CALIFORNIA COASTAL COMMISSION
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105- 2219
VOICE (415) 904- 5200
FAX (415) 904- 5400
TDD (415) 597-5885

W 11a

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STAFF REPORT: REGULAR CALENDAR

Consistency Certification No.:	**CC-0003-15**
Applicant:	**San Diego Association of Governments**
Location:	San Diego River Railroad Bridge, City of San Diego, San Diego County (**Exhibits 1 and 2**)
Project Description:	Replace existing single-track railroad bridge with a new 918-foot-long double-track bridge over the San Diego River at Mile Post (MP) 263.8, add a 0.9 mile-long-segment of second main track between MP 263.2 and MP 264.1, and construct signal, utility, and drainage improvements between MP 262.3 and 265.2.
Staff Recommendation:	Concurrence

SUMMARY OF STAFF RECOMMENDATION

The San Diego Association of Governments (SANDAG) has submitted a consistency certification to add a 0.9-mile segment of double-track to the existing Los Angeles to San Diego (LOSSAN) railroad corridor between mile posts 263.2 and 264.1 in San Diego, and replace the existing single-track Bridge 263.8 over the San Diego River with a 918-foot-long double-track bridge. The proposed project would connect existing double-track segments to the north and south of the project location. Project elements include the double-track segment, the new double-track bridge, temporary realignment of a segment of the Ocean Beach bicycle path during bridge

construction, and railroad signal, utility, and drainage improvements. Construction is scheduled to commence in early 2016 and last approximately three years.

The project site contains wetland and riparian habitat. A portion of the project would involve fill of wetlands, triggering the three-part test of Section 30233(a) of the Coastal Act. Project activities would not permanently affect wetland and riparian habitat but would create temporary impacts to 1.92 acres of those habitats that would last long enough to be considered permanent. The project includes off-site mitigation by restoring and enhancing wetland and riparian habitat, and associated monitoring, maintenance, success criteria, and reporting requirements. The project also includes on-site revegetation of areas disturbed by construction activities. The project is consistent with the wetland fill alternatives and mitigation tests but is not consistent with the allowable use test of Section 30233(a) because the project would involve fill of wetlands for a purpose that would, cumulatively and over time, increase the capacity of the LOSSAN corridor (and thus is not an incidental public service). Therefore, the project can only be found consistent with the Coastal Act through the "conflict resolution" provision contained in Section 30007.5.

The project includes adequate measures to protect water quality and would reduce automobile congestion, vehicle miles traveled, energy consumption, air emissions, and the discharge of pollutants into nearby water bodies. The proposed project would also maintain and enhance public access by expanding the rail line used by SANDAG and other rail services, which in turn helps to reduce automobile traffic on I-5 in an area where this freeway supports public access and recreation. Therefore, the project is consistent with the water quality, air quality, energy conservation, and public access and transit policies of the Coastal Act (Sections 30231, 30232, 30253, 30210, and 30252).

Not only is the proposed project consistent with those policies, but some of the benefits that the project would provide are mandated by those provisions, such that denial of the project would be inconsistent with some of those policies, and those benefits are not independently required by any other law and could not be achieved through any other project that is fully consistent with Section 30233. Thus, the project creates a conflict between the allowable use test of the wetland policy and the public access and transit, water quality, air quality, and energy conservation policies of the Coastal Act. The project is similar to a number of previous SANDAG double tracking projects that the Commission concurred were consistent with the California Coastal Management Program using the conflict resolution section of the Coastal Act. Staff is recommending a similar approach in this case, recommending that Commission concur with this consistency certification because the project requires invocation of the conflict resolution policy of the Coastal Act (Section 30007.5) and would, on balance, be most protective of significant coastal resources.

Commission staff recommends **concurrence** with CC-0003-15. The motion to implement this recommendation is found on Page 4, below.

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I. APPLICANT'S CONSISTENCY CERTIFICATION

The San Diego Association of Governments (SANDAG) has certified that the proposed activity complies with the California Coastal Management Program and will be conducted in a manner consistent with that program.

II. MOTION AND RESOLUTION

Motion:

*I move that the Commission **concur** with consistency certification CC-0003-15.*

Staff recommends a **YES** vote on the motion. Passage of this motion will result in an agreement with the certification and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

Resolution:

*The Commission hereby **concurs** with consistency certification CC-0003-15 by SANDAG on the grounds that the project is consistent with the enforceable policies of the California Coastal Management Program.*

III. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The San Diego Association of Governments (SANDAG) proposes to add a 0.9 mile segment of double-track to the existing Los Angeles to San Diego (LOSSAN) corridor between mile posts 263.2 and 264.1 in San Diego, and replace the existing single-track Bridge 263.8 over the San Diego River with a 918-foot-long double-track bridge (**Exhibits 1 and 2**). The proposed project would connect existing double-track segments to the north and south of the project location. The track segment north of the San Diego River and the bridge crossing of the river are located within the coastal zone, and the approximate 1,200-foot-long track segment south of the river is outside the coastal zone.[1] SANDAG forecasts train operations through this segment of the LOSSAN corridor to increase by an additional 51 trains on an average weekday by the year 2030. SANDAG states that upon completion the project will alleviate schedule delays that occur immediately north and south of the project site, provide on-time performance benefits, reductions in total trip time for passenger and freight service, reduced maintenance costs, and creation of additional operational flexibility along the LOSSAN corridor.

The proposed project includes the following elements:

[1] The coastal zone boundary runs along the eastern edge of the railroad ROW to a point south of the San Diego River crossing; it then turns to the west and parallels the southern ROW of the Interstate 8 freeway. However, the subject consistency certification covers the entire project length.

Track Improvements. A 0.9 mile segment of second main line track will be constructed, along with track improvements and realignment of the existing track, grading, drainage improvements, and retaining walls (**Exhibit 3**).

Bridge Replacement. The existing single-track Bridge 263.8 will be removed and replaced with a 918-foot-long double-track bridge with parallel superstructures, each comprised of seven steel spans supported on two-pile substructure piers (**Exhibit 3**). This configuration allows for staged, on-alignment construction while maintaining single track train service during construction. A temporary trestle will span the San Diego River active channel for construction access, staging, and assembly of the new railroad bridge.

Ocean Beach Bicycle Path. To comply with Caltrans vertical clearance requirements for the new bridge girder structure (southern abutment), the existing Ocean Beach Bicycle Path is required to be lowered by approximately one foot and six inches. As a result, the portion of the Ocean Beach Bicycle Path in the project area will be temporarily detoured, as a safety precaution, to protect cyclists from heavy construction related to the southern abutment and piles. The existing bike path alignment will be temporarily realigned onto nearby public streets for up to ten weeks of the three-year-long construction period. The detour will start where the bike path intersects with Morena Boulevard and will travel south along Morena Boulevard, west along Taylor Street, and then north along Pacific Highway to the intersection with the existing bike path.

Signal Improvements. The project will require railroad signal modifications between mileposts 262.3 and 265.2, including new signals, new warning systems, new Positive Train Control components, new signal houses near the Taylor Street at-grade crossing and at the south end of the Old Town Transit Center, and a new Advanced Train Control System communication antenna.

Utility and Drainage Improvements. The project includes relocation of electric and telecommunication lines, improvements to trackside drainage works, and extension of existing storm drains and culverts.

Construction vehicle and equipment access to the project site will be provided via Pacific Highway and Anna Avenue on the west side of the railroad ROW, and along Anna Avenue and West Morena Boulevard on the east side of the ROW. The San Diego River will be accessed from Friars Road through the floodway berm located south of Friars Road. SANDAG states that construction vehicles will drive on the floodplain within a temporary impact area, and that a temporary trestle will span the San Diego River active channel during construction of the replacement railroad bridge. The trestle locations are planned west of the existing bridge for Phase 1 bridge construction and east of the existing bridge for Phase 2 construction.

SANDAG expects Phase 1 construction to begin in early 2016 and includes vegetation clearing, utility relocations, Ocean Beach Bicycle Path realignment and detour, lowering the bicycle path, and construction of the western spans of the new San Diego River double-track bridge, retaining

walls, and the second main line track. Phase 2 would begin in early 2018 (after completion of Phase 1 work) and includes replacement of the existing main line track, removal of Bridge 263.8, and construction of the eastern spans of the new bridge. SANDAG estimates that the project will take approximately three years to complete.

The subject consistency certification is the latest in a series of consistency certifications submitted by SANDAG and NCTD and concurred with by the Commission for railroad bridge replacement and construction of sections of double-tracking along the LOSSAN corridor in San Diego County. The Commission previously concurred with: (1) the 2.6-mile-long Pulgas to San Onofre double-tracking at the north end of Camp Pendleton (CC-086-03); (2) the 2.7-mile-long O'Neill to Flores double-track project in central Camp Pendleton (CC-004-05); (3) the 2.9-mile-long Santa Margarita River double-tracking project at the south end of Camp Pendleton (CC-052-05); (4) replacement of the railroad bridge over Agua Hedionda Lagoon (CC-055-05); (5) the 1.2-mile-long extension of passing track and construction of one replacement and one new railroad bridge over Loma Alta Creek in Oceanside (CC-008-07); (6) the replacement of three timber railroad bridges over Los Penasquitos Lagoon in San Diego (CC-059-09); (7) the construction of a 2.4-mile-long segment of second mainline railroad track and second railroad bridge over Agua Hedionda Lagoon in the City of Carlsbad (CC-075-09); (8) construction of a 1.2-mile-long segment of second mainline railroad track and replacement of a single-track bridge in the Sorrento Valley in San Diego (CC-052-10); (9) construction of a one-mile-long segment of second mainline railroad track and replacement of three single-track bridges in Sorrento Valley in San Diego (CC-056-11); and (10) construction of a 4.3-mile-long segment of second mainline railroad track south of San Onofre in San Diego County (CC-009-12).

