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**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO DISTRICT OFFICE  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4402  
VOICE (619) 767-2370  
FAX (619) 767-2384



# Th10c

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 6-20-0231

**Applicant:** California Department of Transportation

**Agent:** David Nagy

**Location:** Four locations on shoulder/median of Interstate-5 freeway within Camp Pendleton Marine Corps Base, north of Oceanside and south of the San Onofre Creek bridge, San Diego County

**Project Description:** Install approximately 30,000 linear ft. of post and wire cable fencing with vegetation control; replace 3,810 linear ft. of existing guardrails and add 1,555 linear ft. of new guardrails; upgrade existing dikes, drainages and end treatments; remove vegetation; and conduct grading (522 cu.yds. cut, 1,199 cu.yds. fill).

**Staff Recommendation:** Approval with conditions

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## SUMMARY OF STAFF RECOMMENDATION

The purpose of the proposed project is to improve public safety by installing barriers to reduce the potential of a collision between a vehicle that leaves the Interstate 5 (I-5) freeway and a train on the Los Angeles-San Diego-San Luis Obispo (LOSSAN) rail corridor tracks that parallel the freeway. According to Caltrans, approximately 112 accidents within the project limits have involved roadway departures during a 11-year period from July 2008 to June 2019, and North County Transit District, the operator of the rail corridor in San Diego County, reported 14 additional roadway departures

resulting in collisions on or near the railroad tracks. The proposed cable fencing and guardrails are low-profile, visually permeable and are consistent with the existing freeway environment. In addition, the California Department of Transportation (Caltrans) proposes to upgrade existing dikes, drainages and end treatments that do not meet current standards. The area along and directly adjacent to I-5 would be cleared of vegetation and graded to install the proposed improvements. All work would occur within the existing freeway right-of-way.

The key Coastal Act issues of concern are the project's potential to adversely affect biological resources and water quality. The proposed project would result in 0.31 acre of temporary and 0.08 acre of permanent impacts to disturbed California coastal sage scrub (CSS) habitat located along the freeway shoulder/slope that would be cleared to install the proposed improvements. Temporarily impacted areas would be reseeded with species native to Southern California. Both temporary and permanent habitat impacts are proposed to be mitigated offsite with 0.47 acre of restored CSS at the Torrey Pines State Natural Reserve Mitigation Site, also located in the Coastal Zone; **Special Condition No. 2** requires the applicant to provide evidence to the Executive Director that adequate mitigation credits are available and have been released. The U.S. Fish and Wildlife Service (USFWS) considers all areas of CSS within 500 ft. of the project site to be potentially occupied by coastal California gnatcatchers. In order to avoid potential impacts to gnatcatchers and other sensitive bird species, **Special Condition No. 3** limits the removal of vegetation and grading to outside the nesting season, February 15 through August 31, unless approved by the Executive Director, USFWS and the California Department of Fish and Wildlife. Due to the anticipated length of time required for the project (i.e., 9 months), it is possible that work could extend into the nesting season. If construction activities are permitted to occur during the nesting season, **Special Condition No. 4** requires pre-construction bird surveys and monitoring to ensure active nests near the project are not disturbed by construction activities.

Caltrans originally proposed to use impervious concrete for vegetation control; however, after coordinating with Commission staff, the project has been revised to use a permeable weed mat barrier instead, which will reduce the project's net new impervious surfaces. In order to further avoid adverse impacts to water quality, **Special Condition No. 5** requires submittal of Final Post-Construction Stormwater Management Plans prior to issuance of the permit in order to determine whether stormwater treatment BMPs have been sized and designed to infiltrate and treat an appropriate volume of runoff. In addition, **Special Condition No. 6** requires submittal of Final Construction-Phase BMPs, including a Stormwater Pollution Prevention Plan, that specifies the details of the project's construction-phase stormwater pollution control plans. Finally, **Special Condition No. 7** requires the submittal of all other required discretionary permits prior to commencement of construction.

Commission staff recommends that the Commission **APPROVE** coastal development permit application 6-20-0231, as conditioned. The motion is on page 4. The standard of review is Chapter 3 of the Coastal Act.

