

CALIFORNIA COASTAL COMMISSION

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W15a

DATE: November 18, 2016

TO: Commissioners and Interested Persons

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SUBJECT: **Proposed Amendment No. PWP-6-NCC-16-0006-2 to the North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program** (PWP-6-NCC-13-0203-1, as amended) for Public Hearing and Commission Action at the December 7, 2016 Commission Meeting in Ventura

SYNOPSIS

The subject amendment to the North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program (NCC PWP/TREP) for the North San Diego County coastline was jointly submitted by District 11 of the California Department of Transportation (Caltrans) and the San Diego Association of Governments (SANDAG), and filed as complete on October 12, 2016. The date by which the Commission must take action, absent an extension of the time limit, is December 11, 2016. For those jurisdictions within the North Coast Corridor (NCC) that do not have a certified Local Coastal Program (LCP) or for areas that are within the Commission's retained permitting jurisdiction, the standard of review for the subject amendment is Chapter 3 of the Coastal Act. For those jurisdictions within the NCC that are certified and not within the Commission's retained permitting jurisdiction, the standard of review is the relevant corridor cities' LCPs.

The proposed NCC PWP/TREP amendment is associated with a Coastal Development Permit amendment (CDP 6-15-2092-A1) submitted by Caltrans – which is also scheduled for Commission review at the December 7, 2016 meeting. The subject amendment includes proposed changes to the NCC PWP/TREP to be heard and acted upon prior to consideration of the related CDP amendment. While the standard of review for the associated CDP amendment is the Coastal Act, the NCC PWP/TREP is to be used as guidance, and without these proposed changes to the NCC PWP/TREP, the specific CDP amendment as submitted could not be found consistent with the NCC PWP/TREP.

SUMMARY OF AMENDMENT REQUEST

The NCC PWP/TREP currently provides that all pile driving near the lagoons will occur outside of the bird breeding season (February 15-September 15) to minimize construction noise impacts to bird species nesting around the lagoons. The subject amendment would

modify Implementation Measure 5.5.8 to allow pile driving activities to occur in the lagoons during bird breeding season provided that appropriate mitigation and monitoring measures are implemented to avoid, or at least minimize, potential adverse impacts to sensitive species. This amendment would apply to all of the coastal lagoons within the NCC, including Los Penasquitos Lagoon, San Dieguito Lagoon, San Elijo Lagoon, Batiquitos Lagoon, Agua Hedionda Lagoon, and Buena Vista Lagoon.

EXECUTIVE SUMMARY

The NCC PWP/TREP, jointly prepared by Caltrans and SANDAG, is a single, integrated document for comprehensively planning, reviewing, and permitting the transportation, community, and resource enhancement projects within the NCC extending from La Jolla to Oceanside along the North San Diego County coastline (Exhibit 1). The NCC PWP/TREP creates a framework within which identified projects can be analyzed and implemented over 40 years under a coordinated plan. The goal of this process is to optimize the suite of improvements so that transportation goals are achieved in a manner that maintains and improves public access while also maximizing protection and enhancement of the region's significant sensitive coastal resources.

The NCC PWP/TREP includes a Phasing Plan that provides an implementation schedule for a series of rail, highway, transit, bicycle, and pedestrian projects to improve and maintain mobility and access to coastal recreational resources in the NCC. The NCC PWP/TREP also includes a comprehensive restoration program designed to protect, restore, and enhance sensitive coastal resources in the NCC as one means of mitigating the potential resource impacts caused by implementation of the transportation and community enhancement projects. The framework created within the Phasing Plan creates linkages between these various project types to ensure that transportation infrastructure improvements move forward in a balanced fashion as compared with regional restoration efforts in order to protect and enhance coastal resources and to ensure that mitigation for impacts caused by the project occurs in a timely manner in relation to the associated impacts.

Chapter 5 of the NCC PWP/TREP (Coastal Development Policies and Resources) is divided into ten sections (5.1 – Energy Conservation and Emissions Reduction; 5.2 – Promotion of Public Transit and Smart Growth; 5.3 – Public Access and Recreation; 5.4 – Marine Resources; 5.5 – Environmentally Sensitive Habitat Areas and Special-Status Species; 5.6 – Archaeological and Paleontological Resources; 5.7 – Coastal Visual Resources; 5.8 – Site Stability and Management, 5.9 – Agricultural Resources, and 5.10 – Coastal Act Policy Conflict Resolution), with each section containing policies, design/development strategies, and implementation measures, specific to the relevant issue area. The policies and design/development strategies apply to all NCC PWP/TREP improvements, while the implementation measures are project-specific and apply to NCC PWP/TREP improvements that are subject to the Notice of Impending Development (NOID) review process.

The NCC PWP/TREP was approved by the Commission on August 13, 2014 (PWP-6-NCC-13-0203-1). It was amended by the Commission on March 9, 2016 (PWP-6-NCC-

16-0001-1) to: clarify the location of Coastal Rail Trail segments; clarify the location of rail station parking improvements; add a new rail undercrossing south of San Elijo Lagoon in Solana Beach; revise community enhancements at Solana Hills Drive trailhead; include additional rock slope protection for bridge abutments and associated mitigation and monitoring requirements; allow equipment fueling near lagoons in instances when a 100 ft. setback is not feasible, with additional standards and monitoring requirements; modify maps to identify the general locations of freeway lighting; and add a new appendix to incorporate specific lighting design standards.

As certified, the NCC PWP/TREP provides that all pile driving near lagoons will be completed outside of the bird breeding season to minimize construction noise impacts to bird species around the lagoons. However, since the original approval of the NCC PWP/TREP and the subsequent amendment, the contractor has refined the construction approach and plans such that pile driving for the construction of replacement I-5 bridges during the bird breeding season would be necessary in order to accommodate a shorter construction schedule that would reduce the total duration of bridge construction within each lagoon. Specifically, allowing flexibility to conduct some pile driving activities during bird breeding season would reduce the construction window for each bridge by up to 18 months.

Although the proposed amendment would decrease the overall time period that noise impacts to sensitive species within each lagoon would occur, noise from pile driving activities under this new approach could adversely impact nesting birds. In order to avoid and minimize impacts to sensitive species (e.g., Coastal California gnatcatcher, Ridgway's rail, California least tern, western snowy plover, Belding's savannah sparrow), Caltrans and SANDAG also propose to implement mitigation measures and monitoring to reduce construction noise and maintain noise levels below certain standards. These standards were developed in coordination with staff from Caltrans, the United States Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), and the Commission, including the Commission's staff ecologist Dr. Laurie Koteen. In addition, all of the resource agencies within the Resource and Enhancement Mitigation Program (REMP) working group have reviewed the proposed mitigation and monitoring measures and did not raise any concerns. Proposed mitigation and monitoring measures include: pre-construction bird surveys, biological monitoring to evaluate bird responses, specialized construction techniques to minimize noise and vibrational impacts, and noise and distance limitations. Thus, with the inclusion of these required mitigation and monitoring measures, pile driving within the lagoon during bird breeding season is not anticipated to result in any additional adverse impacts to sensitive nesting bird species that have not already been analyzed and authorized by the NCC PWP/TREP.

