the Project Would Inflict on Those Resources.

Even if the Coastal Act balancing provision were applicable, the Foothill-South would fail to provide significant benefits that outweigh its destructive impact. One of TCA's claimed

[156] *See Austin-Faust Study*, Figure 2-15; *Smart Mobility 2007 Study* at p 6.

benefits – improvements to water quality – seeks to solve a problem that does not exist in the relatively unspoiled San Mateo watershed. The other two alleged benefits – increased public access and the provision of an emergency evacuation route – are not only illusory, but are not recognized by the Coastal Act as benefits that could justify destruction of fragile coastal resources. The Project therefore cannot be considered "on balance... most protective of significant coastal resources." Pub. Res. Code § 30007.5.

1. Public Access Claims.

TCA argues that it should be able to degrade ESHA, wetlands, and the park in order to provide improved public access to these same resources. But the Coastal Act is not designed to allow a project to provide public access to a coastal park by destroying and paving the very resource that people seek to visit:

> [T]he basic goals of the state for the coastal zone are to... Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone *consistent with sound resources conservation principles.*

Pub. Res. Code § 30001.5 (emphasis added). Other provisions of the Act make clear that public access is not to be developed at the expense of fragile coastal resources. For example, Public Resources Code section 30212, in pertinent part, states:

> 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.*

Similarly, section 30210 provides "In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access...and recreational opportunities shall be provide for all the people *consistent with . . .the need to protect. . .natural resource areas from overuse.*"

Here, TCA's proposal for increasing public access is to run a highway through the coastal lands at issue – including ESHA, wetlands, and parklands – in a manner that is clearly not consistent with "sound resources conservation principles" or "the protection of fragile coastal resources."

Moreover, TCA has not shown the Toll Road will provide any meaningful public access benefit. Public access routes already exist from inland areas to San Onofre (e.g., SR 91 to 55 or 57 to I-5), and TCA presents no evidence that the park, which gets over 2.4 million visitors per year, has public-access problems due to traffic congestion. TCA's own application materials show that I-5 segments in the vicinity of San Onofre generally are at or below 50% of capacity during peak hours (i.e., at LOS B and C).[157] Segments of I-5 north of San Onofre are currently experiencing some deficiencies, but only in peak hour travel directions and locations that do not affect access to the park.[158]

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[157] TCA Submittal 5, Response to Coastal Staff Questions of April 30, 2007, Item 2, Memo: Traffic on I-5 South of Orange County/San Diego County Border, Table A.

[158] See FSEIR Figs. 3.4-1, 3.4-2.

With respect to projected future increases in traffic, weekday peak hour conditions on the segments of I-5 nearest San Onofre are projected in the FSEIR to remain "uncongested" even under the "No Action" alternative reflecting the most likely development scenario for the year 2025.[159] Outside the immediate vicinity, there is only one "deficient" mainline segment of I-5 (between Avenida Pico and El Camino Real) that could conceivably affect southbound visitors attempting to reach the park, and then only during peak AM and PM hours.[160] TCA has provided no data or analysis regarding the travel patterns of San Onofre users or the extent to which they are affected by peak-hour travel conditions. There is simply no evidence that the projected level of future congestion poses any barrier to public access to the park, or that any significant number of park users would consent to pay a toll when free routes are available. Moreover, as discussed in Section II above, any traffic benefits provided by the Toll Road can also be provided by environmentally superior alternatives such as widening the I-5.

Far from improving public access to the coast, the Foothill-South would in fact vastly *diminish* such access. As discussed in Section I above, the alignment of the Toll Road virtually assures the abandonment of the San Mateo Campground, a facility that enables *over 100,000 visitors per year* to access the park's shoreline at low cost, and was itself created as *Commission-mandated mitigation to offset lost coastal access and ensure compliance with the Coastal Act.* Under no conceivable interpretation of the Act can the destruction of this vital coastal access resource be justified by the desire to shave a few minutes off travel time to the park.

This Project does not come close to meeting the Coastal Act's policies regarding public access. Congestion relief can be provided as well or better by other alternatives and, in any event, cannot outweigh the Project's impacts on coastal access – much less the combined loss of public access, sensitive habitat, wetlands, and other coastal resources described in Section I.

2. Water Quality Claims.

TCA claims that the Foothill-South will advance Coastal Act policies relating to water quality by constructing new facilities that will treat pollution runoff from the existing I-5 corridor. But the San Mateo Creek, estuary, and beach have no known water-quality problem.[161] TCA fails to present any evidence that runoff from I-5 is having a significant impact on the water quality at San Mateo or Cristianitos Creeks or Trestles Beach. Indeed, the regional water quality control board has not identified any water bodies at San Onofre State Beach as impaired (i.e., failing to meet water quality standards).[162] The benefits to water quality would be insubstantial.

Moreover, contrary to TCA's assertion, Caltrans *can* be legally required to install treatment facilities on existing portions of I-5 by the Regional Board as a condition of its stormwater discharge permit, to the extent runoff is ever found to be causing a violation of a

[159] FSEIR at 3-19 (describing "Scenario 3" – buildout of circulation system plus development of 14,000 dwelling units at Rancho Mission Viejo – as most likely future scenario); Fig. 3.4-5 (showing weekday peak hour conditions for "No Project" alternative).
[160] FSEIR Fig. 3.4-4.
[161] *See* San Diego Regional Water Quality Control Board, *2006 Clean Water Act Section 303(d) List of Water Quality Limited Segments*, http://www.waterboards.ca.gov/tmdl/docs/303dlists2006/approved/r9_06_303dlist.pdf (last visited Sept. 7, 2007).
[162] *See id.*

water quality standard.[163] In addition, according to staff at the San Diego Water Board, Caltrans' existing permit already requires the installation of the very measures offered by TCA in the event that *any* improvements are made to the affected segment of I-5. The Caltrans Stormwater Permit explicitly requires "Storm Water Drainage System Retrofitting." Specifically, "Caltrans shall seek opportunities to retrofit the Storm Water Drainage System for water quality improvement *whenever a section of the rights-of-way undergoes significant construction or reconstruction.*"[164]

As discussed in Section I above, the water quality problem facing San Onofre is not the lack of detention basins for the small segment of I-5 that crosses the San Mateo Creek watershed. The real problem is the threat of an entirely *new* highway constructed along *miles* of this relatively undisturbed watershed. As discussed earlier, there is no evidence that the detention basins for the Toll Road are capable of mitigating the significant impacts of the Toll Road on the water quality of San Mateo Creek. The Project will not provide any benefits to coastal water resources; it will only degrade those resources.

3. Evacuation Route Claims.

One of the most specious arguments presented by the TCA is that the Foothill-South will provide an alternative evacuation route in case of a nuclear accident at SONGS or other disaster, and is therefore needed to promote a policy set forth in Section 30253 of the Coastal Act.

Section 30253 is inapplicable. That section states only that new development shall "minimize risks to life and property in areas of high geologic, flood and fire hazard." This simply requires that coastal-zone projects in high-hazard areas be designed to minimize their own safety risks. It in no way establishes a policy favoring the development projects in the coastal zone that purport to have some safety benefit.

Even if section 30253 were relevant, there is simply no evidence that construction of the Toll Road is required to address safety concerns at SONGS. Neither the owner and operator of SONGS (Southern California Edison, Inc. ("SCE")) nor the agencies responsible for assuring the plant's safety (the Nuclear Regulatory Commission and the Federal Emergency Management Agency) even submitted comments during the Project's environmental review, much less identified the Toll Road as necessary to ensure public safety.

Moreover, alternatives such as the AIP-R alternative discussed in the Smart Mobility Study would also provide significant alternative egress in the event of an I-5 closure. The AIP-R calls for the completion of Avenida La Pata to Antonio Parkway, an improvement that has been independently planned by the City of San Clemente.[165] In addition to providing this alternative

[163] *See* State Water Resources Control Board, *Caltrans Stormwater Permit,* Section C.1-1 at 10 ("[t]he discharge of storm water from a facility or activity that causes or contributes to the violation of water quality standards or water quality objectives (collectively WQSs) is prohibited").

[164] *Id.* at 15 (emphasis added); *see also* State Water Quality Control Board, *Fact Sheet for National Pollutant Discharge Elimination System for Storm Water Discharges*, Jul. 15, 1999, *available at* http://www.swrcb.ca.gov/stormwtr/docs/caltrans/caltranspmt.pdf (last checked Sept. 17, 2007).

[165] *See Smart Mobility 2007 Study* at 6; see also Figure 4-2, City of San Clemente 1992 General Plan Circulation Element showing La Pata Extension, http://san-clemente.org/sc/Inf/Plans/General/Wd04.pdf.

route, the AIP-R alternative would significantly expand the capacity of the *primary* evacuation route for southern Orange County – the I-5 – a benefit the Toll Road would clearly not provide.

