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STAFF REPORT: REGULAR CALENDAR

Consistency Certification No.:	**CC-0003-19**
Applicant:	**Union Pacific Railroad**
Location:	Mile Post (MP) 291.33, Union Pacific Coast Line, San Antonio Creek, Vandenberg Air Force Base, Santa Barbara County
Project Description:	Replacement of existing Narlon Bridge rail crossing of San Antonio Creek
Staff Recommendation:	Concurrence

SUMMARY OF STAFF RECOMMENDATION

The Union Pacific Railroad (UPRR) proposes to replace Narlon Bridge, which provides rail access across San Antonio Creek on northern Vandenberg Air Force Base in Santa Barbara County. The existing bridge is over 120 years old and its steel supports have deteriorated, threatening the integrity of the bridge. Replacing the bridge is needed to maintain vital commercial rail transport and continued public travel on Amtrak's Pacific Surfliner and Coast Starlight rail lines.

The replacement bridge would be built using the existing concrete bridge footings, which would enable the project to avoid permanent effects on wetlands, environmentally sensitive habitat, and water quality, although it would cause temporary effects during construction, for up to one year.

Adverse effects on environmentally sensitive habitat (ESHA), wetlands, water quality, and cultural resources would be avoided where feasible, and otherwise minimized, with temporary impacts on environmentally sensitive habitat area (ESHA) would be mitigated. Because the duration of the impacts would be up to one year, the staff recommends, and UPRR has agreed, to provide greater than its original commitment for 1:1 mitigation (which was, as originally submitted, to consist of restoration of temporarily disturbed areas).

With the measures included and agreed to in discussions between UPRR and Commission staff, the staff recommends the Commission find the project consistent with all Coastal Act policies except 30240(a). Despite the fact that the impacts would be temporary, the project is nevertheless located within an ESHA but is not a "use dependent on the resources" as required under Section 30240(a). However, the staff also recommends the Commission find that not allowing the project to proceed would be inconsistent with the wetlands, water quality, public access and recreation, and air quality/energy consumption policies of the Coastal Act, because it would prevent benefits from accruing to coastal resources that are inherent in the project and mandated by the policies of the Coastal Act. Those benefits include the maximization of existing and future public access, the facilitation of public transit and the minimization of vehicle miles traveled, the improvement of air and water quality by reducing traffic congestion, and the avoidance of adverse wetlands and water quality impacts if the bridge were to degrade to the point where parts or all of it were to fall into San Antonio Creek (or into the surrounding sensitive riparian habitat).

The staff therefore recommends the Commission find the project creates a conflict between the resource-dependent use and habitat protection elements of the ESHA policy of the Coastal Act (Section 30240(a)) on the one hand, and the wetlands, water quality, public access, and energy conservation policies of the Coastal Act (Sections 30233, 30231, 30232, 30210, 30213, 30252, and 30253) on the other. The staff recommends the Commission resolve this conflict through the conflict resolution policy, Section 30007.5, and that, with the avoidance, minimization and mitigation measures included, authorization of this project represents a resolution of this conflict which is, "on balance, most protective of significant coastal resources."

The project would not adversely affect public access and recreation, wetlands, water quality, or cultural resources. A Native American cultural monitor will be present for any ground disturbing activities to monitor for unanticipated cultural resource impacts.

The staff therefore recommends that the Commission **concur** with this consistency certification. The standard of review is Chapter 3 of the Coastal Act. The motion to concur is on **page 4** of this report.

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I. APPLICANT'S CONSISTENCY CERTIFICATION

The Union Pacific Railroad (UPRR) has certified that the proposed activity (CC-0003-19) 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-0003-19.*

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

Resolution:

*The Commission hereby **concurs** with consistency certification CC-0003-19 by UPRR on the grounds that the project is consistent with the enforceable policies of the California Coastal Management Program.*

III. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

The Union Pacific Railroad (UPRR) proposes to replace Narlon Bridge, the existing deteriorating San Antonio Creek bridge crossing on Vandenberg Air Force Base (VAFB) in Santa Barbara County (**Exhibits 1 & 2**). The bridge was originally installed in 1896 and is 720 ft. long. The replacement bridge would be the same length, and UPRR would use similar materials to those in existing bridge for construction. UPRR would retain the existing concrete bridge footings, (thereby avoiding a number of adverse effects on wetlands, environmentally sensitive habitat, and water quality).

