

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
 SAN FRANCISCO, CA 94105
 VOICE (415) 904-5200
 FAX (415) 904-5400
 TDD (415) 597-5885



Th10a

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REVISED FINDINGS

Consistency Determination No.: **CD-0001-21**

Federal Agency: **Federal Highway Administration (FHWA)**

Location: From Wilder Ranch State Park north to Davenport in unincorporated Santa Cruz County (**Exhibit 1**)

Project Description: A 7.5-mile multi-use bicycle and pedestrian trail that would extend along the RTC-owned railroad corridor

Commission Action: Conditional Concurrence

Prevailing Commissioners: **Luce, Rice, Uranga, Groom, Wilson, Aminzadeh, Hart, Brownsey, Bochco**

Proposed Revisions to the Staff Report:

On December 16, 2021, the Coastal Commission conditionally concurred with the subject consistency determination by a vote of 9-0. Because the Commission action differed from the staff recommendation on the consistency determination in relation to the conditions that were imposed, this report contains revised findings to reflect the

Commission's action. Commissioners who are eligible to vote on the revised findings are those from the prevailing side who were present at the December 16, 2021 hearing (Commissioners Hart, Rice, Uranga, Wilson, Aminzadeh, Bochco, Luce, Groom, Brownsey). The proposed revisions below reflect the Commission's action and will be incorporated into the adopted findings. Modifications to the previous staff recommendation are shown as additions, in underlined text, and deletions in strikethrough text.

SUMMARY OF ~~STAFF RECOMMENDATION~~ COMMISSION ACTION

The Federal Highway Administration (FHWA) has submitted a consistency determination for the development of a 7.5-mile, multi-use bicycle and pedestrian trail that would extend along a railroad corridor from Wilder Ranch State Park north to Davenport in unincorporated Santa Cruz County (**Exhibit 1**). The railroad corridor is owned by the Santa Cruz County Regional Transportation Commission. This Project is the northern portion, Segment 5, of a larger, proposed 32-mile Coastal Trail alignment and the broader Monterey Bay Sanctuary Scenic Trail (MBSST) Network. The proposed multi-use trail would include an asphalt paved path with unpaved gravel shoulders, ~~three paved or improved parking lots~~ two paved and improved parking lots and one improved (already paved) lot along Highway 1. Improvements include with restrooms, bike racks, trash/recycling, and ADA access to the trail (at two of the lots).

The primary Coastal Act concerns raised by the project relate to coastal hazards at Davenport Beach, the proposed restriction of hours on the trail (which would inhibit public access), protecting community character and views in the area of the Davenport parking lot and impacts to sensitive habitats.

The most challenging issue raised by the proposed project is whether the proposed armoring of a segment of the proposed trail above Davenport Beach is consistent with the Coastal Act's coastal hazard policies. To address an existing slope failure, FHWA proposes to reconstruct the slope and install a shotcrete soil nail wall that would be embedded into the rebuilt slope behind it. As new development that requires construction of a protective device, the project as proposed is inconsistent with Coastal Act Section 30253. Despite this inconsistency, Section 30235 allows for the construction of shoreline protection if the proposed development meets ~~certain~~ three requirements. In evaluating the proposed armoring, staff determined that two of these requirements were met, and the Commission agreed with that determination. First, the coastal trail can be considered a coastal dependent use, and second, the trail, if constructed in the proposed alignment, would be in danger from erosion. The Commission also found that the third criteria is met because the armoring is required in order to protect the trail at this point in time. Specifically, if found that other alternatives, such as realignment of the trail, are infeasible and would result in additional environmental impacts to coastal shrub and/or sensitive riparian habitat and detract from the public access maximization of a coastal trail in this location. Additional

alignment alternatives on the inland side of the trail would have resulted in new railroad crossings, subject to a lengthy and possibly unsuccessful approval process from the CPUC. However, FHWA did not provide enough information to support the conclusion that the third requirement that there are no feasible alternatives that do not require armoring or are less environmentally damaging was met. As described further in Section D of this report, two alignment alternatives and one design alternative considered by FHWA pose implementation challenges but would reduce current and future impacts to coastal resources. Although FHWA provided some analysis of these alternatives, staff did not have enough project detail and information on potential impacts to definitively conclude that these options are not feasible. Thus, as proposed, the project cannot be found is consistent with Section 30235 of the Coastal Act. To address and mitigate the negative impacts associated with the shoreline protective device, this inconsistency, staff is recommending the Commission- inclusion of approved **Condition 4**, which was proposed by FHWA and requires FHWA to adhere to monitoring, reporting, and reassessment requirements at prescribed intervals following the completion of the construction of the shoreline protective device. Pursuant to this condition, FHWA recognizes that armoring is not a long-term solution along the trail at Davenport Beach and commits to pursuing methods to remove the armoring, restore San Vicente Creek, and keep the Commission apprised of its efforts. revise the project to remove the proposed armoring at Davenport bluffs. FHWA acceptance of this condition will allow the remainder of the trail project to proceed while staff works with FHWA to identify and analyze trail alignment or design alternatives for this trail segment that can be found consistent with the Coastal Act. With inclusion of **Condition 4** and removal of the armoring component of the project, the proposed project is consistent with Sections 30253 and 30235 of the Coastal Act and is therefore approvable despite being inconsistent with Section 30253.

Next, FHWA proposes to prohibit nighttime use of the trail due to concerns that the trail will encourage or facilitate nuisance activities at nearby beaches and in order to minimize public interaction with pesticide usage on farmland adjacent to the trail. However, the project includes a variety of measures, such as fencing and signage, to make sure that trail users are aware of, and are not exposed to, pesticides. State and federal law also require that pesticides be applied in a manner that will not harm adjacent properties and users. The evidence does not demonstrate that regular trail closures are warranted due to this concern. In addition, although FHWA provided information regarding certain nuisance activities that occur primarily at Davenport beach, there is not a connection that would indicate that one or both of these issues is likely to occur or increase as a direct result of the trail project. Nor is there evidence demonstrating that a nighttime closure would effectively address either of these potential issues if they do occur. Thus, to find the proposed project consistent with Coastal Act policies requiring new development to maximize public access, **Condition 3** prohibits the FHWA from closing the trail during nighttime hours. If, once the trail is constructed, a documented issue does arise that could be addressed by a partial closure, staff will work with FHWA to determine the best pathway for federal

consistency review. As conditioned, the proposed project is thus consistent with Sections 30211, 30212, 30213, and 30214 of the Coastal Act.

In addition to hazards and public access concerns, the proposed project raises an issue pertaining to the proposed improvement of an existing, dirt parking lot in Davenport. The proposed parking lot straddles two properties: one owned by RTC and one that was owned by a private party, although RTC recently acquired a portion of the private parcel through condemnation. The latter property was previously the subject of a CDP action that prohibited improvement of the lot through paving and striping due to concerns about maintaining the existing character of the surrounding landscape. However, conditions related to the existing use of the Davenport lot as well as regional parking and public safety conditions have changed, thus changing the basis for the original analysis that found the parking improvements inconsistent with the visual and community character policies of the Local Coastal Program (LCP). Due to these changed circumstances, as well as the fact that the standard of review for this action is the Coastal Act, rather than the LCP, the Commission finds that the proposed parking lot improvements are consistent with Section 30251 of the Coastal Act. To address the inconsistency between the two Commission actions, **Condition 2** requires RTC to obtain an amendment to the original permit before construction on the lot commences. The outcome of this CDP amendment will not affect the other components of this project.

Finally, the proposed project would result in impacts to sensitive habitats and wetlands, most notably to designated California Red Legged Frog critical habitat. The proposed trail would result in estimated permanent impacts to 10.95 acres, and temporary impacts to 43.07 acres (approximately 2%) of total critical habitat within the SCZ-1 habitat zone shown in **Exhibit 4**. Additionally, the proposed project would result in impacts to the following sensitive habitats (in acres):

- Coastal Scrub: 4.619 (permanent) and 1.574 (temporary)
- Coastal Live Oak Forest: 0.417 (permanent) and 0.0 (temporary)
- Arroyo Willow Scrub: 2.848 (permanent) and 0.582 (temporary)
- Arroyo Willow Riparian Forest: 0.925 (permanent) and 0.0 (temporary)
- Palustrine Emergent Wetland: 0.198 (permanent) and 0.071 (temporary)
- Coastal Dune: 0.253 (permanent) and 0.0 (temporary)

FHWA has proposed to implement mitigation for impacted habitats through a collaboration with State Parks and will continue to consult with staff from the Commission, California Department of Fish and Wildlife (CDFW), and the U.S. Fish and Wildlife Service (USFWS) as the mitigation and monitoring plan is finalized. Currently, the plan proposes mitigation at two sites (**Exhibit 3**) for a total of approximately 14.5 acres at a fallowed field on the coastal side of the Panther/Yellowbank parking lot, as well as 5.12 acres along the project corridor. To partially mitigate impacts to coastal dunes, FHWA plans to enhance existing dune

areas by removing ice-plant on 0.9 acres of State Parks- and Santa Cruz County-owned beaches. FHWA is continuing to develop additional compensatory mitigation options that will be included in the final mitigation plan. Specifically, wetlands mitigation is proposed at the 14.5 acre site, which also features CRLF habitat improvements. To ensure the proposed mitigation fully compensates for expected habitat impacts, **Condition 1** requires FHWA to submit final restoration plans for the above-mentioned impacted habitats prior to construction. With this condition included, the proposed project is consistent with Sections 30240 and 30233 of the Coastal Act.

For the reasons described above, ~~staff recommends that~~ at its December 16th hearing, the Commission **conditionally concurred** with the Federal Highway Administration's consistency determination and ~~find~~ found the proposal, as conditioned, consistent with the relevant, enforceable policies of the Coastal Act. The standard of review for this project is the enforceable policies of the California Coastal Management Program (CCMP), consisting mainly of the Chapter 3 policies of the Coastal Act. If FHWA does not agree to the conditions, the Commission's action will be treated as an objection. The motion to conditionally concur is on page 7.

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EXHIBITS

- Exhibit 1 – Project Location
- Exhibit 2 – Mitigation Measures
- Exhibit 3 – Mitigation Locations
- Exhibit 4 – Draft MMP
- Exhibit 5 – Parking Lot Locations
- Exhibit 6 – CRLF Habitat
- Exhibit 7 – CRLF Occurrences
- Exhibit 8 – Coho Distribution
- Exhibit 9 – Steelhead Distribution
- Exhibit 10 – Fence and Gate Locations
- Exhibit 11 – Agricultural Land
- Exhibit 12 – Proposed Design of Davenport Slope Protection

I. FEDERAL AGENCY'S CONSISTENCY DETERMINATION

The Federal Highway Administration has determined that the project is consistent to the maximum extent practicable with the California Coastal Management Program (CCMP).

II. MOTION AND RESOLUTION

Motion:

~~I move that the Commission **conditionally concur** with consistency determination CD-0001-21 on the grounds that the project described therein, if modified in accordance with the conditions recommended by staff, would be fully consistent, and thus consistent to the maximum extent practicable, with the enforceable policies of the CCMP.~~

~~Staff recommends a **YES** vote on the motion. Passage of this motion will result in a concurrence with the determination of consistency, provided the project is modified in accordance with the recommended conditions, 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 **conditionally concurs** with consistency determination CD-0001-20 by the Federal Highways Administration (FHWA) on the grounds that the project would be fully consistent, and thus consistent to the maximum extent practicable, with the enforceable policies of the CCMP, provided FHWA agrees to modify the project consistent with the recommended conditions, as provided for in 15 CFR §930.4.~~

A. Conditional concurrence

On December 16, 2021, by a vote of nine in favor, and zero opposed, the Commission conditionally concurred with the consistency determination submitted by the Federal Highway Administration (FHWA) on the grounds that, as conditioned, the project would be consistent to the maximum extent practicable with the policies of Chapter 3 of the Coastal Act.

B. Motion on Revised Findings:

I move that the Commission adopt the following findings in support of its conditional concurrence with the FHWA's consistency determination CD-0001-21.

The staff recommends a **YES** vote on this motion. Pursuant to section 30315.1 of the Coastal Act, adoption of revised findings requires a majority vote of the members from the prevailing side who were also present at the December 16, 2021 hearing, with at least three of the prevailing members voting. Only those Commissioners on the prevailing side of the Commission's action are eligible to vote. A majority vote by the prevailing Commissioners listed on page 1 of this report will result in adoption of these findings.

C. Resolution to Adopt Revised Findings:

The Commission hereby adopts the findings set forth below for consistency determination CD-0001-21 submitted by the FHWA for the proposed project on the grounds that the findings support and accurately reflect the reasons for the Commission's December 16, 2021 conditional concurrence and determination that the project, as conditioned, would be consistent to the maximum extent practicable with the CCMP.

Conditions:

- 1. Mitigation of Permanent and Temporary Impacts.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the final mitigation and monitoring plan for the North Coast Trail project shall be submitted to USFWS, CDFW, CCC, and California State Parks for review and for CCC Executive Director concurrence prior to formal adoption. The final revised plan shall substantially conform to the *North Coast Rail Trail Mitigation and Monitoring Plan* prepared by FHWA, dated June 30, 2020. The plan shall incorporate components described in **Exhibits 2 and 4** and specifically include the following:
 - a. A mitigation framework that resolves all short-term temporary impacts in-place and in-kind at a ratio of 1:1, and long-term temporary impacts in-place and in-kind at a ratio of 1:1 plus an additional 0.5:1 in-kind to account for temporal losses. For permanent impacts, the following base ratios shall be applied. These ratios assume habitat creation or substantial restoration strategies will be used; if either enhancement or preservation strategies are alternatively used, the ratios shall double or triple, respectively:
 - i. Palustrine emergent wetlands – 4:1
 - ii. Arroyo willow scrub – 4:1
 - iii. Arroyo willow riparian – 2:1
 - iv. Central dunes – 3:1
 - v. Coast live oak – 3:1
 - vi. Coastal shrub/scrub – 3:1
 - b. Mitigation for impacts to California red-legged frog habitat types shall be accounted for by measuring project impacts to all palustrine

emergent wetlands, willow, and oak habitats. For dispersal habitat, mitigation shall be partially accounted for by efforts resolving coastal shrub/scrub habitat; additionally, the loss of dispersal habitat in areas characterized by agricultural fields, annual grasslands, and ruderal vegetation shall be mitigated for at a ratio of 0.5:1, in the form of habitat preservation. This additional acreage may be alternatively addressed through the more active mitigation strategies of enhancement or restoration at reduced ratios of 0.33:1 or 0.17:1, respectively. Frog mitigation may occur in any of the habitat types used by the species.

- c. For short-term temporary impacts, a final survey shall occur within 12 months of the initial disturbance that documents the area's return to the pre-disturbance condition in terms of species diversity, the vegetation community, relative cover of dominant vegetation species, and the vegetation community's age classes and/or size structure distributions. For long-term temporary impacts, a final survey of the same shall occur within 12 months of the conclusion of disturbance. Reports validating the final condition of such temporarily impacted areas shall be provided within 30 days of final survey completion. If surveys demonstrate that recovery has been unsuccessful, in part or in whole, any remaining impacts are, by definition, permanent and shall be mitigated as such. Digital copies of the survey data and associated metadata shall be provided with the reports.
- d. Final Mitigation site locations, including a map of all impacted areas and planned restoration/enhancement areas. Specific mitigation strategies and treatments to be used shall be detailed for each mitigation area.
- e. A detailed description of monitoring methods, including for any reference sites. Sample sizes for final performance monitoring shall be informed by statistical power analyses of preliminary data and included in the plan, and shall be used to evaluate compliance with final success criteria.
- f. Interim and final success criteria including those for species diversity (i.e., accounting for both species richness and evenness using an index such as the Shannon-Weiner), native and non-native vegetation cover, dominant vegetation species, hydrology, and wildlife support functions (e.g., vegetated aquatic area for frog refuge, snags for raptor and bat use, connections to surrounding habitat corridors). Invasive non-native plant species listed by the California Invasive Plant Council shall be maintained below 5% absolute cover. Success criteria shall have an empirical basis such as data from reference sites or other published technical literature. Methods for judging mitigation success (e.g., statistics) shall be specified and include supporting rationale for their selection.

- g. Provisions for completion of a wetland delineation within the restored wetland areas in the 5th year following completion of restoration activities.
- h. Description of and schedule for maintenance activities (e.g., weeding, watering).
- i. Annual monitoring reports to be submitted to the Executive Director for review and approval, no later than December 31st of each year, and including a work plan for the subsequent year and any necessary recommendations to facilitate mitigation success. A final monitoring report shall be submitted no sooner than five years following the initiation of mitigation efforts, or three years following the cessation of all remedial actions except for weeding, whichever is later.
- j. Provisions for remedial action should any of the mitigation areas fail to achieve success, in part or in whole, as defined by the plan's approved criteria. Within 90 days of such determination by the permittee or Executive Director, a revised or supplemental plan shall be prepared by a qualified restoration ecologist and submitted to the Executive Director for review and approval and shall be carried out in coordination with any relevant agencies until the mitigation is carried out to the standards contained in the revised or supplemental plan. The revised plans may be processed as a modification to the original Consistency Determination, unless the Executive Director determines that a different method for consistency review is appropriate.

2. Davenport Parking Lot

Construction activities proposed on the RTC-acquired property that is part of the proposed Davenport parking lot shall not commence until RTC or another appropriate party applies to amend, and the Commission approves an amendment of, CDP A-3-SCO-98-101 in a manner that removes any existing restrictions on constructing the proposed parking lot. In the event that the existing permit is not modified in a manner that allows for construction activities to take place as described in this consistency determination, the lot improvements may be revised and re-submitted to the Commission for any necessary, supplemental consistency review. Actions pertaining to the proposed CDP amendment for the Davenport lot do not prevent other components of this project from proceeding.

- 3. Closure Hours.** The public shall have access to the North Coast Trail (MBSST Segment 5: Northern Reach), including all associated parking lots, without restriction of hours. If nuisance, vandalism, or other problematic activities emerge as a problem associated with the presence of the trail, the activities can be documented, and FHWA could propose additional measures to address this issue, which would be the subject of any necessary, supplemental consistency review.

4. **Armoring/Slope Reconstruction.** ~~FHWA shall modify the project to eliminate the proposed slope protection at Davenport Beach and shall provide final project plans reflecting this change. If a future alternative for this portion of the trail results in additional effects on coastal uses or resources that were not reviewed in this consistency determination, FHWA will work with Coastal Commission staff to determine the appropriate mechanism for federal consistency review. Construction and operation of other components of the trail project may proceed independent of consideration of alternatives for the portion of the trail located above the western portion of Davenport Beach.~~

1. The Santa Cruz County Regional Transportation Commission (RTC) and Federal Highway Administration (FHWA) will execute a Memorandum of Understanding (MOU) with the California Coastal Commission (CCC) acknowledging that coastal armoring is not a long-term solution to coastal resiliency at Davenport Beach, describing which parties will conduct monitoring and reporting tasks below, and committing to the following: RTC will include a broader Davenport coastal resiliency project in its next update of its Regional Transportation Plan (RTP). RTC will work with the CCC, the Department of Transportation (Caltrans), and other stakeholders to seek funding and cooperation for a future project that would address the impacts of the existing railroad embankment on the natural environment. The future project will be designed to address climate change, including sea-level rise. The future project will include the removal of the coastal armoring permitted by this project and any necessary reconstruction of the rail and trail facilities adjacent to Davenport Beach, as part of a broader restorative effort that supports restoration of the San Vicente Creek corridor and maintains the undeveloped nature and rural visual character of this area.

2. FHWA will submit for review to the Executive Director all final designs for the proposed slope armoring in the northern portion of Davenport rail embankment. Any substantial change to the design (as currently proposed in site plans titled "Davenport Reinforced Soil Slope Shotcrete Slope" received November 19, 2021) that results in additional impacts to coastal resources may be subject to future review (either through a supplemental consistency determination or negative determination).