There is no demonstrated public safety need for the Toll Road. Improved emergency egress, to the extent that it is relevant at all to the Coastal Act, can be provided by feasible alternatives to the Project without the need to destroy irreplaceable coastal resources. Public safety, like the other purported "benefits" of the Project, is another manufactured rationale designed to justify the Toll Road. It does not alter the Project's fundamental and fatal inconsistencies with the Coastal Act.

CONCLUSION

The Foothill-South Toll Road is one of the most destructive proposals in the State of California today. It would pave over ESHA, parklands, and wetlands; it would harm endangered and threatened species; and it would so degrade the surrounding areas as to render the San Mateo Campground unusable and threaten the water quality and surf conditions at world-famous Trestles Beach. This is exactly the type of project that the California legislature enacted the Coastal Act to prevent.

San Onofre State Beach is irreplaceable. But the Foothill-South is just one option – a bad one – for solving future traffic congestion. Feasible alternatives exist that would both solve traffic issues and protect our coastal resources. San Onofre, moreover, was meant to be preserved in perpetuity for future generations to enjoy.

On behalf of our organizations, and millions of members and activists they represent, we therefore urge the CCC to object to the consistency certification for the Foothill-South Toll Road.

Joel Reynolds
Senior Attorney
Director, Urban Program
Natural Resources Defense Council

Elizabeth Goldstein
President
California State Parks Foundation

Susan Jordan
Director
California Coastal Protection Network

Dan Silver, MD
Executive Director
Endangered Habitats League

Elizabeth Lambe
Regional Representative
Sierra Club

Mark Rauscher
Assistant Environmental Director
Surfrider Foundation

Brian Segee
Staff Attorney
Defenders of Wildlife

Scott Thomas
Conservation Director
Sea and Sage Audubon Society

Elisabeth M. Brown, Ph.D
President
Laguna Greenbelt, Inc.

Glenn Olson
Executive Director
Audubon California

cc: California Coastal Commission Staff

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September 21, 2007

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CALIFORNIA
COASTAL COMMISSION

Mr. Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94105

Re: Proposed Foothill-South Toll Road

Dear Commissioner Kruer:

The California State Park Rangers Association urges you to reject the application for the proposed Foothill-South Toll Road in Orange County. The proposed toll road would irrevocably harm San Onofre State Beach and would violate the provisions of the Coastal Zone Management Act.

San Onofre State Beach provides vital low-cost public access to the coast, including low-cost accommodations. Each year, millions of visitors come to the park to enjoy its scenic beauty and outstanding natural and cultural resources. The proposed project would reduce habitat for 11 special status species. The park is a sacred site for Acjachemen people. It is a statewide treasure that would be destroyed by this proposed project.

The California State Park Rangers Association is a professional organization of hundreds of State Park employees and retirees from all classifications within State Parks. We respectfully ask you to consider the future of San Onofre State Beach and reject the consistency application of the proposed project.

Sincerely,

Gail Sevrens
President

CC: California Coastal Commission staff

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September 19, 2007

Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

[Sent By FAX (415) 904-5400 - Attention Mark De La Plaine]

RE: Proposed Toll Road through San Onofre State Beach

Dear Chairperson Kruer and Members of the Commission:

I am writing to you on behalf of the Planning and Conservation League, a statewide environmental organization with thousands of members from throughout California. PCL played a key role in the passage of the Coastal Act, in 1976, and our members continue to place the very highest priority on coastal protection. The purpose of this letter is to urge you to reject the Coastal Zone Management Act consistency certification for the construction of a proposed Orange County toll road through San Onofre State Beach.

The proposal by the Transportation Corridor Agencies (TCA) to build the Foothill-South Toll Road through San Onofre State Beach is inconsistent with the Coastal Act. Building such a road would destroy one of Southern California's remaining stretches of coastal wildlands, degrade water quality, and change wave patterns at one of the most famous surf spots in the world. The construction of the toll road would destroy unique habitat for eleven threatened and endangered species and drive at least three species towards extinction.

San Onofre State Beach provides numerous low-cost recreational opportunities for over 2.5 million visitors each year, which means that it is one of the most popular state parks in the 278-park system. San Onofre's two campgrounds provide affordable overnight coastal accommodations for over 160,000 visitors each year. The proposed toll road will cause the closure of the San Mateo Campground and create even more pressure for affordable, overnight coastal access in southern California.

In addition to providing numerous recreational opportunities and protecting invaluable natural resources, San Onofre State Beach is also home to the Village of Panhé, located on the banks of San Mateo Creek. Members of the Juareño/Acjachemen people claim the Village as an ancestral site, which has been used for ceremonial purposes and as a reburial site. Honoring and respecting this site should be a priority for the Commission.

I urge you to protect San Onofre State Beach, and to deny a consistency certification to the Transportation Corridor Agencies' proposed Foothill-South Toll Road application. Thank you for taking our very strongly held views into consideration.

Very truly yours,

Gary A. Patton, Executive Director

1107 9th Street, Suite 360, Sacramento, CA 95814 Phone: 916-444-8726 Fax: 916-448-1789
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COASTAL COMMISSION

September 21, 2007

Chairman Patrick Krurer
California Coastal Commission
45 Fremont Street Suite 2000
San Francisco Ca. 94105

Re: Foothill South Transportation Corridor Coastal Consistency Certification

Dear Chairman Krurer and Commisioners,

Orange County Coastkeeper is a grassroots environmental organization with the mission to preserve, protect, and restore the coastal marine environment and watersheds of Orange County. We have reviewed the Coastal Consistency Certification and Analysis for the Foothill South Transportation Corridor submitted by the Transportation Corridor Authorities (TCA) and have the following comments:

1. **Water quality is not adequately protected:**
The water quality plan for the Foothill South Corridor is not well developed enough to ensure that water quality will not be degraded by the project. While TCA has focused attention on their planned detention basins and sand filters, These alone are inadequate to deal with the oil, grease, metals, trash and other pollutants that inevitably end up in the stormdrains. Conversations with CalTrans officials confirm that the TCA takes a build and run attitude toward road design. This is demonstrated by the improper installation of pollution controls on the San Juan Hills Tollroad where the filters the TCA installed eventually had to be removed due to frequent clogging and malfunctions leaving the environment at risk. Another example is the 261 toll road where the TCA designed the toll road so that dewatering must occur to keep it from breaking up rather than using a more expensive method that would "float" the road. This faulty design has resulted in thousands of gallons a day of water that is high in nitrate and selenium being discharged into Newport Bay, degrading Peters Canyon and San Diego Creek along the way and threatening wildlife and public recreation in all three waterbodies. Additionally the water quality plan does not adequately address the erosion that will occur in the cut and fill areas along the road. Planted vegetation, rather than natural vegetation, does not grow back to a point where it protects the soil from erosion. Additionally there is a void of controls designed for the bare ground underneath the elevated portions of the road.
2. **Endangered species are not adequately protected:**
Within the coastal zone, San Mateo Creek is home to three aquatic endangered species, the Arroyo Toad, Steelhead Trout, and Tidewater Goby. All of these species are very dependant on good water quality to survive. As an amphibian, the

Arroyo Toad spends a significant portion of its life in the water. Metals such as copper from brake pads and zinc from tires along with oil and grease are devastating to aquatic species and a direct threat to all freshwater and marine organisms. The building of a high capacity freeway adjacent to the creek will result in higher levels of metals in the creek and further threaten the Arroyo Toad. Steelhead trout are a migrating fish which must transit the Coastal Zone of the creek both to spawn upstream and to move into the ocean to feed. Since San Mateo Creek is an ephemeral stream that can only be transited during the rainy season, these fish are particularly vulnerable to the road pollutants that will be present in weather flows that bypass the planned pollution controls that are designed to only treat small amounts of runoff effectively. The added sediment created from both the multi-year construction period and from erosion caused by storm events after completion will present a serious threat to the small run present in this stream. The Tidewater Goby will be affected by the siltation discussed above, but additionally, will suffer from an absolute loss of habitat through wetlands destruction as part of the project.

3. Coastal Wetlands will be lost

Coastal wetlands are one of the most endangered habitats in California. This project will result in the filling of coastal wetlands and habitat loss. This is a violation of section 30233(a) of the Coastal Act as this fill is not part of an incidental public service purpose, there are feasible alternatives, and the proposed mitigation is insufficient. An incidental public service would be repairs or other minor alterations to an existing structure. The building of a six lane highway is hardly incidental. There are many feasible alternatives including widening the San Diego Freeway or choosing another route that more directly services the people who desire the tollroad such as the Pico Avenue route. The TCA proposes mitigation by creating wetlands in the San Juan Creek watershed. This not only does not replace the loss of the coastal wetlands taken but moves the wetlands to a completely different watershed from the one being destroyed.