The project would include new walkways and handrails, and a new wing-wall would be installed at the north abutment where the existing wing-wall has failed. Temporary supports, and minor grading (up to 15 sq. ft each) to support temporary placement of timber mats may be needed to support the bridge during construction. In the "unlikely event" of a damaged concrete foundation, additional structural support may be proposed as reinforcement. Several level pads will be temporarily constructed to accommodate cranes, one on each side of the creek (**Exhibits 2 & 4**). Temporary construction access bridges will be installed to allow the 300 ton cranes to cross the creek in a manner elevated above, and thus minimizing, effects on riparian and creek habitats (**Exhibit 6**).

Several off-site (but nearby) construction staging areas are proposed: (1) Tangair Staging Area (1.93 acres); (2) Narlon Station Staging Area (4.6 acres), and (3) Rail Garrison Staging area)(1.5 acres) (**Exhibit 8**). Construction would take one year, with bridge replacement scheduled to occur in 2020.

B. OTHER AGENCY APPROVALS AND CONSULTATIONS

Department of the Air Force
UPRR has applied to the Air Force for permission to use VAFB land for staging areas, and VAFB roads for construction equipment access. The Air Force is also preparing an Environmental Assessment under the National Environmental Policy Act (NEPA) for the activity.

U.S. Fish and Wildlife Service (USFWS)
The Air Force received a Biological Opinion in 2013 from the USFWS for a more extensive project which would have involved replacing the concrete footings. The Air Force is continuing to coordinate with USFWS for this revised design that retains the existing concrete footings.

Federal Aviation Administration (FAA)
UPRR is coordinating with the FAA under 14 CFR, Part 77, which requires notification to the FAA for structures being constructed in the vicinity of navigable airspace (in this case, airspace around Tangier Field on VAFB).

Santa Barbara Air Pollution Control District (APCD)
UPRR is coordinating with the Santa Barbara APCD concerning whether any authorizations are needed for its activities, including possible asbestos removal.

Central Coast Regional Water Quality Control Board (RWQCB)
UPRR is coordinating with the RWQCB concerning the need for Waste Discharge Requirements (WDRs) for the activity.

State Historic Preservation Office (SHPO)
The Air Force is coordinating with SHPO concerning compliance with National Historic Preservation Act (NHPA) Section 106 requirements.

Tribal Consultation
The Air Force has consulted with the Santa Ynez Band of Chumash Indians. The Commission staff has coordinated with the Santa Ynez Band of Chumash Indians, the Northern Chumash Tribal Council, and the Coastal Band of the Chumash Nation.

C. ENVIRONMENTALLY SENSITIVE HABITAT AREAS

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.*

Two habitat types affected by the proposed bridge reconstruction have the potential to qualify as environmentally sensitive habitats as defined in the Coastal Act (Section 30107.5): arroyo willow riparian habitat, and central dune scrub. The arroyo willow riparian habitat adjacent to San Antonio Creek provides habitat for three federally listed species: the California red-legged frog (*Rana draytonii),* unarmored three-spine stickleback (*Gasterosteus aculeatus williamsoni)* and tidewater goby (*Euchclogobius newberryi).* The central dune scrub provides habitat for Coast buckwheat (*Eriogonum parvifolium),* which hosts the El Segundo blue butterfly *(Euphilotes battoides allyni),* and several other sensitive plant species. The Commission finds these habitats constitute ESHA.

UPRR agrees that habitats qualify as ESHA, other than the land area immediately surrounding the bridge footprint, which has been highly disturbed, and has been mowed and managed for over 100 years (see photos, **Exhibit 3**). UPRR also asserts that both bridge maintenance and public safety require the continuing mowing and management of this strip, as long as the bridge is functioning and needed. The Commission agrees with UPRR concerning this "managed" habitat. Otherwise, for the non-managed habitat, impacts to ESHA would be limited to temporary impacts, and UPRR provides the following chart showing acreages of temporary impacts that would occur to the non-highly and continually-disturbed ESHA:

TABLE 2. PROPOSED HABITAT IMPACTS WITHIN THE NARLON BRIDGE ACTION AREA

Habitat	Permanent Impacts	Temporary Impacts (acres)**
Riparian	0	1.84
Central Dune Scrub	0	11.55
Managed Vegetation (Riparian)	0*	0.70
Managed Vegetation (Central Dune Scrub)	0*	3.25
Total	**0**	**17.34**

*If footing repair is necessary, up to 0.005 acres within the managed ROW would be permanently impacted
** 5.44 acres of Anthropogenic habitat (roads, railroad tracks, etc.) within the Action Area is not included in this table

The temporary impacts would last up to one year in duration, and the habitats would be restored following completion of the bridge replacement.

