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Date: May 20, 2021

To: Coastal Commissioners and Interested Persons

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Subject: **Notice of Impending Development No. NCC-NOID-0003-21 (Santa Fe Drive Drainage Improvements)** for Public Hearing and Commission Action at the June 10, 2021 Commission Meeting

SUMMARY OF STAFF RECOMMENDATION

The California Department of Transportation (Caltrans) is requesting review of the subject Notice of Impending Development (NOID) pursuant to the certified North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program (NCC PWP/TREP). Through the subject NOID, Caltrans is requesting to install drainage improvements between the northbound Interstate 5 (I-5) on-ramp and Regal Road, north of Santa Fe Drive in the City of Encinitas. All work would occur within Caltrans right-of-way. The purpose of the project is to alleviate ponding and erosion associated with the existing drainage system, and restore water flow and drainage patterns. The subject development was authorized as part of the ultimate phase (Phase 3) of the certified NCC PWP/TREP but has been proposed for early implementation to address the drainage issues.

The subject development is part of the development authorized by the certified NCC PWP/TREP, a comprehensive program of transportation, community, and resource enhancement projects within what is referred to as the "North Coast Corridor," which extends from La Jolla to Oceanside along the North San Diego County coastline (**Exhibit 1**). More specifically, the NCC PWP/TREP includes widening of Interstate-5 (I-5) to accommodate four high occupancy vehicle lanes, double tracking of the Los Angeles – San Diego – San Luis Obispo (LOSSAN) rail corridor, enhanced coastal bus and bus rapid transit service, a new 27-mile North Coast Corridor Bikeway that will provide non-motorized connectivity through the corridor, completion of seven miles of the Coastal Rail Trail, other shorter connections to existing trail networks and transit stations, and resource enhancement projects (e.g., San Elijo Lagoon Restoration

Project) to mitigate for impacts arising from some of these transportation projects. Jointly prepared by Caltrans and the San Diego Association of Governments (SANDAG), the NCC PWP/TREP was approved by the Commission on August 13, 2014 (PWP-6-NCC-13-0203-1), and has been amended twice since then (PWP-6-NCC-16-0001-1 and PWP-6-NCC-16-0006-2). The standard of review for the Commission's review of this NOID is conformity with the certified NCC PWP/TREP, including the policies, design/development strategies, and implementation measures identified therein.

Project benefits of the NCC PWP/TREP within the coastal zone include improved air quality, water quality, multi-modal access, and safety. Specifically, stormwater infrastructure improvements will enhance water quality within four watersheds that currently experience pollution associated with the existing substandard highway drainage. Stormwater treatments include bioswales, subsurface concrete infiltration system modules, and new polishing/landscaping that, in aggregate, increase the total area where stormwater runoff is treated within the drainages of each watershed according to the targets set forth in the NCC PWP/TREP.

In its initial review and approval of the NCC PWP/TREP, the Commission recognized that impacts to ESHA caused by transportation improvements and associated development were inconsistent with multiple policies of the Coastal Act and presented a conflict; however, within the larger context of the suite of regional improvements contained within the NCC PWP/TREP, the Commission found that approval of the plan was, on balance, most protective of significant coastal resources. Pursuant to the NCC PWP/TREP's Resource Enhancement and Mitigation Program (REMP), Caltrans proposes to mitigate the permanent impact to disturbed wetlands off-site at a ratio of 1:1 through habitat establishment and restoration activities that have already been completed at the Hallmark East Mitigation Site. Thus, the mitigation is designed to ensure there will be no temporal loss of habitat area.

Commission staff recommends that the Commission determine that the impending development is consistent with the certified NCC PWP/TREP, as submitted. The development is consistent with all policies, design/development strategies, and implementation measures of the NCC PWP/TREP. The motion and resolution to implement the staff recommendation can be found below on Page 6 of this report.

ADDITIONAL INFORMATION

Further information on the subject NOID may be obtained from Trevor Hill at trevor.hill@coastal.ca.gov.