- a. **As-built Plans:** Within 2 months of completion of the shore protection, FHWA shall submit As-Built plans, in substantial conformance with the site plans (November 19, 2021).
- b. **Monitoring:** On an annual basis, at the end of the winter (between February and March), the embankment toe protection structure and beach profile, fronting the structure will be monitored. Five transect locations (one upcoast of the shore protection, one downcoast of the shore protection and three evenly spaced along the shore protection) shall be established and used for annual monitoring by a surveyor or

licensed civil engineer. Monitoring shall be initiated prior to construction activities to provide end of winter baseline conditions from which to monitor future shoreline change. If more than one end of winter monitoring period occurs before construction of the shoreline protection, the results of both surveys can be averaged to develop the baseline condition. Additionally, the structure will be inspected following significant storms. At a minimum, the following will be performed during the annual monitoring:

- i. Measurements to determine any settlement and significant deviations from As-Built design.
- ii. Evaluation of the existing condition and performance of the structure.
- iii. Recommendations for any maintenance and repairs, and/or modifications to ensure the structure's continued functionality.
- iv. Identification and quantification of changes in the beach profile fronting the structure, with comparison to baseline conditions and baseline beach width.
- v. Examination of information related to storms and waves over the prior year to identify whether wave energy could have caused significant short-term beach erosion.
- vi. If the early winter survey demonstrates that the fronting beach width, established as the distance from the embankment toe of the shore protection to the Mean High Tide Line has retreated by more than 50 percent from the pre-project baseline at two or more transects, the permittee project proponent shall perform a secondary beach profile survey between the months of August-September to determine whether the beach width remains more than 50% of the pre-project baseline width.
- vii. Submit a report summarizing the results of the inspection, beach monitoring survey(s) and wave conditions.

c. Reporting: An annual monitoring report shall be submitted on or before September 30th of each year, summarizing the results of the structure inspection, beach monitoring survey(s) and wave conditions. If the annual inspection of the structure indicates maintenance, repairs or modifications are needed, a separate report on the structure may be submitted to ensure such work can be reviewed in a time efficient manner. If the annual and secondary surveys both demonstrate that the fronting beach profile has not sufficiently recovered (i.e. the beach has retreated by more than 50% from the pre-project baseline), the project proponent shall complete and submit an Alternative Reassessment Plan as described below.

d. Alternative Reassessment Plan: RTC shall submit an Alternative Reassessment Plan to the Executive Director within 6 (six) months of a triggering event, defined as either (1) the rail line is no longer being preserved for rail service to Davenport or (2) annual monitoring

indicates that the beach has retreated more than 50% from the baseline beach width as described above. If a triggering event has not occurred within 5 years of completion of construction of the trail, a reassessment shall occur at that time and again every 5 years thereafter for the lifespan of the shoreline armoring structure. The Alternative Reassessment Plan shall identify and assess the feasibility of trail relocation or shoreline protection alternatives that, if implemented, would facilitate partial or full removal of the shoreline armoring at Davenport beach. More specifically, the Alternative Reassessment Plan should include a discussion about the operational status of the railway, a detailed description and feasibility assessment for each identified alternative, and a recommendation of a preferred alternative. If a feasible alternative is identified that would facilitate full or partial removal of the shoreline armoring RTC will seek to implement this alternative as soon as is practicable, including removal of the shoreline armoring at Davenport beach. RTC will provide triennial reports to the Coastal Commissioners on the status of the slope.

III. APPLICABLE LEGAL AUTHORITIES

Standard of Review

The federal Coastal Zone Management Act (“CZMA”), 16 U.S.C. §§ 1451-1464, requires that federal agency activities affecting coastal resources be “carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs.” *Id.* at § 1456(c)(1)(A). The implementing regulations for the CZMA (“federal consistency regulations”), at 15 C.F.R. § 930.32(a)(1), define the phrase “consistent to the maximum extent practicable” to mean:

... fully consistent with the enforceable policies of management programs unless full consistency is prohibited by existing law applicable to the Federal agency.

This standard allows a federal activity that is not fully consistent with California’s Coastal Management Program (CCMP) to proceed, if full compliance with the CCMP would be “prohibited by existing law.” In its consistency determination, the FHWA did not argue that full consistency is prohibited by existing law or provide any documentation to support a maximum extent practicable argument. Therefore, there is no basis to conclude that existing law applicable to the Federal agency prohibits full consistency. Since FHWA has raised no issue of practicability, as so defined, the standard before the Commission is full consistency with the enforceable policies of the CCMP, which are the policies of Chapter 3 of the Coastal Act (Cal. Pub. Res. Code §§ 30200-30265.5).

Conditional Concurrences

The federal consistency regulations (15 CFR § 930.4) provide for conditional concurrences, as follows:

- (a) Federal agencies, ... should cooperate with State agencies to develop conditions that, if agreed to during the State agency's consistency review period and included in a Federal agency's final decision under Subpart C ... would allow the State agency to concur with the federal action. If instead a State agency issues a conditional concurrence:
 - (1) The State agency shall include in its concurrence letter the conditions which must be satisfied, an explanation of why the conditions are necessary to ensure consistency with specific enforceable policies of the management program, and an identification of the specific enforceable policies. The State agency's concurrence letter shall also inform the parties that if the requirements of paragraphs (a)(1) through (3) of the section are not met, then all parties shall treat the State agency's conditional concurrence letter as an objection pursuant to the applicable Subpart . . . ; and
 - (2) The Federal agency (for Subpart C) ... shall modify the applicable plan [or] project proposal, ... pursuant to the State agency's conditions. The Federal agency ... shall immediately notify the State agency if the State agency's conditions are not acceptable ...
- (b) If the requirements of paragraphs (a)(1) through (3) of this section are not met, then all parties shall treat the State agency's conditional concurrence as an objection pursuant to the applicable Subpart.

IV. FINDINGS AND DECLARATIONS

A. Project Description/Location/Background

The Santa Cruz County Regional Transportation Commission (RTC), in cooperation with the Federal Highway Administration's (FHWA) Central Federal Lands Highway Division (CFL), has proposed a trail project to be developed along an existing rail corridor, which is owned by the RTC in northern Santa Cruz County. The trail will act as the spine of the broader Monterey Bay Sanctuary Scenic Trail Network, a 50-mile bicycle and pedestrian path along the Santa Cruz County coast.

The trail project would be a new multi-use trail to be shared by bicyclists and pedestrians. It would extend approximately 7.5 miles along the rail line from the Wilder Ranch State Park parking lot on the south to the Davenport Beach parking area on the north. The project would include a paved path with striping, parallel unpaved path and/or shoulder, fencing, and parking improvements with trail connections at three

locations along the alignment. The project, as proposed, includes a shoreline protective device located at the northern end of the fill slope at Davenport Beach.

Project Location

The project is located in unincorporated northern Santa Cruz County along the Pacific Ocean coastline. The 7.5-mile-long project area limits extend along the Santa Cruz Branch Rail Line corridor, from the Wilder Ranch State Park parking lot and existing trails on the south to the Davenport Beach parking lot on the north (**Exhibit 1**). The proposed project would align the trail on the coastal or southwesterly side of State Route 1 (Highway 1) and extend parallel to the highway and Pacific Ocean coastline. The project would provide access to federal lands in Santa Cruz County including BLM California Coastal National Monuments, BLM Cotoni-Coast Dairies, and the Monterey Bay National Marine Sanctuary.

The project would be constructed predominantly on publicly owned land, with the alignment within or adjacent to the RTC-owned rail corridor and through land owned by the California Department of Parks and Recreation (State Parks). A portion of the proposed project alignment would extend through State Parks land that is leased to farmers, and a small portion of the proposed project alignment would extend through private RTC or State Parks property at the southern end near Wilder Ranch. The three parking areas proposed for improvements would be developed on California Department of Transportation (Caltrans) Right-Of-Way and RTC-owned land. The project would extend through undeveloped open space and agricultural land. Some rural residences and agricultural support structures are also located along the alignment. The unincorporated community of Davenport, with a population of approximately 400, is at the proposed northern terminus of the trail segment.

Trail and Amenities

As proposed, the project would place the new multi-use trail on the coastal side of the existing railroad tracks, largely consistent with the Monterey Bay Sanctuary Scenic Trail (MBSST) Network Master Plan.¹ The typical trail cross-section would be 16 20

¹ The proposed project is part of the MBSST, a two-county (Santa Cruz and Monterey) bicycle and pedestrian pathway project to promote appreciation for the Monterey Bay National Marine Sanctuary. In its entirety, the planned trail is planned to extend the length of coastal Santa Cruz County, from the Monterey County line on the south to the San Mateo County line on the north. The Transportation Agency for Monterey County (TAMC) will be responsible for the portion in Monterey County, while the RTC is responsible for the Santa Cruz County portion in partnership with numerous local government entities. The RTC prepared the Monterey Bay Sanctuary Scenic Trail Network Master Plan to establish a continuous alignment, design standards, and guidelines for the Coastal Rail Trail and its associated Trail Network. The Master Plan divides the trail network into 20 segments: Segments 1-5 (Northern Reach), Segments 6-14 (Central Reach), and Segments 15-20 (Watsonville Reach). The Project represents a portion of Segment 5 of the Coastal Rail Trail in the Master Plan, which is 7.5 miles of trails, parking lot improvements, and facilities within Santa Cruz County. The project is located adjacent to the Santa Cruz Branch Rail Line, which RTC purchased in 2012. Regular freight service is currently provided in the south county area and may be extended to other portions of the county in the future: commercial and recreational rail service is not currently provided within the project limits but may be considered in the future.

feet wide and would consist of: 12-foot-wide paved path with striping to separate northbound and southbound users; ~~6-foot-wide unpaved shoulder on the coastal side of the paved path and 2-foot-wide unpaved shoulder on each side, the inland side of the paved path.~~ This trail width is based on narrower than that identified in the MBSST Network Master Plan.

The project would include a variety of trail amenities in the form of benches, bike racks, informational and interpretative signs, restrooms, and trash/recycling containers. Most of these trail amenities would be located in the three parking lots, as described below. 6-7 Rest areas would be developed at strategic locations (scenic vista points) along the trail, approximately a half-mile to one mile apart depending on terrain and beach access locations. Rest areas would typically include a bench, bike rack, interpretive signs ~~signage~~, and/or trash and recycling containers. There would be restroom facilities located at the Davenport Beach lot and the Panther/Yellowbank Beach lot, but not at the Bonny Doon Beach lot or along the trail.

The informational and educational signage would be placed at strategic locations along the trail and in the parking lots. In accordance with the MBSST Network Master Plan, the interpretative signage would include information about the Monterey Bay National Marine Sanctuary and coastal resources, history of railroads and agriculture, and information related to trail use and stewardship. Additionally, trail entrances would be posted with notices of ongoing agricultural operations and associated activities.

Lighting is not proposed for the trail or parking lots. The two restroom facilities may have low level lighting, which would likely be small self-contained fixtures with solar-power and motion sensor. The highway crossing at Davenport would be lighted for safety. There would be no landscaping along the trail or in the parking lots. However, areas disturbed by construction activities would be revegetated with native species along the project corridor.

Parking Lots

The project includes trail connections from and improvements to three existing parking areas: Davenport Beach, Bonny Doon Beach, and Panther/Yellowbank Beach (**Exhibit 5**). All three parking areas are located on the coastal side of Highway 1, in the Caltrans ROW, in the northern portion of the alignment (north of Scaroni Road). There would be no changes to the existing parking lot at Wilder Ranch at the southern end of the alignment, where there is already a formal paved lot with 72 standard parking spaces and four RV/trailer parking areas.

Davenport Beach Lot and Highway 1 Crossing

The existing Davenport Beach parking area is unpaved and consists of gravel and compacted soils. It is located at the north end of the trail alignment, on the coastal side of the Highway 1 and Ocean Street intersection in Davenport. The northern portion of the lot is publicly owned and under Caltrans jurisdiction, and the southern portion of the lot was privately-owned until recently, when RTC acquired the portion of the lot

necessary to conduct improvements. The northern and southern portions together accommodate approximately 110 informally parked vehicles. Currently, the southern portion of the lot is being used as an area for displaced wildfire victims.

Under the project, the publicly owned northern portion of the parking area would be improved with paving and the provision of 43 marked parking spaces, a restroom facility, trash/recycling containers, bike racks, benches, and path to the trail. The path would be designed to be compliant with the Americans with Disabilities Act (ADA), and would also contain two ADA-accessible toilets located on a 12-foot by 18-foot pad that is connected to the Davenport water and wastewater system. A portion of the recently acquired southern portion of the existing parking area will accommodate the exterior of the formalized lot, while the rest of the southern portion would remain privately owned, unpaved, and available for informal parking, as currently envisioned by CDP No. A-3-SCO-98-101.

The project also would include improvements for crossing Highway 1 at the Ocean Street intersection, equipped with flashing yellow caution lights and vehicle speed reduction signage. The improvements are being finalized in coordination with Caltrans and may include increased signage, striping, and lighting upgrades such as a high intensity activated crosswalk beacon or rapid flashing beacon.

Bonny Doon Beach Lot

The existing Bonny Doon Beach parking area is paved and accommodates approximately 55 parked vehicles. It is located between the Davenport Beach and Panther/Yellowbank Beach lots, approximately one mile south of Davenport. The proposed project at this site includes minor expansion of the paved area to accommodate bike racks and trash/recycling containers but would not include additional parking spaces. A non-ADA compliant path to the trail, likely to be composed of aggregate stepping-stones with timber encased steps is being developed at this site. There would be no restroom installed at the Bonny Doon Beach lot.

Panther/Yellowbank Beach Lot

The existing Panther/Yellowbank Beach parking area is also an unpaved gravel and compacted soils facility that accommodates approximately 160 informally parked vehicles. It is located approximately two miles south of the Davenport Beach lot and five miles north of the Wilder Ranch parking lot. Project improvements would include paving and space striping for 48 vehicles, a restroom facility, trash/recycling containers, bike racks, benches, and an ADA-accessible path to the trail. The restroom facility would be a prefabricated structure, with ADA-accessible toilets, located on a 12-foot by 18-foot pad. The toilets would be waterless vault toilets, each with at least a 1,000-gallon concrete storage vault. The restroom facility would not include a sink but would include a dispenser for hand sanitizer. The proposed improvements would be primarily in the southeastern portion of the existing parking lot. The project also proposes improvements for turning into the parking lot from Highway 1.

Proposed Shoreline Protection

At the bluffs near Davenport Beach, FHWA has proposed to stabilize an eroding bluff through a reinforced soil slope with a thin sculpted anchored shotcrete ~~soil nail~~ wall designed to provide wave protection where bedrock is not present. Overall, the current embankment would be excavated in such a manner to maintain stability and not expose the buried trestle bridge. The embankment would be rebuilt in layers, starting at the toe of the slope (where bedrock is not present) and progressing upward using the existing embankment fill material processed, as necessary. It would be anchored using turf mats and later treated with the possibility of revegetation. Access along the beach will not be permitted on weekdays during the 3 to 6 month construction window, and construction staging and equipment would be executed by using existing informal path for access to both the north and the south to facilitate excavation equipment and the transport/stockpile of material.

B. Related Commission Actions

This project is related to the recent conditional concurrence of the Cotoni-Coast Dairies resource management plan (CD-0005-20). That consistency determination balanced the management of existing property uses (such as agriculture) with improvements to recreation, public access, and new facilities as well as the appropriate restricting of certain uses to protect special status species, sensitive habitats and cultural resources. The 7.5 mile trail improvement project proposed in this document connects the Cotoni-Coast Dairies unit along the greater MBSST, which, overall, will have more than 38 miles of new and enhanced public recreational trails.

C. Other Agency Approvals and Stakeholder Consultations

U.S. Fish and Wildlife Service

Biological Assessments (received June 10, 2021) supporting Section 7 consultation under the Endangered Species Act

National Marine Fisheries Service

FHWA consulted with the National Marine Fisheries Service on impacts to critical essential fish habitat (EFH) for the California Central Coast salmon and steelhead. A determination of no adverse impact was received in March 2020.

State Historic Preservation Office (SHPO)

FHWA engaged in consultation with the SHPO under Section 106 of the National Historic Preservation Act. SHPO consultation was completed on August 10, 2021.

Tribal Consultation

FHWA and the RTC coordinated with local tribal nation representatives throughout the development of this project. In addition, during the process of reviewing this project and developing this recommendation, Commission staff also reached out to tribal representatives in accordance with agency tribal outreach policies. Tribal consultation and cultural resource-related issues are discussed in Section I, below.

Army Corps of Engineers

Prior to construction, a Section 401 Water Quality Certification and a National Pollutant Discharge Elimination System (NPDES) permit will be obtained.

D. Coastal Hazards

Section 30235 of the Coastal Act states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

Section 30253 states, in relevant part:

New development shall do all of the following: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

Section 30101 states:

“Coastal-dependent development or use” means any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

At Davenport Beach, near the northern terminus of the trail, there is an eroding fill slope that is currently too narrow to allow construction of the proposed trail with the same width and separation from the rail as used for the rest of the project. An existing

informal trail is within only a few feet of the actively eroding site (**Figure 1**), and as part of this proposed project, FHWA has requested concurrence to reconstruct the eroded slope and construct a shoreline protective device to fortify the slope and protect the trail from future shoreline erosion. FHWA proposes to rebuild the slope in the same footprint as now occupied by the embankment and then install an anchored soil nail wall on the coast-facing side of the slope, built up to a height of approximately +25 ft NAVD88 (approximately 10 feet above the beach) to account for wave action.



Figure 1: Informal trail and eroding slope. Photo: FHWA.

History and Status of Slope

The rail line leading into Davenport, with which the proposed trail is co-located, was originally constructed in the early 1900s. A wooden trestle (seen in **Figure 3**) was built to span San Vicente Creek and to support the rail line. However, as the rail line's primary use was shifted from passenger service to freight (for cement), engineers at that time determined that the trestle alone could not bear the weight, and the trestle was filled with available materials (i.e., non-engineered fill). Although detailed records do not exist from the early 20th century, aerial photos from the 1970s onward indicate that the slope in this location has been gradually eroding: a current photo can be seen in **Figure 2**. Since the embankment was constructed with non-engineered fill, standard methods for calculating erosion rates of geologic formations do not necessarily apply, making it extremely difficult to measure the erosion rate of the slope over time. Aerial photograph analysis from Commission technical staff concluded that this slope has been eroding progressively since at least the 1960s; however, the rate of erosion seemed to increase in the 1980s and 1990s. The continued erosion has resulted in a localized slope failure with a continually expanding footprint. In particular, the size of the slope failure increased greatly between 1993 and 2001 aerial photographs, possibly reflecting the effects of several stormy winters during this interval (e.g., 1997-

98 El Niño). Over the last 20 years, slope erosion has been variable but progressive, with an inland (cross-shore) erosion rate of about 0.5 ft/yr and a lateral rate of spread of 2-3 ft/yr. The largest measured change between photographs was 4.8 feet of inland retreat between 2017-2020, suggesting a short-term erosion rate of 1-2 ft/yr. Year-to-year variability in the erosion rate likely reflects significant storm events.

Currently, the slope has eroded such that the informal trail along the rail line is now generally within five feet of the edge of the embankment for a section approximately several hundred feet long. One portion of the existing informal trail has already encountered the slope failure, resulting in a slight narrowing of the trail, closer to the railroad tracks.



Figure 2: The eroding bluff at Davenport Beach. Photo: FHWA CD.

A wave run-up analysis was completed by FHWA for this site using approximately 51 years of data obtained from the Scripps Institution of Oceanography Coastal Data Information Program, which collects information approximately 2,700 feet from the shore to the southwest in 50 feet of water depth. Additionally, a beach survey was performed on October 8, 2021 with 10 transects beginning at the toe of the embankment and extending offshore to a depth of -14 feet NAVD88. Beach profiles generated from this survey show that the toe of the embankment was at an elevation of approximately +15 feet NAVD88. At the time of the beach survey, the backshore was relatively flat and the beach extended approximately 100 feet from the toe of the embankment to the crest of the beach berm or beginning of the foreshore, beyond which the beach face sloped down into the ocean with a relatively uniform, average slope of 0.062 (16:1 horiz.:vert.). Using this information along with still water levels from the NOAA Monterey tide gauge and the historic offshore wave data, FHWA calculated a 51-year time series of total water levels (TWL, including static water levels

and dynamic components such as storm surge and wave runup) for Davenport Beach. The TWL time series suggests that TWL exceeded the +15 ft NAVD88 embankment toe elevation multiple times between 1970 and 2020, likely during large storm events, and often corresponding with El Niño events. In 1983 specifically, the analysis reindicates there was a larger wave run-up event with a TWL exceeding +19 feet NAVD88. Additionally, the analysis is consistent with the theory that larger storm events (such as those with wave run-up lasting longer than 6 hours) contribute to larger erosion events. Winter storms also produce a large amount of rainfall, so erosion cannot be solely attributed to wave run-up.



Figure 3: The historic rail trestle and fill at Davenport Beach. Photo: FHWA CD.

It is important to recognize that, although the rail line is currently non-operational, it is maintained in an active status. RTC has entered into an agreement with Progressive Rail and hopes to provide passenger rail operations on the rail line in the foreseeable future, although concrete plans have not been finalized. It is unclear what the existing railway trestle could support in terms of future operations, as passenger service options may or may not require the same level of structural support as is currently in place. However, the project under consideration in this analysis is the construction of a coastal trail, not repurposing the railroad. Apart from the existing railway, this area is heavily used by visitors to the North Coast, as there is access to Davenport Beach from dirt parking lots and parking along Highway 1, and there are informal trails and scenic viewing areas along the rail line. Although unable to be verified, FHWA notes that with continued erosion of the slope that was built to cover and buttress the rail trestle, the historic wooden trestle that was built to span San Vicente Creek would become exposed and may deteriorate, leading to potentially wider slope failure.

Unfortunately, the historic use of non-engineered fill to support the trestle makes it difficult to evaluate the current condition of the trestle or predict with any certainty if or how quickly deterioration could occur. Currently, the slope failure is approximately 20 feet from the toe ballast of the rail line.

Consistency with Coastal Act Hazards Provisions

Section 30253 of the Coastal Act states that new development, such as this trail project, must assure stability and structural integrity in a manner that does not require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Commission has long applied this policy to implement appropriate bluff-top and shoreline setbacks for new development. Such setbacks are based on an assessment of projected erosion and related hazards at the site for the life of the proposed development and help ensure that seawalls and other protective devices that could lead to adverse impacts would not be necessary in the future. This policy reflects the fact that, on open sandy coasts, shoreline protective structures occupy habitat, alter the wave regime and modify processes that deposit and retain mobile sediments on exposed sandy beaches. They also reflect wave energy and restrict natural landward migration of the shoreline, generally leading to a loss of beach area and width and flanking erosion of adjacent shorelines. The narrowing of the beach and the upper habitat zones results in the loss of adaptive capacity of beaches to respond to ongoing coastal processes and adjust to changing swell, tide and beach conditions. In the Commission's experience, armoring one section of the coast often leads to increased armoring up- and down-coast, as sections of armoring reflect wave energy and can lead to increased erosion—and increased need for subsequent armoring—on adjacent land.