Thus, aside from areas historically and continually disturbed, the project would temporarily affect 1.84 acres of riparian arroyo willow habitat and 11.55 acres of central dune scrub habitat. While all ESHA impacts are defined as temporary by UPRR, the Commission has historically considered wetland and ESHA disturbances up to a year to warrant mitigation and be treated, for mitigation purposes, similar to permanent impacts.

These habitats would be affected in two ways – the more serious impacts would occur from ground disturbance: (i.e., grading level pads, and installing piles to support the temporary construction bridges). Lesser impacts would occur from mowing vegetation and from shading by the temporary construction bridges. Some minor amount of additional mowing or grading may be needed to slightly widen and facilitate large vehicle access along the shoulders of the unpaved access road (Watt Road) leading to the staging areas. **Exhibit 5** depicts the locations and lists the precise acreages of ESHA impacts in the various project sub-areas.

The arroyo willow riparian impacts would total 1.84 acres, resulting from vegetation mowing, shading from the temporary construction bridge, and fill (**Exhibit 9**). Actual fill in arroyo willow riparian habitat would be very limited and would total 0.0078 acres of that total, caused by pile placement: 108 two-ft.-diameter piles, totaling 339 sq. ft. of footprint. (No work is proposed in San Antonio Creek itself.)

The central dune scrub impacts would total 11.55 acres of impact, 2.12 acres of which would be due to grading for crane pads, equipment laydown, and road shoulder widening. The remainder of central dune scrub impacts would be due to vegetation mowing (9.43 acres).

The breakdown for the grading activities and acreages in the central dune scrub habitats are as follows:

Cut Fill Location (All w/in Dune Scrub)	**VAFB Percent (approximate)**	**Acres Cut/Filled**	***VAFB***	***UPRR - Managed***
SW laydown	95%	1.12	*1.064*	*0.056*
NW Crane Pad	55%	0.17	*0.0935*	*0.0765*
Widened shoulder (fill)	0%	0.45	*0*	*0.45*
SE Crane Pad	25%	0.2	*0.05*	*0.15*
NE Crane Pad	33%	0.18	*0.0594*	*0.1206*
		2.12	***1.2669***	***0.8531***
			Subtotals	

The disturbances have been limited to the minimum necessary to complete the project, and all temporary disturbances would be restored to pre-project conditions and with native species appropriate for the central dune and riparian habitats. The Commission staff has requested substantiation that the ESHA impacts could not be lessened, to which UPRR has responded:

UPRR minimized the 11.55 acre of impact by staging operations and changeouts within the proposed Action Area boundaries. There is no way to accomplish the project to a smaller footprint. They increased the number of change-out work windows from one to possibly 6 or 9 to reduce the area required for staging bridge parts and equipment during the change-out operations. Change-outs are expensive, and fewer is more cost effective, if all the pieces can be laid out for construction in that work window.

The project construction and operations will use the managed vegetation habitat within the Action Area.

Proximity to change-out operations is the reason other managed habitats are not being used beyond the actions areas indicated on the map. Beyond the Narlon Bridge, the distance to materials would be too far for the reach of cranes.

Rail Garrison is a developed part of VAFB, which is why the project is staging on that asphalt surface rather than increasing the project footprint near the bridge. Note: Construction operations would be more convenient to have the whole operation near the bridge. A larger staging area would have significantly increased the footprint of the project on native habitats (ESHA).

Moreover, no less environmentally damaging feasible alternatives are available to further lessen sensitive habitat impacts. The Commission has generally considered bridge replacements "in kind" to represent the least environmentally damaging alternative, because other alternatives would usually involve greater disturbance. In the subject case, UPRR initially anticipated it would need to replace the existing concrete bridge supports, and its original proposal thus would have involved a more damaging alternative than the proposed project using the existing supports. Attachment 6 to UPRR's consistency certification (**Exhibit 8**) describes the alternatives considered and explains why they would be more environmentally damaging; these alternatives consist of: (1) Replacement of concrete support structures, which would result in permanent adverse wetland and ESHA impacts; (2) Cellular fill full replacement with "Con-Span" openings, which would entail replacing the existing, relatively open design with a more closed "wall-type" design with five arched openings, and which would also involve permanent wetland and ESHA impacts; and (3) Bridge replacement in "one continuous changeout period," which would shorten the project's duration but would entail noticeably greater staging area habitat impacts. In addition, the Commission notes that the "No Project" alternative would itself involve more extensive adverse effects on coastal resources, as is discussed in the Conflict Resolution Section of this report below.

