

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 14a**

Filed:	1/13/17
6 Months:	7/13/17
Staff:	L. Simon-SF
Staff Report:	5/24/17
Hearing Date:	6/7/17

STAFF REPORT: REGULAR CALENDAR

Consistency Certification No.: CC-0001-17

Applicant: San Diego Association of Governments

Location: Railroad Right-of-Way between Mile Posts 242 and 244, San Dieguito River Railroad Bridge 243, and Del Mar Fairgrounds, Cities of Solana Beach and Del Mar, San Diego County (**Exhibits 1 and 2**)

Project Description: Replace existing single-track railroad bridge with a new 1,600-foot-long double-track bridge over San Dieguito River, improve 2.1 miles of railroad track to include 1.7 miles of new double track between MP 242 and MP 244, construct a seasonal special events passenger rail platform at the Del Mar Fairgrounds, and construct signal, utility, and drainage improvements.

Staff Recommendation: Concurrence

SUMMARY OF STAFF RECOMMENDATION

The San Diego Association of Governments (SANDAG) has submitted a consistency certification for 2.1 miles of railroad track improvements in southern Solana Beach and northern Del Mar, and across San Dieguito River and Lagoon. The project includes: (1) replacing the existing 1,100-foot-long single-track wooden trestle bridge with a 1,600-foot-long concrete double-track bridge; (2) raising the height of the new bridge by up to eight feet to allow

unobstructed passage of 100-year flood flows and a future pedestrian underpass along the south bank of the river; (3) removing a 420-foot-long segment of earthen railroad embankment to improve tidal flushing of the lagoon; (4) constructing 1.7 miles of new double-track realigned slightly to the east of the existing single-track between Control Point (CP) Valley and CP Del Mar; (5) constructing a special events rail passenger platform at the northern end of the new bridge to provide direct access to the Del Mar Fairgrounds on a non-daily basis between June and November; (6) realignment of the Stevens Creek channel from its isolated location between the fairgrounds and the existing single-track railroad berm to the west side of the new double-track berm along the western edge of the lagoon; (7) removal of rip rap placed on the river bottom to protect the existing bridge from river scour; (8) earthwork to establish final project grades and elevations would include 100,000 cubic yards (cu.yds.) of cut, 60,000 cu.yds. of fill, and 40,000 cu.yds. exported off-site; (9) temporary wooden trestle to construct the new double-track bridge, and temporary construction access and staging areas; and (10) new and replacement track signal systems, Positive Train Control elements, relocated utility lines, drainage improvements, and maintenance access roads.

This project is listed as one of several “Mid-Term Phase” projects within the multi-decade “North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program” approved by the Commission in August of 2014 as a comprehensive program of transportation, community, and resources enhancement projects within the northern portion of the San Diego County coastline. Mid-Term phase projects are generally scheduled for implementation during the 2021-2030 time period. SANDAG reports that construction of the San Dieguito double-track project is currently scheduled to commence in 2027.

The project involves wetland fill and development within environmentally sensitive habitat areas (ESHA). Because the double tracking would increase rail capacity, it cannot be considered an incidental public service (or a very minor incidental public facility). It is therefore not an allowable use under the Coastal Act wetland policy (Sections 30233(a) and (c)). It is also not a use “dependent on the resources” and is therefore inconsistent with the environmentally sensitive habitat policy (Section 30240). The project is consistent with the alternatives and mitigation tests of these policies; nevertheless, it could only be found consistent with the Coastal Act through the “conflict resolution” provision contained in Section 30007.5, as discussed below.

The project includes adequate measures to protect water quality and would reduce automobile congestion, miles traveled, energy consumption, air emissions, and non-point source pollutants into nearby water bodies. The project would 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. The project is therefore consistent with the public access and transit, water quality, air quality, and energy conservation policies of the Coastal Act (Sections 30210, 30213, 30252, 30231, 30232, and 30253).

The project creates a conflict between the allowable use tests of the wetland policy and ESHA policies on the one hand, and the public access and transit, water quality, air quality, and energy conservation policies of the Coastal Act on the other. The project is similar to a number of previous SANDAG double tracking projects which the Commission determined could be

concurrent with using the conflict resolution section of the Coastal Act. More fundamentally, the Commission has already established the policy basis for the subject project qualifying for, and being found consistent with, Section 30007.5, through its review of the North Coast Corridor Public Works Plan/Transportation and Resource Enhancement Program (NCC PWP/TREP - CC-0002-14/PWP-6-NCC-13-0203-1).

The staff therefore recommends that the Commission **concur** with SANDAG's consistency certification CC-0001-17 because authorization of the project would, on balance, be most protective of significant coastal resources and consistent with the conflict resolution policy of the Coastal Act (Section 30007.5). The motion and resolution are on **Page 5** of this report. The standard of review for this consistency certification is the Chapter 3 policies of the Coastal Act.

TABLE OF CONTENTS

I.	<u>APPLICANT’S CONSISTENCY CERTIFICATION</u>	5
II.	<u>MOTION AND RESOLUTION</u>	5
III.	<u>FINDINGS AND DECLARATIONS</u>	5
	A. <u>PROJECT BACKGROUND</u>	5
	B. <u>PROJECT DESCRIPTION</u>	8
	C. <u>COMMISSION JURISDICTION AND STANDARD OF REVIEW</u>	12
	D. <u>RELATED COMMISSION ACTIONS</u>	13
	E. <u>OTHER AGENCY APPROVALS</u>	15
	F. <u>WETLANDS</u>	16
	G. <u>ENVIRONMENTALLY SENSITIVE HABITAT</u>	30
	H. <u>WATER QUALITY</u>	33
	I. <u>CULTURAL RESOURCES</u>	35
	J. <u>PUBLIC VIEWS</u>	37
	K. <u>PUBLIC ACCESS, RECREATION, AND TRANSIT</u>	40
	L. <u>AIR QUALITY AND ENERGY CONSUMPTION</u>	43
	M. <u>CONFLICT BETWEEN COASTAL ACT POLICIES</u>	45
	<u>SUBSTANTIVE FILE DOCUMENTS</u>	52

EXHIBITS

Exhibit 1 – Regional Map

Exhibit 2 – Project Area Map

Exhibit 3 – Existing Railroad Configuration

Exhibit 4 – Proposed Railroad Configuration

Exhibit 5 – Existing Bridge Removal Plan

Exhibit 6 – Proposed Bridge and Platform Plans and Sections

Exhibit 7 – Proposed Trackway Plans

Exhibit 8 – Proposed Trackway Sections

Exhibit 9 – San Dieguito Lagoon and River Aerial Photograph

Exhibit 10 – Coastal Act Wetlands

Exhibit 11 – Direct Effects to Coastal Act Wetlands

Exhibit 12 – On-Site Revegetation Plan

Exhibit 13 – Coastal Act Wetland Mitigation Table

Exhibit 14 – Conceptual Cross-Section of On-Site Revegetation

Exhibit 15 – Direct Effects to Vegetation Communities

I. APPLICANT’S CONSISTENCY CERTIFICATION

The San Diego Association of Governments (SANDAG) has certified that the proposed activity (CC-0001-17) complies with the California Coastal Management Program (CCMP) 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-0001-17.*

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-0001-17 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 BACKGROUND

The proposed 1.7 miles of railroad double-track, a railroad passenger platform at the Del Mar Fairgrounds, and replacement of the San Dieguito River railroad bridge (the San Dieguito double-track project) would be constructed within the LOSSAN (Los Angeles – San Diego – San Luis Obispo) railroad corridor ([Exhibits 1 - 3](#)). The corridor includes a 60-mile segment extending from Orange County to downtown San Diego through the coastal cities of Oceanside, Carlsbad, Encinitas, Solana Beach, Del Mar, and San Diego. Sections of the corridor date back to the 1880s and approximately half of the corridor is single-track. The corridor is shared by commuter and intercity passenger and freight rail services. The San Diego County section of the corridor is used daily by as many as 50 trains. Amtrak’s Pacific Surfliner trains provide intercity passengers with stations in downtown San Diego, Solana Beach, and Oceanside that connect the region to the rest of the nation. The North County Transit District’s (NCTD) Coaster commuter trains operate south from Oceanside to downtown San Diego, serving the cities of Carlsbad, Encinitas, Solana Beach, and San Diego. The Burlington Northern Santa Fe (BNSF) Railway is the freight rail operator on the corridor, operating trains from the Port of San Diego north.¹

¹ SANDAG is the agency that constructs railroad infrastructure in the San Diego County area of the LOSSAN Corridor. NCTD (North County Transit District) owns the railroad right-of-way in the San Diego County LOSSAN Corridor and also operates the Coaster commuter train service between Oceanside and San Diego.

SANDAG states that the purpose of the proposed San Dieguito double-track project is to:

... increase the reliability, operational flexibility, and capacity of the LOSSAN rail corridor in order to add passenger and freight rail service to meet future transportation demands.” The project also includes a special events platform at the Del Mar Fairgrounds which will provide alternative modes of transportation specifically for major events in the region, thereby reducing the need for vehicular trips and associated traffic congestion and emissions.

The consistency certification states that the proposed project is part of a package of recommended actions addressed in the *LOSSAN Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS)* adopted by the California Department of Transportation (Caltrans) and the Federal Railroad Administration (FRA) in 2009, and is consistent with *San Diego Forward: The Regional Plan* (SANDAG 2015), the *2050 Regional Transportation Plan* (SANDAG 2011), the *Infrastructure Development Plan for the LOSSAN Rail Corridor in San Diego County* (SANDAG 2013), and the *San Diego Regional Transportation Improvement Plan* (SANDAG 2014). SANDAG reports that the project received \$9.5 million for preliminary engineering, environmental studies, and permitting, and that the preliminary estimate of the cost of construction for the project is \$142 million in the year of expenditure.

The rail corridor is double-tracked to the north and south of the project area, with a 1.7-mile-long single track segment between Control Point (CP) Valley in Solana Beach and CP Crosby just south of the San Dieguito River railroad bridge in Del Mar. The consistency certification examines the need for the proposed double-track project:

The existing single track in the Proposed Action area constrains the movement of trains by creating a bottleneck for trains traveling along the rail corridor. Only a single train at a time can travel along the stretch of single track, causing other trains to wait at either end of the single track section, resulting in delays and reducing the attractiveness of passenger rail as a travel mode choice. In the event of a track outage on a single track section, coastal rail service in San Diego County would be shut down until the track could be placed back into service. Double track eliminates the delays currently associated with trains waiting at a passing track for others to clear a single-tracked section and with any single track outage. Elimination of these types of delays would provide for a more consistent operating schedule for trains, greatly increasing on-time performance and reliability, as well as the movement of people and goods through the San Diego County portion of the LOSSAN Corridor. The Proposed Action would not alter/replace the single track that extends south of CP Del Mar through the Del Mar bluffs.

SANDAG also notes that the double-track project is needed in order to accommodate the forecasted doubling of train trips in the corridor by the year 2030:

Currently, an average of approximately 50 trains per weekday passes through the project limits, with the total number incrementally increasing to 101 per day by the year 2030 (SANDAG 2013). The Proposed Action is necessary to help ensure that the San Diego County segment of the LOSSAN Corridor can support efficient, reliable intercity, commuter, and freight rail service. The existing rail infrastructure can reasonably support future passenger and freight operations through the year 2020, but a double track alignment is needed to achieve the projected future service levels for beyond the year 2020. The Proposed Action would improve rail service and movement of people and goods through the Proposed Action area and, by extension, within the San Diego County portion of the LOSSAN Corridor in general. This project is planned for the mid-term phase for completion in 2030.

SANDAG states that a passenger platform at the Del Mar Fairgrounds is needed to:

. . . meet the current and future demand to get to the Fairgrounds during special events, as well as to improve the customer experience by having direct access to this major activity center in San Diego County. During special events at the Fairgrounds, I-5 and local roads within Del Mar and Solana Beach experience heavy congestion. In 2012, approximately 660,000 people attended the Del Mar Thoroughbred Meets [horse races] (between August 1 and Labor Day) and of those, more than 77,000 traveled on intercity and commuter trains to the Solana Beach Station. From there, they transferred to shuttle buses to get to the racetrack. In 2012, approximately 1.5 million people attended the San Diego County Fair (between June 8 and July 4) and more than 88,000 arrived by Transit (SANDAG 2013). Direct rail access to the Fairgrounds during special events would provide patrons an alternative mode of transportation to directly reach the Fairgrounds, which could potentially reduce local traffic congestion, as well as parking demands at the Fairgrounds.

The consistency determination next examines the factors supporting the replacement of the existing single-track timber San Dieguito River railroad bridge:

At nearly 100 years old, this rail bridge is nearing the end of its service life. The frequency and cost to maintain the old timber bridges within the rail corridor are expected to continue to increase because wood piles are subject to damage from wood-eating pests, the river bottom is subject to change from storm-induced scour and dredging operations, and the metal components of the wooden structure are subject to increased corrosion potential from the marine environment. Replacement of the existing bridge using more durable materials, such as reinforced concrete, would provide a more sustainable structure that could better withstand the marine environment and provide long-term reliability.

...

The existing rail bridge is limited to a single track without the ability to add a second track. Passenger and freight train operations and capacities are limited by this single track river crossing, as discussed above. Furthermore, the Camino Del Mar siding track can only be used by passenger trains and as a result, freight trains must wait in a double track section at either the Solana Beach Station or the Sorrento Valley Station further to the south. A new double track bridge and the addition of a second track on either side of the bridge would improve passenger and freight train capacity and reliability by eliminating the bottleneck and would decrease the need for idling trains at the double track section at the north end of the project limits, the Camino Del Mar siding track (for passenger trains only), or at double track sections at the Sorrento Valley Station.

The consistency certification also notes that the railroad tracks on the existing bridge and south of the bridge are below the 100-year Federal Emergency Management Agency (FEMA) floodplain elevation. The existing rail bridge and approaches are at risk of flooding during major storm events, which could adversely affect rail service in the corridor. SANDAG states that the proposed new elevated rail bridge and associated track improvements are needed to provide uninterrupted train operations during high river water levels.

B. PROJECT DESCRIPTION

The San Diego Association of Governments (SANDAG) proposes to construct 2.1 miles of railroad track improvements, generally between the railroad undercrossing at Lomas Santa Fe Drive in Solana Beach (Mile Post (MP) 242) and Control Point (CP) Del Mar, just north of Coast Boulevard in Del Mar (MP 244)([Exhibits 1-3](#)). The primary project features are 1.7 miles of new double-track (between CP Valley, located south of Lomas Santa Fe Drive, and CP Del Mar), replacement of the existing railroad bridge over the San Dieguito River, and construction of a passenger boarding platform adjacent to the Del Mar Fairgrounds ([Exhibit 4](#)). Exhibits to this report illustrate the existing bridge removal plan ([Exhibit 5](#)), new bridge and passenger platform plans ([Exhibit 6](#)), new trackway plans ([Exhibit 7](#)), and new trackway cross-sections ([Exhibit 8](#)). The consistency certification provides the following information on these and other project components, from north to south:

Solana Beach Segment. The existing single-track from CP Valley to the Via De La Valle rail undercrossing would be realigned and straightened and a second track constructed to the west to connect with existing double-track that continues north to the Solana Beach Station. The new double-track would be constructed at 15-foot track centers. These elements would require excavation of existing slopes of the Solana Beach trench and construction of new retaining walls.