Here, the purpose of the proposed protective device would be to halt or slow naturally occurring erosion on the slope in order to protect the new trail. Constructing the protective device would substantially alter the erosion process and the overall landform of the slope over time, which is inconsistent with Section 30253 and would lead to many of the impacts noted above. Therefore, the Commission finds that the current proposed project is considered new development, which is dependent on protective devices and landform alteration, which is inconsistent with Section 30253 of the Coastal Act.

Despite a project's inconsistency with Section 30253 or other resource protection policies,² Section 30235 of the Act is an "override" policy that allows for shoreline

² Even in coastal areas without bluffs and cliffs, Coastal Act Section 30250 requires that new development be located in areas where it will not have significant adverse effects on coastal resources, and the public access, habitat protection, visual resource protection standards of the Coastal Act also impose standards with which hard shoreline armoring often conflicts. Thus, shoreline protective devices

protection in limited circumstances—i.e., when it is required to serve coastal dependent uses or to protect existing structures in danger of erosion; there is no other, less damaging feasible method to protect the use or structure; it is designed to eliminate or mitigate adverse impacts on local shoreline sand supply; and all other impacts of the protective device are avoided to the extent feasible, or if avoidance is infeasible, mitigated. Each issue is addressed below.

Coastal Dependent Uses

As described above, Coastal Act Section 30235 allows for the use of shoreline protective devices in a limited number of situations, including to protect a coastal dependent use. Thus, to warrant consideration of armoring, the Commission must find that the proposed trail is a coastal dependent use, as described in Section 30101. The proposed trail would be part of the California Coastal Trail (CCT) network, envisioned as a continuous interconnected public trail system along California's coast. The CCT, by definition, is intended to maximize access to ocean views and scenic coastal vistas and should be located as close to the ocean as possible. It is thus a coastal dependent use, as it requires a location adjacent to the sea to function for its intended public purpose. Thus, the coastal dependent trail segment is eligible for consideration of armoring and meets the first test of Coastal Act Section 30235.

Assessing the Need for Additional Protection

Under Coastal Act Section 30235, the next consideration is whether a coastal dependent use is in danger from erosion and warrants additional protection in order to function. As seen in **Figures 1** and **2**, the portion of the bluffs at Davenport beach where armoring is proposed is eroding and may potentially result in the exposure of the historic railroad trestle.³ As described above, the wave run-up analysis, which was reviewed by Commission technical staff, indicates that waves can strike the toe of the slope during large storms, consistent with the idea that marine erosion, was a primary cause of the slope failure and has continued to contribute to the progressive expansion of the failure observed over the past 20-30 years. Precipitation and surface runoff have also contributed to slope sloughage and retreat. At present, the informal access trail is within 5 feet of the eroded edge of the embankment across most of the failure area and is actually being impinged on by erosion in at least one location. This trail is already at risk of being undermined during an episodic erosion event (when several feet of

are generally inconsistent with the Coastal Act due to their effects on natural shoreline processes and impacts on visual resources, public access, and other coastal resources.

³ The coastal trail is co-located with the railway; however, it is an important distinction that the proposed slope rebuild is to support the trail and not to provide armoring for the railway. The railway, which may become operational at a future date, will require a separate and full analysis of its structural stability and needed reinforcement at such time, if ever, that it is in danger of erosion. Thus, the stability of the rail line itself is not at issue in this matter.

embankment can erode quickly), and even from the longer-term inland erosion observed over the past 20 years; the current trail alignment could be lost in 5-10 years. The proposed 12-foot wide trail has been designed to accommodate ADA and multi-use access. It would be located seaward of the rail and would be separated by 12.5 feet from the rail bed, in a similar alignment to the existing informal trail. Currently, there is not enough space on the blufftop to construct the trail as designed (which incorporates a 12-foot wide trail to accommodate ADA and multi-use access). Even if the trail footprint were narrowed to fit the space available on the blufftop, it would be immediately threatened by progression of the existing slope failure. Therefore, if the trail is constructed in its proposed location, the trail will be in danger of erosion and some type of slope protection or stabilization would likely be needed to ensure the viability of the trail and the safety of trail users over a longer 75-year design life.

Feasible Alternatives to a Shoreline Structure

The third test of Section 30235 is that the proposed armoring must be “required” to protect the existing structure in danger from erosion. To meet this test, the proposed armoring must be the only or the least damaging feasible alternative needed to protect the vulnerable development. Staff worked extensively with staff from FHWA and RTC to identify and analyze possible alternatives to the proposed project that both eliminated the need for armoring and reduced the impacts associated with any armoring. The following section describes the proposed slope protection armoring in more detail, as well as each of the alternatives considered.

Proposed Davenport Embankment Stabilization

At the bluffs near Davenport Beach, FHWA has proposed to stabilize an eroding bluff through a reinforced soil slope with a thin sculpted anchored shotcrete ~~soil nail~~ wall designed to provide wave protection where bedrock is not present. This alternative was selected by FHWA because it combines the positive aspects of the reinforced soil slope (which more closely mirrors the existing structure of the slope face) with toe protection and the soil nail structure to provide protection from wave runup. They selected the reinforced slope and anchored shotcrete ~~soil nail~~ wall over alternate armoring designs because it minimizes the footprint on the beach and is likely more removable. For this alternative, FHWA calculated the area of impact to be approximately 3,250-3,750 square feet. The sculpted shotcrete soil nail wall is considered less intrusive than a rock revetment and reduces beach encroachment in this location because it can be built at a steeper angle than the revetment. Because it can be sculpted to mimic the adjacent bedrock at the site, it may lessen visual effects. As may be necessary at some future time, the thin layer of shotcrete and geotextile slope reinforcement may be considerably easier to remove than other armoring alternatives. The design details of the reinforced soil slope are consistent with the design described in the alternatives section below.

Design features of the reinforced soil slope and shotcrete armoring include the following:

- Since the shotcrete is not required for structural stability of the embankment, the minimum constructable thickness is proposed.
- The sculpted shotcrete will be installed only where bedrock protection is not available.
- As proposed, once the reinforced soil slope has been constructed, the face of the embankment would be prepared to receive the thin shotcrete layer.
- It is expected, based on the boring data, that the reinforced soil slope will extend to bedrock. If bedrock is not encountered, it will be extended below scour elevation or to other competent material, which is estimated to be elevation +8 feet NAVD88. The shotcrete face will be extended to the bottom of the reinforced soil slope.
- The top elevation of the shotcrete face will be determined during final design but is currently assumed to be about elevation +25 feet NAVD88 based on the preliminary wave runup analysis results. The shotcrete surface would only extend to the height necessary to provide wave protection considering sea level rise and a design period of 75 years, which is standard for federally designed and funded structures.
- An erosion control product would be placed along the face of the slope that consists of an anchored turf reinforcement mat. The product would work with the backfilled native materials to potentially allow for revegetation.

FHWA has provided a preliminary design plan sheet with typical cross sections has been provided in [Exhibit 12](#). They have further described that construction staging and equipment would be staged using existing access pathways to the north and south of the embankment failure so as to minimize disturbance of habitat.

Alternatives

No action: Under the No Action alternative, the proposed trail would not be constructed, and the slope would continue to erode. Without measures to stabilize the slope, the informal pedestrian trail at the top of the slope would be threatened by erosion and eventually lost, and users of the trail would be forced to divert around the eroded area by proceeding farther inland. Erosion of the informal trail could limit access to Davenport Beach until alternative informal routes were developed. As erosion progresses, the historic wooden trestle that is buried in the embankment would start to be exposed, with unknown effects on the structure. Although not the primary issue at hand, it is worth noting that the eroding slope currently presents a rock fall hazard to the public. Based on observations, beach users regularly use this area during the day and night. Being directly below this slope increases the safety risk from the rockfall hazard.

Rock Revetment Alternative: FHWA examined a method of slope rebuild that would use existing bedrock on the north portion of the embankment for support and construct a rock toe revetment on the southern portion of the bluff to support the slope above. The reinforced slope above the revetment would be comprised of layers of geosynthetic fabric spaced 1-2 feet apart and backfilled with soil, essentially reconstructing the currently failing embankment. This alternative includes the following design features:

- A slope face inclination that matches the existing slope angle as close as possible, but not steeper than 1:1. Consideration was also given to making the slope slightly steeper than the current overall embankment to reduce beach encroachment.
- Existing bedrock would be used to provide protection against wave action, where it exists, particularly on the northern end of the slope. The reinforced soil slope would be founded on the bedrock.
- A rock revetment is included where bedrock is not present at the bottom of the reinforced soil slope but would be included where bedrock is encountered at the back of the slope or where no bedrock is present at all.
- Design of the reinforcement layout to reduce the likelihood of encountering the buried trestle bridge during construction.
- An erosion control product applied at the slope face. This product would be buried, and the slope face allowed to revegetate.
- Extension of the reinforced soil slope slightly beyond the limits of the current failure to protect against future erosion at the flanks of the improvement.
- Reduction of the trail width or slightly lowering trail grade, if necessary, to limit encroachment of the slope onto the beach.

The preliminary design features of the rock revetment include:

- A geotextile over the bare embankment slope, an underlayer and an armor layer.
- The sizing of the rock and gradation for the underlayer and armor layer is ongoing as part of final design.
- The rock revetment will be constructed only where bedrock protection is not available or sufficient.
- The revetment will be extended to a depth that is determined by the scour potential and overall slope stability, either keyed into bedrock or approximately 10 feet below the winter beach profile when no bedrock is encountered.
- The top elevation of the revetment would be determined during final design but is currently assumed to be elevation +25 feet based on the preliminary wave runup analysis results. The revetment will only extend to the height necessary to provide wave protection considering sea level rise and a design period of 75 years, which is standard for federally designed and funded structures.
- A preliminary level analysis which estimates the rock height, depth, lateral extent, and rock sizing is being provided as a separate attachment.

The rock revetment alternative would encroach on a significantly larger area of Davenport Beach than the proposed project. FHWA estimated that the total area impacted by the revetment would be approximately 9,000-9,500 square feet.

Soil Nail Stabilization: In its original consistency determination submittal, FHWA proposed to construct a soil nail wall with a sculpted shotcrete facing mimicking the bedrock exposed directly north of the slope failure. A soil nail wall is comprised of grouted rebar placed into holes drilled perpendicular to the slope face. A reinforced shotcrete facing would then be integrated with the nails. Common finishes and facings vary from precast panels to rock facing. The proposed facing for this slope is to mimic surrounding rock, i.e., a style wall is proposed on this project that will be aesthetically tailored to the surrounding geology. The project plans would include photographs of existing rock outcrops as a guide to the contractor to best match the local geology.

The extent of the final slope construction was proposed to be confined to the existing footprint of the current slope failure. Meaning, the proposed slope's toe would follow the existing slope's toe where it contacts the beach sands. At its tallest point, the soil nail structure would be approximately 50 feet. In general, the geometry and layout of the soil nail structure would be as follows:

- The bottom 12-15 feet of the soil nail wall would be vertical following the gently-sloping bedrock to the north.
- The final 35 feet of the stabilization would follow the existing slope face.

Compared to the proposed alternative, which was designed to include a thinner shotcrete facing only to a height at which wave action was predicted, this slope stabilization design would have required much more area (i.e.; the entire slope face) as well as much longer and numerically more nails to ensure the facing was stabilized on the slope. After reviewing the initial March 2021 consistency determination, staff determined that the submittal did not contain sufficient information to accurately determine if this was the least environmentally damaging alternative and engaged in subsequent discussions with project managers to better understand both the cause of the slope failure, rate of erosion, and what, if any type of shoreline armoring could be the least environmentally damaging in this specific location. Given the popularity of Davenport Beach for recreational use, and the Commission's understanding that armoring (fixing the back of the beach) can hasten erosion without significant mitigation, FHWA agreed to conduct further analysis and determined that the proposed shotcrete slope alternative described above would accomplish the project's stated goals while providing substantially less impact to the environment at this site and therefore did not further pursue this alternative.

However, in summary, like the FHWA preferred alternative, this design alternative would continue to provide public access to Davenport Beach or to the coastal bluff trail, with construction activities limiting access to the beach during weekdays. However, access to the beach would be permitted on the weekends.

Mechanically Stabilized Earth Wall (MSEW): The stabilization method requires significant amount of earth excavation. Due to proximity of the excavation back cut to the rail line this method was determined too high risk for further consideration.

Erodible Concrete Armoring: Erodible concrete is typically used in situations where the desired outcome is to match the erosion rates of natural features, mainly infilling of caves or notches. This solution also has the benefit that, like the proposed shotcrete armoring, it can be contoured and colored to resemble the adjacent natural bedrock, thereby partially mitigating visual impacts. For this project, the armoring is taking place seaward of an existing fill embankment, so an erodible concrete will not match the current natural surrounding landscape. The existing fill embankment erodes much more rapidly than a natural bedrock surface, so using erodible concrete to match the erosion rate of the embankment would not likely provide additional value to the beach. This embankment is already in a state of failure and thus FHWA rejected this alternative as it would not address the existing failure and could result in damage or loss to the blufftop trail within a relatively short timeframe.

Bridge: At staff's request, FHWA considered an alternative for construction of a bridge over the section of the bluff that is eroding. From FHWA's analysis, a bridge at this location would have to include abutments that would need to be protected from erosion. This would require a wingwall and/or rock protection that would extend to non-erodible material or be sufficiently outside of the zone where erosion could occur. With the approximate height of the bridge above the current beach elevation of 50 feet, this would require very large diameter concrete drilled shaft foundations socketed into bedrock to maintain lateral stability. In all, this design would result in a bridge length much larger than the length of the current failure. Furthermore, a bridge this long would likely need a center pier or multiple piers for stability.

According to FHWA, a bridge of this scale would increase visual impacts, substantially escalate the cost, and potentially still require armoring. For these reasons, FHWA rejected this alternative. ~~Staff~~ The Commission agrees with FHWA that this alternative could be significantly more expensive than what is proposed, thus affecting feasibility of the project. ~~However, sufficient information has not been received on this alternative to fully analyze feasibility and Coastal Act consistency.~~ From a conceptual standpoint, ~~it is likely that~~ this alternative is might be preferable when considering broader Coastal Act consistency. Depending on how it is designed, a bridge would require abutments at each end and possibly some pile supports to hold up the main bridge span, thus

allowing the bluff to erode and the beach to retreat as sea level rises. In addition, a bridge would not necessarily result in worse visual impacts than a shotcrete seawall. Further, a bridge in this location could facilitate the eventual removal of the fill slope and restoration of the San Vicente Creek mouth. Although these elements are well outside the scope of the current project and dependent on the future status of the rail, the proposed armoring would complicate any future restoration options. However, there is insufficient information on this alternative to demonstrate that it is a feasible, less damaging alternative from the perspective of timing, cost, and environmental impacts.

Trail re-alignment: As part of the trail design process, FHWA considered two realignment options: one on the inland side of the rail and one adjoining the highway, seen in **Figure 4** below. While technically feasible, the realignment of the trail raises several challenges.

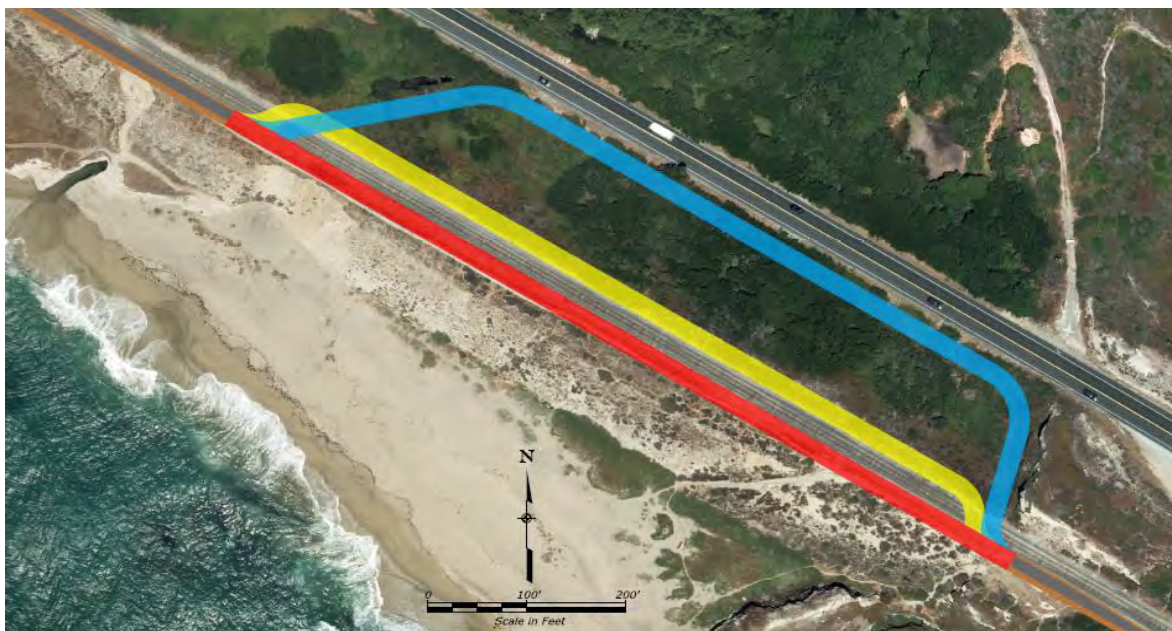


Figure 4: Trail re-alignment alternatives. The proposed trail is in red. Photo: FHWA.

Trail Realignment Option 1:

First, FHWA has stated that placing the trail on the inland side of the rail would not address the eroding slope on the coastal side, and the slope will continue to erode, thus only temporarily delaying the need for armoring at the site. FHWA has also stated that the continuing loss of the slope would jeopardize the rail infrastructure, although the extent and timing of any such erosion risk is not fully understood. The rail, although currently not in operation, is still considered active, and eventually a trail with an inland location could come to be at risk of erosion as well. Delaying slope stabilization may

increase the difficulty, size, scope and cost of future repairs, although it is unclear to what extent.

FHWA has also stated that both realignment alternatives would require two new rail crossings, which could create a safety hazard if the rail becomes operational in the future. Introducing two new railroad crossings near the slope failure could potentially conflict with future rail services due to safety requirements for rail crossings, which are subject to approval of the California Public Utilities Commission. Alternatively, the nearest approved crossings to the north and south are located .25 miles (north) and 1.0 mile (south) from the slope failure location. To provide an inland trail alignment for 1.25 miles between these crossings also requires private property acquisition, and demolition of an existing building, which would increase environmental impacts to coastal shrub, and reduce coastal views and ocean vistas by locating the trail farther from the coast and below the grade of surrounding coastal bluffs.

Furthermore, FHWA has stated that the widening needed for the trail template would require significantly more embankment work compared to the coastal side where there would be no disturbance of the existing embankments outside the slope rebuild area. As such, certain environmental impacts (such as those to coastal scrub) could increase if the trail were relocated to the inland side of the rail. However, the extent to which the impacts would be greater was not precisely quantified. For all the reasons described above, FHWA rejected these realignment alternatives as feasible alternatives.

The Commission reviewed the information provided by FHWA regarding feasibility of the first realignment alternative and heard testimony from the public and agency officials at the December 16th hearing. ~~; however, FHWA has not provided adequate information allowing the Commission to concur with the conclusion that realignment of the trail as described is infeasible.~~ It is true that relocating the trail on inland side of the rail would not completely eliminate a future need for armoring. However, at recent average rates of inland erosion (~0.5 ft/year since 2001), Commission technical staff believe that it could be several decades before slope erosion threatens a trail placed on the inland side of the embankment. Although not the subject of this review, at present, there is little evidence to suggest that the erosion of the embankment threatens the railroad itself, which is still supported by the buried trestle. FHWA has speculated that exposure of the trestle could hasten its deterioration, but the Commission is not aware of any engineering analysis or assessment of the status of the trestle for supporting rail operation. It is possible that there are feasible alternatives for ensuring the stability of the railroad that do not require shoreline protection. For example, one alternative that would need to be evaluated would be to repair, refurbish, or replace the existing trestle to bring it up to current standards.

Regarding the potential need for additional rail crossings, the Commission acknowledges agreed that there may be logistical and permitting challenges associated with introducing the new rail crossings that would allow for an inland realignment of the trail. As described by public officials at the project hearing, the County would likely have to close two existing rail crossings in order to create two new ones here; however, there is evidence that the County does not have two crossings that it could close, thus putting into question the feasibility of this alternative. From a safety perspective, ~~However,~~ there is currently little evidence to suggest that the construction of safe crossings, meeting the standards of the CPUC, is infeasible in the project area. Furthermore, as described above, the future of the rail along this stretch of the coast is uncertain. Although there are proposals to reactivate the rail for use as a recreational railway, these proposals are aspirational-still under consideration at this point in time. It is also possible that the rail will be decommissioned in the future, thus eliminating the need for official crossings and opening up additional alternatives for the trail.