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EXHIBITS

I. PROCEDURAL ISSUES

Public Works Plan Background and History

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

> (a) All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities. (…)
>
> (b) All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.

Section 30605 of the Coastal Act states, in part:

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

A Public Works Plan (PWP) is one of the alternatives available to the Commission and project proponents for Commission review of large or phased public works projects and remains under the authority of the Commission irrespective of coastal permitting jurisdictional boundaries. A PWP is an alternative to project-by-project review for public works (which, in the case of the overarching plan of which the current proposal is a part, would require multiple coastal development permits, in multiple jurisdictions, if not processed through a PWP). PWPs must be sufficiently detailed regarding the size, kind, intensity, and location of development to allow the Commission to determine their consistency with the Chapter 3 policies of the Coastal Act (in areas that are pre-LCP certification) or the certified LCP (in post-LCP certification areas). Once the Commission approves a PWP, in general, no coastal development permit is required for a specific project described within it; rather, before commencing each specific project, the project proponent must submit notice in the form of a NOID, which requires the Commission to determine whether the submitted project is consistent with the standards within the PWP, or if conditions are necessary to make it consistent. The PWP at issue here (known as the "NCC PWP/TREP")[1] was approved by the Commission on August 13, 2014.

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[1] As that name implies, this particular PWP is actually more than just a Public Works Plan. The "TREP" portion of the name reflects the fact that the package as a whole (referred to within this note as "the PWP") includes components that were submitted to the Commission as a consistency certification (CC-0002-14), for review via the federal consistency process created by the Coastal Zone Management Act. In August of 2014, the Commission concurred with that consistency certification at the same time it certified the actual Public Works Plan. Finally, the PWP also includes project components that are within

Chapter 4 of the PWP/TREP (Scope of Planned Improvements) includes a description of specific projects, including rail improvements (e.g., double-tracking, rail bridge replacement, station improvements, tunnels); Interstate-5 improvements (e.g., high occupancy vehicle lanes, direct access ramp, auxiliary lanes, highway bridge replacement, park-and-rides); other transportation improvements (e.g., bus rapid transit, Coast Highway bus service, interchange improvements); bicycle, pedestrian, and recreational improvements (e.g., Coastal Rail Trail, North Coast Bike Trail, rail crossings, highway crossings, community enhancement projects); and natural resource and environmental improvements (e.g., restoration of corridor lagoons, bridge optimization). The location of these specific projects is also illustrated in several figures within Chapter 4.

Chapter 5 of the PWP/TREP (Coastal Development Policies and Resources) is divided into ten sections with each section containing policies, design/development strategies (DDS), and implementation measures (IM), in order of increasing specificity, specific to the relevant issue area. The policies and design/development strategies apply to all NCC PWP/TREP improvements, while the implementation measures are project-specific and apply to NCC PWP/TREP improvements that are subject to the NOID review process (as indicated in the footnote on the prior page, this particular PWP includes analyses of projects within the commission's area of retained jurisdiction, which therefore remain subject to the normal CDP process, as well as some components that are to be reviewed through the federal consistency process rather than the NOID process).

Standard of Review

Sections 30605 and 30606 of the Coastal Act and Title 14, Sections 13357(a)(5), 13359, and 13353-54 of the California Code of Regulations govern the Coastal Commission's review of subsequent development where there is a certified PWP. The standard of review for those portions of the proposed project that are specifically authorized by the PWP component of the NCC PWP/TREP, and for which a Notice of Impending Development has been submitted, is whether the development is consistent with the PWP. Section 13354 requires the Executive Director to review the NOID within five working days of receipt to determine whether it provides sufficient information to determine if the proposed development is consistent with the certified PWP.