North of San Dieguito River. Beginning at the Via De La Valle rail undercrossing, the new double-track alignment would continue south to the new San Dieguito River Bridge. This new alignment would be located approximately 50 feet east of the existing (and to-be-removed) single-track. New earthen berms would be constructed east of the existing single-track and a 420-foot-long section of the existing railroad berm north of the river would be removed. The double-track would widen from 15-foot to 20-foot track centers as it approaches the special events platform to accommodate an inner-track fence for pedestrian safety.

Replacement of San Dieguito River Bridge. The project would replace the existing 1,100-foot-long single track bridge with two single track rail bridges approximately 1,600 feet long. The existing bridge is a wooden trestle consisting of 79 spans with an average spacing of 14 feet between the timber pile bents. The new bridge would be precast concrete supported by 4-foot by 6-foot concrete columns at 56-foot spacings. The wider spans and reduction in the number of columns in the river would improve flushing of the lagoon. The height of the new bridges would also be taller than the existing bridge by up to eight feet to allow for 100-year flood conditions. Walkways on each side of the bridge and between the tracks would be provided for maintenance personnel. Lighting would not be installed on the bridge. The project also includes a permanent access/maintenance road parallel to the tracks to the east with access provided from the Fairgrounds, a new signal house on the east side of the tracks, and drainage improvements. In addition, a low-flow drainage channel would be constructed on the east side of the railroad right-of-way that would continue under the proposed track bridges and into the river on the west.

The bridge and abutment foundations would consist of 4-foot and 8-foot diameter Cast-in-Drill Hole (CIDH) piles. The upper portion of the piles would use steel casing to act as forming for the pile and eliminate the need for coffer dams in open water. A temporary trestle bridge would be constructed over open water upstream from the new bridge to facilitate drilling and placement of the CIDH piles. North of the open water, construction would use temporary fill for access to the bridge foundation. Bridge columns would be formed and placed using the temporary trestle bridge or temporary fill. The new bridge superstructure would be constructed using standard prestressed precast concrete double cell box beams with 56-foot spans.

The existing trestle bridge would be removed after completion of the new bridge and the supporting timber piles would be vibrated out or cut off below the mudline. Existing riprap placed along the bridge as part of an emergency repair in 2015 (CC-006-11) would be removed, approximately 420 feet of the existing railroad northern embankment within the area of the river would be removed, and riprap placed on the river bottom (CC-0006-14) to protect the existing wooden trestle bridge would be removed. Riprap to protect the new southern abutment from river scour will be installed and then buried underneath lagoon sediments excavated during construction of the new concrete bridge support columns.

The new bridges would be constructed to allow for a pedestrian (trail) undercrossing on the south side of the San Dieguito River. The pedestrian undercrossing would provide a legal, grade-separated pedestrian crossing that currently does not exist at this location, and also would accommodate a future planned trail proposed by the San Dieguito River Park Joint Powers Authority (JPA). In order to build the pedestrian undercrossing and a portion of the drainage improvements south of the river, a small encroachment (0.05 acre) onto an adjacent City of Del Mar Public Works Yard would be required.

Special Events Rail Platforms. The railroad passenger platforms would provide direct access to the Del Mar Fairgrounds. The platforms would be operational for special events at the Fairgrounds on a non-daily basis between June and November. The platforms would be 16 feet wide and constructed on the west and east sides of the double track bridge structure. The platforms would extend south 1,000 feet from the new northerly bridge abutment in order to

accommodate 10-car special event trains. Access to the elevated platforms would be provided via stairs and ramps (compliant with the American with Disabilities Act) from the Fairgrounds. While the platform structures would be constructed within the railroad right-of-way, the access ramps for the easterly platform and the single common point of access to the platforms would encroach into Fairgrounds property. Lights mounted on 14-foot poles would be placed on the platform, ramps would be lighted with curb lights, and lights would be mounted from the ceiling in the plaza area. Lighting would be of the lowest illumination possible to provide safety and security and would be directed away from the river and lagoon during those non-daily times between June and November when the platforms would be in use.

Realignment of Stevens Creek. The project includes realignment of a portion of Stevens Creek, which currently runs parallel to the east side of the existing railroad single-track embankment before emptying into the San Dieguito River. This segment of the creekbed would be filled for construction of the new double-track embankment. The creek would be redirected to the west and flow under the new railroad track embankment in a soft bottom arch culvert, 24 feet wide with a minimum vertical clearance of 12 feet. A new low-flow channel would be excavated west of the new railroad embankment to convey low flows to the lagoon. The new channel will be the same linear length as the original creek segment to be filled. In addition, the culvert is designed to also serve as a key element for a potential future pedestrian/bicycle pathway between the passenger rail platform and Camino Del Mar to the west.

South of San Dieguito River. The double track alignment would continue to the south from the new track bridges following a straight alignment but shifted east of the existing railway. The double track alignment would continue on a curve to the west and converge as it approaches the existing double track alignment at the Camino Del Mar undercrossing. The new double track would closely follow the existing alignment to CP Del Mar. The elevation of the new south bridge abutment would be raised approximately 8 feet as compared to the existing bridge abutment. Approximately 300 feet of precast retaining wall system would be constructed east of the tracks to retain new fill where the right-of-way is limited. Approximately 700 feet of retaining wall would be constructed south of the wye (a generally triangular-shaped wetland area just south of the San Dieguito River east of the trackway) to retain minor fills.

Additional rail improvements. The proposed project also includes new and replacement track signal systems and structures, relocation and protection of Positive Train Control elements, relocation and protection of existing utility lines, drainage improvements, new and reconstructed trackside ditches, and new and reconstructed maintenance access roads.

Construction Access. SANDAG will use the existing grade crossing at Coast Boulevard, existing access roads from Jimmy Durante Boulevard and Highway 101, the Del Mar Public Works Yard access road via the Del Mar Wye, the Del Mar Fairgrounds, and the Solana Beach Station. Material storage areas will occur within the railroad right-of-way. Portions of the Del Mar Public Works Yard and the Del Mar Fairgrounds parking lots have been identified as additional potential storage areas subject to receiving approval from the property owners. All storage areas would be located outside environmentally sensitive areas.

Grading. SANDAG estimates that earthwork to establish final project grades and elevations would include 100,000 cubic yards (cu.yds.) of cut and 60,000 cu.yds. of fill, resulting in 40,000 cu.yds. of material exported off-site. Approximately 60,000 cu.yds. of material would be excavated to widen the Solana Trench north of the San Dieguito River to accommodate the new segment of double-track. This material would be placed in fills to construct the widened double-track railroad berm between the existing berm and the Del Mar Fairgrounds, and to raise the railroad berm south of the river (i.e., eight feet higher than the existing berm at the south abutment (to accommodate a pedestrian pathway underneath the bridge) and then gradually tapering down to the existing elevation at the southern end of the project area). Approximately 40,000 cu.yds. of material would be excavated and exported off-site from removal of a 420-foot-long segment of single-track railroad berm immediately north of the existing railroad bridge to accommodate the longer double-track bridges. The existing berm is undocumented artificial fill placed as part of the original railroad construction. This material was sampled and determined to consist of a mix of sand, silty sand, silt, and clay and therefore not suitable as beach replenishment material. A small volume of top soil material from the realignment of Stevens Creek would be salvaged and retained on-site for possible use in wetland reestablishment. Riprap removal from the river bottom (recently placed underneath the existing bridge to protect timber pilings from scour) and from the existing bridge abutments would be reused onsite where possible or exported to an inland landfill site.

Construction Schedule. SANDAG is not proposing to begin this project for some time. However, once it does begin, construction would be completed in several phases over approximately three years with some overlap between phases. Rail services would remain operational during all phases of construction. Traffic would be rerouted between the existing and new track as it is built, with the exception of up to three weekend absolute work windows. During these short periods of time, construction activities are given priority over railroad operations and the railroad track(s) would be inactive for train movements. Anticipated construction phases are as follows:

Phase 0: Site preparation over four months

Phase 1: Construction of new track west of existing track through Solano Beach trench segment, new double-track bridges, CP Valley crossover, and CP Del Mar turnout over two years.

Phase 2: Construction of the east special events platform and track improvements from the San Dieguito River segment to the southern project limit over seven months.

Phase 3: Construction of the west special events platform, the Stevens Creek arch culvert, and remainder of project elements over eight months.

Phase 4: Restoration of on-site temporary impacts; restoration would take up to five or more years for vegetation to become established.

The San Dieguito double-track project *Environmental Assessment* was completed in February 2015 and the *FONSI* signed in January 2016. The project is listed as one of several “Mid-Term

Phase” projects within the multi-decade “North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program” approved by the Commission in August of 2014 as a comprehensive program of transportation, community, and resources enhancement projects within the northern portion of the San Diego County coastline. Mid-Term phase projects are generally scheduled for implementation during the 2021-2030 time period. SANDAG reports that construction of the San Dieguito double-track project is currently scheduled to commence in 2027. While funding for construction of the project is not currently available, SANDAG is seeking to “receive all permits so that the project is shovel ready and eligible to receive future funding.” SANDAG also notes that its current funding grant from the Federal Railroad Administration requires that project permits (including Commission authorization of the subject consistency certification) be secured prior to June 20, 2017.

C. COMMISSION JURISDICTION AND STANDARD OF REVIEW

The project triggers federal consistency review because SANDAG is required to obtain two federal permits from the U.S. Army Corps of Engineers: a Clean Water Act Section 404 permit and a Rivers and Harbor Act Section 10 permit. In addition, the project has received funding from the Federal Railroad Administration and for design and permitting work and SANDAG anticipates receiving additional federal funding for construction. The Transportation and Resource Enhancement Program (TREP) component of the North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program (NCC PWP/TREP) functions as a master federal consistency certification to ensure the entire suite of rail, highway, transit, bicycle, pedestrian and other community and resource improvements described therein will be appropriately linked, phased, and implemented in a manner consistent with applicable CCMP (i.e. Coastal Act) policies.

However, given the long-term nature (30 - 40 year planning horizon) of the planning process for those improvements, many individual project components (such as the San Dieguito double-track project) were not described to a level of specificity allowing final determinations of consistency when the Commission concurred with the TREP Consistency Certification (CC-0002-14) in August 2014. That initial review was therefore explicitly proposed to be programmatic, such that when specific projects become more fully developed and proposed, further federal consistency review would be conducted. In other words, federal consistency review is to be phased as plans evolve, and to be triggered as future federal funding and federal permitting decisions are being made. The standard of review in these cases remains the Coastal Act, with the affected LCP(s) and the NCC PWP/TREP providing guiding policy and/or background information. To assist in these reviews, the NCC PWP/TREP identifies specific filing content requirements regarding future federal consistency submittals for projects included within the NCC PWP/TREP.

The Restoration Enhancement and Mitigation Plan (REMP) of the NCC PWP/TREP provides directions on mitigation for unavoidable resource impacts of projects within the NCC PWP/TREP and identifies potential restoration site locations available to conduct any necessary mitigation. If mitigation sites have been installed in advance and have achieved identified performance standards, then mitigation credits would be available at a 1:1 ratio. However, if these mitigation sites are not performing sufficiently at the time that impacts from an associated development occur, then more typical mitigation ratios from the Commission would apply (e.g,

4:1 for wetland impacts, 2:1 for impacts to upland environmentally sensitive habitat areas).² SANDAG states that it will implement mitigation for unavoidable project impacts in accordance with and as required by the REMP.

In reviewing past consistency certifications for SANDAG (and North County Transit District (NCTD)) LOSSAN Corridor double-track and bridge replacement projects, the Commission has noted a historic jurisdictional disagreement between the rail proponents and the Commission over whether the projects were subject to the state law coastal development permit requirement, or whether state law was preempted by the Interstate Commerce Commission Termination Act of 1995, 49 U.S.C. §§ 10101 *et seq.* and past court decisions applying it. At the same time, the Commission historically agreed to “set aside” such disagreements where the projects are still reviewable through the federal consistency process and rely on that procedure. When the Commission concurred with the consistency certification for and certified the “PWP/TREP” (as discussed below in **Section D**) on August 13, 2014, the Commission essentially agreed to continue this procedural approach. While the subject project is one of the PWP/TREP Phase II-listed projects scheduled for construction between 2021 and 2030, SANDAG is requesting Commission concurrence with this consistency certification now in order to: (1) meet a condition of its FRA grant requiring that project permits be obtained prior to June 30, 2017; and (2) be in a “shovel-ready” position to apply for and obtain construction funding such that the project can move forward at the earliest possible time during the Phase II time period.

The standard of review under the federal consistency process for assessing consistency with the CCMP is set forth in Chapter 3 of the Coastal Act (“Chapter 3”), Cal. Pub. Res. Code Sections 30200-30265.5.

D. RELATED COMMISSION ACTIONS

North Coast Corridor Public Works Plan/Transportation and Resource Enhancement Program (NCC PWP/TREP).

On August 13, 2014, the Commission authorized a comprehensive plan and set of procedures primarily for the upgrading of the I-5 (Highway) and LOSSAN Rail Corridor through northern San Diego County, in the form of a document known as the “North Coast Corridor Public Works Plan/Transportation and Resource Enhancement Program” (NCC PWP/TREP: CC-0002-14/PWP-6-NCC-13-0203-1). This plan serves as a single integrated document for comprehensively planning, reviewing, and authorizing a long list of transportation, community, and resource enhancement projects extending from La Jolla to Oceanside along the North San Diego County coastline. The NCC PWP/TREP creates a framework within which identified projects can be analyzed and implemented over the next 30 to 40 years under a coordinated plan. The goal of this process is to optimize the suite of included 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. As noted on the previous page, the subject project is listed in Phase II of the rail corridor expansion portion of the NCC PWP/TREP.

² December 1, 2014, letter to Linda Culp (SANDAG) from Gabriel Buhr (California Coastal Commission)

Previously Reviewed SANDAG/NCTD Double Tracking Projects.