It should be noted that while the NCC PWP/TREP serves as the standard of review for the highway projects listed therein that are outside of the Commission's retained permitting jurisdiction, it serves only as guidance for most of the rail projects included within in. Rail projects are generally reviewed through the federal consistency process, with the Coastal Act being the standard of review. As such, the Commission has already reviewed (and concurred with) a consistency certification submitted by SANDAG for a

rail project located within one of the NCC coastal lagoons, and that concurrence allowed for pile driving during bird breeding season, pursuant to SANDAG's proposal, which included certain restrictions on noise levels. Specifically, Consistency Certification No. CC-0004-15, reviewed by the Commission in May 2016, was for a project that includes double-tracking a 1.5-mile segment of rail, constructing a new railroad bridge, and other associated improvements in San Elijo Lagoon.

In conclusion, the proposed NCC PWP/TREP amendment is consistent with the Chapter 3 policies of the Coastal Act as well as the corridor cities' certified LCPs, which includes the Cities of San Diego, Encinitas, Carlsbad, and Oceanside. Therefore, staff is recommending that the Commission **approve** NCC PWP/TREP Amendment No. PWP-6-NCC-16-0006-2, as submitted.

The appropriate resolution and motion begin on Page 8. The findings for approval of the NCC PWP/TREP amendment as submitted begin on Page 9.

ADDITIONAL INFORMATION

Further information on the NCC PWP/TREP amendment may be obtained from Kanani Brown or Gabriel Buhr at (619) 767-2370.

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I. PROCEDURAL ISSUES

PUBLIC WORKS PLAN BACKGROUND AND HISTORY

Section 30114 of the Coastal Act defines public works to include, among other things, the following:

(b) All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities. (...)

(c) All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.

Section 30605 of the Coastal Act states, in part:

To promote greater efficiency for the planning of any public works (...) and as an alternative to project-by-project review, plans for public works (...) may be submitted to the commission for review in the same manner prescribed for the review of local coastal programs set forth in Chapter 6 (commencing with Section 30500).

A Public Works Plan is one of the alternatives available to the Commission and project proponents for Commission review of large or phased public works projects, and once such a plan is approved, work under the plan remains under the authority of the Commission irrespective of coastal permit jurisdictional boundaries. A PWP is an alternative to project-by-project review for public works (which, in this situation would require multiple coastal development permits, in multiple jurisdictions). PWPs must be sufficiently detailed regarding the size, kind, intensity, and location of development to allow the Commission to determine its consistency with the Chapter 3 policies of the Coastal Act (pre-LCP certification) or the certified LCP (post-LCP certification). Once the Commission approves a PWP, no coastal development permit is required to authorize any specific project described within the plan; rather, before commencing each specific project, the project proponent would need to submit notice in the form of a Notice of Impending Development (NOID), which would require the Commission to determine whether it is covered by the PWP, and if so, whether the submitted project is consistent with the standards within the PWP, or if conditions are necessary to make it consistent.

STANDARD OF REVIEW

Section 30605 of the Coastal Act states in part:

If any plan for public works (...) is submitted prior to certification of the local coastal programs for the jurisdictions affected by the proposed public works, the commission shall certify whether the proposed plan is consistent with

Chapter 3 (commencing with Section 30200) (...) If any such plan for public works is submitted after the certification of local coastal programs, any such plan shall be approved by the commission only if it finds, after full consultation with the affected local governments, that the proposed plan for public works is in conformity with certified local coastal programs in jurisdictions affected by the proposed public works.

Section 30605 of the Coastal Act and Section 13356 of Title 14 of the California Code of Regulations provide that where a PWP is submitted prior to certification of the LCP for the jurisdiction affected by the PWP, the standard of review for certification of the PWP is the Chapter 3 policies of the Coastal Act. Section 30605 of the Coastal Act and Section 13357 of Title 14 of the Code of Regulations then also state that where a PWP is submitted after the certification of an LCP for the jurisdiction affected by the PWP, the PWP shall be approved by the Commission only if it finds, after full consultation with the affected local government(s), that it is in conformity with the certified LCP. Section 13371 of Title 14 of the Code of Regulations provides that the standard of review for PWP amendments shall be the same as provided for the review of PWP.

Within the North Coast Corridor, there are four cities with fully certified LCPs: San Diego, Encinitas, Carlsbad, and Oceanside (the NCC PWP/TREP specific projects will not be located in any portion of the City of Del Mar covered by the City's certified LCP, and Solana Beach has a certified Land Use Plan but does not currently have a certified Local Implementation Plan, and as such does not yet have a fully certified LCP). Therefore, pursuant to Section 30605 of the Coastal Act, the standard of review for portions of the NCC PWP/TREP improvements occurring in San Diego, Encinitas, Carlsbad, and Oceanside, is that those portions of the NCC PWP/TREP amendment are in conformance with the certified LCP of each respective city. Following approval of the subject NCC PWP/TREP amendment, the NCC PWP/TREP, as amended herein, will provide the standard of review for NOIDs submitted for NCC PWP/TREP specific projects. The standard of review for those portions of the NCC PWP/TREP improvements occurring in the City of Solana Beach, the City of Del Mar, or areas of the Commission's retained permitting jurisdiction are the Chapter 3 policies of the Coastal Act. For any rail projects that may be subject to federal consistency review only, and projects located in the Commission's retained permitting jurisdiction, the standard of review is also the Chapter 3 policies of the Coastal Act.

PUBLIC PARTICIPATION

The draft amendment was first released to the public in September 2016. On October 11, 2016, Caltrans held a public hearing to solicit feedback and answer questions from the public. This local hearing was duly noticed to the public and all known interested parties. The amendment was formally submitted to the Commission on October 5, 2016, and Coastal staff has continued to accept public comment throughout this review process.

STAKEHOLDER PARTICIPATION

The Resource Enhancement and Mitigation Program (REMP) within the NCC PWP/TREP was developed through a collaborative process with representatives from various resource agencies including the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the California Department of Fish and Wildlife, the Regional Water Quality Control Board, NOAA National Marine Fisheries Service, the U.S. Environmental Protection Agency, and the California Coastal Conservancy. The development of the REMP was initiated by members of this group as early as 2010 in order to identify regionally significant restoration and enhancement opportunities within the NCC. Through the NCC PWP/TREP, this group has been formalized as the REMP Working Group and meets quarterly to track and guide progress through the planned implementation phases of the PWP. The subject amendment to allow pile driving during the bird breeding season in the lagoons within the NCC was presented to the REMP Working Group at recent REMP working group meetings convened in summer 2016 and no concerns were raised.