~~At its December 16th hearing, the Commission also does not have adequate information to assess received additional information on the type and scale of habitat impacts associated with the first realignment alternative. These impacts include additional impacts to coastal scrub habitat and 600 feet of additional fill along the inland side of these tracks. Although this alternative would result in additional impacts to sensitive habitats, it is not clear that these impacts would be inconsistent with Section 30240 or directly affect the feasibility of the proposed alternative. Other stretches of the trail will cause impacts to sensitive habitat, but the Commission finds that they prevent significant disruption of habitat values and are sited and designed to minimize impacts on these habitats, as required by Section 30240. Nor is it clear how significant those impacts are as compared to the impacts of building the slope stabilization structure, and thus which alternative is environmentally preferable. Further development of this alternative would identify the specific acreage of sensitive habitats present on the inland side of the rail as well as the nature of the impacts on these habitats from proposed trail construction. Further analysis could also identify appropriate mitigation measures or potential alternatives, e.g., use of a bridge or causeway, that would minimize habitat disturbance. This information would allow for a thorough examination of the impacts to sensitive species and habitats that would inform a determination on whether this alternative is feasible and consistent with Coastal Act policies.~~

Trail Realignment Option 2:

The second realignment alternative would be to relocate the trail further down into the San Vicente Creek valley, adjacent to Highway 1. Although this would not require a significant structure along the embankment, FHWA states that it could also result in increased environmental impacts to habitat and have the same challenges with the

added railroad crossings. In addition, it would move the public further from the coast and create steep grade changes that are undesirable for the public. Currently, although it is difficult to see in **Figure 4**, the topography of the land between the highway and the trail is an uneven elevation, so there is not a clear view of the coast from the highway, denying the public the aesthetic benefits afforded by the trail. Additionally, under the current administrative structure of the project and funding, FHWA and RTC can only develop along the immediately adjoining shoulders of the rail, and thus moving the trail inland and separating it from the rail is not presently feasible. FHWA and RTC did not pursue a realignment option that would extend the trail directly from the proposed Davenport parking lot, along Highway 1, and that may cross over land with one rail crossing south of the failing embankment.

Although San Vicente Creek itself has been diverted into a tunnel where it intersects the rail alignment, there remains sensitive habitat area in the former creek valley (e.g., arroyo willow riparian and coastal scrub) that could potentially be impacted by the construction of a reinforced slope to support a trail alignment. Furthermore, San Vicente Creek is critical habitat for federally listed Coho salmon and Steelhead.⁴ Thus, work in this location could also result in adverse impacts to listed species. FHWA estimated that this relocation alternative would have an estimated 1.43 acres of impacted habitat along the San Vincente creek riparian corridor, and 1.79 acres of additional CRLF habitat loss.

Similar to the first trail realignment alternative, a bridge or causeway over the creek and riparian area could eliminate or minimize habitat impacts and issues related to crossings addressed above. In many areas, coastal bicycle paths must be routed farther inland where scenic resources are not as great; in many such locations, the “Coastal Trail” bifurcates, with pedestrian routes along the beach or on less developed routes. This may be a similar situation. However, the extent to which these impacts could occur has not been quantified to evaluate against mitigation strategies.

Trail alignment on top of the rail:

FHWA also analyzed the potential for locating the trail on top of the existing active but unused railway, but it determined that presently, project funding conditions require that the trail must not interfere with potential reopening of the rail line for train service. The master plan and environmental document for the MBSST describe how the trail should

⁴ [CDP 2-20-0319](#)[CDP 2-20-0319](#) (Mirada Bridge replacement and armoring) recently considered relocation of the CCT inland towards HW1 with similar concerns to this project. The Mirada bridge/trail relocation would have resulted in impacts to sensitive riparian habitats and also removed the trail from the viewshed of the San Mateo County coast (along with public safety concerns being located adjacent to the highway). Staff worked with the applicant to minimize size and environmental impacts (and provide mitigation for) the shoreline armoring at the bridge replacement site and the Commission approved shoreline armoring in this location.

be aligned with the rail in such a way that future rail transit services in the corridor are not precluded. The plan was also adopted by the county and three cities through which the rail line travels. For additional historical context, in February 2019, RTC unanimously accepted the Unified Corridor Investment Study and resolved to “Protect the rail right-of-way for a high-capacity public transit service and facilities next to a bicycle and pedestrian trail and continue to consider passenger rail service options on the rail right-of-way consistent with Prop 116 requirements.”

In March 2019, the RTC certified the FEIR for the project and selected the proposed project, a trail next to rail between Wilder Ranch and Davenport, as the preferred project. The FEIR analyzed, at the same level of detail, a “Trail Only Alternative,” which placed the trail on the rail bed, which was not selected as it would place a trail on an active rail, and there are legal obligations to retain the tracks associated with the rail purchase. As described in RTC’s December 8, 2016 Staff Report, considerable time and expense would be associated with the public process to make a policy change to allow a trail on the tracks, terminate or renegotiate current operator agreements, engage in discussions with the Caltrans to return Proposition 116 funds that were awarded for purchasing the rail, secure the repayment funding, and complete other tasks. In February 2021, RTC voted 9 to 3 to accept the Transit Corridor Alternatives Analysis and Rail Network Integration Study which selects electric passenger rail as the locally preferred public transit alternative on the Santa Cruz Branch Rail Line.

Finally, as previously mentioned, Santa Cruz Branch Rail Line is considered an active rail line even though some sections of the rail line are currently not operational. St. Paul and Pacific Railroad Company is the common carrier on the Santa Cruz Branch Rail Line. When rail lines or sections of rail lines are no longer needed for freight operations, railroads can seek authorization from the Surface Transportation Board for abandonment to free themselves of their common carrier obligation. The railroad may not discontinue rail service until the Surface Transportation Board (STB) issues a certificate of public convenience and necessity, or an exemption, authorizing abandonment. The RTC railroad operator, St. Paul and Pacific Railroad Company, has not sought authorization from the STB for abandonment. RTC is not authorized to request abandonment and therefore the rail must remain in place and a trail on the rail bed is not feasible at this time.

Given the uncertainty of the future of the rail, and the requirements placed on RTC to site a trail in a manner that does not interfere with the potential to operate the rail until such time as it is abandoned, the Commission concurs that siting the trail on top of the rail in this or in other locations along the proposed rail corridor is not feasible at the current time, though may become feasible at a future time.

Summary of Alternatives Analysis

The third test of Section 30235 of the Coastal Act requires that shoreline armoring may be allowed when “required” to protect a coastal dependent structure from erosion, thus requiring a full investigation of alternatives that do not require shoreline armoring. Furthermore, if armoring is found to be allowable, the selected alternative must be the least environmentally damaging alternative. As described above, FHWA looked at several alternatives that fall into two categories: alternatives that avoid the need for shoreline armoring and alternatives using different types of armoring. Also as described above, FHWA concluded that all of the alternatives that avoided the need for shoreline armoring were infeasible. Furthermore, in discussing different armoring alternatives with Commission staff during the course of project review, FHWA altered their proposed project slightly to eliminate the need for large soil nails in the proposed shotcrete wall, thus increasing the potential future removability of the wall and decreasing the overall environmental impact. Of the project alternatives presented by FHWA that involve armoring (including the different versions of a shotcrete wall with toe protection and a rock revetment), the Commission agrees that the proposed alternative would result in the smallest footprint on the beach and would thus be the least damaging armoring alternative. ~~However, for a variety of reasons, the Commission does not have sufficient evidence to conclude that all non-armoring alternatives are infeasible.~~

~~As far as non-armoring alternatives, discussed above, the two re-alignment options and the bridge option pose significant logistical, legal, and financial challenges. but have the potential to greatly reduce current and future coastal resource impacts. FHWA has not provided enough project detail and information on potential impacts to definitively conclude that these options are not feasible. For example, Commission staff requested, but was not provided with, estimates on the scope and scale of potential impacts to sensitive habitats associated with the two realignment options. For the bridge alternative, FHWA provided only a concept idea, which did not allow for a serious consideration of potential impacts nor a consistency analysis. Both alternatives would also reduce or eliminate the public access benefits that the trail is providing, as they would route the public farther from the shoreline and coastal views and would eliminate at least one, and possibly two access points down to Davenport Beach. The second (inland) alignment would present safety issues for trail users, who would be traveling on the trail adjacent to Highway 1 and its forty mile per hour traffic. It would also lessen the ability for ADA accessibility, as the grades needed along the second (inland) alignment would be too steep to meet accessibility standards. Both alignments would also require additional grading and filling, including near San Vicente Creek, which is designated habitat for endangered coho and steelhead. Moreover, the grading would impact coastal scrub habitat.~~

Another important and confounding factor is the future disposition of the rail in the project area. It is possible that a decision about whether to reactivate the railway or not could occur in the next several years. This decision would have a significant bearing on the feasibility of some of the alternatives analyzed above. One of the principal difficulties in siting the trail on the inland side of the rail was the need for additional rail crossings. If the rail is abandoned, this issue is eliminated. Further, locating the trail on top of the rail could be a viable option that eliminates the immediate and possibly a future need for armoring. However, there are no current plans to abandon the railroad, and as described above, current funding and other requirements preclude abandonment of the railroad at this time. If the rail is reactivated and repurposed as a recreational excursion railway or some other type of rail use, there will likely be a need to assess stability and safety of the existing railway in the vicinity of the existing slope failure. The applicant for this potential endeavor would also be subject to Coastal Act or federal consistency review, and as such would need to conduct a similar analysis of alternatives that both eliminate the need for armoring and reduce environmental impacts. Undoubtedly, the outcome of this analysis would have significant implications for the trail and vice versa.

Although abandonment is not feasible at this time, just prior to the hearing, FHWA proposed a condition that recognizes that armoring is not a long-term solution to coastal resiliency at Davenport Beach and that alternatives to armoring may be feasible in the future if the rail line is discontinued. This condition—Condition 4—requires RTC to prepare an Alternative Reassessment Plan that identifies and assesses the feasibility of trail relocation or shoreline protection alternatives that, if implemented, would facilitate partial or full removal of the shoreline armoring at Davenport beach. More specifically, the Alternative Reassessment Plan should include a discussion about the operational status of the railway, a detailed description and feasibility assessment for each identified alternative, and a recommendation of a preferred alternative. If a feasible alternative is identified that would facilitate full or partial removal of the shoreline armoring RTC will seek to implement this alternative as soon as is practicable, including removal of the shoreline armoring at Davenport beach. The Reassessment Plan shall be submitted if either the rail line is no longer being preserved for rail service or annual monitoring of Davenport Beach shows that it has retreated more than 50% from baseline conditions.

In addition, RTC will include a broader Davenport coastal resiliency project in its next update of its Regional Transportation Plan (RTP). RTC will work with the Commission, the Department of Transportation (Caltrans), and other stakeholders to seek funding and cooperation for a future project that would address the impacts of the existing railroad embankment on the natural environment. The future project will be designed to address climate change, including sea-level rise. The future project will include the removal of the coastal armoring permitted by this project and any necessary

reconstruction of the rail and trail facilities adjacent to Davenport Beach, as part of a broader restorative effort that supports restoration of the San Vicente Creek corridor and maintains the undeveloped nature and rural visual character of this area. As proposed by FHWA and modified by Commissioners at the December 16th hearing, Condition 4 ensures that the impacts of the armoring on Davenport beach will be monitored and that alternatives to the armoring will be analyzed and pursued.

In reviewing all the available information, the Commission determined that the proposed coastal trail is a coastal dependent use; is on an actively eroding slope face and is in danger of erosion; and that there are no feasible, less damaging alternative means of protecting the coastal trail at this point in time. However, it also recognized that armoring is not a good long-term solution and that other alternatives may become feasible in the future. With the inclusion of Condition 4 to monitor and reassess the functionality and need of the shoreline protective device, the Commission has found ~~has not been presented with sufficient evidence to conclude that armoring is necessary to support the proposed coastal dependent trail. Thus, the project as proposed is not consistent with Section 30235 of the Coastal Act. For the Commission to adequately assess feasibility of one or more alternatives discussed above and conduct a comparative impact analysis with the preferred alternative, FHWA would need to provide: 1) more information on the CPUC process, including analysis of CPUC standards related to rail crossings, a timeline and initial CPUC feedback regarding the feasibility of rail crossing relocation (or new crossings); 2) description and quantification of impacts to any wetlands and/or ESHA related to the trail alternatives; 3) a comparative analysis of visual impacts; 4) a detailed description of any slope stabilization work required; and 5) any available information on the status and timing of planning for future railway operations.~~ However, the proposed armoring is only one component of a much larger coastal trail project that, as described in the remainder of the staff report can (with conditions) be found consistent with Coastal Act policies. In the interest of allowing the remainder of the project to proceed, staff is recommending the inclusion of **Condition 4**. **Condition 4** requires FHWA to revise the project to eliminate the proposed armoring at Davenport Beach. Without that armoring, the section of trail adjacent to where the armoring was proposed would be inconsistent with Section 30253 and its requirement to ensure that new development will ensure structural stability for its intended lifetime. Accordingly, the Commission does not concur this section of trail or the armoring, as currently proposed, is consistent to the maximum extent feasible with the enforceable policies of the Coastal Act. However, there can be continued exploration of alternate trail alignments or designs for this relatively small segment of trail that would be consistent with Coastal Act policies. If a future alternative is identified, staff will work with FHWA to determine the best mechanism for federal consistency review, which could entail reopening this consistency determination, a supplemental consistency determination or possibly a

~~negative determination.~~



Figure 5: A view of the rail. The proposed trail would be to the right of the frame. Highway 1 is to the east (left) and the difference in topography that inhibits a view to the ocean to the west (right) can be observed. Photo: L. Ewing.

Conclusion

As proposed, the section of trail above Davenport Beach that includes armoring of the existing bluff face is inconsistent with Sections 30253 of the Coastal Act; however, the armoring is consistent with Section 30235 of the Coastal Act and is therefore permitted. Despite this, the proposed armoring would substantially alter the bluff face and would impair the natural erosion processes that provide sand to the beach and allow the beach to migrate and adapt to sea level rise. To address these impacts, Condition 4 requires that FHWA and RTC execute an agreement with the Coastal Commission which will, in part, describe the responsibilities of the parties to conduct monitoring and reporting, incorporate updates about coastal resiliency in Davenport in their Regional Transportation Plan to address impacts of the rail embankment on the natural environment and discuss removal of the coastal armoring approved in this project, and commit to exploring restoration activities at San Vicente Creek. Condition 4 also requires that FHWA will submit all final designs to the Executive Director (subject to further review if substantially changed), submit as-built plans within 2 months of completion of the shoreline protective device, conduct annual monitoring (including

structural condition assessment, changes to the beach profile in front of the structure, and annual reports), alternative reassessment plans based on triggering events, and reports to the full Commission every three years. Furthermore, although the coastal trail can be considered a coastal dependent use, and there is a demonstrated risk to that use (as proposed) from erosion of the bluff, FHWA has not demonstrated that an alternative trail alignment or design that avoids armoring is infeasible. To address this inconsistency, **Condition 4** requires FHWA to revise its proposed project to eliminate armoring of the bluff at Davenport Beach. This would allow for continued exploration of trail alignment and design alternatives that do not require construction of shoreline protection and does not preclude continued use of the volunteer trails by the public. With removal of the armoring component of the project, the proposed project can be found consistent with the coastal hazard provisions of the Coastal Act. Thus, for the reasons described above, and with the inclusion of **Condition 4**, the Commission finds that the proposed project, as conditioned, is consistent with Sections 30253 and 30235 of the Coastal Act and is thus permissible, despite its inconsistency with Section 30253.

E. Public Access and Recreation

Section 30210 of the Coastal Act 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.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation

Section 30212 of the Coastal Act states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
- (2) adequate access exists nearby, or,*

(3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

- (b) For purposes of this section, "new development" does not include:*
- (1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.*
 - (2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.*
 - (3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.*
 - (4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.*
 - (5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach. As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.*

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213 of the Coastal Act states:

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

Section 30214 of the Coastal Act states:

(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

(1) Topographic and geologic site characteristics.

(2) The capacity of the site to sustain use and at what level of intensity.

(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

(4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Coastal Act Section 30210's requirement to maximize access supports the premise that it is not enough to simply provide access to and along the coast, and not enough to simply protect access; rather such access must also be maximized. This terminology provides fundamental direction with respect to projects along the California coast that

raise public access issues. At the same time, while it is a central Coastal Act principle to protect and provide for maximum public access and recreational opportunities along the coast, particularly free and lower cost access (Section 30213), the Act also recognizes that this access must be provided in a manner that protects other coastal resources. For example, Section 30210 requires maximization of public access consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212(a) requires that public access be provided except where it is inconsistent with public safety and the protection of fragile coastal resources, and 30212.5 looks to appropriately distribute access facilities. And finally, Section 30214 explicitly requires that the Coastal Act's public access provisions "be implemented in a manner that takes into account the need to regulate the time, place and manner of public access" depending on, among other things, "the capacity of the site to sustain use and at what level of intensity," and the need to potentially limit access "depending on such factors as the fragility of the natural resources in the area." Thus, while enhanced public access is generally encouraged by the Coastal Act, it is important to note that the Coastal Act requires a nuanced and site-specific analysis when making public access decisions.

As previously discussed, the trail project is part of the larger Monterey Bay Sanctuary Scenic Trail (MBSST) network. The paved trail would run for over 7.5 miles along the existing railway and the project includes three formalized parking lots. The project will incorporate improved visitor amenities (such as benches, restroom facilities, and bike racks) and ADA access to the trail at two locations, which currently do not exist. The new trail, which connects Davenport to Wilder Ranch, will allow the public to walk, run, bicycle, and view nature through open space areas, and it will improve access to dozens of other Coastal Trail arterials including along coastal bluffs and to numerous North Coast beaches, the California Coastal Trail, and Wilder Ranch State Park (including the Coast Dairies property). Moreover, in the future, the BLM Cotoni-Coast Dairies (CD-0005-20) project, which includes access to four recreational management zones in the approximately 6,000 acre property owned by BLM, proposes to connect the trail at Yellowbank Creek and is currently in the first of two phases on ongoing actions to improve public access and recreation in Northern Santa Cruz County.

The trail itself is clearly consistent with the Coastal Act policies that require maximization of public access because it will establish a completely new public access and recreational amenity where currently only limited access exists. The proposed trail will also connect various existing and planned public access trails and facilities along the North Coast of Santa Cruz, thus greatly enhancing the public's access to numerous North Coast beaches within the Wilder State Park system and beyond. For these reasons, it is consistent with both Sections 30210 and 30213. Furthermore, in terms of the trail's design, including its width and other public amenities, it is designed for both bicycle and pedestrian recreation in a way that will comfortably accommodate both

uses consistent with these policies. Additionally, as noted above, the trail will be ADA compliant at two of the proposed parking locations, increasing access for an underserved portion of the public.⁵ There is currently a 40 mile stretch of coastline between Half Moon Bay and Santa Cruz that does not contain ADA accessible trails, which makes the implementation of these two access locations impactful. Last, it will be provided with no fees to the public, consistent with Section 30213's mandate to encourage and, where feasible, provide lower cost facilities.

The following sections describe other elements of this project as they relate to the public access provisions of the Act:

Parking lots

Parking lot improvements proposed at Davenport Beach, Bonny Doon Beach, and Panther/Yellowbank Beach parking areas are shown in **Exhibit 5**. These improvements include bike racks, trash/recycling receptacles, interpretive signs, and access paths to the trail corridor; restroom facilities at Davenport Beach and Panther/Yellowbank Beach parking areas; lined parking spaces (including ADA spaces). Detailed descriptions of each site are as follows:

1. Davenport Beach Lot and Highway 1 Crossing

The existing Davenport Beach parking area is unpaved and consists of gravel and compacted soils. It is located at the north end of the trail alignment. The northern portion of the lot is publicly owned, and the southern portion of the lot was privately owned, but in August 2021, RTC acquired a portion of the lot that allows them to implement the proposed lot design, pending the CDP amendment described below. The total existing lot currently accommodates informal public parking for up to 110 parked vehicles on a peak-use day.

⁵ Pursuant to Condition 4, the section of trail near the northern, Davenport parking lot may not be constructed as designed due to its reliance on shoreline armoring. This may mean that ADA access to the larger trail will not be available in the near term, although the improved Davenport parking lot, with its amenities, would still be ADA accessible, and it would still provide the potential for future connection to the larger trail.



Figure 6: The current lot at Davenport, which is being used by displaced wildfire victims. Photo: L. Ewing

As proposed, the northern portion of the parking area would be improved with paving and 43 marked parking spaces, a restroom facility, trash/recycling containers, bike racks, benches, and a path to the trail. If constructed, the path leading from the parking lot to the trail would be compliant with the Americans with Disabilities Act (ADA). The remaining privately-owned southern portion of the existing parking area would remain unpaved and available for informal parking. Based on the peak use parking for the informal south lot that was described in the transportation analysis for this project and factoring in area lost due to the lot (portion) of the RTC acquisition for formalization of the north lot, it is estimated that potentially 30 vehicles could continue to park informally on the private lot, as authorized under CDP A-3-SCO-98-101, which will be discussed further in Section G, below. The project would also include improvements for crossing Highway 1 at the Ocean Street intersection, equipped with flashing yellow caution lights and vehicle speed reduction signage. This is currently a dangerous area where pedestrians park on the west side of Highway 1 in the unimproved parking lot and then cross the highway to various stores and restaurants on the east side, without the benefit of a crosswalk, traffic signal, or other safety features. The improvements are being finalized in coordination with Caltrans and may include increased signage, striping, and lighting upgrades.

One of the other key Coastal Act issues raised by the proposed improvements at the Davenport lot is that the improvements would reduce the number of parking spaces from approximately 101 informal parking spaces, to 43 formalized parking spaces, although informal parking areas will remain on Highway 1 and the adjacent private lot. Demand for parking along the North Coast of Santa Cruz is often at a premium, particularly during peak demand on the weekends and during summer. Thus, any reduction of parking spaces must be closely scrutinized in this context.