B. COASTAL COMMISSION JURISDICTION AND STANDARD OF REVIEW

The project triggers federal consistency review because it needs a federal Clean Water Act Section 404 permit from the U.S. Army Corps of Engineers. The Commission also believes the project is subject to the permitting requirements of the Coastal Act; SANDAG and the North County Transit District (NCTD) disagree with this position. Those agencies believe that based on a decision by the federal Surface Transportation Board, they are not required to obtain coastal development permits for track improvements and are only subject to federal consistency review for such projects. However, the Commission still holds to its long-standing position that railroad projects in the LOSSAN corridor sponsored by SANDAG and NCTD, especially if affecting mass transportation, including the proposed project, are subject to the permitting requirements of the Coastal Act. The Commission further notes that NCTD has previously applied for a number a permits for its rail improvement activities in other sections of the coast, including CDP's No.: 6-03-102-G (Agua Hedionda emergency repairs), 6-02-152 (San Luis Rey River bridge repair), 6-02-151 (Agua Hedionda bridge), 6-02-102 (Del Mar drainage outlets), 6-02-80 (Santa Margarita Bridge repair), 6-01-64 (Balboa Avenue), 6-01-108 (Tecolote Creek), 6-93-60 (Del Mar), 6-94-207 (Solana Beach), 6-93-106 (Carlsbad), and 6-93-105 (Camp Pendleton). Notwithstanding this disagreement about whether a coastal development permit is needed, there is no dispute that the project is subject to the Commission's federal consistency review authority, which involves a similar standard of review. The standard of review for assessing consistency with the California Coastal Management Program is set forth in Chapter 3 of the Coastal Act ("Chapter 3"), Cal. Pub. Res. Code Sections 30200-30265.5, and employing that standard, the

Commission concurs with this consistency certification based on its finding that the project is consistent with the policies set forth in Chapter 3.

C. OTHER AGENCY APPROVALS

U.S. Army Corps of Engineers (USACE)
The USACE received an application from SANDAG for a federal Clean Water Act Section 404 permit and anticipates that the proposed project will be covered under Nationwide Permit No. 14 – Linear Transportation Projects.

San Diego Regional Water Quality Control Board (RWQCB)
The RWQCB received an application from SANDAG for a Clean Water Act Section 401 Water Quality Certification.

Federal Transit Administration (FTA)
The FTA will fund the project and will also serve as the lead agency for informal consultation under Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act.

D. WETLAND HABITAT AND WATER QUALITY

Coastal Act Section 30231 states:

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

Coastal Act Section 30232 states:

> *Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

Coastal Act Section 30233(a) states in part:

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

> *(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines . . . .*

The *Biological Technical Report* (July 2015), the *Wetland Delineation Report* (July 2015), and the *Project Modification and Mitigation Proposal* (November 2015) for the proposed project document the existing wetland and marine resources in and adjacent to the railroad corridor (primarily alkali marsh, freshwater marsh, Southern willow scrub, and mulefat scrub), the anticipated permanent and temporary impacts to those resources from the project, and the avoidance, minimization, and mitigation measures to be implemented. The riparian and wetland plant communities in the project area provide some habitat for federally listed species. However, these communities include a limited diversity of native plants, are characterized by the presence of invasive, non-native plant species, and are subject to severe disturbance due to the presence of transient encampments. These disturbed communities provide at best marginal quality habitat for sensitive species. The *Wetland Delineation Report* states that there are 8.65 acres of Coastal Act wetlands located within the178-acre project survey area, comprised of the railroad ROW and adjacent areas along either side of the 0.9-mile-long project corridor. The vast majority of the study area is classified as urban/developed land but the area also includes native vegetation communities classified as Coastal Act wetlands.

The *Biological Technical Report*, as amended by the November 2015 *Project Modification and Mitigation Proposal*, states that the proposed bridge replacement and double-track project will permanently impact 0.05 acres of wetland habitat (0.01 acres of disturbed wetland and 0.04 acres of seasonal depressions periodically covered with shallow water; **Exhibit 4**). However, the removal of the existing railroad bridge and the numerous bridge support piers located in the San Diego River will eliminate 0.11 acres of current wetland habitat fill. As a result, the proposed project will not create any permanent impacts to wetland habitat, but instead will yield a net increase of 0.06 acres of wetland habitat. However, project construction activities (e.g., clearing of wetland and riparian vegetation, temporary fill of wetlands) will temporarily affect 1.92 acres of wetland and riparian habitat, which exhibit varying degrees of quality ranging from healthy vegetation to disturbed habitat. These temporary impacts are considered permanent for purposes of habitat mitigation requirements because the impacts will last throughout the three-year project construction period. As a result, the proposed project triggers the three-part test of Coastal Act Section 30233(a) because the project includes temporary and permanent fill in wetland habitat. The Commission therefore needs to analyze the project's consistency with the allowable use, alternatives, and mitigation tests of Section 30233(a).

Allowable Use

Under the first of these tests, the diking, filling, or dredging element of a project must qualify as being for one of the seven allowable uses listed under Section 30233(a). The only one that could arguably apply here would be the "incidental public service purpose" use in Section 30233(a)(4). The Commission has considered minor expansions of existing roads, an airport runway (City of Santa Barbara, CC-058-02), and NCTD double-tracking projects (CC-086-03, CC-052-05) in certain situations to qualify as "incidental public service purposes," and thus allowable under Section 30233(a)(4), but only where no other feasible less damaging alternative exists and the expansion is necessary to maintain existing traffic capacity.

The Commission accepted the assertion that fill of wetlands for double-track railroad projects constituted fill for an incidental public service purpose in earlier concurrences with SANDAG and NCTD double-track construction projects in northern San Diego County that involved fill of coastal waters and wetlands. For example, in acting on consistency certification CC-052-05, the Commission found that fill for a proposed segment of second main line track was an allowable use as an incidental public service because it was necessary to maintain existing passenger service. However, in more recent consistency certifications (e.g., CC-052-10 and CC-056-11), the Commission has consistently found that double track projects are providing for increased passenger and freight capacity in the LOSSAN corridor. Because the courts have said that roadway expansions are an acceptable incidental public service purpose *only* when necessary to maintain *existing traffic capacity*[2], the Commission has found that the fill for the projects at issue in CC-052-10 and CC-056-11 did not qualify as an allowable use under Section 30233(a) as an incidental public service.

Therefore, the only way the Commission could find these projects consistent with the Coastal Act was through the "conflict resolution" provision of Section 30007.5 of the Coastal Act. The Commission found that the impacts on public access, water and air quality, and energy consumption and vehicle miles traveled from not constructing the projects would be inconsistent with the mandates of other policies listed in Chapter 3 of the Coastal Act, thus presenting a conflict among Chapter 3 policies. Having found the existence of such a conflict, the Commission also found that those impacts would be more significant and adverse than the projects' wetland habitat impacts (as mitigated). Using the "conflict resolution" provision of Section 30007.5 of the Coastal Act, the Commission concluded that allowing the project to proceed would resolve the conflict in the manner that would, on balance, be most protective of coastal resources. Thus, the Commission could concur that projects were consistent with Chapter 3 when taken as a whole. The Commission used the "conflict resolution" provision to concur with these double-track projects in San Diego County: CC-008-07, CC-059-09, CC-075-09, CC-052-10, and CC-056-11.

In its subject consistency certification, SANDAG stated that the San Diego River bridge replacement and double-track project is not consistent with the allowable use test of Section 30233(a) because it will, cumulatively and over time, increase the capacity of the LOSSAN corridor and is therefore not an incidental public service. The Commission agrees that the proposed project is not an allowable use under Section 30233(a) and, as discussed below in Section G of this report, the only way the Commission could find this project consistent with the Coastal Act would be through the "conflict resolution" provision of Section 30007.5.

Alternatives

Concerning the alternatives test of Section 30233(a) for the proposed project, SANDAG designed the railroad bridge replacement and additional main line track in a manner that would minimize impacts to coastal resources, particularly at the crossing of the San Diego River. SANDAG states in its consistency certification that several bridge type alternatives were evaluated:

[2] *Bolsa Chica Land Trust v. Superior Court* (1999), 71 Cal.App.4th 493, 514-17.

Many alternatives were considered but rejected due to environmental resource constraints, vertical clearance requirements, and hydraulic restrictions. As part of the alternatives analysis process, the following five alternatives were considered feasible, and were evaluated for detailed comparison:

Alternative 1. Five-Span Concrete Through Girder Bridge
Alternative 2. Seven-Span Twin Concrete Through Girder Bridges
Alternative 3. Nine-Span Twin Steel Through Girder Bridges
Alternative 4A. Seven-Span Twin Steel Through Girder Bridges
Alternative 4B. Seven-Span Double Track Steel Through Girder Bridge

SANDAG selected Alternative 4A – the Seven-Span Twin Steel Through Girder Bridges – as the preferred alternative to move forward into final design because it achieves the "no-rise" floodplain condition[3] for the San Diego River and has the smallest footprint (i.e., square-footage of bridge support piers) in the San Diego River. In addition, the proposed double-track bridge project results in a smaller footprint in the San Diego River and adjacent wetland habitat than the existing single-track bridge with its greater number of support piers. The Commission finds that the proposed alternative avoids permanent adverse impacts to wetland habitat and minimizes and mitigates temporary adverse impacts to wetland habitat to the maximum extent feasible. The Commission also agrees with SANDAG that there is no feasible, less environmentally damaging alternative to constructing the proposed bridge replacement and double-track project over the San Diego River.