In addition, staff from Caltrans, SANDAG, and the Commission have had ongoing coordination meetings with the corridor cities since the approval of the NCC PWP/TREP in August 2014 to discuss the preliminary NCC PWP/TREP projects. Most recently, on October 5, 2016, Caltrans and Commission staff provided staff from the affected corridor cities, including the cities of San Diego, Encinitas, Carlsbad, and Oceanside (as well as the City of Solana Beach, which, again, does not have a fully certified LCP), with information on the proposed amendment. None of the corridor cities had any questions or concerns regarding the subject PWP amendment or its conformity with the cities' certified LCPs.

II. MOTION AND RESOLUTION

Following a public hearing, staff recommends the Commission adopt the following resolution and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided below.

MOTION: *I move that the Commission certify the North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program Amendment No. PWP-6-NCC-16-0006-2, as submitted.*

STAFF RECOMMENDATION TO CERTIFY:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Public Works Plan amendment as submitted and adoption of the following resolution and findings. The motion to certify passes only by affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY NCC PWP/TREP AMENDMENT AS SUBMITTED:

The Commission hereby certifies the North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program Amendment No. PWP-6-NCC-16-0006-2 as submitted and adopts the findings stated below on the grounds that the amendment, as submitted, conforms with the Chapter 3 policies of the Coastal Act and with the provisions of the Cities of San Diego, Encinitas, Carlsbad and Oceanside Local Coastal Programs, as applicable. Certification of the Plan as submitted complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Plan on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the Plan on the environment.

III. FINDINGS AND DECLARATIONS

A. PUBLIC WORKS PLAN AMENDMENT DESCRIPTION

As certified, the NCC PWP/TREP provides that all pile driving near the lagoons will occur outside of the bird breeding season (February 15-September 15) to minimize construction noise impacts to bird species nesting around the lagoons. However, since the original approval of the NCC PWP/TREP and the subsequent amendment, the contractor has refined the construction approach and plans such that some pile driving for Interstate-5 (I-5) bridge construction during the bird breeding season would be necessary in order to accommodate a shorter construction schedule that would reduce the total duration of bridge construction within each each lagoon. Allowing flexibility to conduct pile driving during bird breeding season would reduce the construction window for the replacement of each I-5 bridge by up to 18 months. The amendment would allow for this new approach by allowing pile driving to occur in the lagoons during bird breeding season and by requiring the following mitigation and monitoring measures: pre-construction bird surveys, biological monitoring to evaluate bird responses, specialized construction techniques to minimize noise and vibrational impacts, and noise and distance limitations. This amendment would apply to all of the coastal lagoons within the NCC, including Los Penasquitos Lagoon, San Dieguito Lagoon, San Elijo Lagoon, Batiquitos Lagoon, Agua Hedionda Lagoon, and Buena Vista Lagoon.

B. BIOLOGICAL RESOURCES

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Section 30107.5 of the Coastal Act states:

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

Policy 2.5 in each of the relevant corridor cities’ (San Diego, Encinitas, Carlsbad, and Oceanside) North Coast Corridor PWP Overlay within the certified LCP states, in relevant part:

The NCC PWP project scope and resource protection policies, design/development strategies, and implementation measures may require amendment . . . to address modified project designs, changes in available project funding and/or phasing needs, to incorporate new, high priority resource enhancement opportunities, and/or to address changed site conditions and resource protection requirements within the NCC Project Overlay area. . . . Amendment of the NCC PWP that would not result in conflicts with the policies contained within the NCC Project Overlay would not require future amendment to the City’s Local Coastal Program.

Policy 3.5.1 in each of the relevant corridor cities’ (San Diego, Encinitas, Carlsbad, and Oceanside) North Coast Corridor PWP Overlay within the certified LCP states:

North Coast Corridor transportation and community enhancement projects shall be sited and designed to ensure that ESHAs are protected against any significant disruption of habitat values, and development in areas adjacent to ESHAs shall be sited and designed to prevent impacts that would significantly degrade those areas, and be compatible with the continuance of those habitat and recreation areas, consistent with the policies of the NCC PWP/TREP (prepared by Caltrans/SANDAG dated June 2014). Where otherwise approvable new development may potentially result in negative impacts to ESHAs and other sensitive coastal habitats, appropriate mitigation measures shall be required and implemented. North Coast Corridor project development in and adjacent to ESHAs shall be limited to the uses specified in Section 30240 of the Coastal Act and/or uses specifically defined within and permitted by the NCC Project Overlay. Any future amendment of the original PWP shall not decrease the level of protection of ESHA guaranteed by the policies in the NCC PWP/TREP such that the project as a whole would no longer be, on balance, most protective of significant coastal resources.

There are several environmentally sensitive habitat areas (ESHAs) that occur or have the potential to occur within the NCC, including habitat areas located within coastal lagoons, coastal and inland waterways, smaller drainages supporting wetland/riparian habitats, isolated riparian/wetland habitats, and upland habitats, some of which support sensitive or special-status animal and plant species and provide wildlife corridors. More

specifically, the following native upland habitat types are found within the corridor and may be found to constitute ESHA: coastal sage scrub, coastal bluff scrub, southern maritime chaparral, coastal sage-chaparral scrub, coast live oak woodland, Torrey pine forest, southern dune scrub, southern foredunes, and native grassland. Additionally, designated critical habitat occurs within the corridor for the following: least Bell's vireo, western snowy plover, southwestern willow flycatcher, coastal California gnatcatcher, tidewater goby, Riverside fairy shrimp, San Diego fairy shrimp, spreading navarretia, and Essential Fish Habitat (EFH) for Pacific salmon, Pacific groundfish, coastal pelagic species, and highly migratory species.

The certified NCC PWP/TREP does allow for pile driving within the lagoons; however, it prohibits pile driving activities near the lagoons during the bird breeding season to minimize construction noise impacts to bird species nesting around the lagoons. The proposed amendment would modify Implementation Measure 5.5.8 to allow pile driving during the bird breeding season within the lagoons, which contain habitat areas that are ESHAs or potential ESHAs.

The Commission has already assessed and approved work of the type that is at issue here, and in these environments. The allowable use limitations in Section 30240 of the Coastal Act and LCP Policy 3.5.1 have therefore already been resolved in favor of allowing this work. The only change, and thus the only issue before the Commission at this point, is whether changing the timing introduces new impacts that conflict with any of the other standards articulated above. Specifically, the question is whether having these activities occur during the bird breeding season, with the associated mitigation measures in place, would significantly disrupt the habitat values (30240(a)), significantly degrade the ESHAs (30240(b)), be incompatible with the continuance of those ESHAs (30240(b)), or decrease the level of protection guaranteed by the policies in the NCC PWP/TREP such that the project as a whole would no longer be, on balance, most protective of significant coastal resources (3.5.1).