Although this aspect of the project will somewhat reduce public parking opportunities, the reductions are not as great as the numbers make them seem and are necessary to improve public safety and safe access to the trail system for all users. For example, a 2019 parking study concluded that the site can currently

support approximately 101 vehicles; however, this number is likely generous, given the way the public typically uses informal dirt lots, including parking in ways that can be dangerous, inefficient, and not appropriate for other users. According to the 2020 transportation analysis, more than 40 informal parking spaces will also remain along Highway 1 throughout the project alignment and approximately 30 in the southern portion of the lot that will not be improved. Moreover, the proposed trail component of this project will allow the public to park elsewhere, such as at the north end of the City of Santa Cruz, and access these coastal areas via their bicycles or walking, and thus arguably provide a more sustainable means of access to the area. In addition, the project includes measures that will help address an existing, unsafe situation with regard to pedestrians crossing Highway 1 in Davenport, thus leading to safer public access opportunities. The parking lot improvements in Davenport, when viewed alone and in the context of the overall project, therefore maximize public access in a manner consistent with public safety needs.

2. Bonny Doon Beach Lot

The existing Bonny Doon Beach parking area is paved and accommodates approximately 55 parked vehicles. It is located approximately 1.0 mile south of Davenport. The proposed project would include minor expansion of the paved area to accommodate bike racks and trash/recycling containers but would not include additional parking spaces. A path to the trail would be formalized that may include timber encased steps or an asphalt path. Due to the elevation change between the trail and the parking area, it is not feasible to construct this path to be ADA-compliant. However, the trail itself is ADA compliant and visitors requiring ADA can access the trail from either the Davenport or the Panther/Yellowbank Beach lots.

3. Panther/Yellowbank Beach Lot

The existing Panther/Yellowbank parking area is an unpaved gravel and compacted soils lot that has accommodated informal parking for approximately 160 parked vehicles on a peak-use day. It is located approximately 2.0 miles south of Davenport. Improvements in this location would include paving and striping for 48 angled stall vehicle parking spaces, a restroom facility, trash/recycling containers, bike racks, benches, and an ADA-accessible path to the trail. Many of the informal parking spaces were removed at this location in order to accommodate design of a slope and width that met ADA requirements. Additionally parking spaces were lost at this location in order to conform with the safety standards of the American Association of State Highway and Transportation Officials. The project would also improve the turn into the parking lot from Highway 1. Overall, the decrease in project spaces was determined to be acceptable as it improved accessibility to the coast and maximized safety.

Also considered in the development of this project was the northern portion of the existing informal Panther/Yellowbank beach parking area, which sits adjacent to a slight bluff with Highway 1 to the east/inland side and accommodates approximately

48 vehicles. The highway sits within a cut, with embankments on both sides. Multiple factors were considered in the design of the parking lot, and it was determined that use/improvement of the north end of the informal parking area was not feasible. This is because formalizing the Panther/Yellowbank parking lot adjacent to the bluff would require a dedicated left turn lane on Highway 1 in the northbound direction. This left turn lane requires widening Highway 1 by 12 feet. If the parking lot entrance and the turn lanes are located at the northern end of the existing lot, widening on either side of Highway 1 would result in greater environmental impacts. Extensive earthwork excavation and embankment would be required outside the existing Highway 1 footprint. In particular, this approach would result in impacts to sensitive resources associated with Yellowbank Creek, which crosses under the highway in this location. Therefore, to accommodate widening of Highway 1 for the turn lane on the west/ocean side without impacting Yellowbank Creek and without extensive earthwork excavation, the entrance to the parking lot must be located approximately 620 linear feet south of the north end of the existing informal parking lot.

Widening Highway 1 on the west/ocean side would also restrict the useable area for parking and the ADA-compliant trail connection. Extensive excavation would be required to provide for a turn lane and entrance to the lot, reducing area available for parking. In addition, the existing informal lot also includes four utility poles that would not be removed, further restricting the area for formalized parking in addition to the trail connection.

As stated previously, widening Highway 1 to improve the turning capacity into the lot restricts the available width of the parking lot, and as such the lot is designed to be a one-way aisle with angled stalls, and an exit on the south end. Perpendicular stalls were evaluated during design and they would increase the total number of stalls by approximately six. However, with the widening of Highway 1 there is insufficient width to accommodate the wider aisle required for perpendicular stalls (24-ft wide aisle vs. 18-ft wide for angled stalls).

Overall, although the proposed project plan somewhat reduces the amount of available parking during peak times, the project maintains an adequate mixture of formal and informal parking to accommodate the public and allow maximum access, taking into account public safety, equitable access to the coast, and environmental factors while still providing services, such as bathroom and trash that are lacking in this area. The project overall also allows trail users to access the trail and coastal beaches from locations to the north and south rather than parking in the formalized lots or adjacent, informal parking areas. Additionally, peak use times are the only times when parking is potentially limited, and this accounts for only a small portion of the year (warm summer days or holidays). Overcrowding of cars during peak use creates a safety concern, and it decreases the overall aesthetic value of the area, issues which will be addressed by

the proposed project. Furthermore, overflow parking remains available on Highway 1 to accommodate additional vehicle parking, and parking improvements have also been proposed at the nearby Cotoni-Coast Dairies properties, which may alleviate some demand at these areas. Additionally, the improvements to allow ADA compatible paths to the trail would provide access to a full array of user groups, and these improvements cannot be accessed without complementary designated parking. According to open source data, there are no ADA accessible trails between West Cliff Drive in Santa Cruz (the Yellowbank/Panther beach parking lot is 8 miles to the north) and the Cowell-Purisma Coastal Trailhead (which is 33 miles to the north of Davenport). Designated parking for individuals in need of ADA access is proposed at the northern terminus of the trail in Davenport and at the Yellowbank lot where no coastal access currently exists for this user group. The proposed parking areas are distributed throughout the project area consistent with section 30212.5 and will be free to the public, consistent with Section 30213. They will also help provide public access from Highway 1 to the shoreline, consistent with Section 30212.

Although not part of the consistency determination submittal, there is an active proposal to improve access at the Yellowbank parking lot to the Cotoni-Coast Dairies site on the inland side of Highway 1. This proposal, which is still in its early design phase, will likely include an overpass pedestrian crossing that links the two areas. If implemented, this proposal will improve public access opportunities between the trail and Cotoni-Coast Dairies property and may be brought forward through a separate action for future Commission consideration.

Fencing, Gates and Rail Crossings

As proposed, the project would include fencing in select locations (**Exhibit 10**) for trail-user safety and to discourage trespassing into active agricultural fields and sensitive habitats. Fencing would be installed between the trail and agricultural lands at some locations where a natural or geographic barrier does not exist to prevent trail users from exiting the trail and entering agricultural land (**Exhibits 10** and **11**). In many locations, the trail and rail line would be in the existing railway cut, and there is a physical barrier such as a slope and/or dense vegetation where pedestrians and bicyclists would not be able to exit the trail. In areas where a natural physical barrier exists, fencing would not be installed. Fencing may also be installed along the trail edge for safety purposes in areas where there are steep slopes adjacent to the trail.

The fencing would be constructed using posts (4 feet 8 inches in height) and multiple smooth wire strands with 16-inches between the ground and the bottom strand to accommodate wildlife passage. Fencing does not run the length of the trail in order to maximize views and access to the coast. Additionally, only one location not adjacent to farmland, at Major's Creek, will have fencing. Major's Creek is a relatively pristine stream that supports a variety of sensitive species including salmonids and contains suitable habitat for others such as the Western pond turtle. Adjacent to Major's Creek are coastal live oak forests. The purpose of the fencing is not to inhibit access to the

coast in this location, but rather discourage pedestrians from accessing and disturbing the habitat and instead encourage the use of other, informal trails.

Gates are also proposed at eight locations, six of which will prevent both vehicle and pedestrian access and are located where the trail is adjacent to farms. Two are to prevent vehicles from driving onto the trail but allow for pedestrian access (**Exhibit 8**). One gate is proposed on the inland side of the rail line at Shark Fin cove to prevent vehicle access only, although State Parks personnel would be permitted access.

In terms of the Coastal Act policies that require maximization of public access, fencing can often be seen as an impediment to such access, including when it would block existing formal and informal coastal trails to bluffs and/or beaches. Thus, the Commission must carefully scrutinize any such impediments to ensure that they are the minimum necessary to address an actual problem.

In this case, staff worked extensively with the applicant to minimize proposed fencing, rail crossing closures, and gates to the maximum extent feasible. The project only proposes fencing in areas where needed to protect existing agricultural operations (i.e.; to dissuade the public from accessing and disturbing said areas and coming into contact with any applied pesticides), protect natural resources, and where it will not significantly impact access to known trails to beaches or bluffs. Most significantly, the project originally including fencing between the railway and the trail along nearly the entire stretch of the project area, which has been eliminated based on concerns raised by staff. Informal trail access points remain throughout the project corridor length.

Time Closure and Signage

The project proposes that the trail and, separately, the Davenport parking lot, be closed and signed “No Parking” from approximately sunset to 5-8 a.m., as consistent with nearby State Parks. Such timing and closure restrictions are often proposed because of some perceived problem with public parking later at night and/or overnight in terms of noise, public nuisance, inappropriate camping, public safety, and other related issues. In such cases, it is important that the problem be clearly identified and substantiated, and that the response be as focused as possible to address the problem but avoid public access restrictions to the maximum extent feasible.

The closure of the trail was requested under two justifications. First, the closure of the trail as a whole was proposed in order to protect the public from potential exposure to pesticide application from adjacent agricultural areas and to protect agricultural operations from trail users (e.g., trampling of crops or leaving trash in fields). Second, there was a concern raised in the development of this trail over instances of enforcement activity (related to illegal camping, trash, partying) that have taken place near the project area, primarily at Davenport Beach. FHWA included in its consistency

determination a description of such activities that have taken place since 1999 and suggested a closure of the Davenport parking area/trail access from sunset or midnight to 5 or 8 a.m.

Pesticide Application

Throughout the many years that this project was developed, RTC conducted significant public engagement and negotiated with area farmers to understand and propose mitigation for issues related to potential conflicts between agricultural and recreational uses. One result of this was litigation and a subsequent settlement agreement between RTC and farmers in which RTC agreed to pursue a nighttime closure of the trail to allow farmers a specific time to conduct spraying activities without concern for trail users being present.

There are two types of pesticides that are applied to crops: fumigants and non-fumigants. Non-fumigant pesticides are liquid or granular in nature and are moved through the soil by water. For non-fumigant pesticides, the risk of exposure for trail users would result primarily due to dermal skin contact or ingestion. There is little risk of trail users being exposed to these pesticides if they stay on the trail as encouraged by fencing, gates, and signage. However, Because the potential exists for trail users to trespass onto adjacent agricultural property after pesticides have been applied, trails users could become exposed to potentially dangerous chemicals.

Fumigants are broad-spectrum pesticides where the active ingredient moves through the soil as a gas. Fumigants are not taken up by plants or bound by soil, so they do not have a long period of residual pesticidal activity. Fumigants used at agricultural fields in the area have the primary ingredient commonly known as the restricted use chemical, Telone II. This fumigant is primarily used in the growth of conventional brussels sprouts, which generally have required a higher visual standard than certain other crops. According to the 2001 Cotoni-Coast Dairies Long Term Resource Management Plan, fumigants used with conventional brussels sprouts are typically, but not exclusively, applied to the soil in the spring, prior to transplanting, to control nematodes. As described in the RTC's environmental impact report (EIR) for the project, Telone II is applied along the Project corridor during the late spring and early summer with nearly 55 percent of the applications occurring in May and over 88 percent occurring between March and June.

Exposure to pesticides could result in a variety of deleterious health effects. As such, proposed fencing would be intended to limit the direct exposure of trail users to pesticides and other agricultural chemicals by discouraging access to those areas. However, as described above, the primary concern identified from application of pesticides in this area was fumigants. The following excerpt is from the applicant's consistency determination:

The only fumigant currently used in the North Coast area is Telone II (active ingredient 1,3-D⁶), which made up approximately 4.8 percent of the area's pesticide application between 2012 and 2017. Telone II is applied to conventional (non-organic) Brussels sprouts along the Project corridor during the late spring and early summer, a time when the trail is likely to be used most actively. However, Telone II is typically applied during early morning hours that would likely not coincide with peak trail use times.

Application of Telone II is prohibited within 100 feet of any occupied structure, and this buffer must be maintained for seven days following application (Santa Cruz County Agricultural Commissioner 2017). These buffer restrictions do not currently apply to transient uses, like the proposed project. State Parks indicates that existing agricultural operators on State Parks property informally implement a 50-foot application exclusion zone between public trails and pesticide application. Therefore, Telone II application would not likely occur within 50 feet of the trail, but the potential exists for application within 100 feet of the trail. As such, trail users could be exposed to this restricted use⁷ pesticide when on the trail. Risk of exposure to Telone II would increase if trail users enter the adjacent agricultural lands within seven days of Telone II application (whether trespassing or for off-site maintenance, such as litter removal).

For trail users passing by a field that was treated with Telone II, the degree of exposure would be characterized as short-term/acute ambient exposure. A scientific study of 1,3-D did not determine this degree of exposure to be a health risk for adults or children (CalEPA 2015). 1,3-D was determined to pose an exposure risk in instances of nearby, prolonged exposure. The transient nature of contact with 1,3-D for trail users would limit exposure, as trail users would not remain stationary in the most intensive contact zone.

For non-fumigant pesticides, the risk of exposure for trail users and maintenance personnel would result primarily due to dermal skin contact or ingestion which was discussed above...Because the potential exists for trail

⁶ According to the CDC information on 1,3-D (a CA restricted use chemical), the substance is classified as a potential occupational carcinogen. This means that it is a substance to which workplace exposure can cause an increased chance for the development of cancer.
<https://www.cdc.gov/niosh/npg/npgd0199.html>

⁷ According the Santa Cruz County Agricultural Commission regulations, a notice of intent is required at least 24 hours in advance of applying a restricted use pesticide. [NOI Policy and Requirements.pdf \(agdept.com\)](#).

However, NOIs are not currently available for public viewing online, and only contain vague information on locations of pesticide application. [7_AgComm_Report.pdf \(santa-cruz.ca.us\)](#). The county commission noted that most fumigant applications happen in a seasonally compressed time from July to October and often correspond to a unique field rather than to an entire property.

users to trespass onto adjacent agricultural property after pesticides have been applied, trails users could become exposed to potentially dangerous chemicals.

It is acknowledged that in the unlikely event an individual is exposed to pesticide applications, such exposure would be brief and adherence to pesticide handling and application labeling on adjacent agricultural properties would minimize the exposure potential for future trail users. However, the proposed project contains several design and operational features intended to limit the exposure of trail users to pesticides and other agricultural chemicals. These include the installation of fencing between the trail and most active agricultural areas (where natural barriers do not already exist); posting notices at entrances to the trail advising of ongoing agricultural activities; and stating that the trail user agrees to use the trail at his/her own risk. Closing the trail at night would further reduce the potential hazard of pesticide exposure to trail users, particularly to fumigant pesticides.

Risks to public health and the need to protect existing agricultural operations are both important goals, but they should not lead to a limitation on public access unless actually necessary. As noted in the footnote, 1,3-D (the main ingredient in Telone II) is a restricted use chemical that is defined as an occupational carcinogen. Farm workers are directed to wear personal protective equipment to minimize exposure during spray events as they work consistently in this area throughout the brussels sprout growing season. However, trail users would have very minimal exposure to pesticides, as they would be discouraged from entering fields where pesticides may be used due to fencing and signage. As the consistency determination describes, 4.8-foot-tall fencing would be installed between the trail and most active agricultural areas where the highest risk occurs and where natural barriers do not already exist, making it so that trespassing and direct impacts to farmland would be a relatively infrequent occurrence. In addition, actively transiting recreational users would not be spending long quantities of time near any particular agricultural field where pesticides may have been used, and they are protected by various state and federal laws that require pesticides to be applied in a manner that minimizes off-site drift and protects adjacent property and public health. For example, Food and Agriculture Code Section 12972 states that “[t]he use of any pesticide by any person shall be in such a manner as to prevent substantial drift to nontarget areas.” State pesticide regulations also require pesticide applicators to evaluate meteorological and other conditions when applying pesticides and ensure that pesticide applications will not cause a reasonable possibility of contamination of nontarget property or of persons not involved in the application process.⁸

⁸ 3 Cal. Code Regs § 6614.

In addition, as part of its CEQA environmental review process, RTC also analyzed the potential exposure of trail users to Telone II and other pesticides and concluded that exposure would be less than significant with mitigation. One of the mitigation measures it imposed, and that FHWA also refers to as part of the project in its federal Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA), requires the California Department of Parks and Recreation, in consultation with the Department of Pesticide Regulation (DPR), at the time of next renewal or extension of agricultural leases with North Coast farmers along the trail corridor, to revise the current leases to include (i) a prohibition of pesticide application within a distance from the trail corridor sufficient to protect trail users, (ii) consistent with DPR regulations, a requirement that pesticide use occur only at times of the day when public health and safety can be protected, and (iii) a requirement that, when spraying in areas along the trail corridor, agricultural operators place temporary warning signs at reasonable points along the potentially affected portion of the corridor. RTC and FHWA also imposed a measure that requires RTC to establish notification procedures whereby agricultural operators adjacent to the Project alignment notify the Trail Manager at least 24 hours prior to application of pesticides of primary concern within 100 feet of the trail and then the Trail Manager shall place temporary signage on the trail in the vicinity of pesticide application where it is highly visible to trail users. The sign shall indicate the type of pesticide being applied, the duration of application activities, the potential health hazards associated with exposure to the pesticide, and that trail users enter at their own risk.

For the reasons described above, the evidence does not demonstrate that there is a serious enough public health risk to justify closing the entire trail every night of the year, which represents a significant limitation on public access. Notably, it does not appear that other, similar areas close public access trails due to the risk of pesticide application. For example, brussels sprouts, the crop most commonly sprayed with fumigant chemicals in this area, are also found at the adjacent Cotoni-Coast Dairies property, but no closure hours have been proposed on those trails (CD-0005-20). State Parks has indicated that Wilder Ranch State Park is closed from sunset to 8 a.m. and has noted that a farming operation there (Rodini Farms) had concerns over public safety and liability should members of the public accessing the trail be present when pesticide application is occurring. The park General Plan, approved in 1980,⁹ includes notes from the State Parks Commission at that time that support a pesticide buffer, as well as signs to acquaint persons with potential hazards. The plan also states that brussels sprouts fields may be sprayed periodically and that it may be necessary to temporarily close the trails to protect the public from harmful chemicals. State Parks

⁹ The Wilder Ranch General Plan (page 8) makes reference to certain sections of the Coastal Act and states that conformance with those sections should be applied; however, the Commission has never reviewed or approved this plan or determined its consistency with the Coastal Act.

has the authority to manage the use hours at its parks, and closure hours have been determined by precedent for a combination of public safety and hazard reduction for nighttime hours. However, there is not articulated information that describes specifically which park trails have been closed due to pesticide applications or that the park closure hours are related to pesticide spraying, rather than other policy reasons. Rather, the project EIR and EA describe how State Parks has worked to establish informal agreements with farmers to establish buffers between public trails and agricultural lands sufficient to protect trail users, to have farmers time pesticide applications to prevent impacts to the recreating public, and to display temporary signs when spraying within leased areas. These types of measures are the same ones that would be implemented with this project.

Furthermore, pesticide use reports were obtained from the Santa Cruz Agricultural Commissioner for properties abutting the 7.5 mile trail corridor. The records show that pesticide spraying is occurring at all hours of the day, but primarily during the daytime, when the trail is proposed to be open for public use. Specifically, pesticide use records obtained for the pesticide application at Wilder Ranch from February 2015 to May 2021 show that fumigant pesticide application is also occurring at virtually every hour of the day, irrespective of the park's time closures. It therefore does not appear that a nighttime trail closure would provide any public health benefit unless farmers all switched the times during which they spray their fields so that they are spraying at night or in the very early morning hours.

In the course of reviewing the consistency determination, Commission staff also engaged with staff from the state Department of Pesticide Regulation, who stated that 1-3 D is a carcinogen but also pointed out various state laws and regulations that govern the safe application of pesticides, noted that it is common for agricultural operations to operate adjacent to other public and private uses, and noted that they were not aware of areas where adjacent properties needed to be closed due to concerns over pesticide use and drift. Overall, the evidence does not demonstrate that a nighttime trail closure is needed in order to address public health concerns regarding trail users being exposed to pesticides. The analysis and mitigation measures imposed through the EIR and EA process demonstrate that risks to public health will be sufficiently minimized through a variety of measures, and that nighttime trail closures are neither necessary nor likely to be effective in further reducing potential impacts. If later evidence of public health issues arises, FHWA may consult with the Commission about that evidence and could propose targeted trail restrictions at that time, for which appropriate supplemental consistency review would be required.