Mitigation

The *Biological Technical Report* (July 2015), the *Wetland Delineation Report* (July 2015), and the *Project Modification and Mitigation Proposal* (November 2015) for the proposed project conclude that no permanent impacts to Coastal Act wetland habitat would occur at the project site due to a net reduction of 0.06 acres in wetland fill from the reduced number of support piles for the new bridge as compared to the existing bridge. As noted previously in this section, project construction will temporarily affect 1.92 acres of wetland and riparian habitat. These temporary impacts are considered permanent for purposes of habitat mitigation requirements because the impacts will last throughout the three-year project construction period. As a result, SANDAG has proposed a two-part mitigation program for these impacts: (1) revegetation of the railroad bridge site after completion of construction activities, but without maintenance, monitoring, or success criteria, and with no mitigation credits generated by the revegetation work; and (2) off-site mitigation (with appropriate mitigation ratios, maintenance, monitoring, and success criteria) at the Tijuana River Valley Regional Park.

On-Site Revegetation Program. As noted earlier in this report, and in the project *Conceptual Revegetation Plan* (July 2015), the project would temporarily affect 1.92 acres of wetland and riparian habitat. Upon project completion, SANDAG will revegetate all disturbed areas in the

[3] Any project in a floodway must be reviewed to determine if the project will increase flood heights. An engineering analysis must be completed, and a "no-rise" certification must be supported by hydraulic analysis and technical data which states that the proposed project will not impact the pre-project base flood elevations.

project construction zone by planting and seeding native wetland and riparian vegetation (e.g., Southern willow scrub, mulefat scrub, and freshwater marsh plant species).

The *Conceptual Revegetation Plan* includes details on the following elements:

- Site preparation of restoration/revegetation areas and enhancement areas, including grading and vegetation removal (mechanized, hand removal, and limited use of herbicides).

- Revegetation and enhancement schedule.

- Planting design for seeding and container stock, including plant palettes and seed mixes for southern willow scrub, coastal and valley freshwater marsh, mule fat scrub, and freshwater marsh/southern willow scrub/mule fat scrub mosaic areas.

- Habitat protection measures to be implemented during project construction.

- Installation measures for container stock and live staking.

- Source of plant materials (all plant materials shall be derived from materials local to the revegetation site).

- Restoration contractor qualifications.

In addition, the consistency certification, *Biological Technical Report*, and *Conceptual Revegetation Plan* include numerous avoidance and minimization measures that will be implemented throughout the project construction period, including but not limited to the designation of a U.S. Fish and Wildlife Service-approved project biologist to oversee compliance with protective measures for biological resources; project worker awareness training conducted by the project biologist; placement of environmentally sensitive area fencing; restrictions on vegetation clearing during bird breeding season; construction impact avoidance measures for listed species in the project area; and best management practices to protect wetland habitat during construction and demolition activities.

Off-Site Mitigation Program. Regarding its off-site mitigation proposal, SANDAG states in its *Project Modification and Mitigation Proposal* (November 2015) that:

> *As described in the BTR* [Biological Technical Report] *and regulatory permit application packages, compensatory mitigation for temporal loss was proposed as on-site revegetation/enhancement in the Project area. Due to the potential for on-site restoration activities to be adversely affected by frequent transient/homeless activities in the river, such as illegal encampments, dumping, vegetation clearing, fire, and trails that SANDAG does not have the authority to control, SANDAG proposes to provide 3.9 acres of off-site mitigation on County of San Diego-owned land at the Tijuana River Valley Regional Park (TRVRP). In consideration of the substantial trespassing that occurs within the railroad ROW* [right-of-way] *owned by the San*

> *Diego Metropolitan Transportation System (MTS), CCC provided guidance to mitigate temporal loss off-site. Based on habitat clearing* [at the railroad bridge project site] *potentially happening prior to installation of the off-site mitigation and the duration of habitat clearing (three years), CCC is requiring the use of 3:1 and 2:1 mitigation ratios for wetland and riparian habitat, respectively. Revegetation of temporarily impacted habitat will occur; however, due to the higher mitigation ratios being utilized to compensate for temporal loss and the high level of transient trespassing on the site, SANDAG is not proposing to conduct long-term maintenance and monitoring of revegetated habitat.*
>
> *SANDAG and Caltrans have an existing Master Agreement which allows SANDAG to utilize Caltrans resources for many things, including the design, construction, and monitoring of a restoration site. Caltrans has prepared a draft restoration plan for Phase 2 of the TRVRP mitigation site (attached). The mitigation site will compensate for the Project's 3.90 acres of temporal loss (Section 4). This mitigation requirement is based upon the 3:1 and 2:1 mitigation ratios described above. Caltrans is preparing the detailed design plans and implementation of mitigation is planned to occur in fall 2016. Project construction* [at the railroad bridge project site] *is scheduled to start prior to the bird breeding season (March 15, 2016); however, if construction is delayed and begins concurrent with or after mitigation implementation (fall 2016), consistent with previous CCC/SANDAG discussions, SANDAG proposes to apply 2:1 and 1:1 mitigation ratios for wetland and riparian habitat, respectively. Application of these mitigation ratios would result in total compensatory mitigation requirement of 2.25 acres . . . .*

When a proposed project will adversely affect wetland and riparian habitat, and when those impacts have been avoided and minimized to the maximum extent feasible, the Commission then requires mitigation for the unavoidable impacts, typically at an acre-for-acre ratio of 4:1 for wetlands and 3:1 for riparian habitat. The subject project, however, is located in an area with unique circumstances that justifies flexibility in calculating the appropriate mitigation ratio. The habitat that will be affected by the construction of the replacement bridge and second main line railroad track is chronically degraded and is subject to uncontrolled habitat impacts (as described previously in this report). Mitigation in the form of wetland and riparian habitat enhancement and restoration cannot reasonably be expected to succeed in the face of these impacts and with no expectation that the impacts will either be controlled or eliminated in the foreseeable future. Additionally, SANDAG does not own the railroad right-of-way and is unable to implement actions that would prevent degradation of habitat, either currently or after completion of post-project habitat restoration work.[4] As a result, the Commission staff determined that a reduction in the wetland and riparian mitigation ratios to 3:1 and 2:1, respectively, is appropriate in recognition of the fact that the actual temporal loss of habitat function is less than it would be under natural conditions and will be adequately mitigated by off-site restoration that has a high likelihood of success. With these ratios the Commission determines that SANDAG is required to enhance and restore 3.9 acres of wetland and riparian habitat. SANDAG will ensure that

[4] The San Diego Metropolitan Transit System owns the railroad right-of-way and is responsible for enforcement (i.e., prevention of trespassing); SANDAG provides engineering, environmental, and construction services; North County Transit District operates and maintains the railroad facilities.

enhancement and restoration of southern willow scrub and mulefat scrub habitat will occur at the aforementioned Tijuana River Valley Regional Park mitigation site.

When habitat mitigation is completed prior to the construction activity that affects habitat, or when it is implemented concurrently with project construction, the Commission has determined that mitigation ratios can be further reduced to reflect the reduction in the length of time of temporal impacts to habitat. The schedule for the proposed project currently calls for vegetation clearing and Phase 1 construction work to commence in early 2016, and mitigation work at the TRVRP to begin in the fall of 2016, the latter start date due in part to listed species protection measures that are in place at the mitigation site. With this schedule there would be no concurrent mitigation and no further reduction in mitigation ratios. However, SANDAG notes that the start of project construction could be delayed for a number of reasons, including predicted El Niño storm and flooding events which could adversely affect the construction zone in the San Diego River floodplain. In the event the start of construction were to be delayed until the fall of 2016 and begin concurrent with or after implementation of the habitat mitigation work at the TRVRP site, the Commission agrees that wetland and riparian mitigation ratios can be reduced to 2:1 and 1:1, respectively, because temporal losses would not occur. With these reduced ratios, SANDAG would be required to enhance and restore 2.25 acres of southern willow scrub and mulefat scrub habitat at the Tijuana River Valley Regional Park mitigation site. SANDAG has agreed to notify the Executive Director if and when the project construction schedule is delayed such that a reduction in the mitigation ratios is triggered. The Executive Director would then confirm to SANDAG that the reduced acreage of habitat enhancement and restoration (2.25 acres) at the TRVRP is the appropriate amount of mitigation for the proposed bridge replacement and double track project.

SANDAG supplemented its consistency certification by submitting the *Wetland Habitat Restoration and Enhancement Plan, Tijuana River Wetland, Phase 2 ("Plan")*, prepared by Caltrans District 11 (San Diego) in November 2015. The *Plan* states that the mitigation site is located west of Interstate 5 and within the Tijuana River Valley Regional Park, owned by the County of San Diego Department of Parks and Recreation (**Exhibits 5-7**). The site is approximately two miles east of the Pacific Ocean, within the outer portion of the 100-year Tijuana River floodplain, and approximately 25 feet above sea level. While direct surface connections to the Tijuana River appear to be limited under most flow conditions, the presence of nearby riparian vegetation is consistent with the assumption of relatively shallow groundwater at and adjacent to the project site. A 1.75-acre Phase 1 wetland restoration project (as mitigation for a San Ysidro railyard expansion) adjacent to the proposed ten-acre Phase 2 project site was initiated in March 2013 (**Exhibit 6**). Caltrans states in the *Plan* that the Phase 1 project is meeting interim performance standards and is on schedule for mitigation success.

The *Plan* was prepared to:

> *. . . guide Caltrans and consultant personnel during implementation of the wetland restoration and enhancement project. The proposed approach follows methods successfully implemented by Caltrans at the Tijuana River Wetland (Figure 1; Phase 1), and other wetland restoration projects. The intention of the plan is to provide*

> *wetland mitigation for future SANDAG transportation projects, which are expected to include railroads.*

The *Plan* further states that Caltrans is responsible for implementing the restoration plan and that SANDAG will fund implementation of the plan through the Regional Environmental Mitigation Program. Following successful completion of the restoration (including five years of monitoring), the site will be managed in perpetuity by the landowner (County of San Diego Department of Parks and Recreation) and SANDAG will fund the long-term habitat maintenance program. SANDAG states in its consistency certification that Caltrans, in coordination with SANDAG, has designated 3.9 acres of the 10-acre Phase 2 restoration site as mitigation for the three-year-long wetland and riparian habitat impacts associated with SANDAG's San Diego River railroad bridge replacement and double track project.[5] SANDAG reports in its consistency certification that Caltrans will obtain a coastal development permit from the Commission and a right-of-entry permit from the County of San Diego Department of Parks and Recreation for the Phase 2 restoration work. However, should there be a delay in securing these permits and commencing the Phase 2 restoration work beyond the fall of 2016, this would prevent SANDAG from undertaking concurrent mitigation (and obtaining a reduced mitigation requirement) in the event construction of the bridge replacement and double track project not commence until the fall of 2016 (due to the potential delays discussed above). In addition, and to ensure that mitigation for project impacts to riparian and wetland habitat occurs, if permits for the restoration work at Tijuana River Valley Regional Park site are not in place by Dec. 31, 2016, SANDAG has committed to develop an alternate mitigation program and submit that program to the Commission in a consistency certification no later than March 1, 2017.