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## EXHIBITS

[Exhibit 1 – Vicinity Map](#)

[Exhibit 2 – Project Location](#)

[Exhibit 3 – Fence/Guardrail Photos](#)

## I. MOTION AND RESOLUTION

### Motion:

I move that the Commission approve Coastal Development Permit 6-20-0231 subject to conditions set forth in the staff recommendation specified below.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

### Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## II. STANDARD CONDITIONS

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the applicant or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the applicant to bind all future owners and possessors of the subject property to the terms and conditions.

### III. SPECIAL CONDITIONS

1. **Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final project plans that are in substantial conformance with the preliminary plans submitted April 17, 2020.

The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment to the coastal development permit is legally required for any proposed minor deviations.

2. **Final Habitat Mitigation.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall provide evidence, in a form and content acceptable to the Executive Director, that adequate mitigation credits (0.47 acre) are available and have been released from the Torrey Pines State Natural Reserve Mitigation Site in order to provide mitigation for the subject project's impacts to coastal sage scrub.
3. **Timing of Construction.** To avoid potential impacts to coastal California gnatcatcher, least Bell's vireo and other sensitive bird species, removal of existing vegetation and grading shall not be permitted during the nesting season from February 15 through August 31 of any year, unless approved by the Executive Director in writing after coordination with the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.
4. **Pre-Construction Surveys and Monitoring.** If vegetation removal or grading is necessary and allowed during the nesting season (February 15 through August 31), the applicant shall implement, at a minimum, all of the following measures:
  - (a) A qualified biologist with experience in conducting bird nesting surveys shall conduct a minimum of one survey within 72 hours of initiating construction activities.
  - (b) Weekly surveys for nesting birds shall also be conducted during any work occurring within the nesting season.
  - (c) If during preconstruction or weekly surveys, active gnatcatcher nests are identified within 500 ft. of the project site, or active nests of any passerine species are identified within 300 ft., noise monitoring shall be conducted and construction activities shall not occur until a qualified biologist determines that the young have fledged, the nest has been abandoned, or noise monitoring indicates that noise levels remain below a 60 dB(A) equivalent continuous noise level of the nest. If this level is exceeded, feasible noise attenuation measures shall be implemented to reduce noise levels active nests to at or below 60 dB(A).
  - (d) The monitoring biologist shall halt construction activities if he or she determines that the construction activities may be disturbing or disrupting nesting activities.

- (e) The monitoring biologist shall make practicable recommendations to reduce the noise or disturbance in the vicinity of the active nests or birds. This may include recommendations such as turning off vehicle engines and other equipment whenever possible to reduce noise; installation of temporary sound barriers or sound blankets; and utilizing alternative construction methods and technologies to reduce the noise of construction machinery.
- (f) The monitoring biologist shall review and verify compliance with the avoidance boundaries and shall verify that the nesting effort has finished in a written report. Unrestricted construction activities may resume when the biologist confirms no active nests are found.
- (g) Bird nesting surveys shall be provided to the Executive Director of the Commission and to the California Department of Fish and Wildlife and U.S. Fish and Wildlife offices within 72 hours of locating any nests.

**5. Final Post-Construction Stormwater Management Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, the final Stormwater Data Report and other relevant final project plans, including geotechnical studies, that specify the details of the project's post-construction stormwater management plans. The final plans shall comply, at a minimum, with all the following requirements:

- (a) Specify the number, location, size, design, and stormwater management function of all Treatment Control BMPs.
- (b) Size and design Treatment Control BMPs to retain on-site (via infiltration, uptake by plants, evaporation, or harvesting for later use) the runoff produced by the 85th percentile 24-hour design storm, to the extent technically feasible.
- (c) If flow-based Treatment Control BMPs are implemented to remove pollutants of concern, size and design these BMPs to treat the runoff flow produced by the 85th percentile 1-hour storm event, multiplied by a safety factor of 2.
- (d) Provide runoff calculations to verify the correct sizing of all Treatment Control BMPs, indicating the values used in the calculations and the source of data for each variable.
- (e) If the final project will add over 15,000 ft<sup>2</sup> of net impervious surface area, implement a Flow Control BMP (or suite of BMPs) that prevents the post-development runoff peak flows discharged from the site from exceeding pre-project peak flows for the 2-year through 10-year storm events.
- (f) Provide site-specific data verifying site suitability for infiltration BMPs, including all of the following:
  - i. Soil type and results of infiltration rate testing in the footprint of proposed infiltration BMPs.