Although the proposed amendment would decrease the overall time period that noise impacts to sensitive species within each lagoon would occur, noise from pile driving activities during bird breeding season (February 15-September 15) could adversely impact nesting birds. In order to avoid and minimize impacts to sensitive bird species, Caltrans and SANDAG also propose to implement mitigation measures and monitoring to reduce construction noise and maintain noise levels below certain standards. These standards were developed in coordination with staff from Caltrans, the United States Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW) and the Commission, including the Commission's staff ecologist Dr. Laurie Koteen. In addition, all of the resource agencies within the Restoration and Environmental Mitigation Program (REMP) working group have reviewed the proposed mitigation and monitoring measures.

Proposed mitigation and monitoring measures include: pre-construction bird surveys, biological monitoring to evaluate bird responses, specialized construction techniques to minimize noise and vibrational impacts, and noise and distance limitations. Pre-construction bird surveys will be completed to document the location of occupied areas.

A biologist knowledgeable in the specific nesting bird species will be present to evaluate noise levels when pile driving begins and throughout pile driving activities to ensure that listed avian species are not being disturbed. The biologist will have the authority to halt work if birds are startling off nests in response to the impact of a pile driving hammer and will consult with USFWS prior to continuing with any pile driving activities.

The proposed amendment also includes requirements that pile driving near lagoons would be conducted primarily with a vibratory hammer to reduce construction noise and concussive pressure waves. During the bird breeding season, an impact hammer may be used to proof piles only if it is infeasible to use a vibratory hammer, and monitoring demonstrates that noise levels in areas occupied by individual nesting of coastal California gnatcatcher, Ridgeway's rail, or other listed avian species will remain under 80 dBA¹ 1-hour Leq. Noise attenuation measures (e.g., use of hydraulic hammer and/or a shroud of blankets around the driving hammer) will be implemented to reduce pile driving noise. Additionally, no pile driving would be allowed within 600 feet of documented nesting colonies of California least tern and/or western snowy plover, and if pile driving or general construction takes place within 2,000 feet of a documented nesting colony of California least tern and/or western snowy plover, noise levels are required to remain below 72 dBA 1-hour Leq and below a maximum of 78 dBA. In addition, the NCC PWP/TREP currently includes provisions to minimize acoustical impacts to aquatic and avian species during in-water construction activities, including bubble curtains and cofferdams. The amendment further provides that a hydraulic driver will be used to reduce noise levels during bridge construction activities if feasible and requires an acoustic specialist to monitor pile driving noise levels.

The applicants anticipate that pile driving activities in the lagoons would last for between 8 and 12 hours a day during normal construction time periods. Pile driving equipment can reach noise measurements of up to 120 dBA; however, with the mitigation and monitoring measures proposed to be incorporated into Implementation Measure 5.5.8, a biological monitor would be authorized to halt construction at any time during the bird breeding season to avoid any impacts. Species that occupy habitat at the edge of the lagoons, or outside the immediate areas where pile driving would occur, would be less affected by ambient noise level increases as a result of pile driving. However, for sensitive bird species that nest, breed, and forage near the water and specifically in locations where pile driving would occur, the effects of construction noise have the potential to result in modified foraging or breeding behavior. The greatest impact from noise would occur closest to equipment and would dissipate by 6 dBA with the doubling of distance. For example, one piece of equipment that generates a maximum noise level of 80 dBA at 50 feet would attenuate to 68 dBA 200 feet from the source.

Birds use sound, in the form of a variety of vocalizations (e.g., mating calls, contact notes) throughout their daily activities and during their annual breeding season and, therefore, have the potential to be adversely affected by construction noise that is above the ambient noise threshold they are adapted to. Special status or sensitive bird species

¹ dB(A) – a weighted decibel average

that reside within or adjacent to the NCC lagoons include the California least tern, western snowy plover, least Bell's vireo, Ridgway's rail, southwestern willow flycatcher, Belding's savannah sparrow, and Coastal California gnatcatcher.

There is no single State agency-established standard or threshold for determining significant noise effects on sensitive bird species; however 60 dBA is a widely used threshold for projects involving heavy equipment in areas supporting least Bell's vireo. This threshold criterion is used by some resource agencies as the noise threshold above which some birds may be adversely impacted. While this decibel range appears to be widely accepted for projects that involve potential noise impacts on riparian birds, its use has not been well justified scientifically². Noise levels in most quiet outdoor rural areas range from 40-45 dBA and from 50-55 dBA in quiet suburban areas³. The 60 dBA criterion stems from taking average ambient environmental noise measurements and determining at what noise level, beyond that measured in the natural environment, would one expect to see adverse impacts on avian vocal communication⁴. While this criterion is valuable as a starting point due to its conservative and protective intent, ambient environment noise levels must also be analyzed and incorporated into the decibel thresholds applied to projects on a case by case basis. The lagoon systems within the NCC are located within a built-out urban environment with relatively high ambient noise dBA levels, and as such, these existing baseline ambient noise conditions were taken into account by staff from Caltrans, USFWS, CDFW, and CCC when determining the appropriate noise thresholds that were incorporated into the proposed amendment.

According to Caltrans surveys, existing ambient average noise levels range from 63-70 dBA Leq 1-hour within lagoons near I-5. Ambient noise measurements can be as high as 84 dBA (peak) within some lagoon areas near I-5. Under existing conditions along I-5, peak noise in excess of 70 dBA occurs over large areas of wetland and upland habitats that support, or have the potential to support, special-status bird species at coastal lagoons in the NCC. Although population numbers have undergone natural fluctuations over the years, these species continue to consistently forage, nest, and breed within suitable habitat during the breeding in areas subjected to a wide range of noise levels.

Additionally, the Biological Opinion prepared for the "I-5 North Coast Corridor Project Final EIR/EIS" states that: "Ambient noise measurements taken along the project area in and adjacent to lagoons range from a peak of 84 dBA (on slopes adjacent to main lanes at San Elijo Lagoon) down to measurements in the mid-60's dBA 1-hour Leq in lagoons." Taking the existing ambient background noise levels in consideration for each lagoon, the USFWS and CDFW, in coordination with Commission and Caltrans staff, determined that a maximum of 80 dBA 1 hour Leq is an appropriate noise threshold to apply at individual nest locations of Ridgway's rail and coastal California gnatcatchers in this type

² Staff report for CDP No. 4-07-116, Caltrans and City of Goleta (James, R.A. 2006. California innovation with highway noise and bird issues. In: Proceedings of the 2005 International Conference on Ecology and Transportation, Eds. Irwin CL, Garrett P, McDermott KP. Center for Transportation and the Environment, North Carolina State University, Raleigh, NC: p. 569)

³ Staff report for CDP 4-07-116 (Ouis, D. 2001. Annoyance from road traffic noise: a review. Journal of Environmental Psychology. Vol. 21, pgs. 101-120).