The 10-acre restoration site currently supports Southern willow scrub riparian habitat (dominated by willows, cottonwood, arroyo, sycamore, and tamarisk) on the northern five acres of the Phase 2A site. Approximately 0.8 acres of Mulefat scrub riparian habitat (dominated by scattered mulefat and tamarisk) is present in the Phase 2B site. Approximately 4.2 acres of disturbed habitat (dominated by non-native invasive species) is found at the southern end of the Phase 2A area (**Exhibits 6 and 7**). The *Plan* states that the goals of the restoration project are to preserve, enhance, and restore the riparian wetland habitat on the ten-acre site as follows:

> ***Preservation and Enhancement:*** *Existing habitat will be preserved to the maximum practicable extent. A total of 5.0 acres of Southern Willow Scrub in the northern parts of the Phase 2A area will be enhanced to support existing habitat. Non-native, invasive weeds (particularly tamarisk) will be controlled during the establishment period to give competitive advantage to native species, and lead to sustainable habitat. The goal is to improve riparian habitat to support a variety and abundance of native species, especially birds such as the least Bell's vireo.*
>
> ***Restoration:*** *A total of 5.0 acres (4.2 acres of Disturbed Habitat in Phase 2A, 0.8 acres of Mulefat Scrub Habitat in Phase 2B) will be restored with container planting, seeding. Weeding will be done throughout the plant establishment period. The goal is*

[5] As noted previously in this report, should wetland habitat mitigation at the Tijuana River Valley Regional Park occur concurrently with the San Diego river railroad bridge replacement project, the mitigation requirement would be reduced to 2.25 acres.

to provide sustainable, diverse riparian habitat (Southern Willow Scrub/Mulefat Scrub) to support a variety and abundance of native species, especially birds such as the least Bell's vireo.

Management: *Provide an adaptive monitoring and management program that promotes the viability of wetland habitats and can change based on the most recent information.*

The *Plan* next identifies the project implementation responsibilities, project stages, and the restoration and monitoring schedule. Construction mobilization, temporary water line installation (for initial seasonal irrigation of plantings), trash and debris removal, non-native vegetation and seed removal (mowing and dethatching), identification and protection of native habitat, and installation of erosion control measures will occur in the fall of 2016. Only limited grading and contouring in the restoration areas are anticipated due to the existing flat terrain and appropriate elevation to establish wetland vegetation. Planting and seeding of native riparian wetland species, and installation of site protection measures (fencing and signs), will take place in the winter of 2016-2017 depending on weather conditions. Non-native species removal, site maintenance, and qualitative and quantitative monitoring of the site will occur for at least five years through 2022. To support monitoring or enhancement and restoration progress, seven permanent vegetation point transects will be established in the five-acre area where restoration will occur. Transect sampling throughout the monitoring period will provide trend data on percent vegetative cover, plant species frequency, species recruitment, and plant survivorship.

The *Plan* describes the restoration area planting plan:

- Planting will be performed during or immediately prior to the winter rain period to maximize success (most likely between October and January, and should be no later than March 1). Planting during this time also minimizes nesting bird conflicts.

- The restoration ecologist will verify that container plants are ecologically appropriate (species, source), and are from a qualified nursery. Overplanting may result in plant densities that would preclude appropriate ecosystem functions with regard to microorganisms, insects, and reptiles.

- Container plant species for the wetland restoration area are Mulefat, Western cottonwood, Sandbar willow, Black willow, and Arroyo willow.

- Container plants should be 1-gallon size for increased survivorship, and pole cuttings for willow and mulefat may be included. The density should be approximately 1,400 plants per acre, with mulefat in the greatest number, to best match the density of the Phase 1 restoration area.

- The restoration ecologist will lay out planting locations to mimic the plant composition and structure in the area and establish a mosaic of different age stands of mixed species, which will lead to habitat heterogeneity and edges for greater ecological benefit. The restoration ecologist will direct planting.

- Wetland seeding will occur at the same time of container planting. Seeds will be hand broadcast and raked by hand to a depth of 0.25 - 0.5 inches. The wetland seed mix will be comprised of Western ragweed, Mugwort, Heliotrope, and Marsh fleabane.

The *Plan* states that the project restoration ecologist will ensure that sufficient water for plant establishment is applied to the restoration area, and that soil moisture conditions will be monitored following planting and seeding:

> *Irrigation will be used to maximize container plant survival while minimizing non-native species growth and seed production. Irrigation will be adapted to natural water supply patterns and will only be used for the establishment of seeded and container-planted vegetation.*
>
> *In the fall of each year, the upland vegetation should show signs of natural water stress and dormancy; irrigation will not be applied during this time as this could provoke water-related plant stress (e.g., root rot). Irrigation will be suspended in anticipation of rain events. Irrigation will be resumed upon a site inspection to determine soil moisture levels. During seed germination and plant establishment, soil should be moist to the upper 2-4 inches, but never saturated. As the winter season progresses, moisture will penetrate into deeper soil horizons.*
>
> *Irrigation frequency should be reduced to weekly, biweekly, and monthly intervals as the season transitions from spring to summer. Once plants are established (no earlier than three years post-planting), irrigation will end.*

The project includes a 120-day establishment monitoring program and a 5-year monitoring and maintenance program to ensure successful riparian wetland habitat restoration at the project site. Both programs will commence after the installation of container plants and seeding are completed. The *Plan* describes the initial 120-day monitoring period:

> *The purpose of the period is to provide an observation and guarantee period to ensure that the different components that comprise installation are operating and performing as intended. For example, flaws with the irrigation system or health problems with container plants that were not detectable during installation are likely to be identified during the 120-day establishment period. As part of this period, the contractor who performs installation is contractually obligated to guarantee their work and repair grading, replace plants, or perform remedial measures (e.g., additional weed control) as necessary to meet contract specifications and success criteria for this period.*
>
> *During the monthly inspections, the restoration ecologist will coordinate with the contractor to develop a list of items that need to be addressed to meet contract specifications and success criteria. Successful completion of this guarantee period will verify that installation was properly performed.*

Success criteria will be evaluated based on the qualitative and quantitative evaluation of the entire site. This will promote site success and will establish a baseline for the 5-year maintenance and monitoring period.

At the end of the 120-day establishment period, the site will meet the following success criteria for riparian wetland restoration:

- *Free of invasive weeds, trash, and serious erosion problems*
- *At least 95% survival of container plants (replacements may be made)*
- *Planting basins are holding water*
- *Irrigation system functioning*
- *Germination of all seeded species throughout site*
- *Fencing and gates intact*

The restoration ecologist will review the site's success at the following intervals of the establishment monitoring period: 30 days, 60 days, 90 days, and 120 days. Each review will contain a qualitative assessment of the site and an evaluation of whether the site is meeting the above-listed establishment success standards. The 120-day evaluation will include qualitative and quantitative assessment of the site. The 120-day report will include an estimate of percent cover and species diversity.

The restoration contractor will contact the restoration ecologist for a final inspection one week prior to the end of the establishment monitoring period. Failure to pass this inspection and not meeting success standards will result in an extension of the establishment monitoring period. Necessary remedial measures, as specified and approved by the restoration ecologist, will be implemented until the final 120-day success standards are achieved.

The *Plan* includes a schedule of required maintenance, monitoring, and reporting activities during the 5-year period after completion of planting and seeding of the restoration site. The maintenance program includes the following elements:

- Maintenance of the wetland restoration site will be provided as needed (but at least five times per year) throughout the 5-year maintenance monitoring period, as directed by the restoration project ecologist.

- Invasive plant species will be controlled throughout the 5-year maintenance and monitoring period. The primary methods of weed control will be hand pulling, mechanized, and herbicide spot treatment. Trash and pulled weeds will be removed from the site by hand on a monthly basis, unless otherwise directed by the project ecologist.

- Restoration plantings will be maintained on a regular schedule, including supplemental watering where needed, removal of exotic species, and installing replacement plants and additional seeding where needed.