- ii. Site investigations of depth to groundwater and depth to any confining layer.
  - iii. Soil contamination, including aerially-deposited lead, in the footprint of the proposed infiltration BMPs.
- (g) The proposed vegetation control material (WeedEnder) shall be periodically monitored during its 15-year product life, to ensure that it maintains its structural integrity, and shall be repaired, replaced or removed if the material begins to deteriorate, to ensure plastic fragments do not enter waterways and the ocean and contribute to marine debris. A monitoring and maintenance plan for the vegetation control material shall be submitted.

The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment to the coastal development permit is legally required for any proposed minor deviations.

**6. Final Construction-Phase BMPs.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, the final Stormwater Data Report and other relevant final project plans, including the Stormwater Pollution Prevention Plan, that specify the details of the project's construction-phase stormwater pollution control plans. The final plans shall comply, at a minimum, with all of the following requirements:

- (a) Minimize water quality impacts during construction by implemented BMPs to minimize erosion and sedimentation, the discharge of other pollutants resulting from construction activity, stormwater and non-stormwater runoff, land disturbance, and soil compaction.
- (b) To prevent mobilization to coastal waters, soil contaminated with aerially-deposited lead (ADL) shall be excavated and transported to a disposal facility, and soil shall not be stockpiled at the project site.
- (c) Debris shall be disposed at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal may take place.
- (d) Avoid the use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting, in order to minimize wildlife entanglement and plastic debris pollution.

- (e) All work, staging, and moving of equipment shall occur within pre-designated work areas. All areas outside of work areas are designated as Environmentally Sensitive Areas. The boundaries of work areas shall be clearly depicted in the final plans required by Special Condition 1.

The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment to the coastal development permit is legally required for any proposed minor deviations.

- 7. Required Permits.** PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, the permittee shall provide to the Executive Director copies of all other required state and federal discretionary permits for the development authorized by the subject permit, or evidence that no permit or permission is required. The permittee shall inform the Executive Director of any changes to the project required by any permit. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this permit, unless the Executive Director issues a written determination that no amendment is legally required for any proposed minor deviations.

## IV. FINDINGS AND DECLARATIONS

### A. Project Description and Background

Caltrans proposes to construct High Tension Cable Barriers, or post and wire cable fencing, with vegetation control (e.g., pavement), as well as upgrade nonstandard guardrails, dikes, and end treatments, all to current standards, at four locations along the Interstate 5 (I-5) freeway in Camp Pendleton Marine Corps Base in San Diego County. All work is proposed to occur along the shoulders, medians, or fill slopes within the freeway right-of-way; slopes approximately 10 ft. beyond the proposed fencing will be cleared of vegetation to access the work area. Grading (522 cu.yds. cut, 1,199 cu.yds. fill) to meet current Caltrans standards is also proposed; in some locations, soil from existing slopes will be removed to provide the necessary setbacks required to avoid vehicle rollovers and in other locations, soil will be imported to construct embankments to obtain good compaction that will prevent erosion. The project is anticipated to take nine months to construct. No significant impacts to public access or recreation are anticipated, given that any necessary lane closures on I-5 will be temporary and not permitted during peak traffic periods. **Special Condition No. 1** requires Caltrans to submit final plans that substantially conform to the preliminary plans submitted with the subject permit application.

The purpose of the project is to improve public safety by installing barriers to reduce the potential of a collision between a vehicle that leaves the freeway and a train on the Los Angeles-San Diego-San Luis Obispo (LOSSAN) rail corridor tracks that parallel the freeway. According to data provided by Caltrans using the Traffic Accident Surveillance

Analysis System, approximately 112 accidents within the project limits have involved roadway departures during a 11-year period from July 2008 to June 2019. In addition, North County Transit District (NCTD), the operator of the rail corridor in San Diego County, reported 14 additional roadway departures resulting in collisions on or near the railroad tracks.