Prior to Commission approval of the PWP/TREP in August 2014, the Commission reviewed double tracking projects in the LOSSAN Corridor in San Diego County on an individual basis. These past reviews consisted of consistency certifications submitted by SANDAG and NCTD for the following LOSSAN segments:

- 2.6-mile-long Pulgas to San Onofre double-tracking at the north end of Camp Pendleton (CC-086-03);
- 2.7-mile-long O'Neill to Flores double-track project in central Camp Pendleton (CC-004-05);
- 2.9-mile-long Santa Margarita River double-tracking project at the south end of Camp Pendleton (CC-052-05);
- 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);
- 2.4-mile-long segment of double-track and second railroad bridge over Agua Hedionda Lagoon in Carlsbad (CC-075-09);
- 1.2-mile-long segment of double-track and replacement of a single-track bridge in the Sorrento Valley in San Diego (CC-052-10);
- 1.0-mile-long segment of double-track and replacement of three single-track bridges in Sorrento Valley in San Diego (CC-056-11); and
- 4.3-mile-long segment of double-track south of San Onofre in San Diego County (CC-009-12);
- 1.8-mile-long segment of double-track from San Onofre to Las Pulgas on Camp Pendleton, San Diego County (CC-048-12).

Since approval of the PWP/TREP, the Commission has authorized three more SANDAG rail projects:

- 0.9-mile-long segment of double track and replacement of single-track bridge across the San Diego River (CC-0003-15);
- 1.5-mile-long segment of double-track and replacement of a single-track bridge across San Elijo Lagoon (CC-0004-15); and
- Poinsettia Station improvements including track spacing improvements to increase rail capacity through the station (CC-0005-15).

The Commission also notes that as with previous concurrences with SANDAG double-track projects in the Del Mar portion of the LOSSAN Corridor, SANDAG has stated that construction of the San Dieguito double-track project would not preclude the agency from planning for moving the LOSSAN Corridor trackway inland from the Del Mar Bluffs. A trackway realignment would likely turn away from the coast just south of the subject project area. The need for the proposed San Dieguito double-track and bridge replacement project exists whether or not an inland realignment of trackway to the south does or does not occur at a future date. SANDAG notes that while a conceptual alternatives analysis is underway for such a realignment, construction of such a realignment is not expected to occur for at least another decade or two.

E. OTHER AGENCY APPROVALS

U.S. Army Corps of Engineers (USACE)

SANDAG has applied to the USACE for a federal Clean Water Act Section 404 Request for an Individual Permit, and a permit under Section 10 of the Rivers and Harbor Act. The Corps will also complete the Magnuson-Stevens Act Essential Fish Habitat consultation with the National Marine Fisheries Service for the project.

San Diego Regional Water Quality Control Board (SDRWQCB)

SANDAG has applied to the SDRWQCB for a Clean Water Act Section 401 Water Quality Certification.

Federal Railroad Administration (FRA)

The FRA serves as the lead agency for informal consultation under Section 7 of the Endangered Species Act (ESA) and Section 106 of the National Historic Preservation Act. FRA determined that there was “no effect” under the ESA and that formal Section 7 consultation with the U.S. Fish and Wildlife Service is not required; the Service is aware of this determination. FRA completed the Section 106 consultation with the State Historic Preservation Officer. SANDAG anticipates applying for funding from the FRA for project construction.

City of Del Mar

SANDAG will apply to the city for encroachment and grading permits for project work on city property at the south end of the new double-track bridge across the San Dieguito River.

22nd District Agricultural Association (Del Mar Fairgrounds)

SANDAG will apply to the 22nd District for an encroachment permit for construction of a segment of the accessway to the new railroad passenger platform.

Other Agency Consultations

Prior to the start of project construction (currently estimated for 2027), SANDAG has agreed to coordinate with the FRA and the U.S. Fish and Wildlife Service in order to determine whether additional ESA Section 7 consultation is needed should project area conditions change over the next ten years.

F. WETLANDS

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

Coastal Act Section 30233(c) states:

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.

Coastal Act Section 30236 states:

Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

San Dieguito Lagoon is one of the 19 high-priority coastal wetlands afforded special protection by Section 30233(c), as well as protection provided in Section 30233(a) for all coastal wetlands and other waters.

The San Dieguito River double-track project *Environmental Assessment* (October 2014), *Biological Technical Report* (January 2017), and consistency certification (January 2017) describe the wetland habitat and resources present in the 318-acre biological study area (BSA) and in the 35-acre project development footprint within the BSA ([Exhibit 9](#)). Tidal and non-tidal

wetland habitats in the river and lagoon area that would be affected by the project include southern coastal salt marsh, coastal and valley freshwater marsh, alkali meadow, southern willow scrub, mud flats, intertidal beach, open water, brackish water estuary, drainages, and trackway ditches. The wetland habitat values within the project area (excepting trackway ditches) are linked to tidal inundation and frequency ([Exhibit 10](#)).

During biological studies for the project, the only federally-listed species observed in the BSA were the western snowy plover and California least tern; however, neither was observed within or immediately adjacent to the project construction footprint. The *Biological Technical Report* stated that western snowy plovers were observed on the beach (south of the river and west of the railroad track) and were likely wintering or migrating birds. Individual and courting California least terns were observed foraging over open water east of the railroad bridge. The *Biological Technical Report* concludes that plover habitat would not be affected by the proposed project and addresses potential impacts on the least tern:

While the proposed project would result in impacts to open water (see Figure 6b), the impacts would be minor. The USFWS has identified increased turbidity as a potential impact that may adversely affect California least tern foraging success by decreasing visual detectability of fish in the water's surface layer (USFWS 1999). Construction of the proposed project would, however, include the use of BMPs in the San Dieguito River and Lagoon to: (1) control erosion and sedimentation; (2) limit the spread of re-suspended sediment; and (3) contain debris. Therefore, California least tern foraging is not expected to be adversely affected by the proposed project.

While the proposed bridge for the river and lagoon crossing would ultimately result in a decreased amount of fill for bridge support pilings (as compared to the existing bridge), and would improve overall tidal flushing capacity by widening the channel due to the removal of earthen railroad embankment and reducing the number of bridge support structures in the water, the new double-track bridge cannot be constructed without conducting some new wetland fill ([Exhibit 11](#)). As discussed below, the project would result in 5.4 acres of impacts to Coastal Act wetlands, both temporary (3.2 acres) and permanent (2.2 acres).

The project therefore triggers the three-part test of Coastal Act Section 30233(a), and in addition, the functional capacity and allowable use tests of Section 30233(c). The Commission therefore needs to analyze whether the project is an allowable use under these sections, whether it is the least environmentally damaging feasible alternative, and whether adequate mitigation for wetland impacts is being provided.

Allowable Use

Section 30233(a) of the Coastal Act limits uses involving wetland fill to seven categories of uses. During the numerous reviews of past SANDAG and NCTD rail projects involving wetland fill, the only arguable allowable use that could be considered for those projects would be as an “incidental public service,” as specified in Section 30233(a)(4). However, as the Commission has also established through those reviews, the SANDAG double tracking projects do not qualify for this use because they would increase passenger and freight capacity in the LOSSAN corridor,

and the same is true both individually for this project and cumulatively for the entire corridor. Moreover, the project does not qualify under the more restrictive Section 30233(c) limitations on uses in San Dieguito Lagoon and other priority wetlands to “very minor incidental public services.”

Thus, the only way the Commission could find this project consistent with the California Coastal Management Program is through the “conflict resolution” provision in Sections 30007.5 and 30200(b) of the Coastal Act, if the project presents a conflict between Chapter 3 policies. In its consistency certification, SANDAG acknowledges the Commission’s position that the project is not an allowable use under Sections 30233(a) and (c). At the same time, and as will be discussed further below, SANDAG notes that the Commission in its certification of the North Coast Corridor Public Works Plan/Transportation and Resource Enhancement Program (NCC PWP/TREP - CC-0002-14/PWP-6-NCC-13-0203-1), adopted a framework, based on conflict resolution, through which it could and did authorize or indicate its intent to allow the various projects identified in that plan. In addition, the Commission reiterated its commitment to this approach most recently in its May 2016 approval of SANDAG’s San Elijo Lagoon double-track bridge project (CC-0004-15), again using the “conflict resolution” provision of Section 30007.5. The conflicts presented by this project, and the resolution of those conflicts, will be discussed in **Section M**, below.

Alternatives

Considering the alternatives test of Section 30233(a), SANDAG examined a number of project alternatives at the San Dieguito River location to improve rail service through the LOSSAN corridor. Based on the need to construct a double-track bridge across the lagoon and river, physical and operational constraints, environmental effects, and land acquisition and development factors, three action alternatives (based on the location of the proposed double-track alignment relative to the existing single-track alignment and the location of the proposed passenger rail platforms) were developed by SANDAG for detailed analysis: East Side-Loading, West Side-Loading, and East Center-Loading.

Under all three action alternatives, complete wetland fill avoidance would not be feasible due to the need to widen portions of the railroad berm and construct new concrete pilings in the lagoon and river channel in order to accommodate the double-track alignment.

The double-track bridge common to all three project alternatives is designed to protect the rail line from a 100-year flood event and projected sea level rise. The project *Environmental Assessment (October 2014)* evaluated floodplain-related issues for the proposed double-track bridge:

[The evaluation] involved preparation of a Hydrologic Engineering Center-River Analysis System (HEC-RAS) computer model to determine water surface profiles and velocities in the San Dieguito River channel for existing and proposed conditions. Based on this analysis, the hydrologic/hydraulic analysis provides the following conclusions regarding floodplain issues for implementation of the East Side-Loading Alternative: (1) the proposed bridge would pass the 50- and 100-year flood flows without overtopping, and would provide adequate freeboard

(two feet or more) to accommodate the passage of drift (debris) for a 50-year storm event; and (2) the proposed bridge would not raise the 50- or 100-year floodplain water surface elevations above existing floodplain levels or result in any adverse flooding effects to neighboring properties (Appendix F).

Regarding projected sea level rise, the *Environmental Analysis* states that:

Based on the location of the proposed railroad bridge near the coast, the potential future rise in sea level was also assessed for related effects to bridge hydraulics and scour. This analysis assumed sea level increases of approximately 16 inches by 2050 and 55 inches by 2100, based on modeling conducted by the California State Coastal Conservancy (Appendix F). It is noted that SANDAG prepared a subsequent study, "San Diego Region Coastal Sea Level Rise Final Report," dated September 2013, which recommends using an increase of 55 inches as the average upper range for projects with service life estimates beyond 2070; this is consistent with the upper range assessed in Appendix F of this EA.

For bridge hydraulics, the hydrologic/hydraulic analysis notes that the computed water surface elevations for the 50- and 100-year floodplains at the river mouth are higher than the predicted sea level in 2100, and therefore concludes that "...the bridge hydraulics based on the HEC-RAS model are not affected by the long-term sea level rise."

With respect to related scour effects, the hydrologic/hydraulic analysis notes that a rise in sea level would generally be expected to lower flow velocities, and therefore would "...reduce the channel bed scour at the bridge crossings." From the described assessments, no adverse effects to bridge hydraulics or scour would result from project increases in sea level.

The *Environmental Analysis* further states that potential floodplain-related issues, scour hazards, and impacts related to sea level rise are essentially the same for the West Side-Loading and East Center-Loading project alternatives based on the similar nature and location of the proposed bridge structures as compared to the East Side-Loading alternative.

The *Final Bridge Hydraulics Study for LOSSAN Rail Bridge (December 2016)* provided additional information on water levels in San Dieguito River and Lagoon associated with the double-track bridge proposed under all three alternatives. The study concluded that there would be no change in the water surface elevation at the proposed railroad bridge as a result of sea level rise, because the downstream Camino Del Mar/Highway 101 bridge and approach roadway creates a backwater condition that controls water surface elevation in the lagoon and at the railroad bridge location:

A sensitivity analysis of the HEC-RAS model to downstream water levels was performed. The following four scenarios were modeled:

1) MSL (+2.55 feet NAVD88),

- 2) MHHW (+5.15 feet NAVD88),
- 3) MHHW plus the lower end sea level rise of 17 inches in year 2100 (+6.53 feet NAVD88), and
- 4) MHHW plus the upper end sea level rise of 66 inches in year 2100 (+10.65 feet NAVD88)

The modeling results indicate that both 50-year and 100-year water surface elevations upstream of the Camino Del Mar Bridge do not change with the downstream water surface elevation varying from +2.55 to 10.65 feet NAVD88. The flood water level is backed up by the constrained length of Camino Del Mar Bridge and a critical flow condition develops immediately downstream of the Camino Del Mar Bridge. Therefore, steady state analyses were performed for all modeling scenarios.

Under the current constrained Camino Del Mar bridge conditions, floodwater levels upstream of the Camino Del Mar Bridge are not sensitive to downstream water level conditions as discussed in the prior section and are primarily controlled by flood discharge. Therefore, flood water surface elevations upstream of the railroad bridge for each return period of storm events will remain the same under future sea level rise conditions.

The East Side-Loading alternative is the proposed project and is described in detail in **Section III.B.** of this report. To recap, beginning at the Via de la Valle rail undercrossing, the double-track alignment would shift to the east approximately 50 feet across the San Dieguito River on two new single-track bridge structures. A 420-foot-long section of railroad embankment would be removed from the lagoon and the bridge crossing of the river correspondingly lengthened ([Exhibit 11, page 2](#)). The remaining embankment north of the new bridge would be widened to the east. The section of Stevens Creek that currently runs parallel to the east side of the railroad track embankment would be filled and realigned to flow under the railroad double-track embankment in a soft-bottom arch culvert. Commencing at the west outfall of the culvert, a new winding channel would be excavated to convey Stevens Creek flows into San Dieguito Lagoon and will be the same linear length as the original creek channel to be filled ([Exhibit 12](#)). The proposed new railroad infrastructure would result in 2.20 acres of permanent Coastal Act wetland loss: 0.88 acres of vegetated wetlands, 0.69 acres of unvegetated wetlands, and 0.63 acres of earthen and concrete trackway ditches. The project would also result in 1.55 acres of short-term temporary wetland impacts and 1.65 acres of long-term temporary (greater than 12 months) wetland impacts arising from construction activities ([Exhibit 13](#)).

The West Side-Loading Alternative proposes railroad improvements similar to the East Side-Loading alternative except that the track alignment would shift 25 feet to the west at the San Dieguito River crossing. Stevens Creek would not be realigned but its isolation from the lagoon would increase due to construction of the double-track berm and special events platform. The existing railroad embankment north of the bridge would be widened to the west into the lagoon by 40 feet with corresponding increased impacts to wetland habitat. This project alternative would result in 1.83 acres of permanent Coastal Act wetland loss (including 0.64 acres of

trackway ditches). The project would also result in 1.81 acres of short-term temporary wetland impacts and 1.74 acres of long-term temporary wetland impacts.

The East Center-Loading Alternative also proposes railroad improvements similar to the East Side-Loading alternative except that the track alignment would shift to the east approximately 55 feet at the river crossing and encroach onto Fairgrounds property outside of the railroad right-of-way. A single 1,000-foot-long, 35-foot-wide special events platform would be constructed in between the two bridge structures beginning at the northerly abutment. This project alternative would result in 2.38 acres of permanent Coastal Act wetland loss (including 0.66 acres of trackway ditches). The project would also result in 1.41 acres of short-term wetland impacts and 1.69 acres of long-term wetland impacts.