⁴ Staff report for CDP 4-07-116 (Op. Cit. Dooling & Popper 2007)

of setting for any pile driving activities. The amendment further provides that no pile driving would be allowed within 600 feet of any documented nesting colonies of California least tern and/or western snowy plover during the nesting season. If pile driving or general construction is conducted within 2,000 feet of a documented nesting colony of California least tern and/or western snowy plover, the noise level is required to remain below 72 dBA 1 hour Leq and below a maximum of 78 dBA. Thus, with the inclusion of the above described mitigation measures and monitoring, pile driving within the lagoon during bird breeding season is not anticipated to result in additional adverse impacts to sensitive nesting bird species. Lagoon specific analyses are provided below:

Los Penasquitos Lagoon

No pile driving activities are proposed in Los Penasquitos Lagoon. As such, the proposed amendment would not result in any changes to the previously approved construction and associated noise impacts within that specific lagoon.

San Dieguito Lagoon

Currently, the only sensitive bird species near I-5 where it crosses the San Dieguito Lagoon are the coastal California gnatcatcher and Belding's savannah sparrow. In addition, there are two California least tern nesting sites within 2,000 feet of I-5; however, to date, they have not been used by terns. The San Dieguito W19 Restoration Site is planned to be installed in 2018 and at its closest point is approximately 1,100 feet from the San Dieguito River Bridge.

Existing ambient noise levels within San Dieguito Lagoon are considered moderate for a natural setting and are directly related to the development surrounding the lagoon, including the Del Mar Fairgrounds, and the numerous transportation corridors that traverse the lagoon. Specifically, the largest contributors to ambient noise levels are I-5, separating the lagoon's largest two basins, and Coast Highway 101 near the western edge of the lagoon. The existing range of baseline ambient noise levels within this lagoon and adjacent to I-5 ranges from 59-76 dBA.

Based on the existing ambient noise levels and bird distribution in San Dieguito Lagoon, no adverse impacts are anticipated; however the specific components of proposed IM 5.5.8 described above, including biological and acoustic monitoring, would ensure that sensitive avian species that nest within the lagoon are protected.

San Elijo Lagoon

Coastal California gnatcatcher, Ridgway's rail, and Belding's savannah sparrow occur near both the rail and highway bridges at San Elijo Lagoon. All nearby California gnatcatcher habitat that may be subject to higher noise levels from pile driving would be cleared prior to the breeding seasons, so no pile driving impacts are anticipated. There are Ridgway's rail within 400 feet of the I-5 bridge, and Ridgway's rail nesting locations near the rail bridge.

Existing ambient noise levels at San Elijo Lagoon are considered moderate for a natural setting and are directly related to the numerous transportation corridors that traverse the lagoon. The largest contributors to ambient noise levels are I-5, separating the lagoon's largest two basins, and Coast Highway 101 near the western edge of the lagoon. In addition, Manchester Avenue borders the northern edge of the lagoon and the railroad separates the west and central basins. Short-term noise measurements within 1,420 feet of I-5 ranged from 69-66 dBA Leq with corresponding maximum noise levels (loudest single moment) ranging from 64 to 78 dBA Lmax. The Draft Encinitas General Plan Update (City of Encinitas 2012) included a model of existing traffic noise contours near the lagoon (excluding the railroad). As shown in that model, the highest noise levels are found closest to I-5 and reach 80 dBA community noise equivalent level (CNEL).

Based on the existing ambient noise levels and bird distribution in San Elijo Lagoon, no adverse impacts are anticipated; however the specific components of proposed IM 5.5.8 described above, including biological and acoustic monitoring, would ensure that sensitive avian species that nest within the lagoon are protected.

Batiquitos Lagoon

California least tern, western snowy plover, Ridgway's rail, Belding's savannah sparrow, and coastal California gnatcatcher are found within Batiquitos Lagoon near I-5 and the railroad. There are three documented nesting colonies of California least tern and western snowy plover in Batiquitos Lagoon near I-5 and the railroad. A few pairs of Ridgway's rail and Belding's savannah sparrow occur within 500 feet of the I-5 bridge. Although California gnatcatchers occur within the vicinity, all habitat that may be subject to higher noise levels from pile driving would be removed outside the breeding season. The two nesting colonies near the railroad are within 600 feet of the rail bridge and no pile driving for the rail would be allowed during the breeding season.

Existing ambient noise levels at Batiquitos Lagoon are considered moderate for a natural setting and are directly related to the development surrounding the lagoon, including residential development and the numerous transportation corridors that traverse the lagoon. Specifically, the largest contributors to ambient noise levels are I-5, Coast Highway 101 near the western edge of the lagoon, and La Costa Avenue on the southern perimeter of the lagoon. The existing range of baseline ambient noise levels within 1,650 feet of I-5 within this lagoon area is 60-66 dBA Leq with a maximum of 67-75 dBA.

Based on the existing ambient noise levels and bird distribution in Batiquitos Lagoon, no adverse impacts are anticipated; however the specific components of proposed IM 5.5.8 described above, including biological and acoustic monitoring, would ensure that sensitive avian species that nest within the lagoon are protected.

Agua Hedionda Lagoon

There are no known federally or state-listed threatened or endangered wildlife species within or adjacent to the I-5 construction footprint at Agua Hedionda Lagoon; therefore, the proposed amendment would not result in any adverse impacts from noise.

Buena Vista Lagoon

Ridgway's rail and Belding's savannah sparrow are known to occur within Buena Vista Lagoon; however, the closest known location of Ridgway's rail is 850 feet from the I-5 bridge. That location was documented in 2003 and more recent surveys have not identified either Ridgway's rail or Belding's savannah sparrow within 2,000 feet of the I-5 bridge. One Ridgway's rail sighting was reported within 600 feet of the railroad bridge.

Although population numbers of sensitive bird species in this lagoon have undergone natural fluctuations over the years, species have continued to consistently forage, nest, and breed within suitable habitat in areas subjected to a wide range of noise levels, including noise in excess of 70 dBA. Regardless, most of the sensitive species are located a relatively long distance from the freeway and from where proposed pile driving would occur. Existing ambient noise levels at Buena Vista Lagoon are considered moderate for a natural setting and are directly related to the development surrounding the lagoon habitat, including residential development, and the numerous transportation corridors that traverse the lagoon. Specifically, the largest contributors to ambient noise levels are I-5, separating the lagoon's largest two basins, and Carlsbad Boulevard, near the western edge of the lagoon. The existing range of baseline ambient noise levels within this lagoon area measured within 2,250 feet of I-5 range from 52-62 dBA Leq with maximum noise levels ranging from 69-74 dBA (74 dBA measured 1,775 feet from I-5/78 interchange).