The trail closures were also proposed in part to address the concerns of farmers regarding trail users trespassing onto agricultural land. However, as stated above, other measures put in place, such as fencing, signage, and a prohibition on having

dogs and horses on the trail (which could trespass onto farmland, eat plants, and leave bodily waste there) should be adequate to mitigate this concern. Pursuant to the Farmer's Agreement between the applicant and the agricultural operators, these signs and fences will be adequately maintained and repaired if they are damaged or defaced, alleviating concerns that signage will not be legible. Given the fact that there are many existing farms operating in and adjacent to state parks and other publicly used areas along this stretch of coast, and that a number of them apply pesticides at all times of day, it does not appear that a year-round, nighttime trail closure—which represents a very significant restriction of public use and access—is warranted in order to protect private property and agricultural operations that are adjacent to the trail. In spite of this, should increased trespassing emerge as a problem resulting directly from the presence of the trail, they should be documented, and FHWA could later propose additional measures to address this issue. Such measures would be subject to appropriate supplemental consistency review. However, at the present, there is not sufficient evidence to conclude that the presence of the trail will increase this problem, and in order to be consistent with the Coastal Act's requirement to maximize public access, it is necessary to impose **Condition 3**, which disallows nighttime or other regular trail closures, though does not disallow temporary closures needed, for example, to make repairs.

Davenport Parking Lot

FHWA also proposes a nighttime closure of the formalized Davenport parking lot. To support this proposed closure, the applicant provided supporting documentation which demonstrates that nighttime activity at Davenport Beach is leading to negative impacts, including nuisance type activities, graffiti, and trash, and that the Supervisor's office, the Sheriff and organizations representing the Town of Davenport and the greater North Coast community support a nighttime closure of this lot. However, these activities have occurred without the improved trail, and there is not evidence that the presence of the improved trail or parking lot would exacerbate the present situation. In fact, it is possible that the proposed improvements may effectively address some of the identified problems, including in terms of formalizing the lot and reducing the number of spaces as well as providing trash receptacles and a restroom.

Moreover, the County previously approved a Coastal Development Permit (and subsequent amendment) restricting overnight parking in the town of Davenport proper. (County CDP #'s 00-0464 and 11-1106). To support that Coastal Permit, the County specifically found that:

“...there is amply unrestricted public parking in close proximity to the adjacent beach and bluff top areas. Consequently, the proposed Parking Permit Area Expansion will not interfere with public access to the beach, ocean, or any nearby body of water, or adjacent bluff top area.”

Thus, eliminating nighttime parking at the Davenport parking lot would make it very difficult, if not impossible, for the general public to access that beach during nighttime hours. The Commission has frequently found that nighttime closures of beaches or beach access areas infringe on the public's right to access the coast and that, unless they are narrowly tailored to address a documented problem and that other nearby parking (such as street parking) remains available, such closures are inconsistent with the Coastal Act's requirement to maximize coastal access.

Accordingly, **Condition 3** states that time closures are not permitted. However, they may be considered at a future time if it is demonstrated that the trail project has resulted in an increase in activities based upon the baseline information that was submitted with this application, or if conditions change or additional evidence demonstrates that targeted closures are necessary to address specific problematic behavior and that other available methods to address that behavior are infeasible. Consideration of any such change in parking hours would be the subject of future Commission review.

Last, regarding Section 30213, there are not currently any visitor costs or fees proposed for the use of the trail facilities. RTC has indicated that it may consider imposing fees through a future action; however, at this time, the proposed project maximizes lower cost public access to the coast and to recreational facilities. Thus, the Commission finds the proposed Trail project, as conditioned, is consistent with Sections 30210-30214 of the Coastal Act.

F. Environmentally Sensitive Habitat, Wetlands and Water Quality

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.

Section 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.

Section 30233 of the Coastal act 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:

- (1) 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.*

Section 30107.5 defines ESHA as:

Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem

and which could be easily disturbed or degraded by human activities and developments.

The proposed trail spans a lengthy section of the rugged Santa Cruz County coast, intersecting a variety of habitats including wetlands, dunes, coastal scrub, and coastal live oak as well as agricultural lands (described in Section F). The primary impact on habitat caused by the trail will be its impacts to wetland habitat in irrigation ditches that are currently in place next to the existing rail line. These ditches, in addition to some spillover from nearby ponds, are considered wetlands under the Coastal Act and also provide valuable habitat for the California Red Legged Frog (CRLF). The following sections address the project's consistency with Sections 30230, 3231, and 30233 of the Coastal Act, which together require that wetlands, marine resources, the biological productivity and quality of coastal waters, and the functional capacity of estuaries be maintained and enhanced.

Habitat

The proposed project intersects fifteen distinct habitats from farmland to dune to wetlands. Agriculture will be discussed in Section G, and the following will describe the impacts to those habitats that are environmentally sensitive. For the purposes of this document and for context of the MMP, temporary impacts are defined as those where there is no significant ground disturbance or killing of native vegetation, and are considered short-term where the vegetation recovers to its pre-disturbance state within 12 months of the initial point of disturbance; long-term temporary impacts are those that may be intermittent or sustained for up to a 24-month period such that vegetation recovery may require more than 12 months from the initial point of disturbance but no more than 12 months from the concluding point of disturbance. Ground disturbance is important to consider from an ecological perspective because it can affect resources and environmental properties such as seed banks, microtopography and superficial microhabitat, animal burrows, soil horizons, root zones, mycorrhizal and bacterial assemblages, and hydrology or drainage patterns. Similarly, it is important for native vegetation to persist rather than be replaced by non-native species or bare ground that then becomes available to competitive non-native species.¹⁰ Keeping this description in mind, the following sections will describe habitats where temporary and/or permanent impacts have been projected to occur.

Coastal Wetlands

The proposed project contains the following impacts to coastal wetlands:

¹⁰ From Coastal Commission internal memorandum: Impact Definitions and Mitigation Framework for Gleason's Beach Highway 1 Realignment. Dated October 8, 2020.

Type	Permanent Impacts	Temporary Impacts
	Acres	Acres
Palustrine Emergent Wetland	0.198	0.071
Arroyo Willow Scrub	2.848	0.582
Arroyo Willow Riparian	0.925	0
Total	3.971	0.653

As noted, this project encounters three types of coastal wetlands. First is Palustrine Emergent Wetlands (PEM). Features of this wetland type include all nontidal wetlands dominated by trees, shrubs, persistent emergents, emergent mosses or lichens, and all such wetlands that occur in tidal areas where salinity due to ocean-derived salts is below 0.5 ppt. Palustrine emergent wetland habitat in this location is considered an ESHA due to the presence of rare species such as the federally listed California red-legged frog, birds and sensitive willow thickets. These wetlands occur predominantly within the rail corridor. In the coastal zone, only one positive wetland indicator (hydrology, hydric soils, hydrophytic plants) is required to identify wetlands. As a result, many of the wetland ditches along the rail corridor lacking evidence of hydric soils but dominated by hydrophytic vegetation or qualifying hydrology qualify as wetlands for purposes of Coastal Act analysis. Emergent wetlands support a unique array of specially adapted native and non-native hydrophytic grasses and forbs, providing habitat for a variety of common and special-status animals. As specifically mentioned, PEM in this area supports numerous avian species as well as California Red Legged Frog (CRLF).

Arroyo willow scrub habitat is regulated under the Coastal Act as a coastal wetland because it is dominated by hydrophytic vegetation and is generally indicative of wetland hydrology. Arroyo willow (*Salix lasiolepis*) scrub consists of areas dominated almost entirely by dense thickets of arroyo willow, with a relatively undeveloped understory of herbs and sub-shrubs. These areas likely developed under historically wet hydrologic conditions, most likely due to persistent runoff from adjacent agricultural irrigation. In the project area, arroyo willow scrub, which is commonly associated with wetland habitat, is located primarily along the steep embankments on either side of the rail corridor, extending north from Scaroni Road to Davenport Beach. Arroyo willow is typically a small- to medium-sized tree or shrub with multiple trunks from the base. Areas supporting this habitat type range from dense, monospecific stands to mixed assemblages of arroyo willow, poison oak, pacific blackberry, stinging nettle, and California bee plant.

Arroyo willow riparian habitat is the third type of wetland that will be described in this section. Tree-sized arroyo willow dominates this riparian forest habitat type. Shining willow (*Salix lucida* ssp. *lasiandra*), alder (*Alnus* sp.), and American dogwood (*Cornus sericea* ssp. *sericea*) are commonly associated riparian trees. Shining willow groves are also designated as state sensitive and thus would also meet the criteria for ESHA. This vegetation type is typically dense and often impenetrable. The native woody vine Pacific blackberry is abundant and often very dense in the understory. The invasive, nonnative vine cape-ivy (*Delairea odorata*) is also prevalent. Few other understory species occur except in relatively open areas. Dense thickets of poison oak (*Toxicodendron diversilobum*) are localized in openings.

Along the streams that intersect the trail alignment, the riparian vegetation is ecologically rich and supports a suite of wildlife species, including insects, amphibians, birds and mammals. Sierran treefrog (*Pseudacris sierra*) and federally listed California red-legged frog (CRLF; *Rana draytonii*) are known to occur in these habitats, as well as other amphibian species such as salamanders and newts. Riparian habitats provide a dense multi-tiered canopy with diverse foraging, roosting, sheltering, and/or nesting habitat for birds and are important stopover sites for migratory bird species. The riparian vegetation also buffers adjacent aquatic habitats contributing shade, food, and sources of nutrients to the gulches, creeks, and lagoon and aquatic wildlife species.

To mitigate for impacts to wetlands, FHWA has proposed to restore two habitat sites on State Park lands shown in **Exhibits 3** and **4**, including specific restoration design elements that provide habitat for CRLF. Currently, the draft mitigation plan lacks sufficient acreage to mitigate for impacts to Arroyo willow scrub habitat at the ratio described in **Condition 1**. However, FHWA is engaged in continued conversations with State Parks and other agencies to increase the area of suitable restoration sites, which they believe is feasible, but may require some flexibility in terms of restoration locations and has committed to submitting their final restoration plan in accordance with **Condition 1**.

Dunes

Near the Bonny Doon parking lot (**Exhibit 5**), the proposed trail alignment passes directly through perched coastal dune habitat. The Commission has consistently identified coastal dunes as ESHA on the basis of their rarity and sensitivity to human disturbance.¹¹ FHWA has proposed to avoid the vegetated dune habitat to the greatest extent practicable. Initially, the trail alignment for this area would have placed the trail on the bluff through the vegetated dune by constructing a boardwalk as opposed to a paved trail. However, it was determined that placing the trail adjacent to the rail cut

¹¹ Some examples of this include CDP 3-14-1613 (Fort Ord Dunes State Park in Monterey Co.), CDP A-3-MCO-17-0068 (Monterrey Bay Aquarium Research Institute in Monterey Co.), CDP 3-17-0734-W (Asilomar Dunes trail realignment in Monterey Co.), CDP 3-01- 101 (Del Monte Beach re-subdivision in Monterey Co.); 3-01-003 (Grover Beach Boardwalk in San Luis Obispo Co.); and CDP 2-20-0018 (Dillon Beach resort in Marin Co.).

would further reduce impacts to vegetated dune habitat by 0.081 acres. The total impact to dunes in this project is 0.253 acres. The Commission has not distinguished between vegetated and unvegetated dunes when considering appropriate mitigation strategy, however, and they have been combined in total acreages for accuracy in determining total impact and mitigation values. To mitigate for these impacts, FHWA has proposed to conduct dune habitat enhancement at a 6:1 mitigation ratio and has currently identified 0.9 acres of enhancement sites at State Parks/Santa Cruz County Beaches, which are both beach-associated and at perched dune systems adjacent to the trail. FHWA has committed to finding additional enhancement sites to fulfill the remaining mitigation acreage requirements for their final MMP and will adhere to the requirements found in **Condition 1**.

Coastal Scrub and Coast Live Oak

There are 4.619 acres of projected permanent impacts (and 1.574 temporary) to coastal scrub and 0.417 acres of permanent impacts to coast live oak forests. The coastal scrub community makes up less than 10% of the vegetation in the project area: it is heavily dominated by poison oak and coyote brush. In many areas, the poison oak and blackberry communities are so dense that they create an impermeable wall. In areas that are not dominated by these species, coastal sage scrub (*Artemisia californica*), coyote brush, lizard tail (*Eriophyllum staechadifolium*), and bush lupine (*Lupinus arboreus*) are also found. While not all coastal scrub necessarily qualifies as ESHA, many vegetation community associations falling under this broader descriptor do, including several characterized by species named here. In the absence of more detailed vegetation community mapping, we assume all coastal scrub that would be impacted is ESHA.

Coast live oak (*Quercus agrifolia*) stands do not make up a significant portion of the vegetation community in the project corridor. However, there are mature woodlands located along the trail alignment in two notable locations: on the coastal side of the tracks near the south terminus of Sarconi Road in a steep embankment above the lower extent of Majors Creek, and on the steep embankments immediately northwest of the freshwater marsh and lagoon at Laguna Creek. Coast live oaks are a foundation species that form the basis for complex habitat that supports a wide array of species and functions, including unusually high levels of biodiversity relative to other terrestrial ecosystems, particularly for insects, birds and bats; creation of microclimates within the broader landscape mosaic; provision of food sources including acorns, oak-dependent fungi, lichens, parasites, and galls; corridors for wildlife dispersal; erosion control; fire resilience; enhanced soil productivity; promotion of groundwater storage; and carbon sequestration. Biologists observed numerous dusky footed wood-rat nest houses along the alignment in the oak woodland as well (and discussed below). Because of its

special nature¹² and many roles in supporting a broader ecology, coast live oak habitat is especially valuable habitat and therefore also considered ESHA as described in section 30107.5. Impacts to coast live oak habitat are proposed to be mitigated in areas throughout the project consistent with **Exhibit 4**, and mitigation will adhere to the measures outlined in **Condition 1**.

Species

In addition to the habitats described above, the project has the potential to impact several protected species, either directly or indirectly. As such, the FHWA initiated a consultation with the USFWS under Section 7 of the ESA in February of 2021 for the California Red Legged Frog, San Francisco garter snake, and for appropriate mitigation measures for dusky-footed woodrats. Furthermore, FHWA consulted with the National Marine Fisheries service to consult on impacts to CCC Coho and Steelhead that may result from impacts to water quality from project activities.

California Red Legged Frog (*Rana draytonii*)

California Red Legged Frog (CRLF) are the largest native frog in the Western United States. The CRLF typically lives in and near sheltered backwaters of ponds, marshes, springs, streams, and reservoirs. Deep pools with dense stands of overhanging willows and an intermixed fringe of cattails are considered optimal habitat. Eggs, larvae, transformed juveniles, and adults also have been found in ephemeral creeks and drainages and in ponds that do not have riparian vegetation. This includes drainage ponds that are currently present on the edges of the rail tracks. Although irrigation ditches with consistent runoff (including pesticides) are considered poor habitat, CRLF have been repeatedly documented in them. There are 17 recorded occurrences within one mile of the proposed trail location. Five were within aquatic habitats directly adjacent to the rail tracks. Consistent with documented occurrences, an estimated 0.33 acres of aquatic habitat would be permanently impacted, and 0.19 acres temporarily impacted, 3.83 acres of upland habitat would be permanently impacted, and 0.9476 acres temporarily impacted, and 10.95 acres of dispersal habitat would be permanently impacted, and 3.07 acres would be temporarily impacted. Each of these habitat types support different life functions of the species and may be associated with different vegetation communities. All impacts would occur within the species' federally designated critical habitat - a map of the SCZ-1 critical habitat for CRLF can be found in **Exhibit 6**. The agency's proposed mitigation measure to address impacts to the CRLF are included in **Exhibits 2** and **4** and includes biannual monitoring to ensure re-population and use by the species.

¹² The [Santa Cruz County LCP](#) identifies live oak woodlands as sensitive habitat but also generally authorizes tree removal and gives the decision-making body the discretion to authorize replacement and mitigation. As a federal consistency matter, the LCP does not serve as the standard of review, though can be referred to for background. Based on the overall health of the sensitive species in live oak woodlands in the project area, applicant proposed mitigation measures to minimize impacts to these species (i.e., raptors and dusky-footed woodrats), a 3:1 mitigation ratio is appropriate for this project.

Much of the impacted habitat for CRLF has been proposed to be mitigated through restoration of wetland areas and upland vegetation communities already recognized as ESHA, but some areas used for CRLF dispersal that are not would be lost to the project footprint. These otherwise non-ESHA areas include 0.68 acres of annual grasslands, 2.32 acres of fallow and active agricultural lands, and 3.33 acres of ruderal vegetation that remain important to the persistence of local CRLF populations. The loss of these areas totaling 6.33 acres, will be compensated for at a reduced mitigation ratio of 0.5:1 (or 3.165 acres) in the form of habitat preservation, which is comparable to past treatment of raptor foraging habitat that would not otherwise be recognized as ESHA. Using the compensatory mitigation framework outlined in **Condition 1**, which has also been used in other recent Commission decisions such as the Gleason's beach Highway 1 realignment (CDP 2-20-0282) and Toro Creek Bridge replacement (CDP 3-19-1199), the 3.165 acres of preservation could alternatively be satisfied by either 2.11 acres of habitat enhancement or 1.055 acres of habitat restoration in any of the habitat types CRLF relies upon. Total compensatory mitigation amounts will be reflected in the final MMP consistent with **Condition 1**.

San Francisco Garter Snake (*Thamnophis sirtalis tetrataenia*)

The San Francisco garter snakes' preferred habitat is densely vegetated ponds near an open hillside where they can sun themselves, feed, and find cover in rodent burrows; however, considerably less ideal habitats can be successfully occupied. Temporary ponds and other seasonal freshwater bodies are also used. The snakes avoid brackish marsh areas because their preferred prey (California red-legged frogs) cannot survive in saline water. San Francisco garter snakes are federally endangered; however, no critical habitat has been designated for the species, nor have they been directly or indirectly observed at any location within the project area.

In addition to the CRLF and the San Francisco garter snake, there are a number of state-listed plants and animals that have suitable habitat within the project area or may be impacted by project activities. However, no species of special status bird, plant, other reptile or mammal were observed within the project area during field surveys for the proposed project.

California Central Coast (CCC) Coho and Steelhead

FHWA initiated a consultation (concurrence received in March 2020) with the National Marine Fisheries Service (NMFS) regarding impacts to essential fish habitat for CCC Coho salmon (endangered) and CCC steelhead (threatened). Both species have critical habitat and the potential to occur in creeks adjacent to the project area (**Exhibits 6 and 7**). The species are sensitive to even minor pulses of turbidity, which can cause them to disperse from established territory, which in turn may result in a displacement to less suitable habitat and/or increase competition and predation, decreasing survival as a result.

The project area as defined includes adjacent areas to the trail 300 feet down-gradient of the active work and staging sites to account for potential indirect, water quality effects resulting from construction activities. NMFS anticipates these activities may affect water quality and critical habitat in the action area in the form of small, short-term increases in turbidity during higher flow events during the first winter storms post-construction. To minimize impacts to aquatic habitats, all construction activities will occur on terrestrial land buffered from nearby streams that flow under the trail alignment through bridges or culverts. Several feet of elevation and dense vegetation separate the trail alignment and intermittent or perennial streams. There will be no work below the ordinary high-water mark and no construction activities will take place adjacent to streams between November 1 and May 1 as an additional precaution to avoid impacts to adult and juvenile migration. Furthermore, there are no known spawning grounds in the action area so sediment deposition is not expected to harm redds or alevins. To minimize mobilization of sediment, erosion control mitigation measures will be used (**Exhibit 2**). Based on the distance between construction activities and critical habitat, the work window, and the mitigation measures implemented, NMFS expects turbidity effects will be insignificant to ESA-listed salmonids and critical habitat.

Other

In addition to the species described above, the project area supports the following special status species:

- Marbled murrelet (*Brachyramphus marmoratus*): Federally threatened
- Tidewater goby (*Eucyclogobius newberryi*): Federally endangered
- Western pond turtle (*Emys marmorata*): State species of special concern
- Northern harrier (*Circus cyaneus*): State species of special concern
- San Francisco dusky-footed woodrat (*Neotoma fuscipes*): State species of special concern

Furthermore, the following species have the potential to occur within the project area:

- Townsend's big-eared bat (*Corynorhinus townsendii*) – State species of special concern
- White-tailed kite (*Elanus leucurus*): State fully protected
- Golden eagle (*Aquila chrysaetos*): State fully protected
- Tricolored blackbird (*Agelaius tricolor*): State species of special concern
- Bank swallow (*Riparia riparia*): State threatened
- American peregrine falcon (*Falco peregrinus anatum*): State fully protected

Analysis of Consistency with ESHA Policy

Section 30240 only allows resource dependent uses in ESHA and requires that ESHA areas shall be protected against any significant disruption of habitat values. The trail

will be constructed through some areas of upland ESHA and through some wetlands that may qualify as ESHA. Pursuant to caselaw, the Commission generally analyzes consistency of projects that fill wetland ESHA under the more specific provisions of Section 30233, rather than the more general provisions of 30240. That wetland analysis is below, and this section analyses consistency with Section 30240 for impacts to other ESHA.

As a resource dependent use, a nature trail is an allowed use within ESHA consistent with Section 30240 of the Coastal Act.¹³ The project will bring the public to the coast and through natural areas where they will get to experience the important habitats of this section of the coast. The project also includes interpretive signage that will describe various habitats and species. The project is thus consistent with this prong of Section 30240.