The monitoring program includes a discussion of the success criteria for the restoration project:

> *A primary measure of success for restoration is the ability of a revegetated native plant community to be self-supporting (i.e., the ability to sustain itself with natural water and nutrient sources) and self-maintaining (i.e., the ability to successfully reproduce). In addition, the primary objective is to attain a native wetland community that is biologically diverse and consistent with the existing natural system in the vicinity of the restoration area.*
>
> *If the planting is successful and performs according to the below-mentioned success criteria after five years, the restoration effort may be considered completed. Provided below are success and recommended remedial measures for the 5-year post-installation monitoring program. The restoration ecologist will be responsible for meeting the success criteria.*
>
> *The remedial measures throughout the 5-year period will be as necessary, reseed with native species, add additional container plants, increase weed control, remove trash, change watering regime, upgrade site security (e.g., fencing), and correct erosion and sedimentation problems.*

The *Plan* outlines the success criteria for the restoration project:

> *1 Year after Installation (includes 120-day Plant Establishment Period) Success Standards: At least 80% survival of container stock, overall native cover of at least 30%, non-native cover of less than 10%, no trash or significant erosion.*
>
> *2 Years after Installation Success Standards: At least 75% survival of remaining container stock, overall native cover of at least 45% including herbaceous, shrub, and tree strata; non-native cover of less than 10%, no trash or significant erosion.*
>
> *3 Years after Installation Success Standards: At least 60% overall native cover including herbaceous, shrub, and tree strata; non-native cover of less than 10%; no invasive exotics identified as "high" or "moderate" in the CAL-IPC Invasive Plant Inventory; no trash or significant erosion.*
>
> *4 Years after Installation Success Standards: At least 70% overall native cover, including herbaceous, shrub, and tree strata non-native cover of less than 10%; no invasive exotics identified as "high" or "moderate" in the CAL-IPC Invasive Plant Inventory; no trash or significant erosion.*
>
> *5 Years after Installation Success Standards: At least 80% overall native cover including herbaceous, shrub, and tree strata; non-native cover of less than 10%; no invasive exotics identified as "high" or "moderate" in the CAL-IPC Invasive Plant Inventory; no trash or significant erosion.*

Post-installation qualitative and quantitative monitoring and reporting will occur for up to five years to ensure proper establishment of the mitigation area. Qualitative monitoring will be

conducted monthly during the first monitoring year and quarterly thereafter. Quantitative monitoring will occur annually, and results of both monitoring programs will determine the progress of mitigation work to meet success criteria and the potential need for remedial measures. The *Plan* summarizes both monitoring programs as follows:

> ***Qualitative***
> *Qualitative surveys will consist of a general site walkover and characterization of the restoration site. General observations, such as fitness and health of restored plants, and signs of over irrigation or drought stress, will be noted during the surveys. Shrub species will be examined to determine percentage of cover, height, mortality, and composition. Additionally, potential soil erosion, vandalism, weeds, and pest problems will be identified. Plant and irrigation maintenance needs will be recorded on standard maintenance checklists. Copies of all checklists will be retained by the Project Biologist and used to compile monitoring reports. Photodocumentation will be taken from the same vantage point in the same direction, and photodocumentation points and direction will be mapped.*
>
> ***Quantitative***
> *The Project Biologist will establish permanent point intercept transects. At least five transects will be established in the Phase 2A restoration area, and two transects will be established in the Phase 2B restoration area (Figure 4). All transects will be identified on a map, staked with rebar/white PVC pipe, and mapped using GPS in the field, and photographed, so that they may be reestablished should the stakes be removed. Quantitative data will be recorded along each transect for canopy and groundcover species, and for native plant species recruitment. Also, species density, composition, and mortality will be recorded along transects. A statistical analysis of the monitoring data would be done to determine the significance of the results.*

Annual monitoring reports will be prepared until the project has met all the success criteria, will be submitted to the Coastal Commission and other resource and regulatory agencies, and will include the following elements:

- A summary of all qualitative monitoring activity
- Analysis of quantitative monitoring data, statistical assessment of vegetative growth in meeting the success criteria, and comparisons of vegetative growth to the reference sites
- Photographic documentation
- Maps identifying monitoring areas, transects, planting zones, and habitat types, as appropriate
- Discussion of invasive species observed and control methods implemented
- A summary of remedial measures implemented, along with any needed for the following year if applicable

- A final report summarizing results over the 5-year monitoring period will be prepared upon completion of the monitoring period.

- In the event that the success criteria are not met, coordination would be done with the applicable resource and regulatory agencies, and remediation/monitoring would continue as required.

SANDAG will submit the final version of the *Wetland Habitat Restoration and Enhancement Plan, Tijuana River Wetland, Phase 2* to the Executive Director no less than 30 days prior to the commencement of mitigation work. This will provide the Commission staff the ability to review any future modifications made to the *Plan* and determine if it remains consistent with the wetland habitat and water quality findings adopted by the Commission in its concurrence with CC-0003-15. In conclusion, the proposed project would not create any permanent impacts to wetland habitat, and with implementation of the on-site revegetation plan and the off-site wetland and riparian habitat restoration and enhancement program for temporary wetland habitat impacts, the Commission finds that the proposed project includes adequate mitigation for project impacts to wetland and riparian habitat to meet the mitigation test of Section 30233(a).

Water Quality
SANDAG has included in its consistency certification commitments for water quality protection for the proposed double track and bridge replacement project, including development and implementation of a Storm Water Pollution Prevention Plan (SWPPP), a Spill Prevention Containment and Countermeasure (SPCC) Plan, grading and drainage plans, erosion and sediment control plans, guidelines for fuel and hazardous materials storage, and associated construction and post-construction best management practices to avoid and minimize the potential for adverse impacts to water quality in and adjacent to the project area. The consistency certification also states that:

> *During construction, a temporary trestle will span over the San Diego River active channel for construction access, staging, and assembly of the new railroad bridge. The trestle will have stable abutments and will be adequately designed, constructed, maintained, and tied to secure landside objects to prevent washout and avoid impacts to open water. The contractor will be required by the project specifications to contain and recover debris during demolition and construction activities over the San Diego River (e.g., debris nets).*

In previous reviews of SANDAG and NCTD double-tracking projects in San Diego County, the Commission concurred with these agency's determinations that:

> *Passenger rail vehicles are much cleaner than highway vehicles with respect to oil and grease drips. This is partially attributed to the fact that any drips from rail vehicles fall into a ballasted ROW, where gravel and soil act as a filter to prevent runoff from moving contaminants and because rail transportation involves less oil, grease, and other hydrocarbons than automobiles. On the other hand, automobiles are a significant source of hydrocarbons, which are then*

> *flushed by runoff from the Interstate 5 area into nearby water bodies. The proposed project will provide improved public transportation service and freight service, which will help reduce automobile congestion and reduce automobile vehicle miles traveled and the corresponding non-point source emissions.*

As noted in a previous section of this report, erosion controls to protect water quality will also include post-construction revegetation activities. With the above measures, the Commission finds that the proposed project would not cause significant adverse water quality impacts at and adjacent to the project area and would be consistent with the water quality protection policies of the CCMP (Coastal Act Sections 30231 and 30232).

Conclusion

The Commission finds that the proposed San Diego River railroad bridge replacement and double-track project is consistent with the water quality protection policies of Sections 30231 and 30232 of the Coastal Act, and is consistent with the wetland fill alternatives and mitigation tests, but not consistent with the allowable use test, of Section 30233(a) of the Coastal Act for the reasons described above. Therefore, the only way the Commission could concur with this consistency certification would be if it finds the project consistent with Chapter 3 of the Coastal Act as a whole through the "conflict resolution" provision contained in Section 30007.5, which is invoked by the first section of Chapter 3 (Section 30200(b)). As discussed in **Sections III.D, E**, and **F** of this report, not approving the project would be inconsistent with the water quality, public access and transit, and air quality/energy consumption policies of the Coastal Act, because it would eliminate benefits to coastal resources that are inherent in the project and mandated by the policies of the Coastal Act. Those benefits include the maximization of existing and future public access, the facilitation of public transit and the minimization of vehicle miles traveled, and the improvement of air and water quality by reducing traffic congestion. Thus, the project creates a conflict between the allowable use test of the wetlands policy of the Coastal Act (Section 30233(a)) on the one hand, and the water quality, public access and transit, and energy conservation policies of the Coastal Act (Sections 30231, 30232, 30210, 30252, and 30253) on the other. In the concluding section of this report (**Section III.G**) the Commission will resolve these conflicts and determine that concurrence with this consistency certification would, on balance, be most protective of significant coastal resources.

E. PUBLIC ACCESS AND TRANSIT

Coastal Act Section 30210 states:

> *In carrying out the requirements 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.*

Coastal Act Section 30252 states in part:

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

SANDAG states in its consistency certification that in reviewing past actions involving mass transit improvements in San Diego County, the Commission has considered traffic congestion to constitute a constraint on public recreation and access to the shoreline. Increased traffic on highways such as Interstate 5, which is a major coastal access thoroughfare, reduces the ability of the public to reach coastal recreation areas and makes it more difficult for the public to get to the beach. Section 30252 of the Coastal Act recognizes the importance of improving public access through, among other things, improvements in public transit. Maintaining existing public transit is equally important and beneficial to public access. The project would be beneficial to public coastal access by increasing the structural and operational capacity for trains passing through the San Diego region.

The majority of the proposed project is within the existing railroad right-of-way (ROW); construction access and staging areas and a portion of the Ocean Beach Bicycle Path detour are located outside the ROW. Public accessways that bisect the ROW in the project area are Friars Road, Sea World Drive/Tecolote Road, and the Ocean Beach Bicycle Path. Regarding the latter, SANDAG states that:

> *To comply with Caltrans vertical clearance requirements for the new bridge girder structure (southern abutment), the existing Ocean Beach Bicycle Path is required to be lowered by approximately one foot and six inches. As a result, the portion of the Ocean Beach Bicycle Path in the study area will be temporarily detoured, as a safety precaution, to protect cyclists from heavy construction related to the southern abutment and piles. The existing bike path alignment will be temporarily realigned onto nearby public streets for up to ten weeks of the three-year-long construction period. The detour will start where the bike path intersects with Morena Boulevard and will travel south along Morena Boulevard, west along Taylor Street, and then north along Pacific Highway to the intersection with the existing bike path.*
>
> *Directional guidance to path users will be provided during construction to facilitate public access to coastal areas west of the project and to maintain public safety during construction.*

SANDAG further states that the bike path detour will be in place between April and June 2016, that the lowered bike path will reopen in its present location in late June 2016, and that public access on this bike path will be maintained throughout the construction period. Construction vehicles and equipment will use Friars Road and Sea World Drive/Tecolote Road, standard traffic management measures will be implemented throughout the construction period to maintain vehicular and pedestrian access and to protect public safety, and the project is not expected to adversely affect public access to the coast. The project will improve public access to the coast by improving railroad schedule reliability and expanding rail capacity and ridership. SANDAG expects the project to help reduce automobile and truck traffic on nearby roads and freeways in the study area which are used for public access to coastal recreation areas.