Based on the existing ambient noise levels and bird distribution in Buena Vista Lagoon, no adverse impacts are anticipated; however the specific components of proposed IM 5.5.8 described above, including biological and acoustic monitoring, would ensure that sensitive avian species that nest within the lagoon are protected.

San Luis Rey River

Pile driving for bridge construction near the San Luis Rey River would be completed between September 16 and February 14 – outside of the bird breeding season. As such, the proposed amendment would not result in any changes to the previously approved construction and associated ESHA impacts.

Conclusion

Because the proposed amendment would not result in any new adverse impacts (as explained above), it would not significantly disrupt or degrade habitat values or ESHAs, nor would it be incompatible with their continuance. Therefore, the Commission finds that the proposed amendment is consistent with Section 30240 of the Coastal Act.

The certified LCPs of the applicable corridor cities (San Diego, Encinitas, Carlsbad, and Oceanside) all have a North Coast Corridor PWP Overlay Zone that authorizes NCC PWP/TREP improvements in very broad terms and that specifically recognizes the

likelihood that amendments to the NCC PWP/TREP's scope, policies, strategies, and implementation measures will be needed for a variety of reasons. The language of those overlays was designed to minimize the need for further LCP amendments every time such a NCC PWP/TREP amendment became necessary. Accordingly, each one states that NCC PWP/TREP amendments that "would not result in conflicts with the policies contained within the NCC Project Overlay would not require future amendment to the City's Local Coastal Program." The modification described above does not result in any conflict with the policies in the Overlays. As indicated above, the most relevant policy for the changes listed in this section is Policy 3.5.1, which generally mirrors the language of Coastal Act section 30240. Although that policy limits the allowable uses for development in and adjacent to ESHAs, included among those allowable uses are "uses specifically defined within and permitted by the NCC Project Overlay." Policy 3.5.1 also requires that NCC PWP/TREP amendments not decrease the level of protection of ESHA guaranteed by the policies in the NCC PWP/TREP such that the project as a whole would no longer be, on balance, most protective of significant coastal resources. Again, as discussed above, the proposed change to Implementation 5.5.8 of the NCC PWP/TREP would not decrease the level of protection of ESHA guaranteed by Policy 3.5.1.

C. CONSISTENCY ANALYSIS OF PWP AMENDMENT WITH LCPs

As discussed previously, there are four cities within the corridor that have certified LCPs affected by the scope of transportation improvements within the NCC PWP/TREP: San Diego, Encinitas, Carlsbad, and Oceanside. On August 13, 2014, the Commission approved LCP amendments for San Diego (LCP-6-SAN-14-0813-1), Encinitas (LCP-6-ENC-14-0814-1), Carlsbad (LCP-6-CAR-14-0815-1), and Oceanside (LCP-6-OCN-14-0816-1) to resolve any potential policy conflicts between the cities' LCPs and the NCC PWP/TREP. The LCPs were amended to create narrowly defined overlay zones that identify specific rail, highway, transit, bicycle, pedestrian, community and resource enhancement projects envisioned to occur within each city's jurisdictional boundaries. The overlays include general policy language that mirrors the policy language in the NCC PWP/TREP, but defer more specific project development standards to the language within the NCC PWP/TREP. The overlays also identify that their provisions take precedence over other existing LCP provisions in the event of a conflict. The relationship between the LCPs and the NCC PWP/TREP was crafted in this manner to provide assurance for the local affected jurisdictions that they will have future control in the event that significant changes to the content or scope of the NCC PWP/TREP occur that would create inconsistency with the LCP overlay and therefore would require an additional future LCP amendment(s). The relationship was also crafted in this manner to allow for more minor changes to the NCC PWP/TREP requiring NCC PWP/TREP amendments to occur without requiring amendments to the LCPs, so long as these changes are still consistent with the broader policy language included within the overlay.

In this case, the changes proposed by the subject amendment are consistent with the broader policy language included in the NCC PWP/TREP overlay within the cities' certified LCPs, and no LCP amendments are necessary. Thus, the Commission finds that, due to the way that the overlay is structured within the cities' LCPs, resulting in

such a close connection between the NCC PWP/TREP policies and the overlay policies in the LCPs, and because the amendment is not introducing any major new elements to the NCC PWP/TREP or changing the scope in a manner inconsistent with the LCPs, the more specific provisions (implementation measures) of the NCC PWP/TREP as amended herein are consistent with the LCP policies in the NCC Project Overlay. Therefore, the Commission finds that the proposed NCC PWP/TREP amendment is consistent with the LCPs of the Cities of San Diego, Encinitas, Carlsbad, and Oceanside.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Pursuant to Public Resources Code Section 21067 and Sections 15050 and 15051 of Title 14 of the California Code of Regulations, Caltrans is the lead agency for purposes of the California Environmental Quality Act (“CEQA”), as it is the public agency with principal responsibility for carrying out the I-5 related improvements and the larger NCC PWP/TREP. As the lead agency under CEQA, Caltrans certified a Final Environmental Impact Report addressing the I-5 related components of the subject plan in November 2013.⁵ Caltrans is also the state-designated lead agency under CEQA for the rail component of the plan and released the LOSSAN FINAL Program EIR/EIS in September 2007, with the Record of Decision issued on March 18, 2009. The Commission functions as a responsible agency for this project under CEQA.