Pursuant to Section 13359 of Title 14 of the California Code of Regulations, within thirty working days of the filing of the NOID, the Executive Director shall report to the Commission the pendency of the development and make a recommendation regarding the consistency of the proposed development with the certified PWP. After public hearing, by a majority of its members present, the Commission shall determine whether the development is consistent with the certified PWP as submitted, or whether

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the Commission's area of retained jurisdiction, and which therefore remain subject to the normal coastal development permit process, rather than the NOID process typically associated with PWPs.

conditions are needed to bring the development into conformance with the PWP. The NCC PWP/TREP provides that the Commission shall take action within 30 working days of the filing of the NOID, unless Caltrans or SANDAG waive such requirement.

II. MOTION AND RESOLUTION

Motion:

> I move that the Commission determine that the development described in Notice of Impending Development NCC-NOID-0003-21 is consistent with the certified North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program as submitted.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in a determination that the development described in Notice of Impending Development NCC-NOID-0003-21 is consistent with the certified North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program, and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

> The Commission hereby determines that the development described in Notice of Impending Development NCC-NOID-0003-21 is consistent with the certified North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program for the reasons discussed in the findings herein.

III. FINDINGS AND DECLARATIONS

A. Project Description & Background

The North Coast Corridor Public Works Plan and Transportation and Resource Enhancement Program (NCC PWP/TREP) comprises a plan and implementation schedule for a series of rail, highway, transit, bicycle, pedestrian, and resource enhancement projects to improve mobility and access to coastal recreational resources in the corridor, from La Jolla to Oceanside, extending approximately 27 miles (**Exhibit 1**). More specifically, the NCC PWP/TREP includes widening of Interstate-5 (I-5) to accommodate four new HOV lanes; double tracking of the LOSSAN rail corridor; Enhanced Coastal Bus and a Bus Rapid Transit service; a new 27 mile North Coast Corridor Bikeway that would provide non-motorized connectivity through the corridor; completion of seven miles of the Coastal Rail Trail, other shorter connections to existing trail networks and transit stations; and resource enhancement projects (e.g., the San Elijo Lagoon Restoration Project) to mitigate for impacts arising from some of these transportation projects. The primary goal for these transportation projects is to move people more efficiently through a more coordinated and connected suite of

transportation options that will encourage modes of travel other than the single occupancy vehicle.

Project benefits of the NCC PWP/TREP within the coastal zone include improved air quality, water quality, multi-modal access, and safety. Specifically, stormwater infrastructure improvements will enhance water quality within four watersheds that currently experience pollution associated with the existing substandard highway drainage. Stormwater treatments include bioswales, subsurface concrete infiltration system modules, and new polishing/landscaping that, in aggregate, increase the total area where stormwater runoff is treated within the drainages of each watershed according to the targets set forth in the NCC PWP/TREP.

At this time, the California Department of Transportation (Caltrans) is requesting review of Notice of Impending Development No. NCC-NOID-0003-21 to improve an existing drainage system by installing a 42-inch diameter, approximately 525 linear ft. concrete drainage pipe and adding 10,451 cubic yards of new fill between the northbound I-5 on-ramp and Regal Road, north of Santa Fe Drive in Encinitas, San Diego County (**Exhibit 2**). The development is necessary to alleviate pooling and associated erosion caused by the existing drainage system.

Originally, the drainage system was designed and constructed as part of the Phase 1, Stage 2 I-5 NCC project to drain stormwater from the intersections of the northbound off-ramp and northbound on-ramp into an existing dirt channel. However, drainage problems were discovered during construction of Stage 2. In its current state, the channel has minimal longitudinal slope, which creates ponding instead of conveying water downslope to the north of the site (**Exhibit 3**). Additionally, the channel has accumulated silt and vegetation that impede the flow of water. To correct these issues and restore drainage functionality, the proposed project includes: the excavation of approximately 1,887 CY; clearing of approximately 33,927 sf (0.78 ac) of vegetation; filling in the drainage channel with approximately 10,451 CY of fill; removing an existing concrete spillway; and installation of a 42 inch diameter reinforced concrete pipe, junction structure where multiple pipes meet, concrete ditch, concrete headwall, and additional rock slope protection for energy dissipation purposes. The development would permanently impact 0.21 acres of existing disturbed wetlands adjacent to I-5.