The Commission agrees with SANDAG and finds that the proposed project would not adversely affect existing public access and would improve public access by maintaining and expanding the railroad line used by SANDAG and other rail operators. This in turn will help to reduce

automobile traffic on Interstate 5 in an area where this freeway supports public access and recreation. The Commission therefore finds the project consistent with the public access and public transit policies of the CCMP (Coastal Act Sections 30210 and 30252).

F. AIR QUALITY AND ENERGY CONSUMPTION

Coastal Act Section 30253 states in part:

> *New development shall do all of the following:*
>
> . . .
>
> *(d) Minimize energy consumption and vehicle miles traveled.*

During its review in 2002 of NCTD's proposal for the Oceanside-Escondido Rail Project (CC-029-02), the Commission noted that the public transit project: (a) would reduce auto-related air emissions, thereby contributing to the improvement of regional air quality; (b) as part of a regional public transportation system, including bus service, light-rail and commuter trains, and trolleys, the project would increase acceptance of public transit as a desirable mode of transportation; and (c) as acceptance and use of public transit increases, public agencies may be motivated to further improve the public transit system and these improvements will result in corresponding reductions in traffic congestion. The Commission noted:

> *The air quality benefits [cited in that project's EIR] are partially offset by increased pollution caused by the train's use of diesel fuel. However, as described in the Access Section above, the proposed project will probably have significant VMT reductions as the regional mass transit program expands and as public transit becomes a more accepted mode of transportation. As the percentage of traffic accommodated by mass transit grows, there will be a corresponding reduction in air pollution from automobiles. However, there will not be a corresponding increase in air pollution as ridership of the rail system grows. As ridership grows there will be more reductions in air quality impacts from automobiles.*
>
> *In conclusion, the Commission finds that the proposed project will reduce energy consumption and improve air quality . . . Therefore, the Commission finds that the project is consistent with Section 30253 of the Coastal Act, and thus with the energy consumption and air quality policies of the CCMP.*

SANDAG reports in its consistency certification that:

> *Due to implementation of increasingly stringent locomotive emission standards being implemented by the U.S. Environmental Protection Agency (U.S. EPA), emissions per locomotive of nitrogen oxides (NOx) and particulate matter (PM) are expected to decrease along the LOSSAN corridor with utilization of California Air Resources Board (ARB) Tier 4 locomotive emission standards that are required to be effective in 2015, and the ARB's pollution reduction agreement with Union Pacific and Burlington Northern Santa Fe Railways.*

The proposed project's air quality benefits include reduced idling time by automobiles on highways and train locomotives in the LOSSAN corridor and will lead to reduced emissions of air pollutants. In addition, the operational efficiency improvements arising from construction of an additional segment of double-track are expected to increase ridership on existing passenger trains in the corridor and to correspondingly reduce automobile trips and vehicle miles traveled in the corridor. Potential adverse effects on coastal resources associated with global climate change include sea level rise, increased coastal flooding and erosion, inundation of developed areas and public access and recreation areas, alterations to existing sensitive habitat areas, ocean warming, changes in marine species diversity, distribution, and productivity, and increased ocean acidification. The Commission has historically found (e.g., CC-079-06, BHP Billiton LNG International, Inc., Ventura and Los Angeles Counties) that coastal resources would be directly affected by global climate change resulting from increases in greenhouse gas emissions.

Coastal Act policies provide a basis for Commission action to reduce greenhouse gases and to protect coastal resources at risk from the adverse effects of global warming, including the air quality and energy minimization policies (Section 30253). The Commission adopted findings in support of these goals when it concurred with consistency certification CC-075-09 by NCTD for a double-tracking project in Carlsbad in northern San Diego County. The Commission has adopted similar findings in its concurrence with subsequent consistency certifications for LOSSAN double-track projects (CC-052-10, CC-056-11, and CC-009-12). The Commission finds that SANDAG's proposed double tracking and bridge project, and the resulting improvements to public transportation in the LOSSAN corridor, will help to reduce energy consumption, reduce greenhouse gas emissions, and improve air quality, and is therefore consistent with the energy minimization policy of the CCMP (Coastal Act Section 30253(d)).

G. CONFLICT BETWEEN COASTAL ACT POLICIES

As indicated above, the standard of review for assessing consistency with the California Coastal Management Program is set forth in Chapter 3, beginning with Public Resources Code Section 30200. Section 30200(b) states that where a conflict is identified between "the policies of this chapter, Section 30007.5 shall be utilized to resolve the conflict."

Section 30007.5 of the Coastal Act provides for the Commission to resolve conflicts between Coastal Act policies as follows:

> *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 that 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.*

1. Conflict. In order for the Commission to consider balancing Chapter 3 policies, it must first establish that there is a conflict between these policies. The fact that a project is consistent with

one policy of the Coastal Act and inconsistent with another policy does not necessarily result in a conflict. Rather, to identify a conflict, the Commission must find that to object to the project based on the policy inconsistency would result in coastal zone effects that are inconsistent with some other policy or policies of the Coastal Act.

As discussed previously in **Section III.D**, above, because the project would increase railway capacity, it does not qualify as an incidental public service under Section 30233(a)(4), Commission interpretations of which historically only allow transportation projects in wetlands and open coastal waters where they are necessary to maintain *existing* capacity. Therefore, because the project is not an allowable use, the only way the Commission could find the project consistent with the Coastal Act would be through the "conflict resolution" provision (Section 30007.5).

As described in the public access and transit section above (**Section III.E**), one of the project purposes/benefits is reduced traffic congestion on area highways. NCTD has provided evidence in previous consistency certifications that double-tracking projects provide significant public access and recreation benefits, both through reducing traffic congestion along and improving public access to the coast. NCTD has reiterated that finding in its subject consistency certification. The Commission finds that traffic congestion interferes with access to the coastal recreational opportunities within northern San Diego County (including travelers from Los Angeles and Orange Counties). As traffic congestion increases with expected growth of the region, these access impacts will worsen, and when congestion increases, non-essential trips such as those for recreational purposes tend to be among the first to be curtailed. Thus, as the traffic increases, the ability for the public to get to the coast will become more difficult, which would result in a condition that would be inconsistent with the access policies of the Coastal Act. Section 30210 mandates that public access to the coast be maximized

As discussed in **Sections III.D and III.F** above, traffic increases that would occur if this project were not to go forward would also degrade water and air quality. This would result in conditions that are inconsistent with the water and air quality policies of the Coastal Act, because they would adversely affect already impaired coastal water bodies and exacerbate non-attainment status of the coastal air basin. Sections 30231 and 30232 of the Coastal Act require the maintenance and restoration of coastal water quality. Section 30253(d) mandates reductions in energy consumption and vehicle miles traveled. Section 30252 articulates that one of the Coastal Act's access goals is encouraging maintenance and enhancement of public access through facilitating the provision or extension of transit service. Thus, not only would objecting to this consistency certification be inconsistent with the access policies, but it would also result in adverse effects to coastal waters and the air basin, and be inconsistent with the achievement of water quality, air quality, energy conservation, reductions in vehicle miles traveled, and transit goals expressed in Sections 30231, 30232, 30253(d), and 30252. The Commission therefore finds that the proposed project creates a conflict between allowable use test of the wetland policy (Section 30233(a)) on the one hand, and the water quality, air quality, energy conservation, reductions in vehicle miles traveled, and public access and transit policies (Sections 30231, 30232, 30253(d), and 30252) on the other.