The project also will not cause a significant disruption of habitat values of ESHA. Because the new trail would be constructed to closely match the existing alignment of the railroad, a majority of impacts occur in landscaped/developed, ruderal, and agriculture (active and fallow) lands, thereby minimizing direct impacts to habitat. The project also includes various measures to minimize impacts. For example, dogs and horses, which can have impacts on wildlife and habitat by harassing wildlife and eating vegetation, will not be permitted on the trail. Construction of the proposed project also will not occur in streams where federally listed species occur. Construction of the trail and associated improvements would include riparian vegetation removal and soil and sediment disturbance; however, due to the large distance between construction activities and intermittent or perennial streams where coho or steelhead may occur, the dense existing riparian vegetation surrounding the streams, and project avoidance and minimization measures, effects on streams and associated habitat will be minimal and

¹³ The following is a non-comprehensive list of some of the projects the Commission has approved that include trail development through ESHA. The trails in these projects include paved and unpaved trails and boardwalks. Some provide pedestrian-only access, while others allow multi-use access, including bicycles and wheelchair access: CDP 2-07-018 (Sonoma County Regional Parks – multi-use path consisting of crushed rock, located in coastal scrub habitat containing sensitive plant species); CDP 3-01-101 (Del Monte Beach re-subdivision – boardwalk through dune habitat); 3-01-003 (Grover Beach Boardwalk – boardwalk through dune habitat); CDP 3-87- 258 (Asilomar State Beach Boardwalk – boardwalk through dune habitat); CDP A-3-SLO-04-035 (PG&E Spent Fuel Storage – unpaved paths through coastal terrace prairie habitat); CDP 3-05-071 (Morro Bay Harborwalk – paved road and paved trail through dune habitat); CDP A-1-MEN-06-052 (Redwood Coast Public Access Improvements – unpaved paths through rare plant habitat and riparian habitat); 80-P-046-A1 (Humboldt County Public Works Subdivision – compacted gravel trail through riparian habitat); CDP 3- 00-092 (Monterey Dune Recreation Trail and Parking Lot – paved multiuse path through dune habitat); CDP 1-07-005 (Crescent City Harbor Trail North Segment – Class I and Class III multiuse trails involving some wetland fill); CDP 3-97-062 (Sand City bike path – paved path through dune habitat); CDP 3-06-069 (Fort Ord Dunes State Park Improvements – unpaved path through dune habitat); CDPs 3-98-095 and 3-98-095-A1 (Elfin Forest Boardwalk – boardwalk through terrestrial habitat ESHA); CDP 6-06-043 (Otay River Valley Regional Park trails – decomposed granite trails through coastal sage scrub and wetland habitat).

the project will not cause significant disruption of those areas. The utilization of a Stormwater Pollution Prevention Plan and associated stormwater BMPs, would protect freshwater, estuarine, and marine communities from the erosion and sediment potential that exists from vegetation removal and ground-disturbing activities

Regarding impacts to other ESHA as described above, the project corridor spans a narrow length of land that is parallel to and immediately adjoins the rail. Although impacts are not negligible (and have been quantified and are reflected in the proposed compensatory mitigation and monitoring plan), the impacts to habitat are minimized and localized to discrete locations. For example, where coast live oak is encountered along the project alignment, such as at Major's or Laguna Creek, removal of mature trees will be avoided during the construction phase, and limbing will occur only where necessary to minimize impacts to roosting bats or birds (and to maintain protective canopy). Where unavoidable, dusky-footed woodrat houses would be carefully relocated nearby following a Woodrat Relocation Plan, ensuring placement in appropriate microhabitat with subsequent monitoring and reporting. The project also contains long-term protective measures such as fencing at stream crossings to discourage access to sensitive habitat as well as interpretive education signs. Similarly, dunes are found at only one location along the trail alignment near Bonny Doon. Alternatives such as a boardwalk were examined that would potentially minimize dune impacts, however, placing the trail adjacent to the rail cut further minimized impacts to vegetated dunes, which provide potential nesting and foraging habitats for small birds, mammals and insects.

A full list of the proposed mitigation measures that protect and minimize impacts to sensitive species and habitat is included as **Exhibit 2**. Broadly, these measures require construction staging to take place outside of sensitive habitats, breeding bird surveys, avoidance of inhabited vegetation and trees, avoiding construction activities during nesting or roosting seasons, and measures to preserve habitats of woodrats.

As mentioned in previous sections regarding habitat, FHWA is working to prepare a project-specific mitigation plan to compensate for direct and indirect impacts to sensitive habitats. The final MMP will be submitted to USFWS, CDFW, CCC, and California State Parks for review as outlined in **Condition 1**. Currently the mitigation plan is in draft form, identifies some key opportunities that will be pursued, and commits to locate additional areas of live oak habitat, arroyo willow scrub, and dune sites for restoration and enhancement. Final impact amounts may be adjusted when construction has been completed and estimated impacts have been validated.

Currently, the mitigation plan incorporates the following elements:

FHWA has proposed to conduct mitigation at two sites located on the project corridor on the coastal side of the Yellowbank/Panther parking lot (**Exhibit 3**). The sites are a recently fallowed agricultural field with approximately 16 acres of available land for

restoration. As proposed, mitigation at site #1 will result in 1 acre of PEM wetland and 1 acre of arroyo willow scrub habitat. At the adjacent fallow field on site #2, 13.5 acres will be planted with coastal scrub species and 0.5 acres of arroyo willow scrub where conditions are suitable. These sites will be designed so as to also provide suitable habitats (aquatic, upland, and dispersal) for CRLF. Additionally, there are 5.12 acres along the project corridor that will be restored to native species through seeding with a mixture of coastal scrub and shrub plant species. FHWA proposes to restore coast live oak woodlands on CA State Parks property adjacent to the project corridor at a ratio of 3:1 that will result in 0.724 acres. Additional coast oak forest to be enhanced through treatment of non-natives and invasive species will be identified in coordination with CA State Parks technical specialists.

To mitigate for permanent impacts to dune habitat FHWA proposes to reduce non-native plant species within 0.92 acres of dune habitat within CA State Parks or Santa Cruz County property adjacent to the project corridor (at either Bonny Doon or Davenport Beach). This will provide enhancement to coastal dunes at a 6:1 ratio. The invasive plant, iceplant (*Carpobrotus edulis*), Cal-IPC “high” rank, will be a high priority for removal.

All wetland and ESHA mitigation sites will be monitored for at least five years. Interim and final success criteria will be empirically-based and include species diversity, native and non-native vegetation cover, dominant vegetation species, hydrology, and wildlife support functions specific to each habitat type and will be defined and approved in the final MMP. Success criteria will be based on reference sites or published technical literature, and will be statistically evaluated according to assessment methods as approved in the final MMP. Wetland indicators for hydrology, hydric soils, and hydrophytic vegetation will be used to evaluate the wetland mitigation success 5 years following their construction. Additionally, monitoring for visual presence of CRLF will be conducted two times each year during the winter dispersal and breeding months to confirm use of the restored habitats by frogs. Success criteria and monitoring requirements will be consistent with **Condition 1** and the final MMP including these criteria will be approved by CCC.

The Commission therefore finds activities proposed adjacent to ESHA would be undertaken in a manner that would be compatible with the continuance of those habitats. In areas where habitat impacts are unavoidable, the project will incorporate compensatory mitigation strategies and acreages that are consistent with the overall framework and habitat types as described in **Condition 1**. The Commission therefore concludes that the trail project would be consistent with Sections 30231 and 30240 of the Coastal Act.

Wetlands

As described above, the proposed project involves filling some wetland areas (e.g., agricultural drainage ditches and seepage from nearby ponds) alongside the railroad

tracks in order to create the trail. The project therefore triggers the three-part test of Section 30233(a): (1) the fill must be for one of the seven enumerated allowable uses; (2) the project must be the least environmentally damaging feasible alternative; and (3) the project must include feasible mitigation measures to minimize adverse environmental impacts.

Regarding the first test, the Commission has considered the development of new recreational trail segments through wetlands and other environmentally sensitive resource areas to be a form of “nature study... or similar resource dependent activities” if designed to minimize such intrusions to the smallest feasible area or least impacting routes, and where the trail segment functions as a nature trail.¹⁴ By providing venues for incidental exploration of the physical and biological world, trails in natural settings generally are recognized as one of the best ways to ensure continued public support for protecting environmentally significant natural areas. This perspective is at the core of the many public outreach and grant-funding efforts undertaken by natural resource conservation-oriented public agencies and other organizations, from the Coastal Conservancy to many of the numerous land trusts involved in public access acquisition and development. Regardless of their age, people in general are more likely to develop a stewardship ethic toward the natural environment if they are educated about the importance of the overall ecosystem, especially if provided the opportunity to experience the physical, mental, and spiritual benefits of these areas first-hand. Providing for the development of trails through natural areas, including along the outer fringes of wetlands, can be an ideal setting for such activities, as they offer a safe, convenient and unique perspective of the rich and diverse biological resources associated with watercourses, estuaries, and the natural coastline. In this case, as described in the consistency determination, the “project purpose is to provide an accessible bicycle/pedestrian path for active transportation, recreation, *and environmental and cultural education* along the existing rail corridor between Wilder Ranch State Park and Davenport, CA...” The consistency determination also describes how this purpose would be carried out: “Informational and educational signage would be placed at strategic locations along the trail and in the parking lots (e.g., near trail access points and crossings). In accordance with the MBSST Network Master Plan (RTC 2014), the exhibits would include information about the Monterey Bay National Marine Sanctuary, Natural Bridges State Marine Reserve, coastal resources and sensitive species (e.g., California red-legged frog).”

Thus, the proposed development within coastal wetlands is a form of “nature study... or similar resource-dependent activities,” as it is: (1) a development type integral to the appreciation and comprehension of biophysical elements that comprise wetland areas; and (2) dependent upon the presence of the natural area resource through which the

¹⁴ E.g., see findings for LCP Amendment Nos. STB-MAJ-3-02 (Toro Canyon Planning Area) and HUM-MAJ-1-03 (Riparian Corridor Trails); and CDP Nos. 3-11-074 (City of Santa Cruz, Arana Gulch Master Plan), 1-11-037 (City of Eureka, Elk River Access Area/Hikshari' Trail Project), 1-15-2054 (City of Eureka, Coastal Trail Project), 1-17-0926 (City of Eureka extension of Coastal Trail), and 1-16-0122 (City of Arcata, Bay Trail North Project).

trails pass to provide a nature study experience. As such, the Commission finds that the proposed wetland fill is inherently for the purpose of nature study, a use consistent with Section 30233(a) of the Coastal Act.

Regarding the second test, the project is the least damaging feasible alternative with regard to wetland impacts. As described in the consistency determination and project Final Environmental Impact Report (FEIR), FHWA analyzed a variety of project alternatives, including “Alternative 1,” which would involve removing the rail line and constructing a trail on the old rail bed; and the “Farmers’ Alternative,” which would replace the rail tracks with the trail in the northern portion of the alignment and put the trail along Highway 1 in most of the southern portion. Both alternatives would result in substantially greater impacts to palustrine emergent wetlands than the proposed project, though would have less impacts to arroyo willow scrub and arroyo willow riparian wetlands. Overall, Alternative 1 would have greater impacts to wetlands and the Farmers Alternative would have equivalent impacts to wetlands as compared to the proposed project. Given that neither alternative would have fewer wetland impacts, they do not qualify as less environmentally damaging, feasible alternatives.

Regarding the third test, the project includes feasible mitigation measures that address its impacts to wetlands, as described in the above section on habitat issues. These include biological monitoring and surveys, minimizing construction activities in and around sensitive habitat, preparation of a spill response and stormwater runoff plan, and implementation of a mitigation plan for habitat impacts per **Condition 1**. Therefore, having satisfied each of the three tests, the Commission finds that the project, as conditioned, is consistent with Section 30233.

F. Agriculture

Sections 30241 of the Coastal Act states in part:

The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas’ agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:

- (a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*
- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable*

neighborhood and contribute to the establishment of a stable limit to urban development.

(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to 47 prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Sections 30242 of the Coastal Act states:

All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.

Agricultural Use Within the Project Area

As discussed, the 7.5-mile-long project corridor extends along the Santa Cruz Branch Rail Line corridor, from the Wilder Ranch State Park parking lot and existing trails on the south to the Davenport Beach parking lot on the north. The trail alignment runs adjacent to agricultural land for approximately 4.7 miles of the 7.5-mile length of the trail, or approximately 62.7 percent of the alignment (**Exhibit 11**). Crops produced along the alignment include pumpkins, berries, kiwis, artichokes, broccoli, cauliflower, peas, brussels sprouts, celery, beets, leeks, citrus, radicchio, herbs and edible flowers (Swanton Berry Farm 2018; Jacobs Farm 2018; Rodoni Farms 2015). Farming occurs primarily on State Parks land under agricultural ground leases between the Department of Parks and Recreation and agricultural operators. Some farming also occurs within the RTC-owned rail corridor right-of-way (ROW) without agreement between the RTC and agricultural operators.

The project as described would include land clearing, grading, and construction of a 7.5-mile multi-use trail made up of a 12-foot wide paved path with a parallel unpaved shoulder. According to the project EIR, these improvements would directly convert 7.0 to 7.6 acres of "Important Farmland," including 2 to 2.6 acres of Prime Farmland, to a

non-agricultural use.¹⁵ That said, because of the linear nature of the project, the areas designated as Important Farmland are non-contiguous and widely dispersed along a 7.5-mile corridor. Thus, the areas that would actually be converted fall within several agricultural operations and are subject to separate agricultural ground leases between the Department of Parks and Recreation and agricultural operators. Specifically, the Important Farmland *that is actively farmed*, totaling 1.4 to 1.5 acres, is spread over five different parcels and RTC-owned public ROW. Approximately two thirds of this land is within RTC-owned ROW, with the remaining 0.5 acre dispersed among five different parcels. The most actively farmed land that would be converted on any single parcel is 0.3 acres. Conversion of any single area of Important Farmland along this corridor would be insubstantial. Moreover, the adopted EIR requires mitigation for impacts to this farmland.

Prime Agricultural Lands Within the Project Area

Coastal Act section 30113 defines “prime agricultural land” through incorporation by reference of paragraphs (1) through (4) of Section 51201(c) of the California Government Code: Prime agricultural land entails land with any of the following characteristics: (1) a rating as class I or class II in the Natural Resource Conservation Service land use capability classifications; or (2) a rating 80 through 100 in the Storie Index Rating; or (3) the ability to support livestock used for the production of food and fiber with an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture; or (4) the ability to normally yield in a commercial bearing period on an annual basis not less than two hundred dollars (\$200) per acre of unprocessed agricultural plant production of fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years

Conversion of Agricultural Lands

Section 30241 cited above applies to prime agricultural land and to all agricultural lands on the periphery of an urban area. The trail project as proposed is not on the periphery of an urban area, but, as noted above, it retains a small area of mapped prime agricultural land.¹⁶ This area is proposed to be used in part for construction staging and ultimately for a combination of public access improvements (parking access, restrooms and other trail amenities) and, in one area, a fallowed field is being used for habitat restoration (as described in the draft mitigation and monitoring plan, and outlined through **Condition 1**). Therefore, the Commission must review the proposed conversion of the agricultural land for the project, including the habitat

¹⁵ “Important Farmland” includes those areas designated as Prime Farmland, Farmland of Statewide Importance, or Unique Farmland under the Farmland Mapping and Monitoring Program administered by the California Department of Conservation.

¹⁶ A map of the agricultural lands within the proposed trail alignment (northern reach) can be seen on page three of the [MBSST Master plan, section 4.2](#).

restoration component, for consistency with the requirements of Section 30241. The Commission also must review the proposed conversion of the non-prime agricultural lands within the project area under Section 30242. This section protects lands suitable for agricultural use that are not prime agricultural lands or agricultural lands on the periphery of urban areas from conversion to non-agricultural use unless continued agricultural use is not feasible, or such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250 of the Coastal Act.

Permissible Conversion of Prime Agricultural Land

As cited above, Section 30241 enumerates a series of measures to be undertaken to maintain the maximum amount of prime agricultural land in agricultural production and minimize conflicts between agricultural lands and urban uses. The Commission finds that for the reasons discussed below, the proposed conversion of the prime agricultural lands to the habitat restoration/public access uses is a permissible conversion consistent with Section 30241. As the subject site is not on the periphery of an urban area or surrounded by urban uses, provisions (a), (b), and (c) of Section 30241 are not applicable. In terms of the requirement of Section 30241, that the “maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas’ agricultural economy, and conflicts shall be minimized between agricultural and urban land uses,” the proposed project minimizes conversion of prime agricultural land as discussed above, while still allowing for the project, and beyond that requires that any conversion be mitigated for either through in kind mitigation on a 1:1 basis, or through an in lieu fee requiring the future deed restriction or purchase of a minimum 1.4 acres of designated Farmland Mapping and Monitoring Program (FMPP) lands in Santa Cruz County. The project also includes numerous aspects and mitigation measures, such as installation of fencing and signage to protect existing agricultural operations, that will help ensure that the farmland can remain in production and support the local agricultural economy.

With regard to section 30241(d), the proposed conversion of agricultural lands will occur primarily on lands within the RTC owned ROW but is spread throughout the length of the trail corridor. Additionally, the proposed conversion of the lands designated and zoned for agricultural use at the site for habitat restoration purposes and public access primarily involve lands that are no longer used or suited for agriculture, consistent with section 30241(d). For example, despite the FMMP-Important Farmland designation, the areas that would be converted to nonagricultural use are within an existing rail corridor and portions of the areas contain existing rail facilities, infrastructure, or agricultural access roads, and are therefore unlikely to be cultivated in the near future. Even the approximately 1.5 acres that actually are under current production might not be feasibly farmed in the future, as some of this land is within RTC-owned ROW and being farmed without a formal agreement by the RTC. With regard to section 30241(e), the proposed habitat restoration and public access

project will not increase assessment costs or degrade air and water quality. There is no indication that proposed development will be financed through assessments against the adjoining agricultural properties. In addition, the proposed conversion of agricultural land will not result in emissions that would degrade air quality, and, as discussed in the applicant's proposed mitigation measures and Section F of this report, the development has been designed and conditioned so as not to degrade water quality. Thus, the project will not result in air and water quality impacts. Therefore, the proposed nonagricultural development will not impair the agricultural viability of surrounding agricultural lands consistent with section 30241(e). With regard to section 30241(f), the proposed project will neither cause a division of prime agricultural land, nor will the proposed development adjacent to such land diminish the productivity of the land. As stated above, it will not cause air or water quality impacts, and as discussed in the public access findings, there are numerous measures in place to ensure that trail users do not trespass or otherwise impair the productivity or viability of the agricultural operations. In addition, the project will not convert a significant portion of any farming operation: the largest conversion of a single parcel of land spans only .3 acres and totals approximately .5 acres throughout the project corridor.

Permissible Conversion of Other Land Suitable for Agricultural Use

Section 30242 limits the conversion of lands that are not prime or agricultural lands on the periphery of urban areas to non-agricultural uses. As discussed, this project is not on the periphery of an urban area.

Section 30242(2) permits conversion of agriculture lands if doing so would preserve prime agricultural land or concentrate development (consistent with Section 30250) and requires that "permitted conversion shall be compatible with continued agricultural use on surrounding lands." As described in the public access section of this report, the agricultural use of adjacent and nearby lands is effectively buffered from the current and proposed project through a variety of measures, including the incorporation of gates and fences that discourage public access to nearby farmland. This action is designed to prevent unauthorized access to farmlands and minimize trampling and damaging of crops, thereby continuing and improving the existing use as required by Section 30242(2). As described above in reference to prime agricultural lands, the project will also preserve such land. Further, the project will help concentrate visitor-serving amenities along an existing rail corridor and at selected points of attraction for visitors, consistent with Section 30250. The majority of the approximately 7 acres of impacted farmland are also not now under production, and are unlikely to be cultivated in the near future, as they are within an existing rail corridor and portions of the areas contain existing rail facilities, infrastructure, or agricultural access roads. Therefore, the Commission finds that, as continued or renewed agricultural use is not feasible on much of the impacted farmland, the project would preserve prime farmland and concentrate development at selected points of attraction, and because the conversion

is compatible with continued agricultural use on surrounding lands, the proposed conversion is consistent with Section 30242.

G. Scenic and 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 landforms, 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 project is located in unincorporated northern Santa Cruz County along the Pacific Ocean coastline. The trail alignment runs along the rural coastal plain that extends northward from the City of Santa Cruz (Santa Cruz Co.) to the City of Half Moon Bay (San Mateo Co.). The setting of the proposed project is characterized by agricultural fields, natural open space, and small unincorporated communities interspersed on Highway 1. These features are backed by dramatic views of the Pacific Ocean to the southwest and forested ridgelines to the northeast. At several portions of the trail, there are existing informal parking lots that will be altered, which will contribute to changes to the current aesthetics of the corridor. Additionally, there will be fences installed in certain locations alongside the trail to deter access to agricultural property from the proposed project. The location of proposed fencing is included in **Exhibit 10**. These modifications are fully described in Section E.

Once constructed and in use, the proposed parking lot improvements, trail, and slope stabilization would somewhat alter the visual character of the project area. The existing unpaved parking areas at Davenport Beach and Panther/Yellowbank Beach would be paved and include new trash/recycling containers, bike racks, benches, access paths to the proposed trail, and restroom facilities in prefabricated structures. The asphalt pavement and restroom buildings in particular would change the visual character from unpaved, informal/rustic parking areas to more formal lots with less rural character. These changes would be visible to users of the parking lots, motorists on the adjacent Highway 1, and residents, workers, and visitors in Davenport. However, parking lot improvements would not substantially affect existing scenic views of coastal resources from Highway 1 at either location because new restroom facilities would minimally obstruct existing ocean views as they would be placed on the outside of the parking area. The trail itself, situated on the coastal side of the rails provides the unobstructed coastal views that are to be protected per Section 30251.