UPRR's submittal includes a Vegetation Restoration and Monitoring Plan, which documents baseline conditions, provides native species lists, and commits to: (1) use of local stock wherever practicable, (2) planting schedules, (3) maintenance and monitoring measures, (4) invasive plant species monitoring and removal, (5) performance standards and success criteria, (6) reporting requirements, and (7) an adaptive management component in the event success criteria are not fully met after the 5-Year monitoring period.

Upon reviewing UPRR's original plan, and working with the Commission staff's senior ecologist, the Commission staff informed UPRR that, due to the one-year duration of the temporary impacts, additional mitigation is required for areas affected for approximately one year, based on past Commission decisions and to enable the Commission to find that ESHA would be adequately protected. The requested mitigation ratios are 3:1 for areas graded or filled, and 2:1 for areas mowed. (The Commission staff's ecologist indicated 1:1 should be sufficient for construction bridge shading impacts, which would be minor, given the height of the temporary bridges above the riparian willows. Riparian shading impacts would total 0.62 acres.)

UPRR has agreed to these ratios, and has agreed to submit an Additional Mitigation Plan that will expand restoration activities to include this additional acreage for invasive species removal, which would total approximately 18 acres in addition to the area originally committed to being restored. (If UPRR can reconfigure project components to reduce the acreage and/or duration of impacts, the restoration requirements could, with Executive Director agreement, be correspondingly reduced.) This Additional Mitigation Plan would be submitted to the Executive Director, for his review and concurrence, prior to commencement of construction, and it will identify appropriate locations in need of restoration due to the extent of invasive species. The restoration would consist of removal of invasive species, generally considered in this coastal region to be veldt grass and iceplant, and would include performance and measures needed to achieve its success, including re-treatment if initial removal is not successful, and monitoring for at least 5 years. This additional mitigation may be provided by funding invasive species removal off-site on a South Central Coast restoration site subject to approval by the Executive Director. UPRR has also agreed that all monitoring reports under the existing and additional mitigation plans will be provided to the Commission staff.

UPRR has also incorporated a number of avoidance, minimization, and monitoring measures to assure that impacts would be minimized and successfully restored. These include:

Nesting Habitat Best Management Practices

- Nesting Birds. All construction will be avoided, to the greatest extent possible, during the southern California bird nesting season which is February 15 through August. If construction must occur during this time, no more than 14 days prior to commencement of construction activities, a qualified biologist, approved by the Executive Director, will conduct a preconstruction survey for the presence of nesting birds. If an active nest of any Federal or State-listed threatened or endangered bird species, bird species of special concern, or any species of raptor is identified within 300 feet of construction activities (within 500 feet for raptors) during such preconstruction surveys, or is otherwise identified during construction, UPRR will notify all appropriate State and Federal agencies, including the Commission staff, within 24 hours, and will develop an appropriate action plan specific to each nest occurrence that will be consistent with any recommendations of those agencies. UPRR will notify the Executive Director in writing within 24 hours of identifying such a nest and consult with the Executive Director regarding the determinations of the State and Federal agencies. Measures to be considered would include, but not be limited to, modifying construction activities to

avoid, minimize, and mitigate impacts to nesting birds, such as through implementing buffer zones around nests, installing sound blocking BMPs, limiting the duration of construction activities, and/or re-locating construction-related machinery and activity.

If active nests (nests with eggs or chicks) of common species are located within 300 feet of construction activities, the qualified biologist will establish an appropriate avoidance buffer ranging from 50 to 300 feet based on the species' biology and the current and anticipated disturbance levels occurring in vicinity of the nest. The objective of the buffer will be to reduce nest disturbance for common bird species. All buffers will be marked using high-visibility flagging or fencing, and, unless approved by the qualified biologist, no construction activities will be allowed within the buffers until the young have fledged from the nest or the nest fails. A qualified biologist will monitor all work within 300 feet of the nest. The biologist will immediately cease all project activity if the nesting birds show any signs of disturbance or distress.