The work would occur north of Oceanside to approximately one mile south of the San Onofre Creek Bridge, on a section of I-5 that is within Marine Corps Base Camp Pendleton (Exhibits 1 and 2). Location 1 is between Fallbrook Overhead (OH) and Santa Margarita Creek Bridge and includes 3,237 linear ft. of fencing southbound, removal of 3,444 linear ft. of existing guardrails and replacement with 1,822 linear ft. of new guardrails (net decrease of 1,622 linear ft. of guardrails). Location 2 is the outside shoulder between Aliso Creek Rest Area and Las Flores Creek Bridge and includes 3,914 linear ft. of fencing northbound and placement of 550 linear ft. of new guardrails. Location 3 is the outside shoulder between Agra OH Bridge and San Clemente Border Patrol and includes 10,708 linear ft. of fencing southbound, removal of 60 linear ft. of existing guardrails and replacement with 569 linear ft. of new guardrails (net increase of 509 linear ft. of guardrails). Location 4 is the outside shoulder between San Clemente Border Patrol and San Onofre Creek and includes 12,114 of fencing southbound, removal of 306 linear ft. of existing guardrails and replacement with 2,425 linear ft. of new guardrails (net increase of 2,119 linear ft. of guardrails). In total, the project would result in 1,555 linear ft. of new guardrails.

The site is within an area of retained jurisdiction where no local government Local Coastal Programs apply. The Chapter 3 policies of the Coastal Act are the standard of review.

## **B. Biological Resources**

Section 30240(b) of the Coastal Act states:

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.

Vegetation within the project limits includes coastal sage scrub (CSS), nonnative grasslands, disturbed habitat, and urban/developed land. No work will occur within wetlands, riparian areas, vernal pools, salt pannes or beaches – where these habitats are adjacent to the project, they will be delineated and protected from construction impacts. The following sensitive species have been detected near the project limits (within 250-355 ft.): the Coastal California gnatcatcher, California least tern, Least Bell's vireo, and San Diego fairy shrimp. According to the U.S. Fish and Wildlife Service (USFWS), gnatcatchers are known to occur in CSS vegetation along I-5 throughout the project area. USFWS considers all areas of CSS within 500 ft. of the project site to be potentially occupied by gnatcatchers.

The CSS habitat that is proposed to be impacted provides low-quality habitat because it is located between I-5 on one side and the railroad corridor on the other side and is exposed to persistent disturbance from vehicle/train noise and movement. While gnatcatchers may occasionally use this vegetation as foraging habitat, it is unlikely to constitute the core of any gnatcatcher's territory. However, in order to avoid potential impacts to gnatcatchers and other sensitive bird species, **Special Condition No. 3** limits the removal of existing vegetation and grading to outside the nesting season, February 15 through August 31, unless Caltrans receives approval from the Executive Director after coordination with the California Department of Fish and Wildlife and USFWS. Due to the anticipated length of time required for the project (i.e., 9 months), it is possible that work could extend into the nesting season. If vegetation removal or grading activities are permitted to occur within or near CSS during the nesting season, **Special Condition No. 4** requires pre-construction surveys to ensure active nests near the project are not disturbed by project activities. These measures are consistent with those required by USFWS in its "Section 7"<sup>1</sup> consultation in determining that the project is not likely to adversely impact the federally threatened coastal California gnatcatcher. Together, these special conditions will ensure that adverse impacts to gnatcatchers and other sensitive avian species are avoided.

The proposed project would result in 0.31 acre of temporary and 0.08 acre of permanent impacts to degraded CSS habitat located on the freeway shoulders/slopes within the freeway right-of-way. These areas directly adjacent to the freeway are comprised of manufactured slopes formed when the freeway was first constructed. At that time, the applicant planted the shoulder and slope with native vegetation as an erosion control measure as opposed to native habitat creation for the purpose of mitigation for any environmental impacts. The Commission views habitat created for required mitigation purposes as requiring protection from disruption and degradation. The slope was not intended to remain completely intact over the long term, as future improvement projects were anticipated. In the interim, the habitat has persisted and flourished in some locations, while being more disturbed or degraded in other areas.