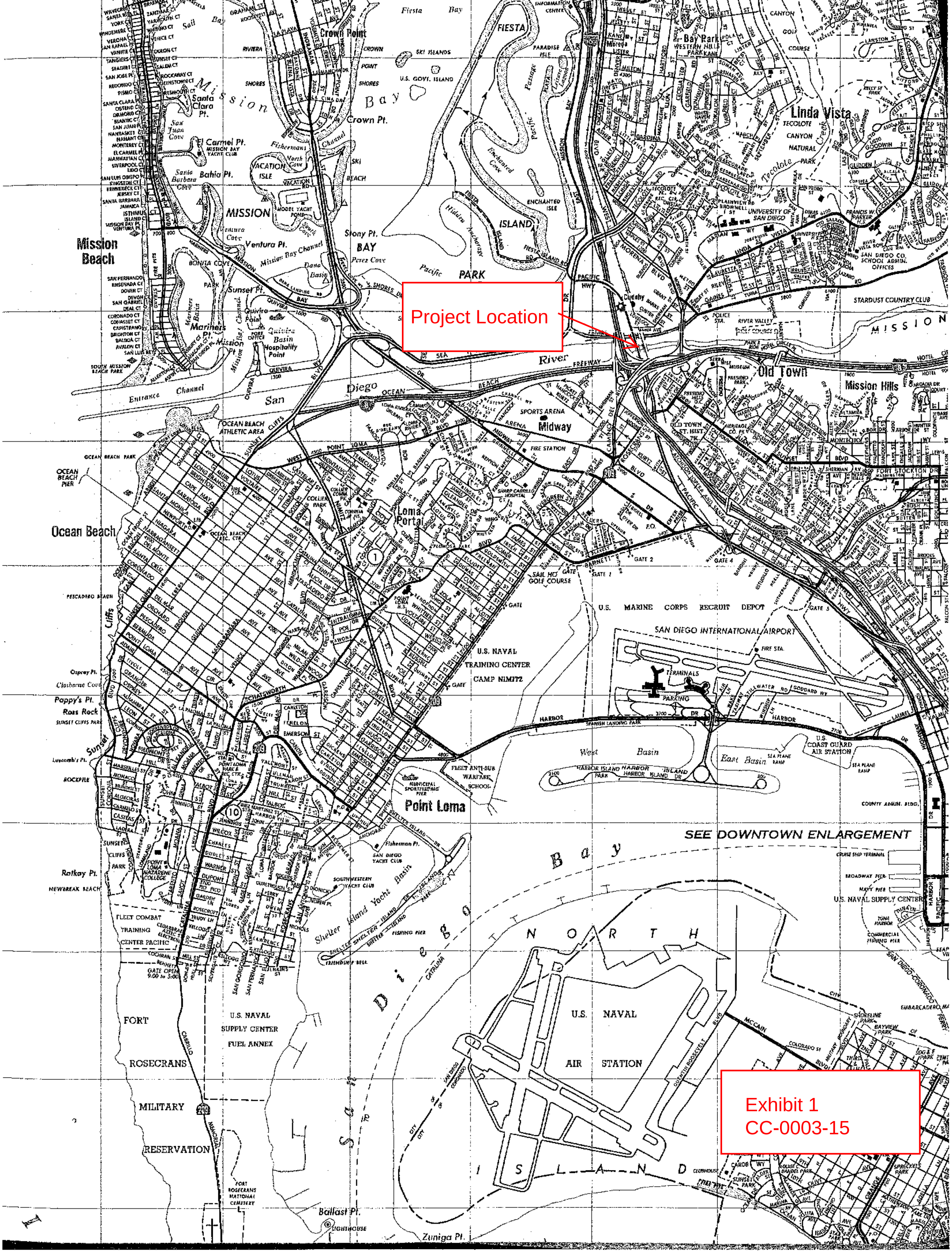
2. <u>Conflict Resolution</u>. Having established a conflict among Coastal Act policies, Section 30007.5 requires the Commission to resolve the conflict in a manner that is on balance most protective of coastal resources. In this case, the proposed project will result in a decrease in the amount of the permanent wetland fill due to the removal of existing bridge piers from the San Diego River channel and because the new bridges require fewer support piers in wetland habitat than are currently used to support the existing bridge. The wetland habitat to be filled is adjacent to the existing railroad line, the amount of wetland fill to support the new bridges has been minimized to the maximum extent practicable, revegetation with native wetland and riparian plants will occur in areas disturbed by construction, and off-site creation of wetland and riparian habitat will mitigate the habitat loss that will occur during the three-year-long construction period. On the other hand, as stated above, objecting to this consistency certification would result in conditions that would be inconsistent with the access policies (Sections 30210 and 30252), would result in adverse effects to coastal waters and the coastal air basin, and would be inconsistent with the achievement of water quality, air quality, energy conservation, and reductions in vehicle miles traveled goals expressed in Sections 30231, 30232, and 30253. In resolving the Coastal Act conflict raised, the Commission finds that the impacts on coastal resources from not constructing the project would be more significant and adverse than the project's coastal wetland impacts, which would, as designed by SANDAG, be adequately mitigated. The Commission therefore concludes that the project would, on balance, be most protective of significant coastal resources, consistent with Coastal Act Section 30007.5. As such, it is consistent with Chapter 3 as a whole, and the Commission therefore concurs with this consistency certification.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

1. CC-0003-15 (SANDAG, San Diego River Railroad Bridge Replacement and Double Track Project, San Diego County)
2. *Biological Technical Report for San Diego River Bridge Double-Track Project*. HDR, July 2015.
3. *Jurisdictional Wetland Delineation Report for San Diego River Bridge Double-Track Project*. HDR, July 2015.
4. *Conceptual Revegetation Plan for San Diego River Bridge Double-Track Project*. HDR, July 2015.
5. *Wetland Habitat Restoration and Enhancement Plan, Tijuana River Wetland, Phase 2, San Diego, CA*. Caltrans, November 2015.
6. CC-006-14 (North County Transit District (NCTD), San Dieguito River Railroad Bridge, Scour Repair Project, San Diego County)
7. CC-009-12 (SANDAG, San Onofre-Pulgas Double Track Project, San Diego County)
8. CC-056-11 (SANDAG, Sorrento Valley Double Track Project, San Diego County)
9. CC-006-11 (NCTD, San Dieguito River Railroad Bridge, Southern Abutment Protection, San Diego County)
10. CC-052-10 (NCTD, San Dieguito River Railroad Bridge Scour Protection, City of Del Mar, San Diego County)
11. CC-075-09 (NCTD, Agua Hedionda Railroad Bridge and Double Track Project, San Diego County)
12. NE-067-09 (NCTD, San Dieguito River Railroad Bridge, Structural Retrofit and Pile Wrapping, San Diego County)
13. CC-059-09 (NCTD, Replacement of three wood trestle railroad bridges with concrete bridges, Los Penasquitos Lagoon, San Diego County)
14. CC-008-07 (NCTD, extension of passing track and construction of one replacement and one new railroad bridge over Loma Alta Creek in Oceanside)
15. CC-079-06 (BHP Billiton LNG International, Inc., Ventura and Los Angeles Counties)
16. CC-055-05 (NCTD, replacement of the railroad bridge over Agua Hedionda Lagoon)
17. CC-052-05 (NCTD, Santa Margarita River double tracking project at the south end of Camp Pendleton)
18. CC-004-05 (NCTD, O'Neill to Flores double track project in central Camp Pendleton)
19. CC-086-03 (NCTD, Pulgas to San Onofre double tracking at the north end of Camp Pendleton)
20. CC-058-02 (City of Santa Barbara, modifications to Santa Barbara Airport)
21. CC-029-02 (NCTD, Oceanside-Escondido Railroad Project, San Diego County)
22. NCTD CDP Nos.: 6-03-102-G (Agua Hedionda emergency repairs), 6-02-152 (San Luis Rey River bridge repair), 6-02-151 (Agua Hedionda bridge), 6-02-102 (Del Mar drainage outlets), 6-02-80 (Santa Margarita Bridge repair), 6-01-64 (Balboa Avenue), 6-01-108 (Tecolote Creek), 6-93-60 (Del Mar), 6-94-207 (Solana Beach), 6-93-106 (Carlsbad), and 6-93-105 (Camp Pendleton).
23. *Bolsa Chica Land Trust et al., v. The Superior Court of San Diego County* (1999) 71 Cal.App.4th 493, 517

24. *California Eelgrass Mitigation Policy*, National Marine Fisheries Service, October 2014.


Project Location
Exhibit 1
CC-0003-15
Mission Beach
Mission Bay
Crown Point
Fiesta Bay
Linda Vista
Old Town
Mission Hills
Midway
Loma Portal
Ocean Beach
Point Loma
San Diego River
U.S. MARINE CORPS RECRUIT DEPOT
SAN DIEGO INTERNATIONAL AIRPORT
U.S. NAVAL TRAINING CENTER
CAMP NIMITZ
SEE DOWNTOWN ENLARGEMENT
San Diego Bay
NORTH ISLAND
U.S. NAVAL AIR STATION
FORT ROSECRANS MILITARY RESERVATION
U.S. NAVAL SUPPLY CENTER FUEL ANNEX
Ballast Pt.
Zuniga Pt.

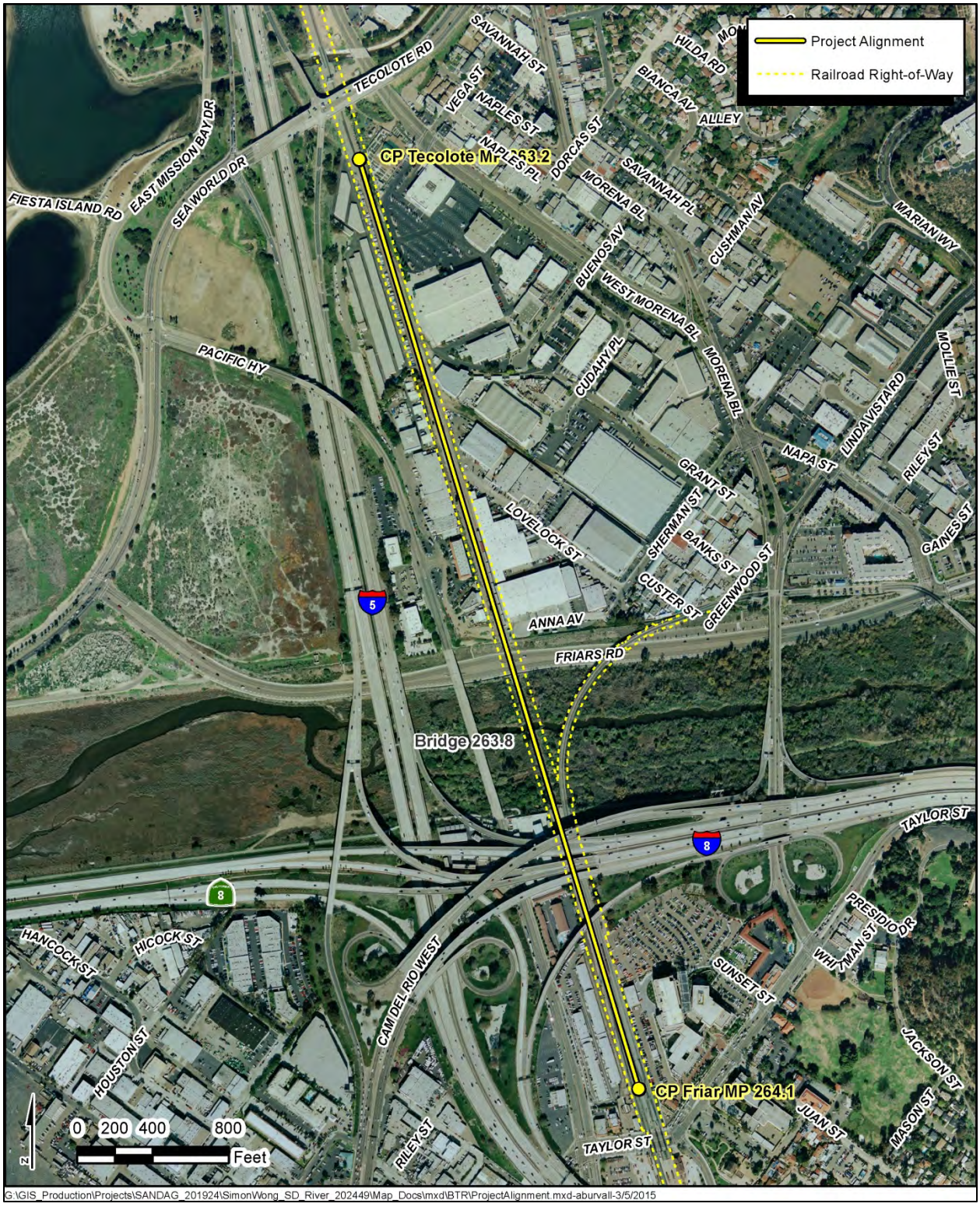


Figure 1. Project Location and Vicinity

Exhibit 2

CC-0003-15

Figure 1a: Reduced Project Footprint (Bike Path Realignment Removed)