Aquatic Species Best Management Practices

- Water quality parameters will be measured prior to the commencement of the project in a manner that minimizes adverse impacts to the unarmored threespine stickleback, tidewater goby, and California red-legged frog (CRLF).
- A contingency plan will be developed for the recovery and salvage of unarmored threespine sticklebacks, tidewater goby, and CRLFs in the event of a local toxic spill or accidental dewatering of their respective habitats.
- All project activities that may affect the CRLF, unarmored threespine stickleback, tidewater goby, or their respective habitats must be monitored by a USFWS-approved biologist.

California Red-legged Frog Best Management Practices

- Qualified biologists will brief all project personnel prior to participating in construction activities. At a minimum, the briefing will include a description of the project components and techniques, a description of the listed species occurring in the project area, and the general and specific measures and restrictions to protect the species during implementation of the project.
- Prior to start of construction activities, exclusionary silt fencing will be installed to adequately exclude CRLF from the project area during active construction. These fences may be opened during periods of no-construction (e.g. on weekends) to prevent entrapment of CRLF.
- USFWS-approved biological monitor(s) shall be present on site during all construction activities occurring in the riparian zone. Each day, prior to the start of construction activities in the riparian zone, biologist(s) will survey the work sites for CRLF and look under parked vehicles and heavy equipment frequently (especially before work starts in the morning).

Additionally, a USFWS-approved biologist (approved under the project's Biological Opinion) or one with valid 10(a)(1)(A) permits for the CRLF, shall be on-call to relocate CRLF. CRLF captured during surveys or construction activities will be relocated to the nearest suitable habitat outside of the project area.

- All trash shall be removed from the site daily or secured in a predator-resistant container to avoid attracting predators to the site.

El Segundo Blue Butterfly Best Management Practices

- Where there is coast buckwheat, vegetation maintenance will be conducted prior to construction, after larvae have fallen into the soil for the pupal stage of their life cycle.
- Coast buckwheat will be replanted on VAFB property to replace and enhance habitat for the El Segundo Blue Butterfly (ESBB).

Finally, the Commission staff requested information on whether the existing bridge contains bat roosting. Conversations with VAFB elicited indications that the structure was unlikely to be suitable for bat roosting, given its general design (i.e., the steel structure) and its height. However while VAFB has conducted surveys in the general area of the project, it has not specifically surveyed the bridge itself. The Commission staff subsequently requested that UPRR conduct such a bridge-specific survey, prior to construction. UPRR has agreed to perform such survey, and if bats are found, to consult further with the Commission staff and State and Federal resource agencies on any measures warranted to protect roosting bats.

The Commission agrees with UPRR that the project has been designed in a manner rendering it the least environmentally damaging feasible alternative. With the above measures, including the commitment to provide greater than 1:1 mitigation in accordance with the above ratios, the Commission finds that the project would not result in permanent adverse impacts to ESHA, and that with mitigation and restoration agreed to, would in the long-term be compatible with the continuance of ESHA.

Nevertheless the project remains inconsistent with Section 30240, because it is not a "use dependent on" ESHA. 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. D and E** of this report, not allowing the project to proceed would be inconsistent with the wetlands, water quality, public access and recreation, and air quality/energy consumption policies of the Coastal Act, because it would prevent benefits from accruing to coastal resources that are inherent in the project and mandated by the policies of the Coastal Act. Those benefits include the maximization of existing and future public access, the facilitation of public transit and the minimization of vehicle miles traveled, the improvement of air and water quality by reducing traffic congestion, and the avoidance of adverse wetlands and water quality impacts if the bridge were to degrade to the point where parts or all of it were to fall into San Antonio Creek (or into the surrounding sensitive riparian habitat). 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 wetlands, water quality, public access, and energy conservation policies of the Coastal Act (Sections 3023330231, 30232, 30210, 30213, 30252, and 30253) on the other. In the concluding section of this report (**Section III. G**), the Commission will provide further analysis concerning the resolution of these conflicts.