The standard of review for the subject NOID is consistency with the NCC PWP/TREP. Caltrans has submitted a Consistency Analysis that explains how this NOID conforms to the following sections of Chapter 5 of the NCC PWP/TREP: Energy Conservation and Emissions Reduction, Public Access and Recreation, Marine Resources, Environmentally Sensitive Habitat Areas (ESHA) and Special-Status Species, Archaeological and Paleontological Resources, Visual Resources, and Site Stability and Management. This report addresses the impacts on marine resources, wetlands, and ESHA, as there are no impacts to other coastal resources. The Commission finds that the subject NOID, as submitted, is consistent with all policies and has incorporated all applicable design/development strategies (DDS) and implementation measures (IM) of the NCC PWP/TREP, as discussed in greater detail in the findings sections below.

B. Marine Resources

Policy 5.4.3 of the NCC PWP/TREP states:

> Coastal water quality shall be restored by minimizing wastewater discharges, controlling runoff, preventing depletion of groundwater supplies and substantial interference with surface water flow, encouraging wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural watercourses.

Marine Resources Design/Development Strategy 1 of the NCC PWP/TREP states:

> The development shall be sited and designed to protect and, where feasible, restore natural hydrologic features such as groundwater recharge areas, natural stream corridors, floodplains, and wetlands. Key areas near lagoons shall be designed with minimum lane and shoulder widths to avoid impacts to natural hydrologic components of the watershed.

Marine Resources Design/Development Strategy 2 of the NCC PWP/TREP states:

> The development shall be designed and managed to maintain or enhance the on-site infiltration of runoff where appropriate.

Marine Resources Design/Development Strategy 6 of the NCC PWP/TREP states:

> Impacts on the lagoon, riparian or other isolated wetland habitats shall be fully mitigated pursuant to the REMP detailed in Chapter 6B as it relates to no net loss of habitat, habitat preservation, and comprehensive lagoon restoration program mitigation.

The NCC is located in a region that contains some of the most significant remaining coastal lagoons that support a variety of marine resources including open water, wetland, and riparian habitats. In addition, corridor urbanization and development has cumulatively affected water quality as impermeable surfaces have increased and vegetative cover has decreased. This has resulted in significant increases in stormwater pollutant loads and runoff velocity and volume, contributing to excessive erosion and sedimentation within corridor watersheds. Several technical and biological studies have been conducted in this area such as the I-5 NCC Water Quality Technical Memorandum, the I-5 NCC Project Natural Environment Study (June 2008), and the I-5 Lagoons Marine Resource Investigation (June 2006) to ensure maximum protection of marine resources and water quality.

Consistent with Design and Development Strategy (DDS) 1, the proposed project has been sited and designed to protect and restore natural hydrologic features and minimize the potential for adverse impacts to water quality to the extent feasible. The proposed

project is within the approved NCC project limits and represents the final Phase 3 design for drainage approved in this area under the PWP. Drainage improvements in this area were previously approved as part of the Phase 1, Stage 2 work (Notice of Impending Development No. NCC-NOID-0003-18); however, problems with the drainage flow were discovered during construction and necessitate implementation of the proposed project. The purpose of the project is to restore the water flow and drainage patterns that were originally approved in the NCC PWP/TREP. All existing measures to minimize the potential for adverse impacts to water quality, including the expanded-format Storm Water Data Report (SWDR) previously approved as part of the Phase 1, Stage 2 Project, will be implemented, consistent with DDS 3.

The SWDR incorporates the DDS and implementation measures (IM) requiring improvements to minimize impacts to coastal waters through site design and planning and incorporation of BMPs designed to control the volume, velocity, and pollutant load of stormwater leaving the developed areas. In accordance with DDS 2 and DDS 3, which describe that all development shall be designed and managed to maintain or enhance on-site infiltration of runoff, the project will maximize infiltration opportunities through the use of soil augmentation. The quantification of those efforts for treatment BMPs and treatment through the natural environment through the use of the SWDR's infiltration tool further ensures that water quality treatment achieves the maximum amount practicable.