In conclusion our analysis shows that the Foothill South Tollroad Coastal Consistency Certification and Analysis for the Foothill South Transportation Corridor is not consistent with the California Coastal Act and that the TCA should go through the full Coastal Development Permit process on order to protect the coastal resources in the project area

Sincerely,

Garry Brown
Executive Director
Orange County Coastkeeper

LEAGUE OF
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September 21, 2007

Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94205-2219

RE: Foothill-South Toll Road Consistency Certification

Dear Chairperson Kruer and Members of the Commission,

The League of Women Voters of San Diego County urges the CA Coastal Commission to not allocate a consistency certification to the Orange County Foothill Eastern Transportation Corridor Agency (TCA)for the proposed Foothill South Toll Road which would run through the heart of San Onofre State Park and Beach.

The League of Women Voters supports land use planning that recognizes land as a resource, and measures that promote water resources which are beneficial to the environment and meet current environmental and social demands.

The plan for Foothill-South Toll Road is one of the most environmentally destructive projects in California. The toll road would damage coastal wetlands, destroy wilderness habitat and the watershed would be spoiled by the water polluted in San Mateo Creek. Recreational opportunities of camping and surfing would also be impaired. The Commission's rejection of the consistency certification would protect the San Onofre State Park and Beach plus preventing a dangerous precedent for the intrusion into other CA state parks.

The LWV of San Diego County implores the Coastal Commission to utilize the federal Coastal Zone Management Act and CA Coastal Act to decline a consistency application to the Orange County TCA. San Onofre State Park and Beach is a vital part of our rich natural history and protecting it is important to our future generations.

Sincerely,

Nancy McCleary

Nancy McCleary
President
League of Women Voters of San Diego County
nanlar.mcc@att.net

CCRPA **California Cultural Resource Preservation Alliance, Inc.**

P.O. Box 54132
Irvine, CA 92619-4132

An alliance of American Indian and scientific communities working for the preservation of archaeological sites and other cultural resources.

September 18, 2007

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Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street Suite 2000
San Francisco, CA 94105-2219

Dear Mr. Kruer:

This letter is in regard to the TCA's application for the proposed toll road through San Onofre State Beach. We know that you will receive many letters in opposition to the proposed toll road alternative that will be built right through the middle of the park. These letters describe the wonderful environmental qualities of the campground and the outstanding surf that has made the Trestles surf break an important heritage resource. We appreciate these natural and heritage resources and lend our support to their preservation, however, we wish to express our concern regarding a significant heritage resource that will be impacted by the proposed toll road, the ethnohistoric and ethnographic village and cemetery of *Panhe* and the associated archaeological sites that comprise the San Mateo Archaeological District.

The archaeological site of *Panhe* and the associated archaeological sites (District) have been determined to be eligible for inclusion in the National Register of Historic Places under Criteria A and D. The District is eligible under Criterion A due to its contribution to broad and specific patterns of Juaneño history and under Criterion D due to its potential to provide important information regarding the prehistory of coastal southern California. Most important, however, is that *Panhe* is considered to be a sacred place by the Juaneño/Acjachemen Indians and is listed on the Sacred Sites Registry of the Native American Heritage Commission. The proposed toll road alternative will place pylons within the District that will support a toll road running over the sites. This will affect the values represented by the sacred site and Criterion A designations that are impossible to mitigate. It is tantamount to having a freeway over pass over Forest Lawn.

Although the Juaneño/Acjachemen descendants are fully integrated participants in modern society, it should be recognized that religion and traditional beliefs and practices persist even into our contemporary period, which otherwise has witnessed substantial changes in the lifeways of indigenous peoples. Like many other Native Americans, the Juaneño/Acjachemen suffered staggering losses of so much of their ancient way of life. Please do not approve this project which will adversely affect the last remaining ethnographic village and cemetery where the Juaneño/Acjachemen can recall their roots and practice traditional ceremonies.

Sincerely,

Patricia Martz

Patricia Martz, President cc: Mark Delaplaine

1263 E. Valley Rd, Santa Barbara, CA, 93108
Ph: 805-[illegible]1076
email: [illegible]@verizon.net

Sept. 25, 2007

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94[illegible]

RE: Foothill-South Toll Road [illegible]

Dear Chairperson Kruer and Members of the Com[illegible]

The Coastal Zone Management Act (CZMA) protects cultural, historical and habitat resources along the coast, which are of great importance to us. Due to severe impacts to these resources from the proposed Foothill-South toll road, the Commission must find inconsistency with the CZMA.

The toll road would have devastating consequences for the Native American sacred site, burial ground and ancient village Panhe and would seriously impair the ability of the Acjachemen people to practice their traditional cultural and religious ceremonies. Panhe is one of the few remaining Acjachemen sacred sites where the people can still gather for ceremony in an area that is secluded and exists in a pristine, natural state.

Specifically, the toll road would:

* Come within feet of the Acjachemen village and cemetery, thus severely and irreparably impacting the ceremonial use of the site. Currently the site is in a pristine natural state, the stars are easily visible at night and the noise level is generally low. However, if the toll road is built, the integrity of the site will be compromised and it will be difficult for Acjachemen people to engage in traditional religious practices at the site. (I have personally prayed and had ceremony there.)

* Increase public access to the village and surrounding cultural and archaeological districts, and consequently increase the potential for looting and vandalism. According to the toll road's own EIR, impacts to the San Mateo Archeological District "will be adverse, and cannot be mitigated to below a level of significance."

The impacts of the proposed toll road on the sacred site and traditional cultural district of Panhe should not be examined in a vacuum. By its own study the toll road will not significantly alleviate traffic between San Diego and Los Angeles. The long term impact of the toll road will not be decreased traffic, it will be increased development. If the toll road is built, it is only a matter of time before more and more of the land within this traditional cultural district will be developed, leaving the Juaneno people with fewer and fewer places to engage in traditional cultural practices.

Please protect Panhe and San Onofre State Beach by opposing the Foothill South Toll Road.

Sincerely,

Marcus V. Lopez, Co-Chair
Barbareno Chumash Council of
Santa Barbara, California

CC: Ronda Robles, Debra Sanchez

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Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
FAX is (415) 904-5400

RE: Foothill-South Toll Road CZMA Consistency Certification (Hearing Date, Oct. 11, 1007) – *OPPOSITION*

Dear Chairperson Kruer and Members of the Commission:

The Coastal Zone Management Act (CZMA) protects parks and habitat resources along the coast, which are of great importance to me. Due to severe impacts to these resources from the proposed Foothill-South toll road, the Commission must find inconsistency with the CZMA. The toll road would have devastating consequences for future generations of Californians, which would be averted by your denial. Specifically:

The Coastal Act simply does not allow a highway use within an environmentally sensitive habitat area (ESHA). Even if it were allowed, endangered species living along our coast would be pushed toward extinction, irreparably harming coastal resources. The mitigation proposed by the toll road agency is in an inland location that leaves the coast with a huge, and unallowable, disruption of ESHA.

Running the length of San Onofre State Beach, the toll road would irreparably harm unique, affordable coastal recreation. The San Mateo Campground would likely be closed due to adjacency to a 6-lane highway, which would severely degrade the now peaceful visitor experience. The loss of most of this state park is unacceptable given the increasing need for high quality coastal recreation.

Because cut and fill would destabilize steep canyons, and because mitigation measures are inadequate, erosion would alter the sediment formations that create the world famous waves at Trestles Beach, putting them in jeopardy. Water quality is excellent today, but may not remain so if the toll road is built.

Alternatives that save the park and its rare coastal habitats are available and practical. The good news is that the toll road agency grossly overestimated the number of structures that would be displaced by Interstate-5 improvements. These improvements are as good or better than the toll road for congestion relief.

It is important to preserve the natural resources and protected state coastal areas that provide recreational opportunities for working California families. Please reject the consistency application and protect the coast – according to the law – for generations to come.

Sincerely,

Serge Dedina, Ph.D.
Executive Director

U S A 925 Seacoast Drive, Imperial Beach, CA, 91932 USA • tel: 619.423.8665 fax: 619.423.8488
M E X I C O Avenida Televisión 911, Col. Juarez CP. 22040, Tijuana, Baja California, Mexico • TIJ: 664.231.3001 DF: 555.350.1886

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September 18, 2007

By Fax and U.S. Mail

Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street Suite 2000
San Francisco, CA 94105-2219

Dear Mr. Kruer:

I am writing on behalf of the California Turtle and Tortoise Club to implore you and the other commission members to vote to stop the Transportation Corridor Agencies (TCA) plan to build a toll road right through the middle of San Onofre State Beach.

California Turtle and Tortoise Club has worked to conserve California's native turtles and tortoises since 1964. The Club has 13 Chapters spread throughout California and over 200 of our members reside in Orange County. We are extremely concerned that putting this toll-road through the State Beach will not only deprive our members of the opportunity to fully enjoy the Park but will severely disrupt San Mateo Creek. This Creek and its watershed are home to Orange County's last population of the Western Pond Turtle, *Emys marmorata*. CTTC members do not want to see this increasingly imperiled species and coastal California's only native water turtle, disappear from Orange County.