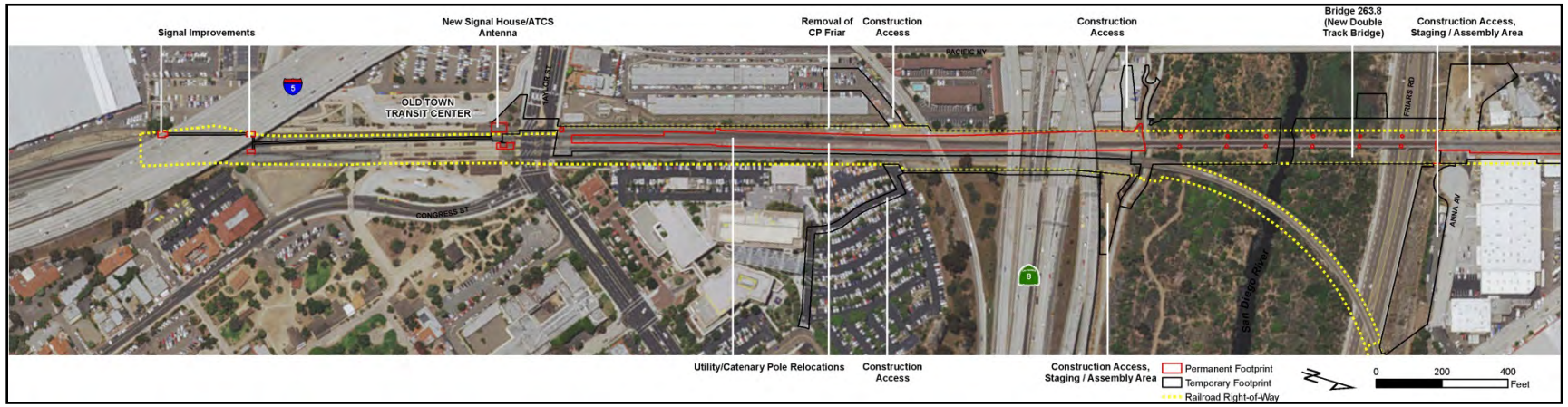


Figure 1b: Reduced Project Footprint (Bike Path Realignment Removed)

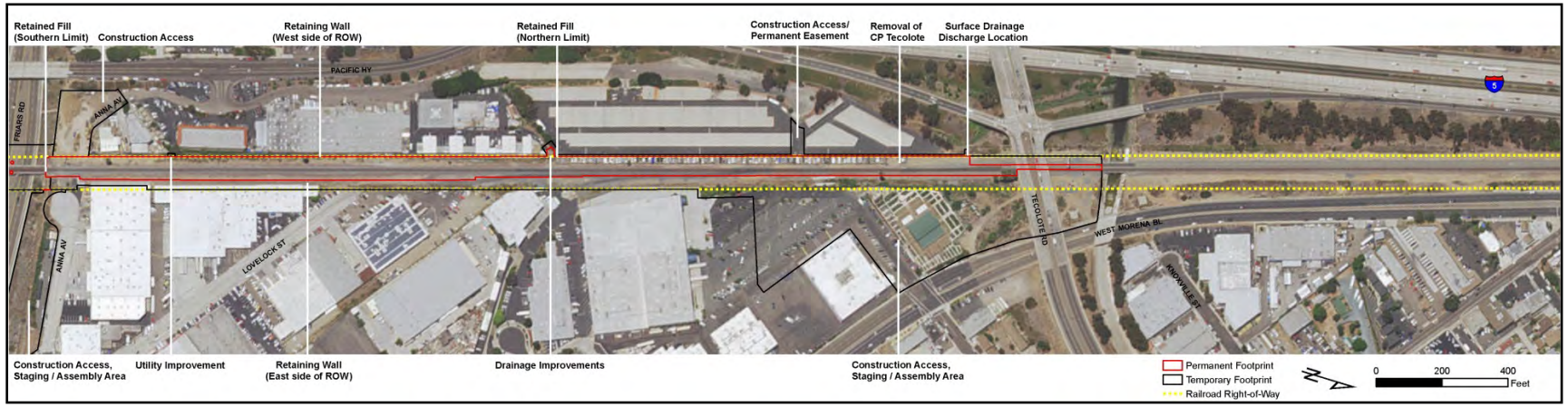


Exhibit 3
CC-0003-15

Figure 3: Impacts to Vegetation Impacts (Reduced Project Footprint)

Figure 4: Impacts to Jurisdictional Areas (Reduced Project Footprint)

Exhibit 4
CC-0003-15

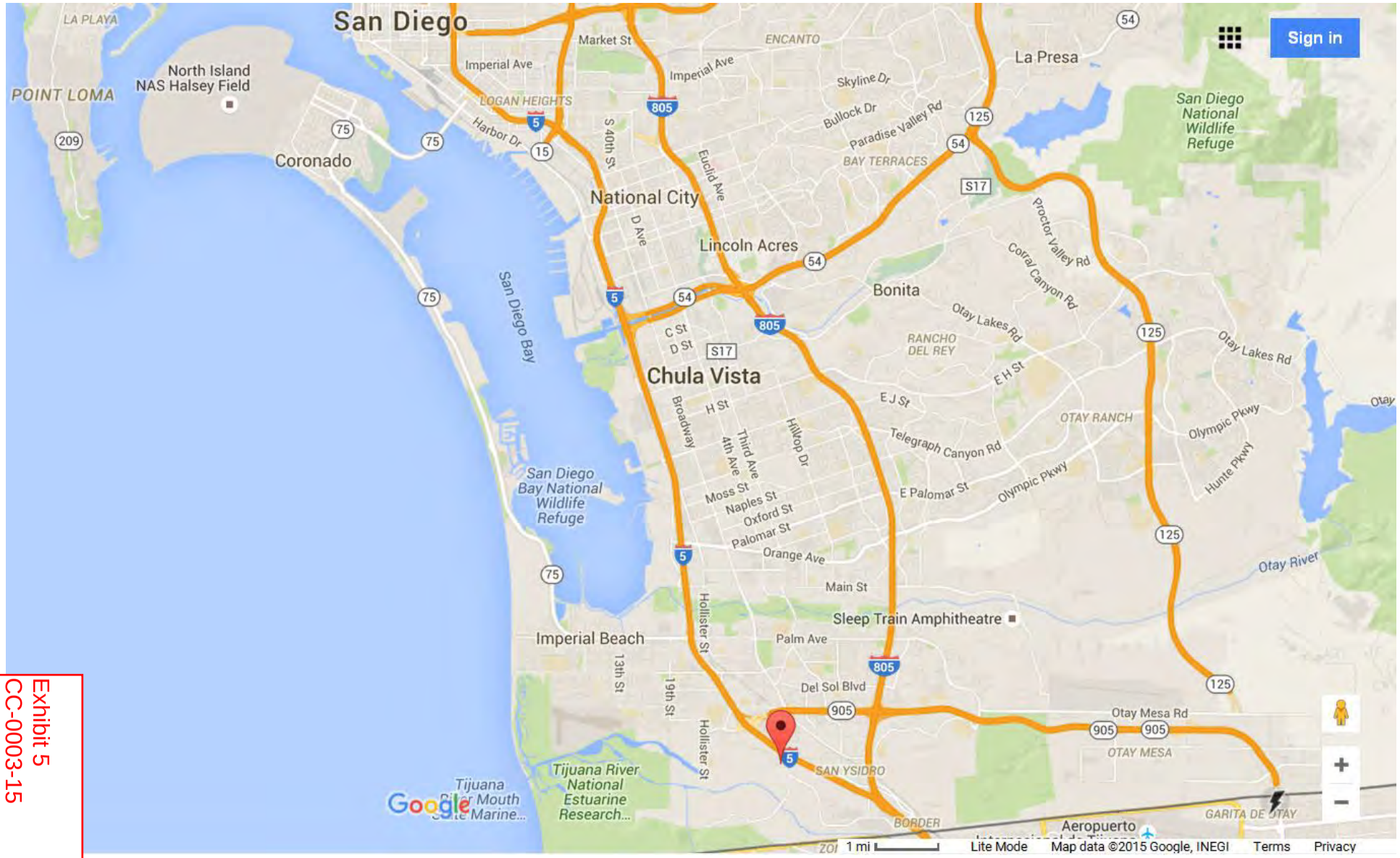


Exhibit 5
CC-0003-15

Figure 1. Regional Location Map. The marked point south of I-5 is the approximate location of the Tijuana River Wetland. Source: Google Maps.

Figure 2. Tijuana River Valley Regional Park, San Diego, Calif., showing different mitigation work phases. Sources: Caltrans (2012 aerial photography).

Exhibit 6
CC-0003-15

Figure 3. Tijuana River Valley Regional Park, San Diego, Calif., showing Phase 2A and 2B locations, gate and road access. Sources: Caltrans (2012 aerial photography).

Exhibit 7
CC-0003-15