Two additional alternatives were initially considered but not carried forward for detailed evaluation in the *Environmental Analysis*. First, a 750-foot-long special events platform would not accommodate the planned special events trains, which may include up to ten passenger cars plus one or more engines. Additionally, reducing the length of the platform would not avoid significant effects to wetland habitat. Second, a special events platform constructed on Fairgrounds property to minimize wetland impacts is not feasible because it would require sharp curves in the trackway alignment in order to shift the track further to the east.

The proposed project (East Side-Loading alternative) avoids shifting the widened trackway further into San Dieguito Lagoon, and avoids the corresponding adverse effects on coastal salt marsh habitat, tidal flows, and water circulation that the West Side-Loading alternative would produce. The East Side-Loading alternative would result in 2.20 acres of permanent wetland impacts, primarily in the isolated Stevens Creek drainage channel between the existing railroad berm and the Del Mar Fairgrounds property. The West Side-Loading alternative would result in 1.83 acres of permanent wetland impacts, primarily in San Dieguito Lagoon. However, despite the larger acreage of permanent wetland habitat loss associated with the proposed project, the Commission agrees with SANDAG and the resource agencies that by relocating the railroad trackway further to the east out of San Dieguito Lagoon, by realigning Stevens Creek into the lagoon from its current hydrologically isolated and artificially linear pathway, and by avoiding the placement of fill into the lagoon to support the trackway alignment for the West Side-Loading alternative, the improved and permanent benefits to wetland and aquatic habitats in the project area resulting from the East Side-Loading alternative exceed over time the impacts from the additional 0.37 acre of wetland loss in the proposed project. In addition, this project minimizes temporary impacts to wetland habitat, includes wetland mitigation measures, and avoids increased encroachment onto Fairgrounds property outside of the railroad right-of-way. Therefore, the Commission agrees with SANDAG that the proposed project, with the mitigation measures discussed below, represents the least environmentally damaging feasible alternative and therefore complies with the alternatives test of Section 30233(a).

Mitigation

The January 2017 *Biological Technical Report* for the proposed project, and the April 21, 2017, *Habitat Mitigation Proposal* submitted by SANDAG, state that short-term temporary, long-term temporary, and permanent impacts to Coastal Act wetlands would occur and require mitigation. The consistency certification defines these temporal classifications of impacts as follows:

- Temporary impacts are those that would be caused by construction activities, but vegetation/habitat would be re-established in place, with the exception of when a non-native (and non-sensitive and non-jurisdictional) vegetation community/habitat is temporarily impacted; in this case, the most appropriate native plant palette would be used to revegetate the impacted area.
- Short-term temporary impacts would persist for less than 12 months.
- Long-term temporary impacts could persist throughout the approximately three-year construction period. For purposes of mitigation, this type of impact is considered permanent.
- Permanent impacts are those where the ground disturbance would be permanent where the biological resources would be replaced with proposed rail infrastructure, or where one vegetation community/habitat type would be converted to another (due to a post-construction change in hydrology, for example).
- Net permanent impacts from the project result, in part, from such habitat conversion. The acreage of “new” habitat created (e.g., southern coastal salt marsh) is subtracted from impacts that would occur to existing southern coastal salt marsh, thereby reducing overall impacts to that community. The project would receive credit for the beneficial impact of converting what, in most cases, is a non-sensitive and non-jurisdictional community/habitat type (e.g., disturbed habitat) to a sensitive, jurisdictional community (e.g., southern coastal salt marsh).

To minimize impacts to wetland habitats and reduce the amount of required wetland mitigation, the project includes numerous design features developed in coordination with the resource and regulatory agencies. The new double-track bridge would extend an additional 420 feet to the north of the terminus of the existing bridge to allow for the replacement of part of the northerly railroad berm with coastal wetland habitat ([Exhibit 11, page 2](#)). The rail alignment would be shifted to the east near the Fairgrounds to move it farther away from existing lagoon habitat and allow for lagoon expansion. A new channel would be constructed on the west side of the new rail alignment to replace the functions and services of the old and isolated Stevens Creek channel. The realigned Stevens Creek would be directly connected with the lagoon and provide improved habitat values and be the same linear length as the creek segment to be filled ([Exhibits 12 and 14](#)). Old timber bridge piles would be replaced with fewer concrete bridge columns, resulting in a net decrease in the amount of fill required for bridge support columns. Rock revetment placed on the floor of the main river channel below the existing bridge in 2015 by the North County Transit District (CC-0006-14) to prevent erosion and damage to timber pilings would be removed.

After incorporating these design features into the project, SANDAG calculated that permanent impacts to Coastal Act wetlands arising from construction of the double-track project would total 2.20 acres (from expanded railroad infrastructure), long-term temporary impacts would total 1.65 acres, and short-term temporary impacts would total 1.55 acres (both from construction

activities)([Exhibit 13](#)). Regarding the mitigation program for unavoidable impacts to wetland habitats, SANDAG states that:

SANDAG and Caltrans collaborated with the CCC, local cities, resources agencies, and the public to develop the North Coast Corridor Public Works Plan/Transportation and Resource Enhancement Program (NCC PWP/TREP; June 2014). The NCC PWP/TREP serves as a programmatic federal consistency certification document for the transportation, community and resource enhancement projects included in the PWP/TREP. In addition, the PWP/TREP Resource Enhancement and Mitigation Program (REMP; Appendix H of the PWP/TREP) provides a regional approach to identifying, developing and implementing biological mitigation for north coast transportation projects, including the Proposed Action. The mitigation for direct impacts to wetlands and sensitive upland habitats for this project are proposed to be provided by allocation of REMP mitigation credits, and on-site establishment. In addition, the REMP allocates the SANDAG Environmental Mitigation Program (EMP) funds to regionally significant lagoon restoration opportunities and endowments for long-term resource maintenance needs.

As was contemplated in the Commission review of the PWP/TREP, mitigation for the subject project's wetland impacts (beyond the mitigation that is inherent in the design of the project) would be addressed through the PWP/TREP's Resource Enhancement and Mitigation Program (REMP), an element of the NCC PWP/TREP. The Commission's August 2014 approval of the PWP/TREP provided the authorization for an overall framework, under which identified projects would be analyzed, implemented, and coordinated over the next 30 to 40 years. The goal of this process was to optimize the suite of improvements so that transportation goals could be achieved while maximizing protection and enhancement of sensitive coastal resources, including wetlands, within the corridor. The REMP designates specific mitigation sites to be used for NCC PWP/TREP-listed transportation projects, in a manner intended to coordinate and maximize the benefits of wetland and upland restoration required as mitigation. The REMP also contains the requisite overall monitoring and performance standards, as well as a plan for long-term management following the initial monitoring period, to assure restoration success.

The Commission noted the following in its review of the Caltrans I-5 crossing of San Elijo Lagoon (CDP 6-15-2092 and NOID NCC-NOID-0005-15):

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.

In accordance with this “umbrella” program, SANDAG states that the proposed mitigation measures for the San Dieguito double-track project are consistent with the mitigation framework for LOSSAN corridor projects established in the REMP, and that it will implement mitigation for unavoidable project impacts in accordance with and as required by the REMP. SANDAG’s consistency certification for the proposed San Dieguito double-track project states that project mitigation will consist of:

- Reestablishment of jurisdictional habitat on site through removal of approximately 420 feet of the existing railroad berm.
- Rehabilitation and enhancement of lagoon habitat impacted by temporary work.
- Restoration of habitat offsite to provide enough additional wetland establishment to achieve no net loss, and to compensate for the temporal loss associated with long-term temporary impacts.

SANDAG’s April 21, 2017, *Habitat Mitigation Proposal* provides additional details on these classes of mitigation to be implemented for the proposed project:

Revegetation of On-Site Reestablishment Area

The on-site Revegetation Plan (HELIX, 2017b) ([Exhibit 12](#)) includes reestablishment of 1.17 acres of CCC vegetated wetland habitat and 0.35 acres of brackish marsh channels associated with the wetland habitat (total on-site reestablishment of 1.52 acres), that offset almost all the permanent impacts to vegetated wetlands (0.88 acres) and tidal unvegetated wetlands (0.69 acres) combined (total of 1.57 acres). An additional 0.68 acres of wetland habitat establishment is proposed off-site, as described below, which when combined with the on-site reestablishment, would provide enough new habitat to replace all permanent impacts associated with the project . . . It is noted that permanent impacts to 0.69 acres of tidal unvegetated wetlands and 0.63 acres of drainages and track ditches are to unvegetated habitats that don’t require the same time for revegetation to occur that vegetated wetland habitats require. Although time is required for the replacement habitat to become established, this time lag is offset by the onsite provision of 1.17 acres of new wetland vegetation (higher value and higher acreage) compared to impacts to 0.88 acres of vegetated wetland habitat.

Restoration of Habitat Impacted by Temporary Work

All areas with temporary impacts will be replaced on-site with in-kind or higher quality habitats. The 0.60 acre of vegetated wetlands that are temporarily impacted and the 0.38 acre of vegetated wetlands that have long-term temporary impacts (0.98 acres total) will be offset with 1.12 acres (0.52 acres and 0.60 acres) of vegetated wetlands habitat through onsite rehabilitation (Table 1) per the Revegetation Plan (HELIX, 2017b). The 1.27 acres of long-term temporary

impacts and 0.95 acre of temporary impacts to tidal unvegetated wetlands (2.22 acres total) will be replaced with 2.08 acres (1.13 acres and 0.95 acres) of onsite rehabilitation of in-kind habitats.

Off-Site Wetland Mitigation for No Net Loss Deficit and Temporal Loss

A total of 0.68 acres of wetland establishment will be provided to achieve mitigation of permanent impacts at a one to one ratio at the San Dieguito Lagoon W-19 REMP site in order to achieve no net-loss of habitat (Table 1). An Environmental Impact Report was released for public comment on March 9, 2017, for the San Dieguito Lagoon W-19 Restoration Project, and construction is anticipated to start in the Fall of 2018. This mitigation site is anticipated to be in place and wetland mitigation to have been established prior to impacts at the SDDT Project.

Mitigation for long-term temporary impacts is proposed at a ratio of one to one. Mitigation for temporal loss could include up to 1.65 acres of wetland reestablishment . . . The wetland mitigation to be provided at the W-19 site totals up to 2.33 acres (Table 1).

SANDAG reports that project construction activities would temporarily disturb benthic and aquatic habitats but would result in no net loss of subtidal habitat. Impacts would primarily occur to unvegetated soft-bottom habitat. The *Biological Technical Report* states that:

Surveys conducted in 2013 for bridge repair indicated that eelgrass was not present in the immediate vicinity of the bridge, but was observed 150 feet to the east along the south edge of the San Diego River Channel, and eelgrass was abundant further upstream to the east of the BSA [Biological Study Area](Merkel 2013a). During the 2013 survey, abundant fresh shed eelgrass leaves were observed within debris and kelp wrack on the bridge piles along with drift giant kelp, feather boa kelp and surfgrass. Eelgrass was observed within the work footprint of the bridge repairs conducted in late 2015 (Erich Lathers, BRG Consulting, personal communication, 2016). Surveys (Merkel 2013b) were also conducted for Caulerpa (Caulerpa taxifolia), an exotic species of concern due to its aggressive nature; the surveys were negative.

A pre-construction eelgrass survey will be conducted in accordance with the California Eelgrass Mitigation Policy (CEMP). If the pre-construction survey demonstrates eelgrass presence within the study area, a post-project survey will be conducted and impacts to eelgrass properly estimated, reported, and mitigated in accordance with the CEMP. A pre-construction survey of the project area for Caulerpa will be conducted in accordance with the Caulerpa Control Protocol. If Caulerpa is detected within the study area, no project work would commence until such time as the infestation has been isolated, treated, and the risk of spread is eliminated.

Regarding the ongoing wetland restoration activities upstream of the railroad bridge, SANDAG notes that:

The bridge crosses a channel that provides tidal connection to areas being restored and enhanced under a USACE permit as mitigation for impacts by Southern California Edison at the San Onofre Nuclear Generating Station. The proposed project is committed to providing adequate tidal flow through the project through use of a construction trestle bridge over all of the San Dieguito River Channel.

Avoidance and minimization measures were included in SANDAG's consistency certification, the *Biological Technical Report*, and the *Conceptual Revegetation Plan*, including but not limited to: (1) designation of a qualified project biologist responsible for overseeing compliance with all prescribed mitigation measures for biological resources; (2) development of a worker education and awareness program regarding biological resources in the project area, required resource protection measures, and legal protections for those resources; (3) use of turbidity and/or silt curtains during bridge construction-related activities; (4) use of bubble curtains or equivalent to minimize acoustical impacts to aquatic species during pile driving activities; and (5) best management practices to protect wetland and aquatic habitat during all phases of project construction.

The *Biological Technical Report* further states that:

Appropriate best management practices (BMPs) including cofferdams or equivalent would be used to control erosion and sedimentation, to limit the spread of re-suspended sediment, and to capture debris and contaminants from bridge demolition and construction to prevent their deposition in the San Dieguito River and Lagoon. No sediment or debris will be allowed to enter the lagoon, river, or other unintended drainages. The upper casing used for the CIDH piles serves the same purpose as a coffer dam by protecting the open water from debris associated with the drilling operation. The casing would be vibrated in first, and then the casing is drilled through to remove the soil. BMPs may include silt curtains, turbidity curtains, and/or other barriers. Water within cofferdams would not be returned to the San Dieguito River or Lagoon until it is clear and clean. This may be accomplished through the use of desiltation tanks or other appropriate measures. Collected sediments would be removed and disposed of properly. Additional BMPs (e.g., gravel bags) would be used at the discharge point(s) to avoid erosion.

The consistency certification includes the *Conceptual Wetland Revegetation Plan (February 2017)*. The *Plan* provides the framework for the re-establishment of Coastal Act wetlands within the removed railroad berm area and to provide for the rehabilitation of wetland areas disturbed during construction of the double-track project ([Exhibit 12](#)). The *Plan* includes: (1) re-establishment of 1.14 acres of coastal salt marsh, 0.35 acres of brackish marsh channel, and 0.03 acres of southern willow scrub; and (2) rehabilitation of 0.74 acres of coastal salt marsh (including the conversion of 0.14 acres of non-wetland tidal areas to new coastal salt marsh), 0.03 acres of brackish marsh, 0.15 acres of brackish marsh channel, 0.18 acres of non-wetland intertidal habitat, and 0.03 acres of southern willow scrub. Overall, the plan would result in 1.63 acres of new tidally-influenced coastal salt marsh habitat (1.14 + 0.35 + 0.14 acres).