Construction of the road would require enormous changes to the surrounding land, and severely degrade the Western Pond Turtle's creek and watershed habitat. In addition to impacting the Western Pond Turtle, San Mateo Creek is habitat for several species of listed fish, including the endangered steelhead trout, arroyo chub, and unarmored threespine stickleback that would be harmed by this project.

We believe that approving the toll road project is incompatible with the Commission's mission to "Protect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations." We hope that you will agree with us and you will vote to preserve the Park for its wildlife and for the public's continued enjoyment.

Sincerely,

Michael J. Connor, Ph.D.
Chairman

Sonoma/Petaluma State Historic Park Association, Inc.
P. O. Box 1702 #36 East Spain Street
Sonoma, California 95476
(707) 939-9420

Sept. 21, 2007

Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Dear Mr. Kruer,

As a State Parks cooperative association we are concerned about the proposed Foothill South Toll Road. San Onofre State Beach is the fifth most visited park in the state park system. It is one of the last relatively unspoiled coastal camping opportunities in Southern California.

The 6-lane Foothill South Toll Road would bisect the park, impacting 60% of the park's acreage, closing the most popular campground, endangering delicate eco-systems and wildlife, threatening Native American burial grounds, disrupting the watershed and endangering the world-class quality surf at Trestles.

Please STOP THE TOLL ROAD and keep from ruining San Onofre State Beach.

Thank you for your consideration,

MAM

Mary Ann Maslowski
President

cc: Mark Delaplaine

Save Our Heritage Organisation
Saving San Diego's Past for the Future
2476 San Diego Avenue · San Diego CA 92110 · www.sohosandiego.org
619/297-9327 · 619/291-3576 fax

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Bruce Coons,
Executive Director

Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street Suite 2000
San Francisco, CA 94105-2219

Dear Mr. Kruer:

The Transportation Corridor Agencies (TCA) plan to build a toll road directly through the middle of San Onofre State Beach that will ruin the park for generations to come. This park contains habitats of no less than eleven threatened and endangered species. The toll road will severely damage or destroy several Native American archaeological sites. The environmental and historical settings of the world famous Trestles Beach surf spot, the site of the first Christian baptism in California, and the remains of the 1880s ghost town of Forster would also be forever altered. The highway would cover 325 of the park's 2,000 acres in pavement.

Earlier this year, the mainstream environmental organization, American Rivers, declared San Mateo Creek to be the second most "Endangered Waterway" in the United States, specifically because of the proposed toll road. This creek is the home of several species of fish, including the endangered steelhead trout, arroyo chub, and unarmored threespine stickleback. Even the TCA's own engineers admit that construction of the road would require enormous changes in the surrounding land, and to the creek itself, forever altering the natural water flow and sediment of the creek. These proposed changes will destroy the beauty of one of our most precious state parks that are meant to be protected in perpetuity for the people of California.

We urge you to stop this egregiously destructive proposal when it comes to you in October.

Sincerely,

Bruce Coons
Executive Director

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Post Office Box 9256
Newport Beach, CA 92663-9256
949-399-3689

September 20, 2007

Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2218

Dear Chairman Kruer and Commission Members:

The Friends of Harbors, Beaches and Parks is a ten year old non-profit organization interested in preserving parks, open space and the valuable habitats and ecosystems in Orange County and beyond.

One of the most seriously damaging proposed road projects in this area is the extension of the Foothill Toll Road through San Onofre State Park. We urge you to vote to stop this damaging proposal when it comes before you on October 11.

This is an old idea which is out of line with current efforts to save and restore our river and park systems. Earlier this year, the American Rivers organization declared San Mateo Creek the second most "Endangered Waterway" in the United States, specifically because of the proposed toll road.

The Transportation Corridor Agency's own engineers admit that construction of the road would require enormous changes in the surrounding land, and to the creek itself, forever altering the natural water flow and sediment of the creek. All this while other agencies such as the Southern California Wetlands Recovery Project, an important 17 agency partnership to preserve and restore wetlands in the Southern California coastal area from Santa Barbara to San Diego, have recently provided funds for a fish ladder at the confluence of Interstate 5 and San Mateo Creek.

In addition to the egregious effect the toll road would have on the habitat, San Onofre is one of the most popular parks and beaches in the state. Since it was recognized as a State Beach in 1971, San Onofre has attracted surfers with its outstanding surf, quiet and accessible campground, and an environment that offers families the opportunity to experience the coast and nature in the middle of an otherwise overwhelmingly urban area.
Please help the growing consensus that this road is a bad idea and out-of-date idea.

Sincerely,

Jean H. Watt

Jean H. Watt, President, FHBP

Environment Now®

Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street Suite 2000
San Francisco, CA 94105-2219

Re: San Onofre State Beach

Dear Mr. Kruer:

San Onofre State Beach is one of California's most visited State Parks, with over two million visitors to the beach portion each year, and over one hundred and sixty thousand visitors to the park's two campgrounds. The Transportation Corridor Agency' s (TCA) plan to build a toll road right through the middle of the park will ruin its use and enjoyment for all of us, and for generations to come. *We urge you to vote to stop this damaging proposal when it comes before you in October.*

Environment Now is an activist non-profit foundation created in Southern California by Frank and Luanne Wells in 1989. Our mission is to be an active leader in creating measurably effective environmental programs to protect and restore California's environment. Our coastal program's objective is to eliminate pollution and stop degradation of California's coastal ecosystems. In 1993, Environment Now launched the Santa Monica Baykeeper, the first Waterkeeper in Southern California.

The proposed Foothill-South toll road in Orange and San Diego Counties is one of the most environmentally destructive transportation projects in California history. By running 4 miles down the length of San Onofre State Beach, the road would effectively destroy the interior of the park and close the San Mateo Campground. It would run through the Donna O'Neil Conservancy (previously set aside as mitigation for housing development), and drive at least three listed species (California gnatcatcher, arroyo toad, and Pacific pocket mouse) toward extinction. The good news is that there is a practical alternative – improving Interstate 5 and nearby streets.

Even the TCA's own engineers admit that construction of the road would require enormous changes in the surrounding land and to the creek itself. Such changes cannot help but affect wildlife and plants in the area, as well as the world-class surf at Trestles and the quality of the park in general.

This road will damage this important coastal wildlife and camping resource. I hope that you too, in your capacity as protectors of our coastline, will come to share that opinion. Please reject the application and protect the coast – according to the law – for generations to come.

Sincerely,

Terry O'Day Jr./ D7
Terry O'Day
Executive Director

Diane Forte
Diane Forte
Director of Sustainability Programs

2515 Wilshire Boulevard Santa Monica, CA 90403 tel 310.829.5568 fax 310.829.6820 environmentnow.org
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September 18, 2007

Mark Delaplaine
California Coastal Commission
45 Fremont Street Suite 2000
San Francisco, CA 94105-2219

Dear Mr. Delaplaine:

San Onofre State Beach is one of California's most visited State Parks, with over two million visitors to the beach portion each year, and over one hundred and sixty thousand visitors to the park's two campgrounds.

There are many reasons for the popularity of this beach and park. Since it was recognized as a State Beach in 1971, San Onofre has attracted surfers with its outstanding surf, quiet, accessible inland campground (in close proximity to the beach), and an environment that offers Southern California families the opportunity to experience the coast and nature in the middle of an otherwise overwhelmingly urban area.

The Transportation Corridor Agencies (TCA) plan to build a toll road right through the middle of the park will ruin that for all of us, and for generations to come. *We urge you to vote to stop this damaging proposal when it comes before you in October.*

Earlier this year, the mainstream environmental organization, American Rivers, declared San Mateo Creek to be the second most "Endangered Waterway" in the United States, specifically because of the proposed toll road. This creek is the home of several species of fish, including the endangered steelhead trout, arroyo chub, and unarmored threespine stickleback. Even the TCA's own engineers admit that construction of the road would require enormous changes in the surrounding land, and to the creek itself, forever altering the natural water flow and sediment of the creek. Such changes cannot help but affect wildlife and plants in the area, as well as the world-class surf at Trestles and the quality of the park in general.

In the final analysis, you must decide if the benefits of the toll road outweigh the damage that it will do to this important coastal wildlife and camping resource.

In my opinion they are not, and I hope that you too, in your capacity as protectors of our coastline, will come to share that opinion.

Sincerely,

Linda Carson

Linda Carson, Executive Director

cc: Patrick Kruer, Chair, California Coastal Commission

Earth Share
OF CALIFORNIA

September 17, 2007

Coastal Commission Chair Patrick Kruer
c/o Mark Delaplane, California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, California 94195-2219

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COASTAL COMMISSION

Dear Mr. Chairman:

The California Coastal Commission will soon deliberate on a request for the Foothill South Toll Road extension.