D. WETLANDS AND WATER QUALITY

Coastal Act Section 30233 states:

> *(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:*
>
> *(l) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
>
> *(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
>
> *(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
>
> *(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.*
>
> *(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
>
> *(6) Restoration purposes.*
>
> *(7) Nature study, aquaculture, or similar resource dependent activities.*

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.*

No work is proposed in San Antonio Creek, and the pilings in arroyo willow riparian were addressed in the previous section of this report. To protect water quality and San Antonio Creek, UPRR states:

> *During all construction activities, erosion control measures will be implemented to avoid sediment entering San Antonio Creek. All storage of equipment and materials will be confined to upland ….*

These measures include preparation of a Storm Water Pollution Prevention Plan (SWPPP), restoration plans for sensitive habitats and wetlands, and incorporation of Best Management Practices (BMPs) for erosion and sediment control, non-stormwater (wastewater) management, spill prevention and control, vehicle and equipment fueling and maintenance, solid waste management, and stockpile management.

The Best Management Practices to protect habitat and water quality are contained in **Exhibit 7**. They include (1) equipment and vehicle cleaning and refueling measures; (2) mapping, fencing and avoidance practices; (3) avoiding impacts to bird nesting; (4) erosion control measures; (5) monitoring; (6) using mats to protect ground areas from heavy equipment; (7) dewatering plans for any unanticipated excavation below the water table, to be reviewed by the RWQCB; (8) limits on use of hazardous materials and implementation of spill prevention plans; (9) limiting night lighting; (10) preconstruction surveys for sensitive species; and (11) restoration of all disturbed areas in accordance with the Restoration Plan, and using local stock whenever feasible.

With these measures, the Commission finds the project would avoid wetland fill and would meet wetland, water quality, and spill prevention policies of the Coastal Act (Sections 30233, 30231 and 30232). In addition, as explained in the Conflict Resolution Section of this report below, to not authorize the proposed bridge repairs would be inconsistent with Coastal Act Sections 30233, 30231 and 30232 because it would entail significant adverse water quality, wetlands, and sensitive habitat effects in and surrounding San Antonio Creek, including but not limited to the unarmored three-spine stickleback (*Gasterosteus aculeatus williamsoni),* a federally listed species for which this creek is one of only two areas of essential habitat (the other is in the Santa Clara watershed is Los Angeles County), and is a species which the U.S. Fish and Wildlife considers to be "threatened with extinction throughout all or a significant portion of its range." (FWS BO 8-8-12-F-52)

The Commission further finds that Coastal Act Sections 30233, 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 if bridge repairs and reconstruction were not allowed, water quality resources at and adjacent to the San Antonio Creek area would not be maintained, restored, and protected. As discussed in the previous section of this report, the project creates a conflict between Coastal Act policies, which will, in the concluding section of this report (**Section III. G**), be resolved in a manner most protective of significant coastal resources.

E. 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 . . .*

Coastal Act Section 30253 states in part:

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

This portion of northern Vandenberg AFB is not accessible to the public, other than the use of the UPRR rail corridor for the AMTRAK Surfliner public rail service. The project would thus result in no adverse effects on public access and recreation. Conversely, a failure to replace the Narlon Bridge would adversely affect public access and recreation, both directly by eliminating a popular public rail line service that provides unique coastal views and a number of direct coastal stops throughout southern California, and indirectly as well, due to the fact that public use of that rail service reduces the number of private cars on the region's highways. The Narlon Bridge serves two popular, coastal-access-related, Amtrak routes: the Pacific Surfliner and Coast Starlight rail lines, which provide spectacular and unique coastal views, as well as a number of direct stops at coastal destinations, including Surf (on Vandenberg Air Force Base), Santa Barbara, Carpinteria, Ventura, San Clemente, Oceanside, and Solana Beach.

The indirect benefits of reducing automobile and truck traffic (as well as longer rail trips) would also benefit air quality and energy consumption, as well as reduce greenhouse gas emissions that contribute to sea level rise and exacerbate coastal erosion. The Commission therefore finds the project consistent with the public access, transit, and energy minimization policies of the Coastal Act. In the Substantive File Documents appendix to this report the staff has listed a large number of rail transit improvements for which the Commission has adopted similar findings about the benefits to coastal resources from authorizing rail construction activities (primarily, "SANDAG" bridge replacements and "double-track" projects). The SANDAG rail lines, like UPRR's line, transport both public and commercial freight users.