The *Plan* describes the revegetation goals and objectives as follows:

The goals of the revegetation are to create or replace wetland habitat in areas that already are (rehabilitation1); were (re-establishment); or will be (establishment) subject to wetland hydrology. The project includes removal of approximately 400 feet of railroad berm so that coastal wetland habitat could be re-established. The project also relocates the Stevens Creek Channel with a new channel of approximately the same length in order to replace lost functions and services due to the proposed filling of the existing creek (Figure 3). Note that the plan includes application of a native upland seed mix (coastal sage scrub) on the adjacent slopes for erosion control purposes that is documented in Appendix A of this plan, and is included in the plans and specifications for the overall project design.

The Stevens Creek channel currently located east of the railroad tracks will be relocated through an arched culvert to be installed below the railroad that would allow the creek to flow under the railroad and emerge west of the track. The 10-foot-wide channel will extend to the south for the extent of the revegetation area and connect with the estuary at the southern end (Figure 3). The majority of the re-established wetland habitat supported by this plan is coastal salt marsh and associated brackish marsh channels that supply tidal flows to the habitats. In addition, southern willow scrub is being established at the confluence of Stevens Creek with the new arch culvert on the east side of the track (Figure 3). The wetland or special aquatic site habitats provided by this plan include southern coastal salt marsh, non-wetland intertidal habitats (mudflat, intertidal beach, and brackish water channels), and southern willow scrub. Brackish water habitat will occur in the 10-foot-wide channel that flows along the west side of the proposed berm and conveys flows from Steven's Creek to the open water of the lagoon (See Figure 4 cross section), and in smaller six-foot-wide tidal channels that help convey tidal waters to re-established or rehabilitated salt marsh habitats. A portion of the revegetation area would be located under the new platform (Figure 4).

The *Plan* also includes details on:

- Revegetation roles and responsibilities of the project sponsor, general contractor, maintenance biologists and contractor, and the plant and seed suppliers
- Implementation schedule, construction access, preparation of final revegetation plans, fencing and erosion control, and existing plant and topsoil salvage
- Site preparation, grading, and irrigation, and installation specifications for planting and fencing/erosion control

- Maintenance program including access, activities, and schedule; biological monitoring, including methods, success criteria, and reporting; and confirmation and notification of completion of revegetation

Given the significant time lag between the 2017 review of the subject consistency certification and the current expected start of project construction (2027), and in order to ensure that the aforementioned off-site mitigation for the proposed project conforms to the requirements of the NCC PWP/TREP (as concurred with by the Commission), SANDAG has agreed to incorporate the following language into its consistency certification:

Final Mitigation. Prior to commencement of construction, SANDAG shall provide evidence, in a form and content acceptable to the Executive Director, that adequate credits have been released from the Resource Enhancement and Mitigation Program (REMP) in order to provide compensatory mitigation for the SANDAG San Dieguito double-track project's impacts to wetlands at a 1:1 mitigation ratio. If adequate credits are not available, the applicant shall provide mitigation from the REMP using the typical 4:1 wetland mitigation ratio required by the Commission. Mitigation shall be consistent with the provisions of the REMP.

Construction Status. SANDAG will annually submit to the Executive Director on July 1 a spreadsheet which documents the availability of mitigation credits at the San Dieguito Lagoon W-19 REMP site, and an update on the status of construction funding for the project and the estimated construction schedule.

Given the significant time lag between its 2017 review of the subject consistency certification and the current expected start of project construction (2027), the Commission also notes that should the proposed on-site and off-site mitigation measures for permanent and temporary impacts to wetland and aquatic resources either not be available for use by SANDAG or not be implemented in the manner described in the consistency certification, the Commission has the ability to "re-open" its decision on the consistency certification under the remedial action provisions of the federal consistency regulations (15 CFR §930.65), which state in part that:

(a) Federal and State agencies shall cooperate in their efforts to monitor federal license or permit activities in order to make certain that such activities continue to conform to both federal and State requirements.

(b) The State agency shall notify the relevant Federal agency representative for the area involved of any federal license or permit activity which the State agency claims was:

(1) Previously determined to be consistent with the management program, but which the State agency later maintains is being conducted or is having an effect on any coastal use or resource substantially different than originally described and, as a result, is no longer consistent with the management program

With the above commitments for on- and off-site mitigation, the Commission finds that the proposed project includes adequate mitigation for impacts to wetland habitat and therefore complies with the third (mitigation) test of Section 30233(a).

Functional Capacity

In addition to the wetland tests discussed above, Section 30233(c) of the Coastal Act requires protection of San Dieguito Lagoon's functional capacity. SANDAG notes in its consistency certification that the proposed double-track project would create net improvements to the lagoon through enlargement the river channel under the existing Bridge 243.0 by: (1) removing from the lagoon a 420-foot-long section of the existing single-track embankment at the north end of the bridge; (2) replacing the existing 1,100-foot-long bridge with a 1,600-foot-long bridge; and (3) replacing the existing wooden trestle timber bridge support bents (with an average spacing of 14 feet) with a pre-cast concrete bridge supported by concrete columns with an average spacing of 56 feet. The new bridge will enhance tidal exchange in the lagoon and in the wetland complex upstream of the lagoon. Given these benefits to the hydrologic regime, the Commission agrees with SANDAG that the project will provide overall benefits to the functional capacity of San Dieguito Lagoon, and will therefore comply with Section 30233(c)'s requirement that the project "maintain or enhance the functional capacity of the wetland or estuary."

Stream Channelization

The project includes the realignment of the Stevens Creek channel from its current hydrologically isolated and artificially linear pathway between the existing railroad berm and the Del Mar Fairgrounds. The creek would be realigned to flow under the new railroad double-track embankment in a soft-bottom arch culvert just south of Via De La Valle. Commencing at the west outfall of the culvert, a new winding channel would be created to convey Stevens Creek flows through the revegetated salt marsh habitat and into San Dieguito Lagoon. The realigned creek would be the same linear length as the original creek channel to be filled and would provide improved habitat values and functions when compared to the existing and isolated Stevens Creek channel. The wetland habitats provided by this realignment include southern coastal salt marsh, non-wetland intertidal habitats (mudflat, intertidal beach, and brackish water channels), and southern willow scrub (at the east side of the new Stevens Creek arch culvert). The proposed realignment would restore Stevens Creek to a more natural pathway into San Dieguito Lagoon, a pathway interrupted when the existing railroad berm was constructed a century ago and the creek diverted into a linear channel east of and separated from the lagoon. Given that the proposed realignment of Stevens Creek would improve the hydrologic regime assist in the restoration of coastal wetland habitats, the Commission finds that this project component project is consistent with the stream alteration policy of Coastal Act Section 30236, because it incorporates the best mitigation measures feasible, and because its primary function is improvement (i.e., restoration to pre-railroad berm construction conditions) of the stream corridor.

Conclusion

As stated above, the Commission finds that the proposed project is consistent with the alternatives, mitigation, and functional capacity tests of Sections 30233(a) and 30233(c), but inconsistent with the allowable use tests of those sections. Therefore, the only way the Commission could concur with this consistency certification would be if it finds the project

consistent with the Coastal Act through the “conflict resolution” provision contained in Section 30007.5. As discussed in **Sections III.H, K, and L** of this report, blocking the project from proceeding would be inconsistent with the water quality, public access and recreation, and air quality/energy consumption policies of the Coastal Act, because it would prevent benefits to coastal resources that are inherent in the project and mandated by the policies of the Coastal Act from accruing. 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 wetland policy of the Coastal Act (Sections 30233(a) and (c)) on the one hand, and the water quality, public access, and energy conservation policies of the Coastal Act (Sections 30231, 30232, 30210, 30213, 30252, and 30253) on the other. The following section of this report will identify a similar conflict with the Coastal Act’s ESHA policy (Section 30240). In the concluding section of this report (**Section III.M**), the Commission will provide further analysis concerning the resolution of these conflicts.

G. ENVIRONMENTALLY SENSITIVE HABITAT

Coastal Act Section 30240 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.

Coastal Act Section 30107.5 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.

The overall habitat values in and adjacent to San Dieguito Lagoon and River, and potential project impacts to wetlands, aquatic resources, and listed species using those habitats, are described in the previous section of this report. Upland environmentally sensitive habitat in the project area is limited to Diegan coastal sage scrub (DCSS), a vegetation community which often supports the federally listed California gnatcatcher ([Exhibit 15](#)). However, the *Biological Technical Report* states that:

While some of the Diegan coastal sage scrub in the BSA [Biological Study Area] is of relatively high quality, it is highly fragmented, and the most extensive areas of the habitat are narrow and linear and occur along the rail track embankment subjected to train noise and vibration. Given the extent, shape, and fragmented

nature of the potential habitat, it is the professional opinion of HELIX (Larry Sward – permitted by the USFWS to conduct Coastal California gnatcatcher surveys) that the habitat is unlikely to support the Coastal California gnatcatcher. Neither Larry Sward nor John Konecny (also permitted by the USFWS to conduct Coastal California gnatcatcher surveys) detected the Coastal California gnatcatcher during other surveys.

SANDAG inventoried the acreage of DCSS in the project area and calculated that proposed railroad infrastructure would remove 1.44 acres of this habitat, and that an additional 0.82 acres of this habitat would be converted to southern coastal salt marsh (from removal of a segment of the existing railroad embankment from San Dieguito Lagoon). An additional 0.05 acres of DCSS would be temporarily affected by project construction activities. Notwithstanding the fragmented nature of DCSS and the absence of Coastal California gnatcatchers in the project area during biological surveys, the consistency certification concludes that DCSS is a sensitive upland vegetation community and that the areas where it occurs in the project area should be considered environmentally sensitive habitat areas (“ESHA”) for Coastal Act purposes. Because this habitat constitutes ESHA, in order for the project to be consistent with Section 30240(a), the parts of the project occurring within that ESHA would need to be a “use dependent on the resource.” The Commission finds that the project does not comply with this test and cannot, therefore, be found consistent with Section 30240. In addition, the Commission finds that the project would also result in a significant disruption of habitat values to DCSS through the loss of 2.26 acres of this habitat in the project area. However, because the Commission is nevertheless concurring with this consistency certification, as discussed in **Section M** of this report (conflict resolution), and thus allowing the project to proceed, the impacts to this habitat need to be mitigated to make the project as consistent as possible with Section 30240(a) and (b).

SANDAG’s April 21, 2017, *Habitat Mitigation Proposal* states that the 2.26 acres of permanent impacts to DCSS would be mitigated through use of 2.26 acres of DCSS creation credits at the San Dieguito Lagoon W-19 REMP site or another site acceptable to the Coastal Commission. The 0.05 acres of temporarily impacted DCSS would be reestablished onsite with a mix of native plant materials. As was the case for the wetland impacts described in the previous section of this report, mitigation for ESHA impacts will be addressed through the Commission-authorized PWP/TREP’s Resource Enhancement and Mitigation Program (REMP). As noted above, the REMP designates specific mitigation sites to be used for NCC PWP/TREP transportation projects in order to coordinate and maximize the benefits of wetland and upland restoration required as mitigation for these projects.

Given the significant time lag between its 2017 review of the subject consistency certification and the current expected start of project construction (2027), and in order to ensure that the aforementioned off-site mitigation for the proposed project conforms to the requirements of the NCC PWP/TREP, as concurred with by the Commission, SANDAG has agreed to incorporate the following language into its consistency certification:

Final Mitigation. Prior to commencement of construction, SANDAG shall provide evidence, in a form and content acceptable to the Executive Director, that adequate credits have been released from the Resource Enhancement and

Mitigation Program (REMP) in order to provide compensatory mitigation for the SANDAG San Dieguito double-track project's impacts to Diegan coastal sage scrub ESHA at a 1:1 mitigation ratio. If adequate credits are not available, the applicant shall provide mitigation from the REMP using the typical 2:1 upland ESHA mitigation ratio required by the Commission. Mitigation shall be consistent with the provisions of the REMP.

Construction Status. SANDAG will annually submit to the Executive Director on July 1 a spreadsheet which documents the availability of mitigation credits at the San Dieguito Lagoon W-19 REMP site, and an update on the status of construction funding for the project and the estimated construction schedule.

Given the significant time lag between its 2017 review of the subject consistency certification and the current expected start of project construction (2027), the Commission notes that should the proposed on-site and off-site mitigation measures for permanent and temporary impacts to Diegan coastal sage scrub ESHA either not be available for use by SANDAG or not be implemented in the manner described in the consistency certification, the Commission has the ability to "re-open" its decision on the consistency certification under the remedial action provisions of the federal consistency regulations at 15 CFR §930.65 which states in part that:

(a) Federal and State agencies shall cooperate in their efforts to monitor federal license or permit activities in order to make certain that such activities continue to conform to both federal and State requirements.

(b) The State agency shall notify the relevant Federal agency representative for the area involved of any federal license or permit activity which the State agency claims was:

(1) Previously determined to be consistent with the management program, but which the State agency later maintains is being conducted or is having an effect on any coastal use or resource substantially different than originally described and, as a result, is no longer consistent with the management program

Regarding this time lag, SANDAG also reported in its consistency certification that the Federal Railroad Administration (FRA) determined in the project *Environmental Analysis (December 2015)* that the proposed project would not result in direct impacts to the federally listed western snowy plover and California least tern. SANDAG committed in its consistency certification that when it gets closer to obtaining funding for construction of the project, it would re-verify with the FRA and the U.S. Fish and Wildlife Service whether Section 7 consultation under the Endangered Species Act might be needed if there are future changes to site conditions.

The proposed project also includes a number of avoidance and minimization measures that were included in SANDAG's consistency certification and the *Biological Technical Report*, including but not limited to: (1) designation of a qualified project biologist responsible for overseeing compliance with all prescribed mitigation measures for biological resources; (2) development of

a worker education and awareness program regarding biological resources in the project area, required resource protection measures, and legal protections for those resources; (3) native vegetation in the temporary impact areas will be trimmed to the surface rather than uprooted to the maximum extent practicable to improve regeneration; (4) a native plant re-establishment plan for temporary impact areas will be prepared prior to project construction and will include performance, monitoring, and maintenance standards, erosion control measures, and the use of native plant and seed mixes in revegetation and erosion control work; (5) re-seeding would occur prior to the start of the rainy season to help maximize germination and plant cover and revegetated areas would be maintained long enough to establish 70 percent cover and provide erosion control; and (6) nighttime lighting in the vicinity of native vegetation habitat deemed necessary during project construction will be selectively placed, shielded, and directed away from native vegetation habitat to the maximum extent practicable.