The Transportation Corridor Agency (TCA) is already on record for having submitted inadequate and/or inaccurate data to support their request, such as the Final Environmental Impact Report (FEIR), which failed to analyze adequately the environmental impacts of the toll road, properly analyze alternatives to that road and to identify suitable mitigations for the destruction of a state park. That is not surprising given that TCA is an agency whose sole purpose is to build toll roads no matter what the cost to the environment, to wit:

1. The 6-lane toll road would devastate the nearly pristine watersheds in the lower sections of the San Mateo Creek with massive amounts of paving and land disturbance, altering the natural sediment flows upon which Trestles Beach's superior wave formations depend.

2. Locating a multi-lane, limited access highway within a few hundred feet of a secluded campground, such as San Mateo Campground, will destroy the recreational value and sense of place of that campground and render it valueless.

3. The road would fragment and degrade habitat within the park at San Onofre for the steelhead trout, arroyo toad, California gnatcatcher, Least Bell's vireo, Southwestern willow catcher, Riverside fairy shrimp, San Diego fairy shrimp, snowy plover, Pacific pocket mouse, thread-leaved brodiaea and tidewater goby, all threatened or endangered species under federal law.

Because it so egregiously violates a multitude of provisions of the Coastal Act, the request should be denied and we urge the Commission to do so.

Thank

Signature on File

Flavio Ciferri
126 Calle Patricia #6
San Clemente, CA 92672
949-498-6999

Marinka Horack, 21742 Fairlane Circle, Huntington Beach, CA 92646

September 22, 2007

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COASTAL COMMISSION

California Coastal Commission – C/O Mark Delaplane
45 Fremont Street, Suite 2000
San Francisco, CA 94195-2219

RE: Strongly Opposed to Proposed Foothill South Toll Road in Orange County

Dear Commissioners:

As a Californian of 58 years standing, I strongly urge you to vote against the ill-conceived and environmentally destructive proposal to build the Foothill South Toll Road in Orange County. The proposed Foothill South Toll Road will not solve any traffic congestion problems, but in the long run it will only increase traffic dramatically. The toll road is mainly intended to open up the last magnificent wilderness area of south Orange County to development. Tens of thousands of housing units and millions of square feet of business space are being planned for that beautiful wilderness, which is the last of its kind in the world. It is these development plans that are driving the proposed toll road project. If you allow the toll road, tens of thousands more people will move in and the highways will be even more congested than they are today.

The open space of south Orange County is the last of its kind in the world. If it is developed, hundreds of California native plant and animal species will become extinct. As a child, I remember driving through this area of rolling golden hills and oak woodlands, and was enchanted by the beauty of its singular landscapes. Most of south Orange County is now developed. The open space is gone. Very little is left. And developers want that.

The failure of the San Joaquin (73) Toll Road is a strong warning of what can happen, yet developers hold so much influence in political circles that the toll road project is being bulldozed through.

In 1950, Orange County had a population of 216,224. It has grown today to the staggering number of more than 3,056,000 people. There has been no real planning for the last half-century, just laissez faire development, fueled by greed. The result is ugly urban sprawl and the horrendous daily traffic nightmare that we all endure. And the county's response is to continue to allow more and more development. In the name of civilized living, please vote against this toll road and save the little bit of wilderness we have left.

Signature on File

Sincerely,
Marinka Horack

RICK J. DELANTY
AMERICAN LANDSCAPE PAINTER
Acrylics & Watercolors

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COASTAL COMMISSION

Patrick Kruer
Coastal Commission Chair
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94195-2219

Chairman Kruer:

I look forward to your consideration of the proposed extension of Highway 241 through the San Mateo Campground and adjacent wetlands and Indian burial ground on October 11th. I thank you for the work the Commission has done so far to preserve open spaces, wetlands, and prevent further architectural development and blight along the sensitive acreage of the Southern California Coast.

I urge you and the other members of the Commission to deny the incursion of this road into this sensitive area that has been used for so long not only by California residents, but by visitors around the world, as a relief from the type of development and intrusion that the toll road will most certainly bring. The Final Environmental Impact Report as submitted by the Transportation Corridor Agencies has failed to define the significant—indeed, catastrophic-- damage that the Corridor will have on this open space, recreational area, and home for threatened wildlife. That failure will be borne out in the lawsuit presented by the Natural Resources Defense Council that will be heard in San Diego County. The voice of the Coastal Commission, in determining that the Toll Road is not in the best interests of the citizens of both San Diego and Orange counties, and is not the appropriate solution for the resolution of traffic congestion, would register most significantly in that future hearing. It would demonstrate the Coastal Commission's position that coastal lands should not be thoughtlessly destroyed in the name of economics and the business interests of the TCA.

Again, I urge you and the members of the Commission to deny the TCA's proposed incursion into this parkland by voting no on their proposed alignment and Toll Road extension of the 241.

Respectfully,

Signature on File

Rick J. Delanty
San Clemente resident of 33 years

Studio: 2510 Via Durazno, San Clemente, California 92673 • (949) 492-8995 • FAX same

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Deborah Koken
1778 Kenwood Place
Costa Mesa, CA 9

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South Coast Region
JAN 11 2007
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COASTAL COMMISSION

January 8, 2007

California Coastal Commission
45 Fremont St.
Suite 2000
San Francisco, CA 94105

Subject: Reject the Proposed Toll Road through San Onofre State Beach

Dear Chairwoman Caldwell and Commissioners:

The proposed Foothill-South Toll Road will destroy a world-famous California surfing destination, and convert a state park to a private parking lot. There is no justification for taking a park that belongs to the people of California and turning it over to TCA to create a private fee-only highway. Ronald Reagan stated that San Onofre State Beach "has its future guaranteed as an official state park." There is no justification for taking a clean wild stream, publicly owned park and wildlife habitat, and using it to build a toll road. I am certain that you will never use your authority to allow such an irrational act.

It is your responsibility to the citizens of California to preserve a unique and valuable property that belongs to us.

Sincerely

Signature on File

Deborah Koken
949-574-0333

ROBERT J. JORDAN
401 FIFTH STREET
CORONADO, CALIFORNIA 92118
(619) 522-9810

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COASTAL COMMISSION

Sept. 14, 2007

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: Foothill-South Toll Road CZMA Consistency Certification (Hearing Date, Oct. 11, 1007) - OPPOSITION

Dear Chairperson Kruer and Members of the Commission:

I want to express my concern and opposition to the new road you are considering.

As you know, the Coastal Zone Management Act (CZMA) protects habitat along the coast, which are of great importance to me. The proposed Foothill-South toll road would be devastating to the habitat AND have equally negative consequences for future generations of Californians.

Please remember that the Coastal Act does not allow a highway use within an environmentally sensitive habitat area. Even if it were changed to allow, endangered species living along our coast would be pushed to other areas which will stress other species. We must all find a way to live together, including animals.

I am sure people more familiar with the specifics of the engineering plan than I am can sway you one way or another. PLEASE vote against the measure since the law on this matter is clear and any changes will have adverse impacts to animal habitat AND to people. The land in question has tremendous value beyond simple real estate development or transportation corridors. Opens spaces and animal habitat enrich us all by simply being there.

I urge you to reject the application and abide by the law.

Sincerely,

Signature on File

Robert Jordan

Paul Koretz
107 No. Kings Road
Los Angeles, CA 90048
(323) 966-5942

September 20, 2007

Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street, Suite 200
San Francisco, CA 94105-2119

Dear Commissioner Kruer,

It is my sincere hope that the California Coastal Commission will find, as I have, that the planned extension of the 241 Toll Road is not consistent with preservation of our state's environment or coastal areas. This proposed toll road is, in fact, a direct threat to the continued preservation of eleven endangered species that inhabit the area of San Onofre and the Donna O'Neill Land Conservancy. Further it is not consistent with the continued commitment of the people of California to the preservation of our open land and wildlife through the systems of State Parks and Beaches as well as Land Conservancies.

Much of the wildlife in the area has already faced promised mitigation more than once. Since it was made a state park in 1971, San Onofre has been a haven for both our citizenry seeking an inexpensive vacation away from the rigors of urban life, as well as wildlife displaced by that ever-growing urban locales. The Donna O'Neill Land Conservancy has been a wildlife refuge since 1991, giving the Foothill-East TCA over a dozen years to find alternatives to their proposed toll road than cutting through these two havens. As a lifelong environmentalist and a former member of the Assembly Natural Resources Committee, I think it is more important to preserve our dwindling wildlife resources than to extend one more road.

The proposed toll road extension is not consistent with the goals and ideals we hold dear in the State of California. Please, add your voice to those saying no to this alignment of the proposed road. Thank you for your consideration.