According to the SWDR from Phase 1, Stage 2 (Cottonwood Creek Exhibit – Proposed Treatment), the project area was previously designated a "Vegetated Area" and used to treat stormwater runoff. The current project proposes to install an underground drainage system, backfill the existing channel with clean fill material, and hydroseed the surface with a native seed mix with bonded fiber matrix for stabilization and to prevent future erosion. In doing so, the post-construction condition will still be able to treat stormwater runoff. Therefore, there should be no change in the previously approved stormwater treatment outlined in the SWDR.

Pursuant to DDS 9, the previously approved SWDR addresses post-construction treatment BMPs as well as enhanced infiltration through adjacent natural environment opportunities in order to protect and restore coastal water quality. Consistent with IM 5.4.7, a special provision of the Caltrans contract will require that no plastic netting be used on site. Pursuant to IM 5.4.12, the SWDR contains source control BMPs and measures to ensure that vegetation will be utilized to provide water quality benefits through vegetative interception, pollutant uptake, transpiration, and erosion control per IM 5.4.16, including avoidance and minimization measures, preservation of existing vegetation, landscape protection areas, and treatment BMP strategies.

As approved per the Phase 1/Stage 2 project, in accordance with IM 5.4.18, all post-construction treatment control BMPs and ancillary drainage features will be inspected annually, and records of inspection and maintenance will be submitted annually to the Commission. No maintenance activities for the approved treatment BMPs will require operating in any existing wetland.

The Stormwater Pollution Prevention Plan (SWPPP) that was approved for Phase 1/Stage 2 project will remain in place for the proposed project. The SWPPP identifies construction BMPs that will be implemented to reduce pollutants in stormwater discharges and eliminate non-stormwater discharges during construction. Pursuant to DDS 5, the SWPPP contains a spill prevention and emergency response plan. Pursuant to IM 5.4.1, IM 5.4.6, and IM 5.4.7, construction BMPs will be implemented according to applicable BMP Manuals and will include temporary soil stabilization, temporary sediment control, wind erosion control, tracking control, non-storm water management, and waste management and materials pollution control. Plastic netting will be avoided. No changes to the previously approved staging plans are proposed.

DDS 6 and IM 5.4.10 ensure impacts to lagoon, riparian or other isolated wetland habitats will be fully mitigated pursuant to the Restoration Enhancement and Mitigation Program (REMP) contained within the NCC PWP/TREP. Project-specific impact assessment for wetland habitats was prepared pursuant to the REMP for the proposed project and mitigation for impacts to the disturbed wetland is proposed consistent with the approved REMP, and is discussed in greater detail in the following section.

Therefore, the Commission finds that the subject NOID is consistent with the applicable policies, design/development strategies, and implementation measures included in Section 5.5.4 (Marine Resources: Water Quality and Wetlands) of the NCC PWP/TREP.

C. Environmentally Sensitive Habitat Areas (ESHA)

Policy 5.5.1 of the NCC PWP/TREP states:

Development of NCC transportation facility and community enhancement projects shall be sited and designed to ensure that ESHAs are protected against any significant disruption of habitat values. Development in areas adjacent to ESHAs shall be sited and designed to prevent impacts that would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

ESHA Design/Development Strategy 1 of the NCC PWP/TREP states:

The project-level analysis for potential impacts of new transportation improvements and associated community and resource enhancements improvements on EHSAs and special-status species shall be conducted and subject to review during subsequent project-specific Federal Consistency, NOID, or Coastal Development Permit Reviews to assess and identify all potential permanent or temporary impacts to ESHAs and special-status species and appropriate mitigation measures to ensure project consistency with Coastal Act Section 30240.