In conclusion, the Commission finds that the project is not a use allowed in an ESHA and would result in a significant disruption of Diegan coastal sage scrub habitat values. As a result, the project is inconsistent with Section 30240, notwithstanding project measures to mitigate the impacts to Diegan coastal sage scrub and the sensitive species it supports. Therefore, the only way the Commission could concur with this consistency certification would be if it finds the project consistent with the Coastal Act through the “conflict resolution” provision contained in Section 30007.5. As discussed in **Sections III.H, K, and L** of this report, blocking the project from proceeding would be inconsistent with the water quality, public access and recreation, and air quality/energy consumption policies of the Coastal Act, because it would prevent benefits to coastal resources that are inherent in the project and mandated by the policies of the Coastal Act from accruing. 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 ESHA policy of the Coastal Act (Section 30240 on the one hand, and the water quality, public access, and energy conservation policies of the Coastal Act (Sections 30231, 30232, 30210, 30213, 30252, and 30253) on the other. In the concluding section of this report (**Section III.M**), the Commission will provide further analysis concerning the resolution of these conflicts.

H. 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.

SANDAG included in its consistency certification commitments for water quality protection during construction of the double-track project, including preparation of a Storm Water Pollution Prevention Plan, compliance with its National Pollutant Discharge Elimination System (NPDES) permit, and implementation of construction best management practices. These measures would ensure that project construction would not adversely affect the San Dieguito River and lagoon and nearby beaches.

The project also includes the following design features to ensure that operation of the project also minimizes and avoids adverse impacts to water quality:

. . . revegetation of all graded slopes; minimization of impervious surfaces and use of pervious paving where surfacing is required; slope grading specifications that minimize slope disturbance, and use of retaining walls to reduce steepness of slopes and to shorten slopes; use of energy dissipaters (e.g. rip rap) at discharge locations; track surfaces stabilized with rock ballast and sub-base, and rock ballast on bridge deck; minimized use of underground storm drains; articulated block-lined channels for major flows; use of curbs and trash containers at the fairground platform to minimize potential for trash to end up in the lagoon; and deck drains that would convey platform storm water into mechanical filters installed within new catch basins.

The consistency certification also documents the measures to be used to guard against oil and hazardous material spills:

Contractor operations are not anticipated to use or generate any unusual or significant amounts of hazardous wastes. Potentially hazardous materials, which may be present on site during construction of the Proposed Action, are those generally associated with the operation and maintenance of vehicles and equipment such as fuels, lubricants, solvents, concrete, paint, and portable septic system wastes. The accidental discharge of these types of pollutants could potentially result in water quality impacts if they enter local receiving waters, particularly materials such as petroleum compounds that are potentially toxic to aquatic species in low concentrations. Though these potentially hazardous materials may be present on site, the amount of material would be limited due to the mobile nature of the installation activities. All wastes generated would be stored in secure areas and disposed of at an approved disposal site. Potential water quality impacts from construction-related hazardous materials would be addressed through conformance with the NPDES Construction General Permit, with associated potential BMPs.

In previous reviews of SANDAG and NCTD double tracking projects in San Diego County, the Commission concurred with agency 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.

The project also includes the removal of creosote timber pilings which support the 100-year-old timber bridge and replacement with fewer concrete support columns for the new double-track bridge. Combined with the removal of a 420-foot-long segment of earthen railroad embankment on the north side of the San Dieguito River, the project will increase the width of the river channel where it flows underneath the railroad tracks, thereby improving river and lagoon hydrology and functional capacity. As a result, the proposed project will lead to long-term beneficial effects on water quality in the project area. In addition, erosion controls to protect water quality will also include post-construction revegetation activities within the project area.

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 and spill prevention policies of the Coastal Act (Sections 30231 and 30232). In addition, the Commission finds that Coastal Act Sections 30231 and 30232 include affirmative language mandating approval (“*The biological productivity and the quality of coastal waters ... shall be maintained and, where feasible, restored ...*” and “*Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided ...*”) to protect coastal water quality and that without this project, water quality resources at and adjacent to the San Dieguito Lagoon and River project area will not be maintained, restored, and protected.

I. CULTURAL RESOURCES

Coastal Act Section 30244 states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The consistency certification includes an examination of potential cultural resources within the project area. ASM Affiliates, Inc. prepared a *Cultural and Historical Resource Evaluation Report (May 2014)* for SANDAG and the Federal Railroad Administration to inventory cultural

and historical resources in the San Dieguito double-track project area, and to comply with the provisions of Section 106 of the National Historic Preservation Act. The *Report* is a supporting document for the subject consistency certification. The *Report* included a cultural resource inventory consisting of a records search, literature review, Native American correspondence, and an intensive pedestrian field survey. Regarding potential project effects on Native American cultural resources, the *Report* states that:

ASM contacted the NAHC [California Native American Heritage Commission] in 2009 regarding the project area for the San Dieguito River Bridge Replacement and Second Track project. Dave Singleton of the NAHC reported to ASM on January 29, 2009 that a search of the Sacred Lands File (SLF) failed to indicate the presence of Native American cultural resources in the project area. Mr. Singleton provided ASM a list of individuals and tribes to contact for further consultation.

ASM contacted the individuals and tribes provided by the NAHC in an effort to determine if there are Traditional Cultural Properties, sacred sites, resource collecting areas, or any other areas of concern not encountered during the records search (Table 1). ASM did not receive any response from local tribes or individuals regarding the project. Angela Pham, ASM Associate Archaeologist, sent a second letter to the NAHC requesting an additional Sacred Lands File search on June 21, 2012. ASM received no response from local tribes or individuals regarding the project. Correspondence relating to the Native American consultation for this project is provided in Appendix D.

The *Report* also included a discussion of mitigation measures to be implemented during project construction:

Prior to and for the duration of ground disturbances, SANDAG should provide archaeological resources training to key personnel and supervisors . . . The training will describe appropriate measures for treatment and protection of cultural resources in compliance with the Secretary of the Interior's Standards for Treatment of Historic Properties, and will include a discussion of applicable laws and penalties under the law, and samples or visual representations of artifacts that might be found in the Project vicinity. The training will outline the steps that must be taken in the event that cultural resources are encountered during Project construction.

The discovery of human remains is always a possibility during an undertaking. State of California Health and Safety Code Section 7050.5 covers the unanticipated discovery of human remains on non-federal lands. This code section states that no further disturbance shall occur until the San Diego County Coroner has made a determination of origin and disposition pursuant to Public Resources Code (PRC) Section 5097.98. The San Diego County Coroner must be notified of the find immediately. If the human remains are determined to be prehistoric, the Coroner will notify the NAHC, which will determine and notify a Most Likely Descendant (MLD). The MLD shall complete the inspection of the site within 24 hours of notification and may recommend scientific removal and

nondestructive analysis of human remains and items associated with Native American burials.

The *Report* determined that no prehistoric or historic archaeological sites were recorded within the project area and that the project would not result in adverse effects to historic properties under Section 106 of the National Historic Preservation Act. In addition, SANDAG included in its consistency certification a copy of the May 21, 2015, letter from the State Historic Preservation Officer to the Federal Railroad Administration concurring with the adequacy of the project's Area of Potential Effect, concurring that no historic properties will be affected by the project, and recommending that the Federal Railroad Administration have an archaeologist monitor construction near the San Dieguito Lagoon area.

SANDAG has incorporated into the proposed project the recommended mitigation and monitoring measures. The Commission agrees with SANDAG that the double-track project would not adversely affect cultural resources. The resource inventory and evaluation work previously undertaken within the project area and the commitment by SANDAG to protect unknown cultural resources that may be uncovered during project construction demonstrates SANDAG's commitment to protection of cultural resources. Therefore, the Commission finds that the project is consistent with the cultural resource policy of the Coastal Act (Section 30244).

J. PUBLIC VIEWS

Coastal Act Section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed project includes the construction of replacement and new railroad infrastructure, lighting at the special events passenger platform, new and realigned drainage channels, grading and retaining walls to accommodate the second mainline track, and temporary staging and storage areas. SANDAG's consistency determination examines each of these elements and the potential effect on scenic public views within the project area. Regarding railroad tracks, bridges, and other structures, SANDAG states that:

Although the double-tracking would add 1.7 miles of additional track (by double-tracking in a corridor that is currently single track) with up to approximately 1,600 feet supported by new elevated structures, and the rail and track bed would be up to eight feet higher in elevation at places, the new structure color and form would have less contrast with background views because of proposed

architectural design elements. Specifically, architectural details, such as shadow lines and shaped architectural elements, are being incorporated into the design of the proposed rail bridge and rail platforms in an effort to reduce the bridge and platform profile. Surface treatments and textures are being incorporated into the design of retaining walls to break up the surface plane and provide visual interest. Additionally, the concrete supports [across the San Dieguito River] would be wider spaced and parallel to each other, resulting in a more visually open overall structure compared to the existing wood structure.

...

Other rail facilities would be constructed along the improved rail way, including turnouts, signals, signal houses, crossovers, and access roads. These rail features already occur along the rail corridor and the replacement, relocation, or provision of additional rail features with similar types would not substantially change the visual character or quality of the visual environment.

Regarding lighting at the proposed special events platform, SANDAG states that:

Pole-mounted lighting, railings, and the stairs/ramps associated with the 1,000-foot long special events platform would introduce new visual features with a moderate visual impact. Pole mounted lights would be used to provide lighting on the main platform. The poles would be 14 feet high and spaced at approximately 50-foot intervals along the exterior platform rail. A slimline LED fixture would be used to reduce bulk and provide an energy efficient system. Ramps would be lighted using curb mounted fixtures that would not be visible from beyond the platform when they are not in use. Under-crossings would be lighted using flush mounted ceiling or wall fixtures. Emergency stairs would be lighted with hand rail mounted lighting. Similarly, these lighting systems would not be visible from beyond the platform when they are not in use. Lights are designed to provide a minimum of 5-foot candles of illumination on the platform and a minimum of 10-foot candles of illumination on the ramps, stairs and under-crossings. All lights would be focused on the platform and away from adjacent habitat areas.

The project includes construction of a drainage channel parallel to the east side of the railroad tracks south of the San Dieguito River to direct flows into an existing wetland. SANDAG states that his channel would be visually compatible with the existing environment due to the presence of other linear drainage and water courses in the immediate vicinity. The project would also realign a portion of Stevens Creek, which currently runs parallel to the east side of the railroad track embankment and flows into the San Dieguito River. The consistency determination states that:

A portion of the creek would be filled and realigned to traverse under the railroad track embankment in a [soft-bottom] arched culvert and within a new low-flow channel that would outfall into the lagoon west of the tracks. The realignment of

Stevens Creek would not substantially change the visual character or quality of the existing environment because it would continue to be a water feature in the viewscape. The realigned portion of the creek would be more visible from surrounding roadways and within the rail corridor than it currently is because it would no longer run parallel to the east side of the tracks, but would extend westerly toward the ocean.

The project requires significant grading and associated retaining walls to accommodate the second mainline track and the new double-track bridge across the San Dieguito River. The consistency determination reports that:

. . . proposed retaining walls would range in height between 5 and 30 feet; berms also would be constructed. These walls and berms would not be highly visible from surrounding areas because (1) the walls would be below grade within the trench in the northern portion of the Proposed Action site (between Lomas Santa Fe Drive to Via de la Valle); (2) the berms in the central portion of the Proposed Action site (between Via de la Valle and the southern bank of the San Dieguito River) would be similar in height to the existing berm, and would be revegetated with native species following construction; and (3) the walls in the southern portion of the Proposed Action site (south of the San Dieguito River) would be constructed in a developed area with similar materials, colors, and surfaces. Moreover, the proposed retaining walls would not block coastal views of scenic resources.

SANDAG also notes that the project would create temporary visual impacts during the three-year construction period:

Construction activities would contrast with existing conditions, and may include exposed soil, stockpiled dirt, debris from demolished structures, scaffolding, temporary barriers, and heavy construction equipment. The visual construction elements would temporarily reduce the visual quality of the area. While they would result in changes to the visual environment, visual impacts caused by construction would be temporary in nature. Visual disruptions would be removed upon completion of the construction period for each phase.

The Commission agrees with SANDAG that proposed railroad infrastructure improvements would not adversely affect scenic visual resources in the project area. As described above, the construction of replacement and new railroad infrastructure, the San Dieguito River railroad bridge, lighting at the special events passenger platform, new and realigned drainage channels, and grading and retaining walls to accommodate the second mainline track are designed to minimize visual impact and landform alteration. The railroad has been a permanent feature of the landscape in the project area for 100 years and the proposed project will not significantly change that landscape or adversely affect scenic views in or across San Dieguito Lagoon. Therefore, the Commission finds that the project is consistent with the visual resource protection policy of the Coastal Act (Section 30251).

K. PUBLIC ACCESS, RECREATION, 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 30213 states in part:

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

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 . . .

As SANDAG notes in its consistency certification (and as the Commission has consistently noted in its review of previous SANDAG and NCTD double track projects), one of the benefits of double-tracking along the North Coast Corridor is the improvement of public access, both directly by providing transportation alternatives, and through reductions in private vehicle use on corridor highways. SANDAG examines the benefits of passenger rail service in its consistency certification:

The railroad, as a means of public transportation, supports coastal-dependent developments, uses, access, and facilities in the region. The passenger rail system provides coastal access from inland areas including direct connections at San Clemente, Oceanside, Carlsbad, Encinitas, and Solana Beach stations, which are within a few blocks of beach access areas. Increased use of the passenger rail service as a result of the Proposed Action would reduce traffic congestion – a recognized constraint on coastal uses. During special events at the Fairgrounds, I-5 and local roads within Del Mar and Solana Beach experience heavy congestion. In 2012, approximately 660,000 people attended the Del Mar Thoroughbred Meets [horse races] (between August 1 and Labor Day) and of those, more than 77,000 traveled on intercity and commuter trains to the Solana Beach Station. From there, they transferred to shuttle buses to get to the racetrack. In 2012, approximately 1.5 million people attended the San Diego County Fair (between June 8 and July 4) and more than 88,000 arrived by Transit (SANDAG 2013). In particular, the rail platform would allow the public to attend events at the State of California 22nd District Agricultural Association

(DAA) Del Mar Fairgrounds, thereby reducing heavy traffic on local roads and Interstate 5 generated by such events.

The consistency certification states that the proposed project would not adversely affect existing coastal accessways in the project area:

Roadways that cross over the rail corridor within the project limits include Lomas Santa Fe Drive, Via de la Valle, and Camino del Mar. In addition, within the project limits, a pedestrian bridge provides access to either side of the rail corridor between Lomas Santa Fe Drive and Via de la Valle. There is another pedestrian bridge at the Solana Beach Station; although it is outside of the project limits, it provides another east-west coastal access in close proximity to the Proposed Action. These five rail crossings (four within the project limits and one just north of the northern project limits) over the railway track would not be affected during or following construction of the Proposed Action. These crossings are grade separated; therefore, no safety or traffic-related impediments to coastal access due to rail operations would occur. The rail crossings would remain open and continue to serve as public access to the coast.