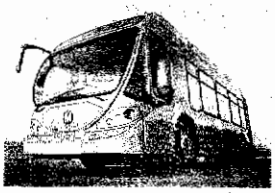
Sincerely,

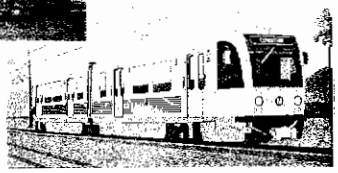
Signature on File

Assemblymember Paul Koretz (Ret.)

FROM: Marvin Backstrom
460 Ulysses St.
Los Angeles, CA 90065

TO: CHAIR PATRICK KRUER & COMMISSIONERS
CALIFORNIA COASTAL COMMISSION
45 FREMONT STREET, SUITE #2000
SAN FRANCISCO, CALIFORNIA 94105





Dear Coastal Commissioners,

I STRONGLY URGE YOU TO REJECT SOUTH ORANGE COUNTY TRANSPORTATION INFRASTRUCTURE IMPROVEMENT (SIC) PROJECT (SOCTIIP), A.K.A. "FOOTHILL SOUTH TOLLROAD" & ITS CURRENT APPLICATION FOR A COASTAL "CONSISTENCY PERMIT", OR FUTURE ATTEMPT TO GET A DEVELOPMENT PERMIT FOR 16 MORE MILES OF TOLLROAD... IN FACT, THIS TOLLROAD PROPOSAL DEFIES THE COASTAL ACT! PICK ANY OF DOZENS OF REASONS TO REJECT IT:

All tollroad alternatives would destroy significant natural, open space, & ruin coastal access. And gut San Onofre State Park- our 5th-most popular State Park (cutting it in half longways, making it impossible to maintain), destroy its primitive values, & obliterate public investment in campground infrastructure... including land originally bought to replace affordable campground space destroyed to build San Onofre nuke power plant. The same gutting would occur at the 1,200-acre Donna O'Neill Land Conservancy, also set aside as mitigation to allow development elsewhere.

Native Orange County's largest coastal village of *Panhe*, recorded by the 1769 Portola Expedition (now listed on the National Register of Historic Places, Native American Heritage Commission's Sacred Lands File, & Arch. Site CA-ORA-22) at the mouth of San Mateo Canyon, is still actively used for ceremonies, & for reburials by descendants of the Acjachemen Nation (a.k.a. Juaneno Indians conscripted to build San Juan Capistrano Mission). It would be unforgivable for the tollway to reach inside State Parkland to desecrate *Panhe*, one of their last few sites not already paved over.

Surfers & other Animals: The tollroad would destroy one of the last remaining large scale Coastal habitats critical for Endangered Species, including mammals, fish, & birds; for this reason, pilings for massive bridges the tollroad requires in San Mateo Creek wetlands are not allowable. Any construction in San Mateo Creek would also impact sediment flows that naturally maintain "Trestles"- "the Yosemite of Surfing"- where the creek meets the ocean. "Trestles" popularity is fantastic & worldwide- a frequent location for surf events from locals to large international pro competitions. It is irreplaceable- putting California's unique economy, culture, & history in harm's way just doesn't make sense.

Tollroads are Bad News: Unlike freeway capacity, tollroads are built to help rich people to get ahead; poor people can't use them. Tollroads' necessity to return a profit for private speculators makes any public benefit they may do secondary. Worse, the tollroad authority's "Non-Compete Agreement" means CalTrans cannot legally make improvements to other parallel roads or alternative transportation systems that eliminate their manufactured "purpose and need" for the tollroad! Despite this, Orange County tollroads have a pathetic financial track record (one nearly bankrupted the Authority, another cut back in size due to lack of demand). But should they fail, the State would have to pick up the pieces! Even if this tollroad were to be built, it would be unable to meet a fraction of the needs that necessary improvements to I-5 would bring- especially carpool (H.O.V.) lanes.

Transit Not Tollroads! The application rejects Transit alternatives by using O.C.T.A.M3.1's model for 2025 (50% more service, but No new local routes)(plan for a disaster!), blaming the victim (since O.C.T.A. failed to produce a light rail project we won't consider that), assuming & setting aside the obvious from discussion (the I-5 upgrades that must be done anyway), and offloading regional transportation mode responsibility on Southern California Association of Governments... (Translation: We're going to build our tollway for our profits where we want, like it or not, and somebody else can pick up the pieces around us!)

If moving people- not private cars- is our mobility goal, there would be no more tollroads. Investments in OCTA Busses' frequency, connecting MetroLink/ Coaster trains, Amtrak Surfliners, bicycle routes, and compact mixed-use pedestrian-oriented communities with a jobs/ housing balance would be our priority if the long-term planning window was 150 years. Habitat protection would limit & concentrate development + penalizing ex-urban sprawl if a pre-active approach to "Peak Oil" or slowing global warming were taken seriously...

TODAY, YOU AS A COASTAL COMMISSION MEMBER HAVE THE CHANCE TO SAVE DECADES OF WASTED TIME & MONEY ($875 MILLION & CLIMBING) FROM BEING SPENT ON BAD INFRASTRUCTURE CHOICES BY ENDING THE "FOOTHILL SOUTH" TOLLROAD RIGHT HERE & NOW- CAN I COUNT ON YOU TO DO THAT TODAY?

VERY TRULY YOURS,

Signature on File

FOR
OCTOBER CCC MEETING
CC-18-07

Henry Agonia
Peter Dangermond Jr.
Donald Murphy

August 24, 2007

Patrick Kruer, Chair
California Coastal Commission
c/o The Monarch Group
7727 Herschel Ave.
La Jolla, California 92037

Re: Proposed Toll Road through San Onofre State Beach
COPY PROVIDED TO COASTAL COMMISSION STAFF

Dear Commissioner Kruer:

As former California State Park Directors, representing a wide diversity of previous administrations, we urge you to deny the Coastal Zone Management Act application before you regarding construction of a proposed Orange County toll road through San Onofre State Beach.

We understand the myriad challenges facing California as the state grows. Each of us, as former Directors of the Department of Parks and Recreation, oversaw the management, operation and growth of a sizeable state park system, even in the face of other infrastructure needs. Yet protection of the state's natural resources – which includes our world-renowned coastline – is as critical now as it was under our stewardship. State parks are established to preserve California's natural and cultural heritage and to provide meaningful outdoor recreation opportunities for its citizens. They are essential to the physical and mental health of our residents as well as future generations of Californians. They are **not** set aside to provide future highway corridors for local transportation agencies and their parochial needs.

The fact that the land at San Onofre State Beach has been leased from the federal government does not change the fact that San Onofre State Beach has been an important part of the State Park system for 35 years. There are still 14 years left on the 50 year lease and the Department of Park and Recreation's long term understanding with the Marine Corps has been that the lease would be renewed in 2021 when the current agreement is set to expire.

Over 3.5 million people visit San Onofre State Beach each year. It has become an essential part of the outdoor recreation supply system in a highly populated area of California. The San Mateo Creek, coastal wetland and the Trestles surf beach at the creek's mouth are pristine examples of California's diminishing coastal resources. The proposed toll road would come so close to the popular San Mateo campground that it would be rendered unusable.

The toll road agency (TCA) has not explored other viable alternatives to San Onofre, such as widening I-5 and its arterials. These alternatives must be adequately explored and studied.

This is not the first time that a major highway or bridge has threatened a State Park. Both Gold Beach at Prairie Creek Redwoods and the mouth of Tahoe's Emerald Bay have been threatened by major projects. In each case, high level intervention to insure that these state parks remained pristine for people to enjoy to this day.

The precedent-setting loss of San Onofre State Beach would send shock waves across the nation and threaten the very concept of perpetuity, central to the American park idea. We urge the Commission to use its influence and political stature as a protector of the California coast to deny the TCA's consistency application and provide much-needed leadership in protecting San Onofre State Beach.

Yours truly,

Donald W Murphy

Donald Murphy (1993-1997)

Henry Agonia

Henry Agonia (1987-1992)

Peter Dangermond

Peter Dangermond Jr. (1980-1982)

cc. Commissioner Achadjian
Commissioner Blank
Commissioner Burke
Commissioner Clark
Commissioner Hueso
Commissioner Kram
Commissioner Neely
Commissioner Potter
Commissioner Reilly
Commissioner Shallenberger
Commissioner Wan
Peter Douglas, Executive Director
Governor Arnold Schwarzengger
Director Ruth Coleman, California State Parks

League of Conservation Voters
SAN DIEGO COUNTY

Hon. Commissioners
Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street Suite 2000
San Francisco, CA 94105-2219

September 13, 2007

cc: Mark Delaplaine

Dear Chair Patrick Kruer and Commissioners:

The League of Conservation Voters, San Diego County, a local affiliate of the nonpartisan California League of Conservation Voters, works to elect pro-environment candidates and promotes environmental policy positions protective of the region's natural resources. With this correspondence, the League informs you it has voted to oppose the proposed sixteen-mile "Foothill South" 241 toll road extension through San Onofre State Park. We urge the Commission to reject the application in its entirety.