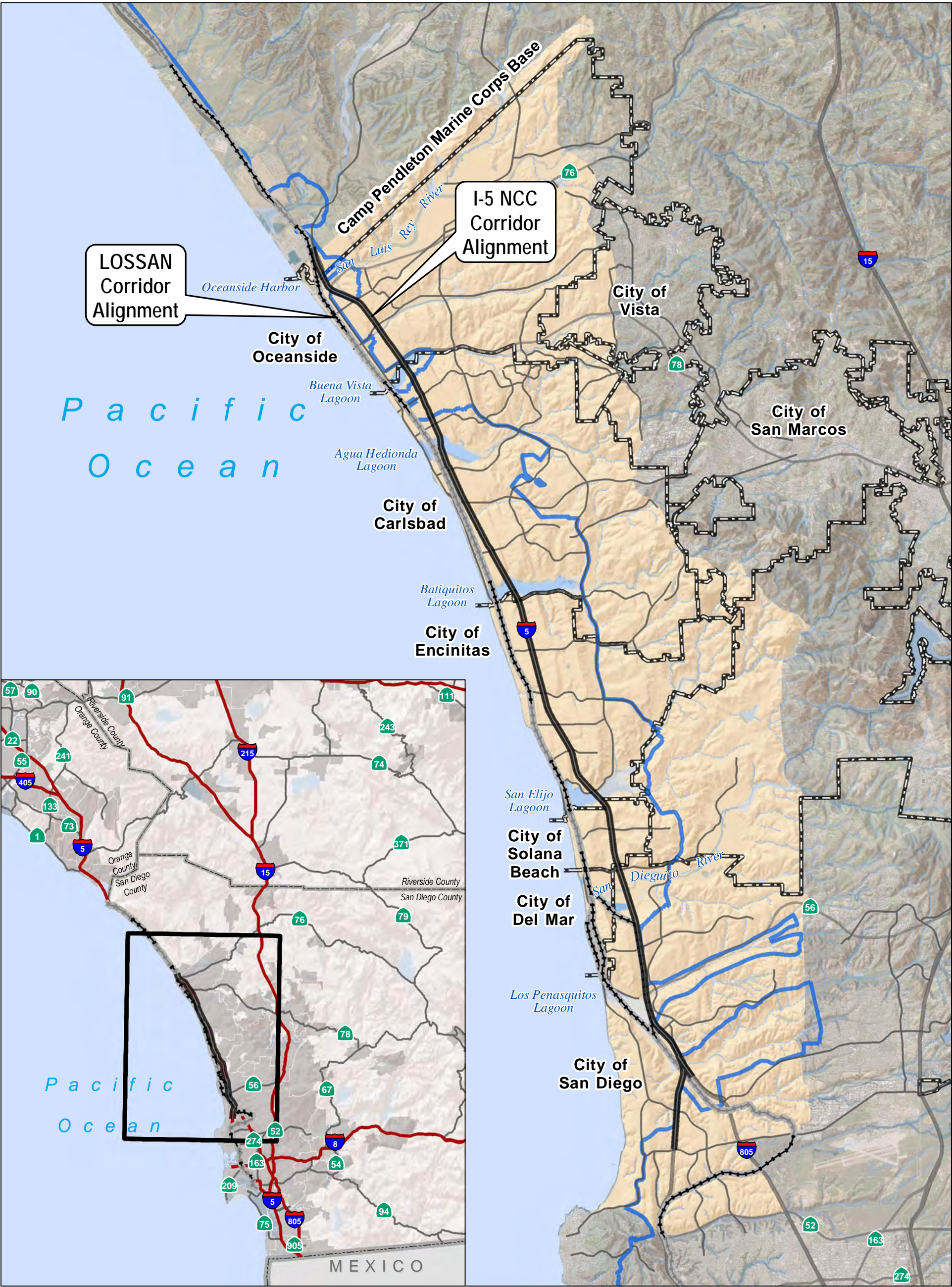
As an agency with a certified regulatory program under CEQA Section 21080.5, the Commission must consider alternatives and mitigation measures that would substantially lessen any significant adverse environmental effects that the proposal would otherwise have on the environment. Sections 13371 and 13356(b)(2) of Title 14 of the California Code of Regulations require that the Commission not approve or adopt a PWP unless it can find that: “...there are no feasible alternatives, or feasible mitigation measures,...available which would substantially lessen any significant adverse impact that the development...may have on the environment.”

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the proposed amendment that were received prior to preparation of the staff report. For the reasons discussed in this report, the proposed amendment to the NCC PWP/TREP is consistent with Coastal Act requirements. There are no other feasible alternatives or mitigation measures available that would further lessen any significant adverse effect that the development would have on the environment.

⁵ The certification of that EIR is the subject of ongoing litigation in San Diego Superior Court. According to Caltrans, the parties are still in negotiations to resolve the lawsuit. The next hearing is currently scheduled for January 20, 2017. However, at this point, no relief has been granted that would affect the status of this EIR. Moreover, for the reasons stated in the Commission’s findings in support of its original certification of the NCC PWP/TREP (see July 24, 2014 staff report at pages 26-28), which are incorporated herein by reference, that litigation does not prevent the Commission from taking the instant action on the subject NCC PWP/TREP amendment.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- Public Works Plan No. PWP-6-NCC-13-0203-1
- Public Works Plan Amendment No. PWP-6-NCC-16-0001-1
- Coastal Development Permit No. 6-15-2092
- Coastal Development Permit No. 6-15-2092-A1
- Notice of Impending Development No. NCC-NOID-0005-15
- City of San Diego LCP Amendment No. LCP-6-SAN-14-0813-1
- City of Encinitas LCP Amendment No. LCP-6-ENC-14-0814-1
- City of Carlsbad LCP Amendment No. LCP-6-CAR-14-0815-1
- City of Oceanside LCP Amendment No. LCP-6-OCN-14-0816-1



DATA SOURCES: Caltrans, California Coastal Commission, Local Jurisdictions, SanGIS, SANDAG, Imagery: DigitalGlobe March 2008

The Coastal Zone boundary, jurisdiction and Local Coastal Program data in this map are for planning and engineering study purposes only. Data are derived from multiple sources. The digital Coastal Zone boundary, jurisdiction and Local Coastal Program data in this map have not been adopted by the Coastal Commission, and do not supersede the official versions certified by the Coastal Commission as may be amended from time to time. Disclaimer: The State of California makes no representations or warranties regarding the accuracy or completeness of the files or the data from which they were derived. The State shall not be liable under any circumstances for any direct, indirect, special, incidental or consequential damages with respect to any claim by any user or any third party on account of or arising from the use of these Coastal Zone boundary, jurisdiction and Local Coastal Program files or the data from which they were derived. Because the Coastal Zone boundary, jurisdiction and Local Coastal Program data files are merely representational, they and the data from which they were derived are not binding and may be revised at any time.