SANDAG states that the new double-track railroad bridge over the San Dieguito River is designed to accommodate a future pedestrian trail undercrossing of the railroad tracks along the south bank of the river. This trail is not an element of the subject consistency certification, but rather is a project proposed and supported by other agencies, including the San Dieguito River Park Joint Powers Authority (JPA), and would provide an alternate means of pedestrian and bicycle access to the shoreline from inland locations. However, until this future trail project is constructed, rail passengers could exit the proposed railroad platforms and walk across the Fairgrounds to Jimmy Durante Boulevard, which crosses the San Dieguito River and intersects an existing informal pedestrian pathway along the south side of the river ([Exhibit 4](#)). This path continues across the existing railroad track (notwithstanding that this is an unpermitted/illegal crossing of the railroad right-of-way) to Camino Del Mar and the shoreline at the mouth of the river. After construction of the proposed double-track bridge, the existing pathway would pass underneath the bridge, eliminating the current at-grade and unsafe crossing of the trackway. However, SANDAG notes in its consistency certification that currently there is no formal public access from the location of the proposed passenger rail platforms through Fairgrounds property to Jimmy Durante Boulevard. A proposal for such access across the Fairgrounds property is not an element of the proposed project or of this consistency certification.

However, the consistency certification does reference the conceptual plan for the trail along the south side of the river:

A future trail, Reach the Beach Trail, is planned to be located adjacent to the Fairgrounds and Camino Del Mar on both sides of the railroad track, and that would cross the tracks. The planned trail is identified on the San Dieguito River Valley Conservancy trail plan. As identified on the San Dieguito River Valley

Conservancy trail map, this future trail is planned to traverse under the railroad tracks to allow access to the beach from the east; however, the trail is only conceptual at this stage and there are no easements for the trail. In addition, the planned new San Dieguito River Railroad Bridge is being designed to accommodate a trail undercrossing of the railroad tracks along the south edge of the San Diego Dieguito River. The current design facilitates trail use below the railroad bridge on the south side of the San Dieguito River. In addition, the project includes a culvert below the railroad tracks for the Stevens Creek realignment that could allow development of a future trail (by others) below the tracks [on the north side of the river, near Via De La Valle]. Therefore, implementation of the Proposed Action would not preclude the future construction (by others) of the future Reach the Beach Trail.

The Commission agrees with SANDAG that the proposed double-track project would not adversely affect existing public access and recreational opportunities in the project area. In fact, project elements (double-tracking, the special events platforms, and the bridge across the existing pathway along the south side of the river) would improve public access in the project area. After completion of the project, the general public would be able to take the train to the Del Mar Fairgrounds platform and either enter the fairgrounds to attend special events or find their way to the shoreline via the fairgrounds, Jimmy Durante Boulevard, and the informal pathway on the south side of the San Dieguito River.

While the project does not include a public trail from the passenger platforms to the shoreline, the Commission has long advocated planning for and development of a direct pedestrian and bicycle pathway from the platforms to the shoreline at the mouth of the San Dieguito River. Such a path could lead to the south side of the river (as described above or via a stand-alone bridge across the river) or could head north from the platforms, pass underneath the trackway through the Stevens Creek culvert (which is designed in part to not preclude use as a pedestrian and bicycle pathway underneath the trackway), and cross Camino Del Mar to the shoreline ([Exhibit 4](#)). Either pathway would require the agency sponsoring/proposing the trail to purchase property and/or obtain easements from several property owners, including the North County Transit District (NCTD), who owns the railroad right-of-way. While this effort is beyond the scope of the subject double-track project proposed by SANDAG, the Commission nevertheless continues to strongly support ongoing efforts to develop a direct route from the proposed rail passenger platforms to the beach for foot and bike traffic. Such a trail would allow users of the rail platform to not only enjoy direct access to the Del Mar Fairgrounds for special events during the June-November time period, but would also users to directly access the shoreline during the peak summer recreation season on those days when the platforms are open. SANDAG reported to the Commission staff that:

. . . the project design is sensitive to the possibility that a trail may be pursued by others in the future, and have thus ensured that the design not preclude trail access, and that the design allows for future development of a trail(s) . . . SANDAG would continue coordination with the City of Del Mar and the JPA to support efforts for a future trail separately from the LOSSAN project.

The Commission encourages NCTD, the San Dieguito River Park Joint Powers Authority, SANDAG, and other interested agencies to continue working towards development of a pathway from the platform to the shoreline, and to periodically update the Commission on progress being made to implement this public access improvement.

In conclusion, the Commission agrees with SANDAG and finds that the proposed project would not adversely affect existing public access and recreational opportunities. The project would improve public access locally due to: (1) the rail passenger platform at the Del Mar Fairgrounds and (as described above) indirect access to the shoreline at the mouth of the San Dieguito River; (2) the double-track bridge design feature providing for a future trail undercrossing on the south side of the San Dieguito River; and (3) the Stevens Creek culvert, designed to not preclude its use as a trail undercrossing of the railroad right-of-way. The latter two elements could serve as potential segments in a future trail directly connecting the passenger platform and the beach at the mouth of the San Dieguito River. The project also would improve regional public access to the coast by reducing automobile traffic on I-5 in an area where this freeway supports public access and recreation. The Commission therefore finds the project consistent with the public access and recreation policies of the CCMP (Coastal Act Sections 30210, 30213, and 30252).

In addition, the Commission finds that Coastal Act Sections 30210, 30213, and 30232 include affirmative language mandating approval (*“Maximum access ... and recreational opportunities shall be provided”*; *“Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided”*; *“Upland areas necessary to support coastal recreational uses shall be reserved”*; *The location and amount of new development should maintain and enhance public access;*”) to protect coastal access and recreation and that without this project, the following project elements would not occur: (1) constructing a passenger rail platform at the Del Mar Fairgrounds; (2) elevating the railroad tracks on the south side of the San Dieguito River to facilitate a safe pedestrian underpass; and (3) designing the Stevens Creek culvert such that a pedestrian pathway could be installed within the culvert to facilitate a future pedestrian pathway from the rail platform to the shoreline.

L. 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.

In past reviews of pre- and post-PWP/TREP SANDAG and NCTD rail improvement projects, as well as the PWP/TREP itself, the Commission has consistently found that SANDAG and NCTD rail improvement projects would increase the use of public transportation, reduce automobile emissions and vehicle miles traveled, minimize energy consumption, and benefit regional air quality. The proposed project would provide these same benefits.

The project *Environmental Assessment (October 2014)* examines air quality impacts associated with operation of the proposed double-track project:

As a result of the increase in train trips associated with the Proposed Action, air pollutant emissions from locomotives would also potentially increase. However, the USEPA and CARB have published stringent regulations and requirements for locomotives. Due to these requirements, emissions from locomotives would be expected to decrease over time. The USEPA has adopted Tier 4 emissions standards for locomotives to be implemented in 2015. Tier 4 standards are expected to provide a 76-percent reduction in NO_x and a 70-percent reduction in PM emissions over current Tier 2 standards (USEPA 2014). The useful life of a locomotive engine is approximately 10 years and, because the rate of growth in freight rail is higher in the western U.S. than the rest of the country, the BNSF (and other west coast rail operators) is likely to have a more rapid locomotive turnover rate (older units replaced with new or overhauled units), increasing the ratio of newer, lower emission units to older units in its fleet (Caltrans and FRA 2007).

Operation of each of the Action Alternatives employs system enhancements that would improve train speed, as well as increase the frequency of train and schedule reliability, which would result in generating increased ridership and additional passenger and freight rail train capacity. According to the LOSSAN Program EIR/EIS, the Rail Improvements Alternative would result in some beneficial reductions in emissions in localized areas by decreasing rail congestion and locomotive idling time along the corridor (Caltrans and FRA 2007).

The Proposed Action would also help reduce future traffic levels associated with events at the to the Fairgrounds that arrive via the train must disembark at Solana Beach Station and ride a shuttle bus from the station to/from the fairgrounds. The proposed special events platform would reduce or potentially eliminate the need for these shuttles. In addition, the increased ease of use and accessibility offered by a platform leading directly from the tracks to the Fairgrounds would encourage more visitors to the Fairgrounds and races to take a train to/from these events. The reduced shuttle bus and personal vehicle use that would potentially result from the operation of the Del Mar Fairgrounds special events platform would reduce net criteria pollutant emissions.

SANDAG reports in its consistency certification that:

The Proposed Action is intended to increase use of passenger rail as a desirable mode of transportation. Although increased rail service may increase diesel emissions, a double track configuration would reduce overall idling times of trains throughout the corridor (including within the project limits where a siding track is used), which would reduce emissions compared to existing conditions. Furthermore, as the utilization of public transit (including passenger rail)

increases due to improved capacity, reliability, and efficiency (due, in part, to the Proposed Action), vehicle miles traveled in the vicinity and region wide are anticipated to be incrementally reduced. A corresponding reduction in air emissions is anticipated.

There would be temporary construction emissions associated with vehicles and equipment traveling to and from the Proposed Action site and operating on site; however, vehicle operations would not result in an adverse effect to air quality or cause localized pollution.

The proposed project's air quality benefits include reduced idling time by automobiles on highways and train locomotives in the LOSSAN corridor, which 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. The Commission has historically found that coastal resources would be directly affected by global climate change resulting from increases in greenhouse gas emissions, and finds that, as part of a larger SANDAG effort to improve and expand rail service in the LOSSAN corridor, the project would further help meet greenhouse gas reduction targets for San Diego County mandated under California's Climate Change Initiative (i.e., AB 32) and other legislation. Benefits to coastal resources include reductions in: (1) coastal flooding and erosion; (2) inundation of developed areas and public access and recreation areas; (3) alterations to existing sensitive habitat areas; (4) ocean warming and acidification; (5) changes in marine species diversity, distribution, and productivity; and (6) infrastructure damage arising from sea level rise.

Thus, actions to reduce greenhouse gases and to protect coastal resources at risk from the adverse effects of global warming are consistent with a number of Coastal Act goals and policies, including but not limited to the directive in Section 30253 to minimize energy consumption and vehicle miles traveled. The Commission has repeatedly drawn these conclusions in past SANDAG/NCTD consistency certification reviews, and, more importantly, reiterated them in its review of the PWP/TREP. The Commission concludes that the project would improve air quality and public transportation in the LOSSAN corridor, and help reduce energy consumption and greenhouse gas emissions, and would, therefore, be consistent with the energy minimization policy of the Coastal Act (Section 30253(d)). In addition, the Commission finds that Coastal Act Section 30253 includes affirmative language mandating approval ("*New development shall . . . minimize energy consumption and vehicle miles traveled.*") of projects that include elements designed to minimize energy consumption and vehicle miles traveled. The San Dieguito double-track project includes these elements.

M. CONFLICT BETWEEN COASTAL ACT POLICIES

The following conflict resolution discussion is applicable to wetland and ESHA impacts associated with specific projects considered within the NCC PWP/TREP. Section 30233(a) of the Coastal Act only permits the diking, filling, or dredging of wetlands where there is no feasible less environmentally damaging alternative, where feasible mitigation measures have been provided to minimize adverse environmental effects, and when it is limited to certain

uses. Section 30240 prohibits significant disruption or degradation of the habitat values of ESHAs. The findings for approval of the original NCC PWP/TREP (PWP-6-NCC-13-0203-1) found that the proposed fill, by itself, would not be an allowable use, and that other elements of the project would significantly disrupt and/or degrade ESHAs. However, the Commission also found that the project as a whole presented conflicts among Chapter 3 policies, and it used the “conflict resolution” provision of Sections 30007.5 and 30200(b) of the Coastal Act to allow limited dredging and filling of wetlands, despite its inconsistency with Section 30233, and limited impacts to ESHAs, despite their inconsistency with Section 30240.

When the Commission identifies a conflict among Coastal Act policies, Section 30007.5 requires the Commission to resolve the conflict “in a manner which on balance is the most protective of significant coastal resources”. The NCC PWP/TREP findings identified that approval of the NCC PWP/TREP would result in the fill of approximately 24 acres of wetlands throughout the NCC despite not being one of the identified allowable uses in Section 30233 as well as impacts to approximately 64 acres of ESHA despite not being one of the identified allowable uses in Section 30240. However, denying the NCC PWP/TREP because of this inconsistency would have been inconsistent with mandates of other Coastal Act policies and would have resulted in significant adverse effects on public access, biological resources, water quality and air quality due to the persistence of the antiquated transportation system in the NCC. Thus, the Commission found a conflict, and it went on to find that approval of the NCC PWP/TREP, notwithstanding its inconsistencies with Coastal Act Section 30233, was the “most protective of coastal resources” for purposes of the conflict resolution provisions of Coastal Act Sections 30007.5 and 30200(b).

The standard of review for the Commission’s decision on a consistency certification is whether the proposed project is consistent with the Chapter 3 policies of the Coastal Act. In general, a proposal must be consistent with all relevant policies in order to be approved. If a proposal is inconsistent with one or more policies, it must normally be denied or conditioned to make it consistent with all relevant policies.

However, the Legislature recognized through Sections 30007.5 and 30200(b) that conflicts can occur among those policies. It therefore declared that when the Commission identifies a conflict among the policies of Chapter 3, the conflict is to be resolved “in a manner which on balance is the most protective of significant coastal resources,” pursuant to Coastal Act Section 30007.5.

Section 30200(b) of the Coastal Act, at the beginning of Chapter 3, states:

Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of this chapter, Section 30007.5 shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts.

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.

As discussed previously in **Sections III.F and G**, above, because the project would increase railway capacity, it does not qualify as an incidental public service under Section 30233(a)(4), as both the Commission and the courts have interpreted that phrase to apply to transportation projects only if they are necessary to maintain *existing* capacity. For similar reasons, the project does not qualify as a very minor public facility under Section 30233(c), the allowable use test in priority wetlands. In addition, the project is not “allowable” under Section 30240 as a “use dependent on the resources” within an environmentally sensitive habitat area (ESHA) and it significantly disrupts the Diegan coastal sage scrub habitat in the project area.

However, as discussed in **Sections III.H, K, and L**, if the Commission were to object and prevent the proposed double-track project from proceeding, increasing traffic congestion on regional and local roadways would continue to interfere with and lead to adverse effects on public access to coastal recreational areas in central San Diego County, and would also degrade water and air quality in the region, which would be inconsistent with the mandates of Coastal Act policies protecting those resources (Sections 30210, 30213, 30252, 30231, 30232, and 30253). In such a situation, when a proposed project is inconsistent with a Chapter 3 policy, but denial or modification of the project would be also be inconsistent with other Chapter 3 policies, there is a conflict between policies, and Section 30007.5 of the Coastal Act provides for resolution of such a policy conflict in a manner that is most protective of coastal resources.