That this project is environmentally destructive is beyond question. The toll road's environmental impact report acknowledges that all of the proposed alternatives will be devastating to the environment, and the selected route is only slightly less harmful than other routes. The fact that the project sponsors have secured from Congress an exemption from the usual environmental approvals further reflects the hollowness of arguments that the project is benign to the environment.

The polluting, noisy six-lane highway would be constructed directly above hundreds of campsites at San Mateo campground, a popular public park where thousands of families can and do enjoy an inexpensive few days near the coast. From there, many walk to Trestles, a beach revered worldwide for its wave quality.

Our parks are not mere reserves to be held in trust until commercial enterprises choose to use them as thoroughfares. The alleged need for this highway derives from Orange County's refusal to adopt and implement smart growth strategies, such as centralized urban densities and viable public transportation opportunities. Instead, the County continues to sprawl beyond suburbs and into rural lands, as it has for fifty years, with the automobile as the only option for travel through the region.

It is understandable some motorists in Orange County think increased highway capacity is the best way to address idling traffic. But, the better long-term solution is smarter planning by Orange County's municipal and County governments, which seem stuck in a defunct planning model from the 1950's (outlying developments and more freeways). Rather than build infrastructure that balances the challenges of open space and recreation, air pollution, transportation, employment, and housing, the antiquated paradigm persists.

Should our precious park and open space be sacrificed so well-to-do commuters in new suburban developments can speed along on their semi-private toll road while others drive the I-5? The toll road is regressive social policy, not only because it will require hundreds of dollars to drive monthly, but also because the toll road agency has a contract which precludes improvements on the I-5 to induce motorists to drive the toll road!

PO Box 86720 • San Diego, Ca 92138 • Phone (619) 687-1897

League of Conservation Voters
SAN DIEGO COUNTY

If this toll road is built, hundreds of acres of natural habitat will be lost forever. The highway, even with the promised mitigations, will pollute the air, create significant traffic noise where people now enjoy camping, and pollute the water of currently pristine San Mateo creek with runoff from thousands of cars, trucks and motorcycles.

Further, lanes of the I-5 as well as city streets will be closed during years of construction, while pile drivers pound the earth day and night. The claim that campsites will not be destroyed is disingenuous – the campsites may still be there, but the experience will be lost.

The Transportation Corridor Agency boards, which were created to build and operate toll highways within Orange County, have no representation whatsoever from San Diego County, yet the park and toll road are in San Diego County. This project altogether lacks public support in San Diego (even the San Diego Labor Council voted not to support it) and is opposed by many in Orange County as well.

There's a dearth of coastal camping areas on the Southern California coast, and developments that further diminish our remaining natural areas should not be approved. Please vote to maintain the integrity of our splendid San Onofre State Park by rejecting the toll road.

Sincerely,

Jamie Anne Gonzalez

Jamie Anne Gonzalez
President, League of Conservation Voters San Diego

The League of Conservation Voters San Diego is a 501c4 political organization. Contributions are not deductible for federal or state income tax purposes. ID# 941659

PO Box 86720 • San Diego, Ca 92138 • Phone (619) 687-1897

John P. Kelly, PhD
Cypress Grove Research Center
P. O. Box 808, Marshall, CA 94940
e-mail: kellyjp@egret.org

September 8, 2007

RECEIVED
SEP 11 2007
CALIFORNIA
COASTAL COMMISSION

Mark Rauscher
Assistant Environmental Director
Surfrider Foundation
PO Box 6010
San Clemente, CA 92054

Dear Mr. Rauscher,

I have been advised that you are interested in comments on the proposed toll road near Trestles by people from outside Southern California who use the natural area and beaches of San Onofre State Park. I live in Marin County, California, and I am personally concerned about the potential threats of the proposed toll road on the natural values of the San Mateo Creek watershed.

I have surfed Trestles and associated reefs for decades, with my earliest visits before it's designation as a State Park. In the late 1970s, I moved to northern California where I work as a full-time ecologist and director of a small research facility in Marin County. My scientific work focuses on the ecology of coastal and estuarine birds. I continue to visit Trestles regularly during vacations, camping in the San Mateo Campground with my family. We love to surf all the reef breaks in the Trestles area. However, it is not only the top-quality surf that keeps us returning, year after year, to San Onofre State Park, but also the relatively pristine and natural quality of the watershed. Our visits hinge largely on the unique opportunity to camp in a relatively undisturbed coastal watershed in Southern California. We appreciate the diversity of habitat conditions, including the riparian vegetation along the creek and the small coastal lagoons along the beaches, and we continuously bird the area, listening for Least Bell's Vireo and other southern California rarities during our visits. I build surfboards in my spare time and the increasing occurrences of Black Skimmers foraging for fish along the surface of the lagoons and nearshore waters at Trestles have inspired me to glass a skimmer "logo" into all of the surfboards I have produced in the last several years. Although we don't live in Southern California we have a special affinity to Trestles.

The potential impacts of the proposed toll road on stream sediment loads and, consequently, on the water quality, the hydro-geomorphology of coastal lagoons, stream beds, and riparian habitat, the health of the cobble-stone reefs, and the quality of the best waves in Southern California, all threaten to degrade the values that inspire our continuing use of the area. I hope that the relatively pristine quality of the area can be preserved. Thank you for your continuing work to protect this watershed.

Sincerely,

John P. Kelly, PhD
(Director of Conservation Science and Habitat Protection, Audubon Canyon Ranch)

CC: Chairman Patrick Kruer, California Coastal Commission

RECEIVED
SEP 19 2007
CALIFORNIA
COASTAL COMMISSION

September 19, 2007

Chairman Patrick Kruer
California Coastal Commission
45 Freemont Street, Suite 2000
San Francisco, California 94105

Dear Chairman Kruer:

I am writing to ask the Coastal Commission to approve the Transportation Corridor Agency's application for Coast Consistency Certification for the completion of the 241 Toll Road linking my community to Interstate 5. Here are some of my reasons:

1) I live in a high fire danger area. Currently, if a major wildfire occurred fueled by extremely dry brush and Santa Ana winds, I don't know if the 40-50 thousand people living from Rancho Santa Margarita to Ladera Ranch would be able to escape fast enough, through already congested city streets. Right now, with the limited road access we have available we need the toll road to link us directly to I-5.
2) This project has been studied for nearly 30 years and every effort has been made to sidestep sensitive environmental areas. Currently, runoff from I-5 goes directly into the ocean with no treatment whatsoever. TCA has included unprecedented mitigation measures including sophisticated runoff water treatment facilities to protect and enhance the water quality at beaches from Doheny to San Clemente.
3) Some people have said that they fear more people will access the beach if the road is built. As a lifelong California resident and taxpayer I resent using environmental laws to prevent or inhibit my ability to access California's public resources.
4) The campground which some claim is a state park is in fact not owned by the state but leased from the federal government. It is used largely as a place to hook up the camper while the family treks down to the beach. It is not Yosemite. Significant noise and visual mitigation measures are in place. Furthermore, the campground is generally populated at night, during the summer. This is the time when the toll roads are usually virtually empty. It will not be like camping next to I-5, which the current beach-side campers seem to be able to accept.
5) This project is strongly supported by the local community. The opposition is largely from outsiders who seek to stop any project near the ocean or open areas, regardless of how badly it is needed or how well planned.

I sincerely hope that you and the Commissioners see beyond the hype put forth by a few, in favor of the considerable benefit to the many.

Sincerely,

Margaret M. Waters
109 Strawflower
Ladera Ranch, CA 92694

Karen's **EXTREME** *Cuisine*
Catering

an Estremo Enterprises Inc. company

RECEIVED
SEP 19 2007
CALIFORNIA
COASTAL COMMISSION

September 20, 2007

California Coastal Commission
Attn: Patrick Kruer, Chairman
45 Freemont Street, Ste. 2000
San Francisco, CA 94105

RE: 241 Toll Road completion

Dear Mr. Kruer,

I support the completion of the 241 Toll Road and am writing to urge you to approve the project's application for Coastal Consistency Certification. The road will provide a much-needed alternative to Interstate 5. As a part of my business, delivering meals to my clients in a timely fashion is sometimes not possible due to congested freeways. Not only would an alternate route help me to do my job more effectively, but in an emergency, it could literally save lives. If you have ever been on the 5 when it gets backed up, you'll know what I'm saying. The 5 does not provide enough lanes to handle the flow of traffic.

I use the Toll Roads extensively, and I really appreciate the time it saves me in my daily routine. A trip to see my niece in Rancho Santa Margarita is 15 minutes via Toll Roads, but would be 45 minutes or more via surface streets, and sometimes an hour or more on freeways. The money it costs is negligible, and I would happily continue to pay it to have the time to enjoy my life.

The Transportation Corridor Agencies have a successful environmental record. The agencies have taken great care to ensure that this road will be built with sensitivity to the environment. Please approve this important project.