F. 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.*

UPRR and the Air Force have analyzed the cultural sensitivity of the project area and concluded that known cultural resources would not be affected. Five archaeological sites were identified as within the area of potential effect (CA-SBA-707, CA-SBA-708, CA-SBA-1709H CA-SBA-2165H, and CA-SBA-3733H).[1] Three of the sites were determined not to be affected, and two would be protected with fencing and avoidance by construction activities. The Air Force is coordinating with SHPO and has also consulted with the Santa Ynez Band of Chumash Indians. In addition, the Commission staff has coordinated with the Santa Ynez Band of Chumash Indians, the Northern Chumash Tribal Council, and the Coastal Band of the Chumash Nation. To date, no Tribal concerns have been communicated to Commission staff. UPRR states that a Native American cultural monitor will be present for any ground disturbing activities to monitor for unanticipated cultural resource impacts. With this commitment, and the above avoidance measures, the Commission finds the project consistent with Section 30244 of the Coastal Act.

G. CONFLICT BETWEEN COASTAL ACT POLICIES

As discussed in **Section III.C.** above, the proposed project is inconsistent with the requirement of Section 30240(a) of the Coastal Act, which limits uses in ESHA to uses "dependent upon the resources." Also as discussed in **Section III.C, D, and E** above, to not authorize the project would conflict with several Coastal Act policies. In these types of situations, the Commission relies on the Legislative direction provided in Sections 30007.5 and 30200(b), which acknowledge that conflicts can occur between one or more Coastal Act policies, and if conflicts do occur, how they should be resolved. These policies provide:

[1] UPRR Narlon Cultural Resources Summary and History for CCC, Althouse and Meade, April 24, 2019

Section 30200(b):

> *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:

> *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.*

The Commission has developed a seven-part test it uses as assistance in determining whether a conflict between policies has occurred, and if so, how it can be resolved "in a manner which on balance is the most protective of significant coastal resources." The Commission has summarized these seven steps as follows:

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.

Applying Section 30007.5

Each of the above steps 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:

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.C** above, the temporary construction activities needed to replace the bridge must be located within central dune scrub ESHA. Construction activity for bridge replacement work is not a "resource-dependent" use, as required under with Section 30240.

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 denial or modification of the project would also be inconsistent with at least one other Chapter 3 policy. Further, the inconsistency that would be caused by denial or modification must be with a policy that affirmatively mandates protection or enhancement of certain coastal resources. A Commission objection to the proposed bridge replacement would result in adverse coastal resource effects, including: (1) loss of significant public access and recreation opportunities afforded by the popular Amtrak Surfliner and Coast Starlight rail lines, which provide spectacular and unique coastal views to portions of the coast that are not publicly accessible or viewable in any other way, as well as a number of direct coastal access destinations throughout southern California; (2) environmental hazards raised by potential bridge failure in the absence of the proposed replacement, including environmental damage to San Antonio Creek and associated sensitive habitats; (3) adverse air quality, water quality, greenhouse gas emissions, and excessive energy use, which would occur if users of the rail line needed to convert to automobile and truck transport, or significantly longer alternative rail corridors. UPRR states:

> *Direct rail travel between San Luis Obispo and Santa Barbara is 119 rail miles. Train travel from San Luis Obispo to Santa Barbara would need to go through Sacramento, to Barstow, through Los Angeles, and back up to Santa Barbara, a route that covers over 1,000 miles.*
>
> *If rail transport is not available between San Luis Obispo and Santa Barbara due to bridge failure or outage, surface road transport would add more than 1,000 commercial trucks per week and 1,000 cars (at 2 persons/car/day), or 7,000 cars per week x 4 weeks or about 32,000 vehicle trips per month. Alternative rail travel would route trains via Sacramento, through the Central Valley, across the Tehachapi Range to Barstow, in order to connect to Los Angeles.*
>
> *Amtrak runs 6 trains per day across the Narlon Bridge. Freight (long-haul loads) uses the rail 2 times per week, plus local haulers use the rail 2 times per week. Each freight train provides the equivalent of approximately 250 commercial truck trips per train. Between San Luis Obispo and Santa Barbara, Amtrak runs Coast Starlight (1 north and 1 south-bound), and Pacific Surfliner (2 per day north and south-bound). The Coast Starlight runs from Seattle through Portland, Sacramento, to Los Angeles.*

> *The Pacific Surfliner provides more than 2,000 seats taking people from San Luis Obispo to San Diego in 5 hours 45 minutes.*
>
> *Due to the limited transportation options, Pacific Surfliner trains have been extremely busy, with demand exceeding available seating capacity. In fact, the State of California has asked Union Pacific Railroad to add two more Amtrak trains to this subdivision each day (personal communication with Javier Sanchez, Union Pacific Railroad's Manager of Track Maintenance).*