Applying Section 30007.5

Resolving conflicts through application of Section 30007.5 involves the following seven steps, each of which is explained in greater detail below, followed by how each applies to the proposed project:

- 1) The project, as proposed, is inconsistent with at least one Chapter 3 policy;
- 2) The project, if denied or modified to eliminate the inconsistency, would affect some coastal resource(s) in a manner inconsistent with at least one other Chapter 3 policy that affirmatively requires protection or enhancement of that resource(s);
- 3) The project, if approved, would be fully consistent with the policy that affirmatively mandates resource protection or enhancement;
- 4) The project, if approved, would result in tangible resource enhancement over existing conditions;
- 5) The benefits of the project are not independently required by some other body of law;
- 6) The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to “create a conflict”; and,

- 7) There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies.

1) The project, as proposed, is inconsistent with at least one Chapter 3 policy:

For the Commission to apply Section 30007.5, a proposed project must be inconsistent with an applicable Chapter 3 policy. As discussed in **Sections III.F and G**, above, because the proposed double-track project includes wetland fill to expand railroad capacity and eliminates Diegan coastal sage scrub ESHA, it is not an allowable wetland use under Sections 30233(a)(4) and 30233(c), and is inconsistent with Section 30240 both because it is not a resource-dependent use and because it would significantly degrade the habitat.

2) The project, if denied or modified to eliminate the inconsistency, would affect coastal resources in a manner inconsistent with at least one other Chapter 3 policy that affirmatively requires protection or enhancement of those resources:

A true conflict between Chapter 3 policies arises when a proposed project is inconsistent with one or more policies, but for which denial or modification of the project would be inconsistent with at least one other Chapter 3 policy. Further, the policy inconsistency that would be caused by denial or modification must be with a policy that affirmatively mandates protection or enhancement of certain coastal resources. If the Commission were to deny the proposed double-track project, increasing traffic congestion on regional and local roadways would continue to interfere with and lead to adverse effects on public access to coastal recreational areas in central San Diego County, and would also degrade water and air quality in the region. Therefore, denial of the project would be inconsistent with numerous policies of this type: Section 30210, which requires, in part, that maximum access and recreational opportunities “**shall** be provided for all the people”; Section 30213, which requires, in part, that lower cost visitor and recreational facilities “**shall** be protected, encouraged, and, where feasible, provided”; Section 30252, which requires, in part, that new development “**should** maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service”; Section 30231, which requires, in part, that the biological productivity and quality of coastal waters “**shall** be maintained”; and Section 30253, which requires, in part, that new development “**shall** . . . minimize energy consumption and vehicle miles traveled” [**emphasis** added in each]. In most cases, denying a proposed project will not cause adverse effects on coastal resources for which the Coastal Act mandates protection or enhancement, but will simply maintain the status quo.

Denial of the proposed double-track project would increase traffic congestion on regional and local roadways, which would continue to interfere with and lead to adverse effects on public access to coastal recreational areas in central San Diego County. Denial would also contribute to increasing reliance on automobile transportation and the resulting adverse impacts on water and air quality in the region associated with roadways and vehicles. Denial would be inconsistent with Coastal Act policies established to protect public access, recreation, transit, and water and air quality. If the project is approved, these resources would be protected, as affirmatively required by the Coastal Act. Therefore, approval of the project would result in resource enhancements over existing conditions.

3) The project, if approved, would be fully consistent with the policy that affirmatively mandates resource protection or enhancement:

For denial of a project to be inconsistent with a Chapter 3 policy, the proposed project would have to protect or enhance the resource values for which the applicable Coastal Act policy includes an affirmative mandate. That is, if denial of a project would conflict with an affirmatively mandated Coastal Act policy, approval of the project would have to conform to that policy. If the Commission were to interpret this conflict resolution provision otherwise, then any proposal, no matter how inconsistent with Chapter 3, which offered a slight incremental improvement over existing conditions relevant to a single policy could result in a conflict that would allow the use of Section 30007.5. The Commission concludes that the conflict resolution provisions were not intended to apply to such minor incremental improvements.

As discussed previously in **Section III.B**, the proposed project would construct 1.7 miles of new double-track and other elements to improve railroad capacity and operational efficiency along the LOSSAN corridor in San Diego County. This project would not only protect against significant adverse effects to, but would affirmatively promote, public access, recreation, and transit, water quality, and air quality, and is therefore fully consistent with Coastal Act Sections 30210, 30213, 30252, 30231, 30232, and 30253.

4) The project, if approved, would result in tangible resource enhancement over existing conditions:

This aspect of the conflict between policies may be looked at from two perspectives – either approval of the project would result in improved conditions for a coastal resource subject to an affirmative mandate, or denial or modification of the project would result in the degradation of that resource.

As discussed in detail above and summarized here, approval of the proposed double-track project, with the resulting increase in railroad capacity and operational efficiency, would improve public access, recreation, and transit opportunities in the project area. Approval would improve and protect water quality in San Dieguito River and Lagoon by removal of existing railroad embankment from the lagoon, leading to improved river and lagoon hydrology and functional capacity. Approval would improve public transportation and freight service, which will help reduce automobile congestion, reduce automobile vehicle miles traveled and the corresponding non-point source emissions, and minimize energy consumption and vehicle miles traveled.

5) The benefits of the project are not independently required by some other body of law:

For benefits of a project to yield a conflict, those benefits that would cause denial of the project to be inconsistent with a Chapter 3 policy cannot be those that the project proponent is already being required to provide pursuant to another agency's directive or under another body of law. In other words, if the benefits would be provided regardless of the Commission's action on the proposed project, the project proponent cannot seek approval of an otherwise unapprovable project on the basis that the project would produce those benefits. In essence, the project proponent does not get credit for resource enhancements that it is already being compelled to provide. In this case, the benefits of the project would not be provided in the absence of the Commission's approval of this project. SANDAG could not obtain the required Corps of

Engineers Clean Water Act Section 404 permit to construct the double-track project if the Commission objected to this consistency certification. In addition, the project is not mandated by any other regulatory body nor is it required under any other body of law. Thus, this test is also met because the benefits of the project to public access, recreation, and transit, water quality, and air quality would not be provided if the Commission were to object to the proposed project.

6) The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to “create a conflict”:

A project’s benefits to coastal resources must be integral to the project purpose. If a project is inconsistent with a Chapter 3 policy, and the main elements of the project do not result in the cessation of ongoing degradation of a resource the Commission is charged with enhancing, the project proponent cannot “create a conflict” by adding to the project an independent component to remedy the resource degradation. The benefits of a project must be inherent in the purpose of the project. If this provision were otherwise, project proponents could regularly append tangential elements to their otherwise unapprovable projects to “create conflicts” and then request that the Commission use Section 30007.5 to approve the unapprovable projects. The balancing provisions of the Coastal Act could not have been intended to foster such an artificial and easily manipulated process, and were not designed to barter amenities in exchange for project approval.

The main purpose of the proposed project is to expand capacity and improve operational efficiencies in the LOSSAN railroad corridor which would enhance public access, recreation, and transit opportunities, and protect water and air quality through the provision of improved mass transit. The benefits of the project result directly from the main purpose, and not from any ancillary component. Thus this factor is satisfied as well.

7) There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies:

Finally, a project does not present a conflict among Chapter 3 policies if at least one feasible alternative would meet the project’s objectives without violating any Chapter 3 policy. Thus, an alternatives analysis is a condition precedent to invocation of the balancing approach. If there are alternatives available that are consistent with all of the relevant Chapter 3 policies, then the proposed project does not create a true conflict among those policies.

The objective of the proposed project, as noted above, is to construct 1.7 miles of new railroad double-track in order to expand capacity and improve operational efficiencies in the LOSSAN railroad corridor. The project would enhance public access, recreation and transit opportunities, and protect water and air quality through the provision of improved mass transit. Accordingly, the “no action” alternative would not achieve the project objectives. As discussed in greater detail in **Section III.F**, above, SANDAG evaluated a number of alternative project designs to construct the double track bridge across San Dieguito River and Lagoon. However, in all cases, the alternative project designs would still require project activities to occur within Coastal Act wetlands and Diegan coastal sage scrub, in violation of the allowable use and resource-dependent use policies of Coastal Act Sections 30233(a) and 30240. Moreover, SANDAG determined, and the Commission concurs, that the proposed project design would minimize impacts to wetlands and upland ESHA in comparison to the design alternatives.

Existence of a Conflict Between Chapter 3 Policies

Based on the above, the Commission finds that the proposed project presents a conflict between the allowable use policy of Section 30233(a) and the resource-dependent use and habitat protection elements of Section 30240 on the one hand, and the mandates of Sections 30210, 30213, 30252, 30231, 30232, and 30253 on the other, a conflict that must be resolved through application of Section 30007.5, as described below.

Conflict Resolution

After establishing 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 would result in a non-allowable use in a wetland and a non-resource dependent use occurring within ESHA, thus making it inconsistent with the allowable use policies of Coastal Act Sections 30233(a) and 30240, respectively. However, and as described previously in this report, much of the wetland habitat that would be adversely affected by the project is comprised of the isolated Stevens Creek channel and earthen and concrete trackway ditches. The Diegan coastal sage scrub habitat that would be adversely affected is highly fragmented, occurs in linear strips along the railroad embankment, is subjected to train noise and vibration, and is unlikely to support the threatened Coastal California gnatcatcher.

However, denying the project because of its inconsistency with these wetland and ESHA policies would result in significant adverse effects to public access, recreation and transit, water quality, and air quality due the inability of SANDAG to construct the double-track project, obtain additions to railroad capacity and improved operational efficiencies, and provide possible future pedestrian pathways underneath the railroad trackway that would serve as links in planned trails along the San Dieguito River and to the shoreline. As described previously in this report, the double-track project is needed in order to accommodate the forecasted doubling of train trips in the LOSSAN corridor by the year 2030. Without this project, the current section of single track will continue to serve as an obstacle to efficient and expanded train operations in San Diego County. Denying the project would thus be inconsistent with the affirmative policies of Sections 30210, 30213, 30252, 30231, 30232, and 30253 to protect and maintain public access, recreation and transit, water quality, and air quality. The Commission finds that the impacts on coastal resources from not carrying out the project would be more significant and adverse than impacts stemming from the project's location within wetlands and ESHA, which would be addressed by the avoidance, minimization, and mitigation measures incorporated into the project. 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 the consistency certification.

SUBSTANTIVE FILE DOCUMENTS

1. CC-0001-17 (SANDAG, San Dieguito River Double Track, San Diego County), and accompanying technical reports and applications, consisting of: (1) Biological Technical Report, January 2017; (2) Conceptual Wetland Revegetation Plan, February 2017; (3) San Dieguito River Double Track Habitat Mitigation Proposal, April 21, 2017; (4) NEPA Environmental Assessment, October 2014; (4) NEPA Finding of No Significant Impact, January 2016; (6) Jurisdictional Wetland Delineation Report, June 2016; (7) Essential Fish Habitat Assessment Worksheet, January 3, 2017; (8) Clean Water Act Section 404 Permit Request for Nationwide Permit 14 from U.S. Army Corps of Engineers, January 9, 2017; (9) Clean Water Act Section 401 Water Quality Certification from San Diego Regional Water Quality Control Board, January 9, 2017; (10) Historic Resource Evaluation Report, April 2013; (11) Cultural and Historical Resource Evaluation Report, May 2014; (12) May 21, 2015, letter from State Historic Preservation Office to Federal Railroad Administration; (13) Storm Water Management Memo, December 29, 2016; (14) Drainage Study, December 29, 2016; (15) Draft Geotechnical Design Report, March 31, 2016; (16) Draft Foundation Report for Bridge 243.0, March 29, 2016; (17) Draft Foundation Report for Stevens Creek Culvert, March 29, 2016; (18) Draft Foundation Report for Special Events Platform, March 31, 2016; and (19) Final Bridge Hydraulics Study for LOSSAN Rail Bridge, December 2016.
2. *LOSSAN Program Environmental Impact Report/Environmental Impact Statement (EIR/EIS)*, California Department of Transportation (Caltrans) and the Federal Railroad Administration (FRA), 2009.
3. *San Diego Forward: The Regional Plan*, SANDAG 2015
4. *2050 Regional Transportation Plan*, SANDAG 2011.
5. *Infrastructure Development Plan for the LOSSAN Rail Corridor in San Diego County*, SANDAG 2013.
6. *San Diego Regional Transportation Improvement Plan*, SANDAG 2014.
7. CDP 6-15-2092 and NOID NCC-NOID-0005-15 (Caltrans), San Elijo Lagoon I-5 Crossing.
8. CC-0002-14/PWP-6-NCC-13-0203-1 (SANDAG/Caltrans), North Coast Corridor Public Works Plan/Transportation and Resource Enhancement Plan (NCC PWP/TREP), San Diego County.
9. NCC PWP/TREP Amendment No. PWP-6-NCC-16-0001-1.
10. CC-0005-15 (SANDAG), Poinsettia Station Improvement Project, Carlsbad, San Diego County.
11. CC-0004-15 (SANDAG), San Elijo Lagoon Bridge Replacement and Double Track Project, San Diego County.
12. CC-0003-15 (SANDAG), San Diego River Railroad Bridge Replacement and Double Track Project, San Diego County.
13. CC-0006-14 (NCTD), San Dieguito River Railroad Bridge, Scour Repair Project, San Diego County)
14. CC-048-12 (SANDAG), San Onofre to Las Pulgas Double Track Project, San Diego County.
15. CC-009-12 (SANDAG), San Onofre-Pulgas Double Track Project.
16. CC-056-11 (SANDAG), Sorrento Valley Double Track Project, San Diego County.

17. CC-006-11 (NCTD), San Dieguito River Railroad Bridge, Southern Abutment and Scour Protection Project, Del Mar, San Diego County.
18. CC-020-10 (SANDAG), Del Mar Bluffs Stabilization Project, San Diego County.
19. CC-052-10 (SANDAG), Sorrento Valley Double Track project, San Diego County.
20. CC-075-09 (NCTD), Agua Hedionda Railroad Bridge and Double Track Project.
21. CC-059-09 (NCTD), Bridge Replacement Projects, Los Penasquitos Lagoon.
22. CC-008-07 (NCTD), Passing track and bridge improvements, Loma Alta Creek, Oceanside.
23. CC-055-05 (NCTD), Bridge replacement, Agua Hedionda Lagoon.
24. CC-052-05 (NCTD), Santa Margarita River double tracking project, Camp Pendleton.
25. CC-004-05 (NCTD), O'Neill to Flores double track project, Camp Pendleton.
26. CC-086-03 (NCTD), Pulgas to San Onofre double tracking project, Camp Pendleton.
27. CC-029-02 (NCTD), Oceanside-Escondido Railroad Project.
28. *Bolsa Chica Land Trust et al., v. The Superior Court of San Diego County* (1999) 71 Cal.App.4th 493, 517