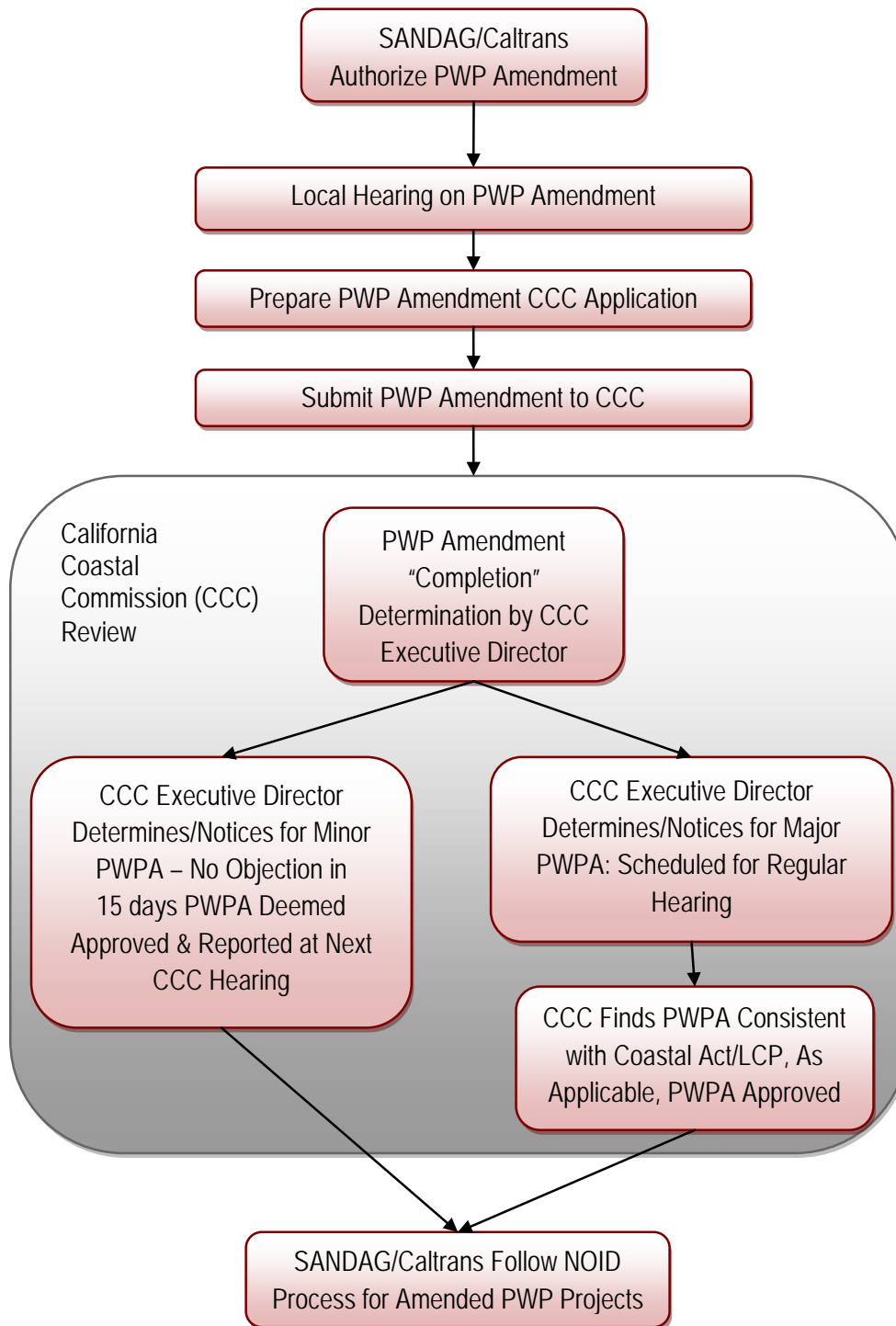
FIGURE 2-1

EXHIBIT NO. 1

Regional & NCC Map

Amendment # PWP-6-NCC-16-0006-2
California Coastal Commission

FIGURE 6A-3: PUBLIC WORKS PLAN AMENDMENT PROCESS



Proposed PWP/TREP Amendment

Implementation Measure 5.5.8: The following mitigation measures shall be implemented for all new transportation and associated community and resource enhancement projects to minimize impacts to wildlife species during construction.

- A channel large enough to maintain hydrologic function/connectivity and for fish passage would be kept open throughout construction within the San Luis Rey River and all of the lagoons.
- All pile driving near the lagoons would be completed outside the bird breeding season (February 15-September 15) to minimize construction noise impacts to bird species around the lagoons, if feasible.
- If pile driving near the lagoons is necessary during the bird breeding season, the following mitigation measures shall be required from February 15 through September 15:
 - Pre-construction bird surveys will be completed to document the location of occupied areas;
 - A biologist knowledgeable in the specific nesting bird species will be present to monitor bird reactions to noise when pile driving begins and throughout pile driving activities to ensure that listed avian species are not being disturbed. The biologist shall halt work if birds are startling off nests in response to the impact of a pile driving hammer and consult with USFWS prior to continuing with any pile driving activities;
 - Pile driving will be conducted with a vibratory hammer to reduce construction noise and concussive pressure waves whenever possible;
 - An impact hammer may be used to proof the piles only if it is infeasible to use a vibratory hammer, and monitoring demonstrates that noise levels in areas occupied by individual nesting of Coastal California gnatcatcher, Ridgway's rail, or other listed avian species will remain below 80 dBA 1-hour Leq;
 - Noise attenuation measures (e.g., cofferdams and/or a shroud of blankets around the driving hammer) will be implemented to reduce pile driving noise;
 - No pile driving would be allowed within 600 feet of documented nesting colonies of California least tern and/or western snowy plover; and
 - If pile driving or general construction takes place within 2000 feet of a documented nesting colony of California least tern and/or western snowy plover, noise levels shall remain below 72 dBA 1-hour Leq and below a maximum of 78 dBA.
- Pile driving for bridge construction near the San Luis Rey River will be completed between September 16 and February 14.
- If pile-driving takes place in or adjacent to lagoon waters greater than 1 meter in depth, there shall be a hydroacoustic monitoring plan to avoid injury to fish or marine mammals from high levels of underwater sound. The plan shall take into consideration both peak and cumulative exposure to sound. The plan shall include provisions for stopping pile driving if Caltrans dual criteria for injury to fish are exceeded (206 dB peak or 187 dB accumulated sound exposure level).
- During in-water bridge construction activities at all lagoons, bubble curtains, cofferdams or other methods to minimize acoustical impacts to aquatic and avian species would be implemented. If feasible, a hydraulic driver shall be used to further reduce noise levels. These measures would be developed in conjunction with the resource agencies when the project design and construction methodology is further developed.

EXHIBIT NO. 3

Amendment Language (pg 1 of 2)



Amendment # PWP-6-NCC-16-0006-2
California Coastal Commission

Proposed PWP/TREP Amendment

- A qualified biologist would be made available for both the preconstruction and construction phases to review grading plans, address protection of sensitive biological resources, and monitor ongoing work. In cooperation with the biologist, an acoustic specialist will monitor pile driving noise levels. The biologist should be familiar with the habitats, plants, and wildlife of the project area, and maintain communications with the resident engineer and acoustic specialist, to ensure that issues relating to biological resources are appropriately and lawfully managed.
- Detention basins would be placed in many of the loop ramps, and bioswales would be placed on many of the slopes to treat runoff from the freeway.
- Lighting used at night for construction would be shielded away from ESHAs.
- Dust generated by proposed operations would be controlled with BMPs.

Any modifications to these mitigation measures shall only be considered after consultation and approval from the appropriate resource agency (e.g., USFWS for birds, National Marine Fisheries Service for fish and marine mammals) and/or the REMP Working Group.