The Commission finds that the project cannot be modified to avoid the inconsistency, and that to object to the project would be inconsistent with the wetlands, water quality, public access and recreation, and air quality/energy consumption policies of the Coastal Act, because it would prevent benefits from accruing to coastal resources that are inherent in the project and mandated by the policies of the Coastal Act. Those benefits include the maximization of existing and future public access, the facilitation of public transit and the minimization of vehicle miles traveled, the improvement of air and water quality by reducing traffic congestion, and the avoidance of adverse wetlands and water quality impacts if the bridge were to degrade to the point where parts or all of it were to fall into San Antonio Creek (or into the surrounding sensitive riparian habitat).

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

For denial of (or objection to) 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 (or objection to) 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 Step 2 above, the proposed 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 (or concurrence with) 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 Step 2 above, authorization of the proposed bridge replacement would maintain public access, recreation, and transit opportunities in the region, would protect water quality in San Antonio Creek through replacement of rusted bridge

components and implementation of construction best management practices, and by replacing a 125+-year-old bridge at the end of its design life and before collapse of the structure into the river. Approval (or concurrence) would improve, or at least maintain, 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 objection to 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 authorization of an otherwise un-authorizable 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 authorization of this 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 unauthorizable projects to "create conflicts" and then request that the Commission use Section 30007.5 to approve the unauthorizable projects. The conflict resolution 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 maintain rail capacity, which would, as discussed above, maintain public access, recreation, and transit opportunities, and protect water and air quality through the provision of continued rail service to and along southern California coastal cities and towns. 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 conflict resolution 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. As discussed on pages

8-9 above, there are no feasible less damaging alternatives that would enable the bridge to be replaced in a manner that would reduce ESHA affects or avoid the need for temporary uses in ESHA.

Existence of a Conflict Between Chapter 3 Policies
Based on the above, the Commission finds that the proposed project presents a conflict between the resource-dependent use and habitat protection elements of Section 30240(a) on the one hand, and the mandates of Sections 30210, 30213, 30252, 30231, 30232, 30233, 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-resource dependent use occurring within ESHA, thus making it inconsistent with the Coastal Act Section 30240. However, objecting to the project because of its inconsistency with the ESHA policy would result in significant adverse effects to public access, recreation and transit, water quality, and air quality due the inability to maintain rail service over Narlon Bridge. Objection to the project would thus be inconsistent with the affirmative policies of Sections 30210, 30213, 30252, 30231, 30232, 30233 and 30253 to protect and maintain public access, recreation and transit, water quality, wetlands, 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 ESHA, which would be addressed by the avoidance, minimization, and mitigation measures incorporated into the project. The actual impacts to ESHA will be temporary in nature, and the non-resource dependent use that is proposed in ESHA is necessary in order to continue providing rail service that has been in operation in this location for approximately 125 years. 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. UPRR Consistency Certification CC-0003-19, Althouse and Meade, February 22, 2019.
2. UPRR Wetland Delineation for Narlon Bridge Replacement, Althouse and Meade, December 2018.
3. UPRR Vegetation Restoration and Monitoring Plan for Union Pacific Railroad, Santa Barbara Subdivision Milepost 291.33, Narlon Bridge Replacement Project, Althouse and Meade, January 2019.
4. UPRR Biological Assessment, Narlon Bridge Replacement Project, Althouse and Meade, September 17, 2012.Wetland Delineation
5. U.S. Fish and Wildlife Service (USFWS) Biological Opinion 8-8-12-F-52, August 29, 2013.
6. UPRR Narlon Cultural Resources Summary and History for CCC, Althouse and Meade, April 24, 2019.
7. CC-0001-18 (SANDAG, Eastbrook to Shell Double Track, San Diego County)'
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-0001-17 (SANDAG), San Dieguito River Bridge Replacement and Double Track Project, 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-052-10 (SANDAG), Sorrento Valley Double Track project, San Diego County.
18. CC-075-09 (NCTD), Agua Hedionda Railroad Bridge and Double Track Project.
19. CC-055-05 (NCTD), Bridge replacement, Agua Hedionda Lagoon.
20. CC-052-05 (NCTD), Santa Margarita River double tracking project, Camp Pendleton.
21. CC-004-05 (NCTD), O'Neill to Flores double track project, Camp Pendleton.