The Commission acknowledges that Caltrans' erosion control plantings along I-5 have developed into a stand of CSS over the years that has the potential to be occupied by sensitive species such as the gnatcatcher. Under other circumstances, the Commission has found that CSS that supports nesting gnatcatchers is an Environmentally Sensitive Habitat Area (ESHA), because the habitat is especially valuable due to its role in the ecosystem. However, in this case, the Commission's staff ecologist has determined, and the Commission finds that the habitat area affected by the proposed project is not considered especially rare or valuable. Not only was the shoulder/slope adjoining the existing I-5 created to support the freeway, it was anticipated that this shoulder/slope would be modified or destroyed in the future in order to accommodate future freeway maintenance and improvements. Therefore, in this case, the shoulder/slope that supports the roadbed for I-5 is not a pre-existing mitigation site and does not meet the definition of ESHA under the Coastal Act. The Commission made a similar finding in

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<sup>1</sup> See 16 U.S.C. § 1536(a)(2).

2012 that the CSS habitat existing on the manufactured I-5 slopes in La Jolla did not constitute ESHA when it approved the I-5/Genesee Avenue Interchange Project (CDP 6-11-093).

Although the impacted CSS habitat does not rise to the standard definition of ESHA as typically described by the Commission, the habitat functions that this area does provide (e.g., potential foraging and dispersal habitat), should not be disregarded and must be mitigated. Caltrans proposes to reseed the temporarily impacted areas using only species native to Southern California and should not be deterred from creating a beneficial resource for species such as the gnatcatcher that depend upon this habitat type. The Commission acknowledges that the revegetated slopes may not be a permanently revegetated area since further alteration may occur in the future if Caltrans pursues any future improvements or expansion of this segment of I-5.

All habitat impacts are proposed to be mitigated offsite at the Torrey Pines State Natural Reserve Mitigation Site, also located in the Coastal Zone and adjacent to Los Penasquitos Lagoon. The CSS at the proposed mitigation site was restored concurrent with wetlands that were restored at the Torrey Pines Wetland Mitigation Site, as part of the Sorrento Valley Double Track Project, and the site is available to provide compensatory mitigation for the subject project. Commission and USFWS staff conducted a site visit to the proposed mitigation site to ensure it was appropriate; USFWS subsequently provided its approval of the mitigation site. The temporary impacts to 0.31 acre of CSS will be offset at a 1:1 mitigation ratio and the permanent impacts to 0.08 acre of CSS will be offset at a 2:1 mitigation ratio, for a total of 0.47 acre of restored CSS. **Special Condition No. 2** requires the applicant to provide evidence, in a form and content acceptable to the Executive Director, that adequate mitigation credits (i.e., 0.47 acre of restored CSS) are available and have been released from the Torrey Pines State Natural Reserve Mitigation Site in order to mitigate the subject project's impacts to CSS. Finally, **Special Condition No. 7** requires the submittal of all other required discretionary permits prior to commencement of construction.

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Section 30240 of the Coastal Act.

### **C. Water Quality**

Section 30231 of the Coastal Act 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.

The project includes the addition of vegetation control, or pavement, adjacent to the proposed cable fencing, that will extend 2.5 ft. beyond the fencing in most locations, except for a 4 ft. flat area at Location 4. This strip of new pavement will expand the width of the roadway and extend approximately 5.7 total miles throughout the project limits. Caltrans originally proposed to use impervious concrete for vegetation control; however, after coordinating with Commission staff, the project has been revised to use a permeable weed mat barrier (WeedEnder) instead, which will reduce the project's net new impervious surfaces, originally estimated at 1.81 acres. Not only is the proposed vegetation control permeable, but it is made entirely from recycled plastic bottles. To ensure that plastic fragments from the vegetation control do not enter waterways and the ocean, and contribute to marine debris, provision (g) of **Special Condition No. 5** requires this vegetation control to be periodically monitored during its 15-year product life, to ensure that it maintains its structural integrity, and requires it to be repaired, replaced or removed if the material begins to deteriorate. Prior to the use of this type of vegetation control, Caltrans used herbicides or maintenance crews to cut back weeds in the vicinity of the safety barriers; however, the proposed weed mat barriers will minimize the exposure of maintenance crews to high speed traffic as well as eliminate the use of herbicides, which can adversely impact water quality and nearby sensitive species.