Sincerely,

Karen Estremo

5205 E. Orangethorpe Avenue
Anaheim, CA 92807

714.777.9876
fax 714.777.9809

September 14, 2007

Patrick Kruer, Chair
California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA
94105-2219

Dear Commissioners:

This is my first communication with the Commission, although I worked to create the Coastal Commission in 1971 and subsequently collected signatures for Proposition 20 to enact the CCC via initiative. I'm asking you to reject the proposed 241 toll road through San Onofre State Park in San Diego County.

I've camped at San Onofre's San Mateo campground several times, but I can't imagine returning with a noisy, polluting six-lane highway perched above the site. The park is an affordable place where families can enjoy a night near the coast without paying Ritz Carlton prices.

This magnificent park must not be compromised just so Orange County can continue to approve more suburban sprawl.

The toll road advocates see only old planning ways - more suburban sprawl and freeways, which leads to yet more sprawl, pollution, and traffic congestion. The toll road agency is comprised of Orange County local government officials who approved much of the development that results in the traffic of which they now complain. They seem to know the price of everything and the value of nothing.

There are other viable options for improving transportation in Orange County, but the toll road authority insists on the most environmentally destructive option.

Please vote to protect our coast and reject this highway though our park. This goes to why we created the CCC.

Sincerely,

Bill Collins

Bill Collins
PO Box 1267
Pacifica, CA. 94044

September 13, 2007

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: Foothill-South Toll Road CZMA Consistency Certification (Hearing Date, Oct. 11, 1007) – *OPPOSITION*

Dear Chairperson Kruer and Members of the Commission:

The Coastal Zone Management Act (CZMA) protects park and habitat resources along the coast, which are of great importance to me. Due to severe impacts to these resources from the proposed Foothill-South toll road, I believe that the Commission should find the proposed project **inconsistent** with the goals and objectives of the CZMA. The toll road would have devastating consequences for future generations of Californians, which would be averted by your denial. Specifically:

- The Coastal Act simply does not allow a highway use within an environmentally sensitive habitat area (ESHA). Even if it were allowed, endangered species living along our coast would be pushed toward extinction, irreparably harming coastal resources. The mitigation proposed by the toll road agency is in an inland location that leaves the coast with a huge, and unallowable, disruption of ESHA.

- Running the length of San Onofre State Beach, the toll road would irreparably harm unique, affordable coastal recreation. The San Mateo Campground would likely be closed due to adjacency to a 6-lane highway, which would in any case severely degrade the now peaceful visitor experience. The loss of most of this state park is unacceptable given the increasing need for high quality coastal recreation.

- Because cut and fill would destabilize steep canyons, and because mitigation measures are inadequate, erosion would alter the sediment formations that create the world famous waves at Trestles Beach, putting them in jeopardy. Water quality is excellent today, but may not remain so if the toll road is built due to both direct and indirect and cumulative effects.

- There are alternatives that save the park and its rare coastal habitats: they are available and practical. The good news is that the toll road agency grossly overestimated the number of structures that would be displaced by Interstate-5 improvements. These improvements are as good or better than the toll road for congestion relief.

Please reject the consistency application and protect the coast – according to the law – for generations to come.

Sincerely,

JRBradley & Rebecca Bradley

John and Becky Bradley, 4958 Bosworth Ct., Newark, CA 94560

Sept. 13, 2007

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: Foothill-South Toll Road CZMA Consistency Certification (Hearing Date, Oct. 11, 1007) - OPPOSITION

Dear Chairperson Kruer and Members of the Commission:

I am concerned about this toll road ruining a sensitive coastal area where I regularly enjoy riding my bike and spending time with my family. Please consider the devastating impact that this project would have on a fragile environment. Alternatives are available.

The Coastal Zone Management Act (CZMA) protects park and habitat resources along the coast, which are of great importance to me. Due to severe impacts to these resources from the proposed Foothill-South toll road, the Commission must find inconsistency with the CZMA. The toll road would have devastating consequences for future generations of Californians, which would be averted by your denial. Specifically:

The Coastal Act simply does not allow a highway use within an environmentally sensitive habitat area (ESHA). Even if it were allowed, endangered species living along our coast would be pushed toward extinction, irreparably harming coastal resources. The mitigation proposed by the toll road agency is in an inland location that leaves the coast with a huge, and unallowable, disruption of ESHA.

Running the length of San Onofre State Beach, the toll road would irreparably harm unique, affordable coastal recreation. The San Mateo Campground would likely be closed due to adjacency to a 6-lane highway, which would severely degrade the now peaceful visitor experience. The loss of most of this state park is unacceptable given the increasing need for high quality coastal recreation.

Because cut and fill would destabilize steep canyons, and because mitigation measures are inadequate, erosion would alter the sediment formations that create the world famous waves at Trestles Beach, putting them in jeopardy. Water quality is excellent today, but may not remain so if the toll road is built.

Alternatives that save the park and its rare coastal habitats are available and practical. The good news is that the toll road agency grossly overestimated the number of structures that would be displaced by Interstate-5 improvements. These improvements are as good or better than the toll road for congestion relief.

Please reject the consistency application and protect the coast - according to the law - for generations to come.

Sincerely,

Susie A. Murphy
718 Elm Ave.
Chula Vista, CA 91910

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

September 13, 2007

RE: Opposition to Foothill-South Toll Road CZMA Consistency Certification (Hearing Date, Oct. 11, 1007)

Dear Chairperson Kruer and Members of the Commission:

For the reasons I will list below, The California Coastal Commission should reject the consistency application for the Foothill-South Toll Road. The proposed alignment of the Foothill-South Toll Road would create serious impacts to coastal resources that are inconsistent with the Coastal Zone Management Act (CZMA).

The toll road would severely degrade environmentally sensitive resources and impact their enjoyment for future generations of Californians, which would be averted by your denial. Specifically:

- The Coastal Act simply does not allow a highway use within an environmentally sensitive habitat area (ESHA). Even if it were allowed, endangered species living along our coast would be pushed toward extinction, irreparably harming coastal resources. The mitigation proposed by the toll road agency is in an inland location that leaves the coast with a huge, and unallowable, disruption of ESHA.

- Running the length of San Onofre State Beach, the toll road would irreparably harm unique, affordable coastal recreation. The San Mateo Campground would likely be closed due to adjacency to a 6-lane highway, which would severely degrade the now peaceful visitor experience.

- Because cut and fill would destabilize steep canyons, and because mitigation measures are inadequate, erosion would alter the sediment formations that create the world famous waves at Trestles Beach, putting them in jeopardy. Water quality is excellent today, but won't be if the toll road is built.

- Alternatives that save the park and its rare coastal habitats are available and practical. The good news is that the toll road agency grossly overestimated the number of structures that would be displaced by Interstate-5 improvements. These improvements are as good or better than the toll road for congestion relief.

Please reject the consistency application and protect the coast.

Sincerely,

Norbert Riedy
POB 788
Pescadero, CA 94060

Sept. 15, 2007

Byron Anderson
835 Loquat Ct.
El Cajon, CA 92020

Patrick Kruer, Chair
ATTN: Mr. Mark Delaplaine
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RECEIVED
SEP 17 2007
CALIFORNIA
COASTAL COMMISSION

RE: Foothill-South Toll Road CZMA Consistency Certification (Hearing Date, Oct. 11, 1007) – *OPPOSITION*

Dear Chairperson Kruer and Members of the Commission:

The Coastal Zone Management Act (CZMA) protects park and habitat resources along the coast, which are of great importance to me. Due to severe impacts to these resources from the proposed Foothill-South toll road, the Commission must find inconsistency with the CZMA. The toll road would have devastating consequences for future generations of Californians, which would be averted by your denial. Specifically:

- The Coastal Act simply does not allow a highway use within an environmentally sensitive habitat area (ESHA). Even if it were allowed, endangered species living along our coast would be pushed toward extinction, irreparably harming coastal resources. The mitigation proposed by the toll road agency is in an inland location that leaves the coast with a huge, and unallowable, disruption of ESHA.

- Running the length of San Onofre State Beach, the toll road would irreparably harm unique, affordable coastal recreation. The San Mateo Campground would likely be closed due to adjacency to a 6-lane highway, which would severely degrade the now peaceful visitor experience. The loss of most of this state park is unacceptable given the increasing need for high quality coastal recreation.

- Because cut and fill would destabilize steep canyons, and because mitigation measures are inadequate, erosion would alter the sediment formations that create the world famous waves at Trestles Beach, putting them in jeopardy. Water quality is excellent today, but may not remain so if the toll road is built.

- Alternatives that save the park and its rare coastal habitats are available and practical. The good news is that the toll road agency grossly overestimated the number of structures that would be displaced by Interstate-5 improvements. These improvements are as good or better than the toll road for congestion relief.

Please reject the consistency application and protect the coast – according to the law – for generations to come.

Sincerely,
Byron Anderson