ESHA Design/Development Strategy 3 of the NCC PWP/TREP states:

Impact reduction measures for sensitive coastal upland and wetland habitats shall include construction monitoring and shall fully mitigate impacts pursuant to the REMP

detailed in Chapter 6b as it relates to no net loss of habitat, habitat preservation, and comprehensive lagoon restoration program mitigation.

Consistent with Design/Development Strategy (DDS) 1, in the Commission's review of each NOID subject to the NCC PWP/TREP, project-level analysis must be conducted "to assess and identify all potential permanent or temporary impacts to ESHAs and special-status species and appropriate mitigation measures." Consistent with DDS 3, in order to determine that development identified in a NOID is consistent with the NCC PWP/TREP, the Commission must find that impact reduction measures will "fully mitigate impacts pursuant to the REMP."

Notwithstanding the language in Policy 5.5.1 requiring that ESHAs be protected against significant disruption of habitat values, the NCC PWP/TREP as a whole anticipates that "approximately 64-74 acres of native upland habitat . . . would be directly impacted by the [whole] project" and the design/development strategies cited above allow for such impacts where they are an unavoidable consequence of the projects authorized by the NCC PWP/TREP, provided such impacts are fully mitigated. In its findings to approve the original NCC PWP/TREP in 2014, the Commission found that although impacts to ESHA would result from transportation improvements and associated development (including drainage improvements), which are not listed as allowable uses under Section 30240, denying the NCC PWP/TREP because of this inconsistency would have been inconsistent with mandates of other Coastal Act policies. The Commission found that denial of the NCC PWP/TREP improvements (i.e., public transit improvements, bicycle and trail improvements, carpool lanes, lagoon restorations, and habitat restorations) would have resulted in significant adverse impacts to public access, biological resources, water quality, and air quality due to the persistence of the antiquated transportation system along San Diego County's North Coast Corridor. Thus, the Commission applied the conflict resolution provisions of Coastal Act Sections 30007.5 and 30200(b), and it found that approval of the NCC PWP/TREP, notwithstanding its inconsistencies with Coastal Act Sections 30233 and 30240, was on balance, most protective of significant coastal resources.

The proposed drainage improvement project includes work within disturbed wetland areas vegetated with nonnative grasses. No work will occur in areas containing ESHA or sensitive upland habitat or their buffers. Although the proposed project has been sited and designed to minimize impacts to habitat, the drainage system footprint necessitates 0.21 acres of permanent impacts and 0.57 acres of temporary impacts to disturbed wetlands. Temporary impacts will be mitigated on-site by re-seeding and re-planting native species, including 2:1 replacement for impacted sycamore trees. Mitigation for permanent impacts to the disturbed wetland will be mitigated at the approved Hallmark East site at a ratio of 1:1 through habitat establishment and restoration activities that have already been completed at the site. Thus, the mitigation is designed to ensure there will be no temporal loss of habitat area.

In conclusion, the proposed project consists of minor improvements to the existing drainage system that represent the "ultimate" design envisioned by the certified NCC PWP/TREP. Some unavoidable impacts to wetlands will occur as described herein, but

all impacts will be fully mitigated consistent with the requirements of the NCC PWP/TREP. Therefore, the Commission finds that the subject NOID is consistent with the applicable policies, design/development strategies, and implementation measures included in Section 5.5.5 (Environmentally Sensitive Habitat Areas and Special-Status Species) of the NCC PWP/TREP.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- I-5 Widening Project Pacific Pocket Mouse Habitat Analysis and Trapping Program, San Diego County, California (June 2003)
- I-5 Lagoons Marine Resource Investigation (June 2006)
- I-5 NCC Project Natural Environment Study (June 2008)
- I-5 NCC Project Natural Environment Study (NES) (June 2008)
- I-5 NCC Project Draft EIR/EIS, Supplemental Draft EIR/EIS and Final Draft EIR/EIS (October 2013)
- I-5 NCC Water Quality Technical Memorandum (September 2012)