Although Caltrans has provided preliminary information about the proposed post-construction BMP strategies for this project, including a preliminary Stormwater Report, more detailed treatment design will be completed during a later phase of this project (Plans, Specifications, and Estimate, or PS&E phase). The preliminary plans include the installation and/or replacement of asphalt dikes, equivalent to 0.14 acre of existing impervious surfaces along the freeway's shoulder, to direct runoff to existing inlets that will discharge to Design Pollution Prevention (DPP) "Infiltration Area BMPs" in order to treat stormwater runoff. The DPP Infiltration Areas consist of existing vegetated and non-vegetated pervious areas bordering the roadway that promote infiltration of stormwater runoff. Commission water quality staff have reviewed the preliminary plans and recommend **Special Condition No. 5**, submittal of Final Post-Construction Stormwater Management Plans prior to issuance of the permit, in order to determine whether potential treatment BMPs, including the DPP Infiltration Area BMPs, have been sized and designed to infiltrate the stormwater runoff volume from the 85<sup>th</sup> percentile 24-hour storm event. This special condition also identifies that if the final project will add over 15,000 ft<sup>2</sup> of net impervious surface area, a Flow Control BMP (or suite of BMPs) that prevents the post-development runoff peak flows discharged from the site from exceeding pre-project peak flows for the 2-year through 10-year storm events is required.

In order to avoid adverse impacts to water quality during construction, **Special Condition No. 6** requires submittal of Final Construction-Phase BMPs, including a Stormwater Pollution Prevention Plan, that specifies the details of the project's construction-phase stormwater pollution control plans. Aerially deposited lead (ADL) may have been deposited on exposed soil along the outside shoulders of the freeway, due to the historic use of lead in gasoline. These soils may be encountered during construction, so construction BMPs shall identify measures to prevent mobilization of ADL-contaminated soils to coastal waters. Special Condition No. 6 also prohibits the

use of temporary erosion and sediment control products that incorporate plastic netting, in order to minimize wildlife entanglement and plastic debris pollution.

Therefore, the Commission finds that the project, as conditioned is consistent with Section 30231 of the Coastal Act.

#### **D. Visual Resources**

Section 30251 of the Coastal Act 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 cable fencing and guardrails are low-profile, visually permeable and are consistent with the existing freeway environment. They would not impact public views of the ocean to the west or open space to the east by freeway users, who are the primary viewer group. The 3.5-ft. tall cable fencing will consist of four galvanized wires strung on metal posts spaced every 10.5 ft. and located one to four feet from the edge of the road shoulder (Exhibit 3). In addition, the posts are proposed to be stained a dark brown color in order to blend with the surrounding environment. Light reflectors are proposed to be affixed to the top of the posts but will be spaced far apart – every 42 ft. in the median, every 525 ft. where the road shoulder is straight, and between 200-300 ft. where the road shoulder or ramp is curved. The new 31-inch tall guardrails will replace existing guardrails that are similar in height and design, resulting in minimal change to the existing visual quality. The vegetation control would expand the width of the roadway by 2.5 ft; however, it is also proposed to be colored and textured to blend with adjacent native soils.

During construction, the removal of vegetation and grading along the freeway would result in temporary visual impacts, however, disturbed areas are proposed to be revegetated with native species upon project completion. Construction storage and staging is proposed on the east side of I-5 between the freeway and offramp to Las Pulgas Canyon Road. This area has been used for a previous project and would not obstruct views. The secondary construction storage/staging area is proposed on the west side of I-5 south of the Aliso Creek Rest Area. This area is elevated above the freeway and is screened by mature trees; thus, it is not visible from the freeway and is screened from the rest area. The use of these areas would not cause adverse visual impacts.

Therefore, the Commission finds that the proposed project is consistent with Section 30251 of the Coastal Act.

## **E. California Environmental Quality Act**

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Caltrans is the lead agency for the purposes of CEQA review. On July 10, 2019, Caltrans determined that the project was categorically exempt from CEQA requirements because it qualifies as repair, maintenance, or minor alteration of existing public facilities, involving negligible or no expansion of an existing use (Class 1 (Cal. Code of Regs., tit. 14, § 15301)).

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing biological mitigation and water quality, will avoid or minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.