With respect to the Davenport lot area, a portion of the lot is subject to an existing permit (A-3-SCO-98-101) that requires that the property be maintained as informal parking. In the decision that accompanied this permit, the findings describe the following setting at the site of the proposed parking area:

The north Santa Cruz coast area represents the grandeur of a bygone (in many places) agrarian wilderness California and is a critical public viewshed for which the LCP dictates maximum protection. Davenport itself is a widely renowned whale watching and visitor destination that has been recognized within the LCP for its special community character – a windswept character within which the subject site plays an important role.

At the time of the December 2000 Commission decision on that permit, which also addressed the construction of commercial properties on the inland side of Highway 1, a balance was struck to protect the character and views of the area, including the windswept vistas that define the Santa Cruz coast, by leaving the informal, dirt parking lot on the coastal side of the highway unimproved. Historically, the informal Davenport lot was a grassy meadow, but for many years has been a hard-packed dirt lot used to access the beach below. At the time of the original report, about 40 vehicles used the informal lot on a peak day, using the lot to access the beaches and vistas that overlook the Monterrey National Marine Sanctuary (est. 1992) - a critical and protected place on California's coastline. The original report states that paving and "prettifying" the landscape of the rustic parking area will add more cars, glare, and overall detract from the visitor experience of the breaking waves and expansive blue sanctuary visible from Highway 1. Although the permit disallowed the lot from being turned into a formalized, paved parking area that would serve nearby commercial establishments, and did so in part due to the effects that such development would have on the character of the area, the Commission also recognized the need for additional parking in the area:

In approving this permit for a modified project, the Commission recognizes that there is a need for continued and improved public parking in the Davenport area. In addition to public parking provisions being built into specific project reviews, the current Davenport Town Planning exercise under the official auspices of the Board of Supervisors needs to be completed. In particular, there should be a focus on reexamining the General Plan for the North Coast Beaches' proposals together with other possible parking strategies, including the use of areas across the railroad tracks where automobiles might be better hidden. A future coastal permit could revisit the issue of parking for this particular site.

A traffic study conducted in 2019 showed that peak use on September 1st had more than 100 cars in the informal Davenport Lot, substantially more than was accounted for at the time of the original report. Even on a non-peak use day, the lot is used by 23-48 cars and has also served as temporary long-term parking for people displaced by

wildfires in the area. Thus, in the intervening years since the earlier permit, conditions at this site have changed. The site is constantly occupied by vehicles and no longer provides the unhindered views of the coast to residents, businesses or visitors that was described in the staff report. Furthermore, the community has since expressed support for the area to be transitioned into a formal lot, which would contain spaces for 43 cars.

Given that conditions in the area have changed, with the parking lot being increasingly used and the growing need for parking in order to provide public access, the Commission should look at current conditions to determine if the improved parking lot is now consistent with Section 30251.¹⁷ At this point in time, the proposed formality of the lot will not substantially alter the character of the area given the persistence and growth of vehicular presence over the past two decades. Although a paved lot will alter the current, rustic look of the dirt parking lot, it will not be incompatible with the character of the area, which includes commercial establishments, roads, and other development. It will also bring more order and safety to the current parking situation while not blocking views to and along the ocean and bluffs. As compared to existing conditions, where more than 100 cars park in the informal lot on peak use days, the project will not increase the number of vehicles parked here, nor increase the glare and visual intrusion associated with those vehicles. The purpose of the proposed parking lot is also to provide public access to the coast, rather than provide parking for customers of commercial establishments (which was the purpose in 2000). Furthermore, with the development of an access point to the formal trail, the public will have greater opportunities to enjoy unobstructed views of this special area and do so with the ability to properly dispose of waste and enjoy safe parking equitably.

Nevertheless, although the project is consistent with Section 30251, the development of a paved parking lot in this location is not consistent with permit requirements from A-3-SCO-98-101, which disallowed paved parking on the site. Accordingly, **Condition 2** requires that construction activities proposed on the RTC-acquired property that is part of the proposed Davenport parking lot shall not commence until RTC or another appropriate party applies to amend, and the Commission approves an amendment of, CDP A-3-SCO-98-101 in a manner that removes any existing restrictions on constructing the proposed parking lot.

Installation of a new 7.5-mile trail on the coastal side of the rail line would have a minor effect on the visual character of the rail corridor and adjacent lands. The loss of vegetation in the corridor and addition of a paved trail would not substantially alter the corridor's appearance. In addition, areas temporarily disturbed by construction activities would be revegetated with native species, as described in the mitigation measures for habitat impacts.

¹⁷ The old permit was also analyzed for consistency with the certified LCP, which had more specific policies regarding parking, views, and community character than the Coastal Act does. Though those issues are still generally relevant, the standard of review for this consistency determination is the enforceable policies of the CCMP, rather than the LCP.

Fencing associated with the proposed trail would not substantially alter coastal and agricultural views across the project corridor because of intervening topography and vegetation on the inland side of the existing rail line. In addition, fencing along the trail has been designed to allow open visibility of the surrounding landscape: fencing is approximately four feet eight inches high and designed with spaced steel cable wires that allow for minimal visual impairment while still discouraging access on nearby agricultural properties. Therefore, the proposed fencing would not substantially degrade visual quality.

The proposed project would also involve installation of trail amenities in the form of benches, bike racks, trash/recycling containers, and informational and interpretive signs. Most of these trail amenities would be located in the three parking lots. New signs would be installed both in the parking lots adjacent to Highway 1 and along some areas of the trail and would not be large enough to obstruct existing scenic views of coastal resources or to substantially alter the existing visual character. Although trail users could deface trail amenities, temporarily degrading visual quality in the area, routine maintenance would reduce this impact. Therefore, trail amenities would not have a long-term adverse effect on visual character or quality.

The final component of the project that requires careful consideration under the Coastal Act's visual policy is the proposed shoreline protective device above Davenport beach. The existing bluff in this area is unarmored and characterized by a rocky, vegetated slope and bedrock to the north and south of the filled railway trestle (**Figures 1** and **2**). While the proposed shotcrete facing can be adjusted in coloring to match the surrounding bedrock, it still represents a significant deviation from the surrounding character of the largely unarmored coastline of this region. In this regard, it is inconsistent with section 30251. However, as described in Section D, **Condition 4** requires FHWA to remove the shoreline protective device from the proposed project. Thus, the conflict with Section 30251 is resolved.

Overall, the proposed project elements will result in some changes to the visual environment. However, most of those changes, including formalization of the trail and parking areas, have been thoughtfully designed to minimally obstruct views and enhance the ability of a broader section of the public to safely access and enjoy the stunning views of this stretch of coastline. The trail itself, designed alongside the existing rail, will present unobstructed views for the public to the coast, to enjoy the sights, smells, and atmosphere that cannot be experienced on the inland side of a highway. The proposed public amenities, including restrooms, parking, and trash facilities have also been designed to maximize unobstructed views of the coast and minimize visual impacts. With removal of the proposed armoring at Davenport, as required by **Condition 4**, the benefits of access along with facilities have been balanced and mitigated in a way that protects the visual character of the rugged, windswept Santa Cruz coastline, and the Commission concludes that, as conditioned, the proposed project would be consistent with Coastal Act Section 30251.

H. Cultural Resources

Section 30244 of the Coastal Act states, in part:

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

In the course of preparing the EIR for this project, RTC examined prehistoric resources including historical, archaeological, paleontological and cultural resources. Historic built environmental resources may include engineering structures, buildings, objects, and monuments. Archaeological sites include prehistoric and historic evidence of past human occupation of the landscape, including village sites, shell middens, tool and food processing sites, privies, and refuse deposits. Paleontological resources represent the earth's history revealed through the rocks and are typically encountered as fossils.

Efforts to identify historic and cultural resources included research through the California Historical Resources Information System, local historical resources, Native American Heritage Commission information searches, consultation with NAHC identified Tribe(s), and consultation with CA Department of Parks and Recreation archeologist. The identification effort for this project included a pedestrian field-survey and additional visual inspection of previously recorded archaeological resources within the project area. As a result of these cultural resource surveys conducted in 2017, 2018, and 2020, six resources have been identified within the project area. Five resources were identified that would be affected by development of the proposed project. These include two prehistoric archeological sites (SCR-56 and SCR-58), the Santa Cruz Branch Rail line, a historic era pumphouse, the Town of Davenport, and the Old Coast Road which is found adjacent to the Wilder Ranch Cultural Preserve. Apart from the pumphouse, these resources have been determined eligible for listing on the National Register of Historic Places (NRHP).

Given the proximity of these resources to the project area, there is the potential for project activities to result in degradation of archaeological resources if the project is not properly monitored and managed during earth moving activities and construction. Site preparation activities can disturb and/or obliterate archaeological materials to such an extent that the information that could have been derived would be permanently lost. In the past, numerous archaeological sites have been destroyed or damaged as a result of development. As a result, the remaining sites, whether accounted for or undiscovered, and potentially less rich in materials, have become increasingly valuable as a resource, which makes monitoring by qualified individuals critical. Further, because archaeological sites may provide information on subsistence and settlement patterns when studied collectively, the loss of one or more individual sites can reduce the scientific value of the remaining intact sites.

FHWA has determined that the proposed project will have no adverse effect to the NRHP eligibility of the historic properties. Consultation with the State Historic Preservation Office (SHPO) under Section 106 of the National Historic Preservation Act (NHPA) was completed by FHWA on August 10, 2021 and SHPO concurred with the assessment from FHWA that the project would not have significant impacts on historic properties within the project area. The two prehistoric archaeological sites are within the project boundary, although adjacent to proposed work. RTC received one response requesting consultation from the Indian Canyon Mutsun Band of Costanoan who did not identify any specific tribal cultural resources in the project corridor but requested that archaeological and Native American monitoring be required for all ground disturbance associated with the project. More specifically, these measures, which FHWA has agreed to incorporate into the project, include:

- Conducting archaeological monitoring during construction (training will be given by an archaeologist prior to construction)
- Stopping work in the event of any unanticipated discovery of human remains
- Incorporating the presence of a Native American monitor during construction activities (a Native American monitor shall be retained and remain present during ground disturbing activities in sensitive areas, and attend the archaeologist training)
- Conducting paleontological monitoring during construction (prior to the commencement of ground disturbing activities, a qualified professional paleontologist shall be retained to prepare and implement a Paleontological Resources Mitigation Plan for the project)
- Installing historical interpretive exhibits prior to trail use

Commission staff conducted outreach to Tribal representatives on March 19, 2021 and received a comment from the Indian Canyon Band of Costanoan Ohlone People requesting the use of native monitors and educational exhibits. Staff informed the Tribe of the applicant's proposed mitigation measures ([Exhibit 2](#)). A sacred lands file search of the area from the Native American Heritage Commission was also returned with negative results. With the incorporation of the above measures, the Commission finds that the overall project would not have anticipated adverse effects on cultural, archeological or paleontological resources, and would, therefore, be consistent with Section 30244 of the Coastal Act.

Response to correspondence

The Coastal Commission received correspondence from numerous individuals and organizations. The main points of these comments, and responses to them, are as follows:

1. **Comment:** Many commenters raised concerns that an alternative alignment of the trail on the inland side of the railroad tracks would lessen coastal views, and limit access of persons with mobility challenges.

Response: Staff are strongly supportive of design features of this project that increase accessibility for all members of the public, and do not believe that any of trail alignment alternatives would limit ADA access. Staff did not support or preclude a specific realignment or design alternative, but rather noted that there was insufficient information at the time of the report to determine if the proposed shoreline armoring device was the least environmentally damaging alternative. It is possible that an inland alternative could lessen coastal views as well as result in other coastal resource impacts. However, staff did not have enough information to assess the significance of this impact for any alternative alignment or balance it against other coastal impacts. However, at the hearing, the Commission heard additional evidence regarding how alternative alignments could limit accessibility and it approved the proposed alignment.

2. **Comment:** A member of the public also raised concerns that CPUC policy precludes new crossings, thus making alternatives other than a coastal alignment (as proposed) infeasible.

Response: As a part of their project design, FHWA/RTC worked through the CPUC process to close several existing crossings and received authorization to construct the trail over a new formal crossing at the path leading from the Davenport parking lot to the trail. However, according to CPUC guidance, new railroad crossings, while discouraged, are not prohibited. While staff recognize that it would be challenging to work through the CPUC process again, it was not attempted during the design of the project alternatives, and thus, the potential outcome of this process is unknown. Additionally, CPUC guidance (rule 3.8) contains application for the relocation of existing crossings, which could be considered in this case if another alternative was determined to be less environmentally damaging. It is important that all alignment options are thoroughly considered in order to balance consideration of any alternatives' environmental impacts. However, at the hearing, the Commission heard additional evidence regarding how challenging and infeasible it would be to obtain CPUC approval for opening two new rail crossings in Santa Cruz County. For example, it might require closing of four existing crossings, and it is not clear that there are four crossings that could be closed. The Commission found that alignments requiring new rail crossings could limit accessibility and were infeasible.

3. **Comment:** A member of the public commented that the report indicated a willingness to reverse long-standing Coastal Commission actions supporting new rail service.

Response: The future status of the rail is unknown, and staff's recommendation does not preclude future operation of the rail in this area, nor does it preclude decommissioning of the rail. Pages 22, 30, 33, and 34 of the report acknowledge that this is a designated active railway that is currently not in use. If plans to operate the rail are proposed in the future, the Commission will conduct the appropriate regulatory review at that time.

4. **Comment:** Several members of the public offered comment in support of closure hours at the proposed Davenport Parking lot and one comment suggested that information on law enforcement activities present near the project area (related to trash, graffiti, fires, and camping) was not acknowledged in the report.

Response: Staff is aware of the concerns related to nuisance activities at Davenport Beach and some of the history of attempts to deal with these activities. Several components of the project, such as trash receptacles, modest lighting, and bathroom facilities, may help alleviate these issues without the need to inhibit public access to the beach, trail and/or parking lot. Furthermore, it is not clear that a nighttime closure is necessary or would address the underlying issue. For example, staff has not seen a specific argument as to why a night-time closure of the Davenport parking lot or portions of the trail would eliminate the nuisance issues. In addition, as stated on page 52 of the staff report, the Commission previously authorized nighttime parking closures within the City of Davenport that relied on this parking area remaining open 24 hours to ensure maximum public access to the coast. However, if nuisance activities continue to be a concern after the improvements are implemented, staff will work with FHWA and RTC to review potential solutions, including limited closures of the parking lot and/or trail, and bring any development proposals in front of the Commission at a future time, as appropriate. Please refer to Section E (page 52) for a discussion of this proposal's conformance with the Coastal Act's Public Access policies.

The Commission has previously considered implementation of curfews and restricted operation hours for beaches, parking lots and trails. Below are examples where the Commission has considered closure hours:

- Santa Cruz Co. (A-3-SCO-95-001): denied proposal to close stairway from 10 p.m.- 6 a.m. at Oceanview Drive, consistent with existing curfew at adjacent Manresa State Beach.
- Santa Cruz County CDP #'s 00-0464 and 11-1106: proposed expansion of nighttime parking restriction in Davenport. Approved by county, in part, due to presence of unrestricted blufftop parking that conformed with applicable public access, recreation and visitor serving policies of the General Plan/LCP land use plan and section 30200 of the Coastal Act.

- City of Santa Cruz (A-3-STC-07-057): appeal of 10 p.m. to 5 a.m. parking restriction. The Commission approved a more limited 12 a.m. to 5 a.m. closure with additional signage requirements.
- City of Long Beach (5-93-232, 5-93-232-A, 5-00-050-A1/A-5-LOB-00-434-A1): various proposals to extend beach curfew and change periods of closure of existing beach parking lots. The Commission required 24-hour beach use and allowed some lot/boat ramp closures.
- City of Laguna Beach (CDP 10-12 and Ordinance No. 1521): all beaches and parks closed from 1 a.m. to 5 a.m., with exception for access to and use of wet sand and 20 feet of dry sand while undertaking active recreation (e.g. jogging, walking driving) and fishing.
- City of Huntington Beach (5-07-127-EDD/ amendment to P-79-5948/ A-80-6590/ 5-81-401A): Commission upheld Executive Director's rejection of the amendment request to close bayfront accessway from sunset to sunrise.
- City of Carlsbad (6-92-132 (R)): Coastal Commission denied proposed closure of timelock gates from 10 p.m. to 5 a.m. as it would impact access to the beach.
- City of San Diego (6-89-314): Coastal Commission denied extension of closure hours during the summer.
- City of Carlsbad and Oceanside (6-85-404, 6-88-374, A6-OCN-93-200): approved timelock gates/closures between residences.
- City of San Diego (6-02-90): proposal to extend closure of 3 parking lots in mission bay from 2-4 a.m. to 10 p.m.-4 a.m. Coastal Commission allowed 10 p.m. closure with requirement to allow exit only after 10 p.m. and limited time frame to 2 years.

Reports of enforcement activities are mentioned specifically on page 46 and 52 of the report. Additionally, the report regarding nuisance activities mentioned by the commenter was included in the consistency determination materials submitted for this project and cited in the appendix of the staff report. The specific attachment has been hyperlinked in the appendix (see revision m). Additionally, all materials for the NCRT EIR are publicly available.

5. **Comment:** A member of the public disagreed with the staff's analysis that a reduction in number of available spaces at the Panther/Yellowbank parking lot was in keeping with Coastal Act public access policies and noted that parking along Highway 1 was not an acceptable alternative due to public safety concerns.

Response: Overflow parking along Highway 1 is only one of the considerations that went into making this determination. A benefit of the trail project is that it adjoins the Cotoni Coast Daries (BLM) property, which is also proposing additional parking improvements, as noted by the commenter. As noted on pages 43-44 of the report, the lot could not feasibly accommodate more spaces at this location as it would: (1) not

conform with the safety standards of the American Association of State Highway and Transportation Officials, (2) lose ADA access capabilities, and (3) result in significant additional environmental impacts. Furthermore, trail users can access the area without parking along Highway 1 as they would be able to use the trail itself as a transit corridor, alleviating demand for parking in one specific area.

6. **Comment:** FHWA and RTC commented that the staff report (pages 19 and 32) does not provide project-specific detail regarding the coastal resource impacts that the proposed bluff armoring would have. The composition of the fill slope was also the subject of a separate comment received on Monday, December 13, 2021. FHWA and RTC also noted that the Davenport parking lot would not be constructed if the northern section of the trail (near Davenport Beach) is not built.

Response: Much of the discussion of the impacts of armoring on pages 19 and 32 provides context for understanding Coastal Act Section 30253, which generally disallows armoring that will impact natural shoreline processes. It is not necessary to find that a project will have specific impacts, other than that it will substantially alter natural landforms, in order for it to violate Section 30253. However, in this case the proposed armoring component would have a variety of impacts, although the precise extent is not known. In addition to its visual impacts (discussed on page 70 of the staff report), the proposed armoring here would prevent continued erosion of the bluff face and prevent eventual landward movement of the high tide line as sea level rises, if the armoring remained. As noted by FHWA/RTC, the embankment consists of fill material that was placed in that location approximately 100 years ago. Although the precise content of that material, its erosion potential, and the percentage of fine material that would be available to nourish the beach is not known, the continued presence of the beach at the base of the fill demonstrates that it is providing some benefit. By its design, the armoring is also intended to prevent the natural erosion of the bluff, thereby necessarily altering the bluff's landform over time. Additionally, FHWA/RTC's comment regarding the Davenport parking lot is noted. Because the Commission conditionally concurred with the project as proposed, the issue of whether FHWA and RTC would proceed with the Davenport parking lot if the northern section of the trail is not built is moot.

APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

NCRT Coastal Consistency Determination. Santa Cruz County, CA (CA SCR T5(1)). Prepared by U.S. Department of Transportation Federal Highway Administration, Central Federal Lands Highway Division. Dated February 16, 2021. Revised November 12, 2021.

NCRT Environmental Assessment. Santa Cruz County, CA, (CA FLAP SCR T5(1)). Prepared by U.S. Department of Transportation Federal Highway Administration, Central Federal Lands Highway Division. Dated October 23, 2020.

NCRT Draft Mitigation and Monitoring Plan. Santa Cruz County, CA, (CA FLAP SCR T5(1)). Prepared by U.S. Department of Transportation Federal Highway Administration, Central Federal Lands Highway Division. Dated June 28, 2021

NCRT EIR Transportation Impact Analysis. Prepared for: Santa Cruz Regional Transportation Commission by Kimley-Horn. Dated April 22, 2018.

NCRT Coastal Consistency Determination, Attachment I: Davenport Beach Nuisance Information. Santa Cruz County, CA (CA SCR T5(1)). Prepared by U.S. Department of Transportation Federal Highway Administration, Central Federal Lands Highway Division. Recieved February 16, 2021.

OTHER DOCUMENTS

Santa Cruz Count LCP. Title 16 ENVIRONMENTAL AND RESOURCE PROTECTION Chapter 16.32 SENSITIVE HABITAT PROTECTION.

Coast Dairies Long-Term Resource Protection and Use Plan. Prepared by Environmental Science Associates for the Trust for Public Land. Dated June, 2021. [SECTION 2 \(tpl.org\)](#)

Wilder Ranch State Park, General Plan. Dated March 1980.

Final Wave Runup Study for Monterey bay Sanctuary Scenic Trail, dated November 23, 2021. Prepared by Claudio Fassardi and Berwyn Wilbrink, Jacobs.

Pesticide Use Reports for Permitted Agriculture operations between Davenport and Wilder Ranch State Parks. Dated November 17, 2021. Prepared by Santa Cruz County Agricultural Commission.