



October 5, 2020

Submitted electronically

To: Cynthia Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board

CC: Timothy J. Strafford, Association of American Railroads  
William C. Pate, City of Del Mar  
Daniel Elliott, North County Transit District  
Louise Warren, Chief Counsel; Diana Lilly, San Diego District Manager; California Coastal Commission  
Christa Johnson, City Manager; Ellie Haviland, Mayor; Terry Gaasterland and Dwight Worden, City Councilors, City of Del Mar

**Re: Docket No. FD 36433, Opposition to North County Transit District's Petition for a Declaratory Order**

Dear Ms. Brown,

The Surfrider Foundation is a non-profit, environmental organization dedicated to the protection and enjoyment of the world's oceans, waves and beaches for all people, through a powerful activist network. With nearly 70 miles of coastline to protect, the Surfrider Foundation San Diego County Chapter (Surfrider San Diego) is one of the largest and most active chapters in the world. We are a grassroots organization, which means the people working to protect our local ocean, waves, and beaches are volunteers who care about the San Diego County coastline and want to protect our home. Surfrider San Diego is an active stakeholder representing the public in the conversation regarding the bluff stabilization and relocation of a section of the LOSSAN track in Del Mar. **We oppose the petition for declaratory order filed by the North County Transit District (NCTD) as it will result in an unacceptable loss of the public's right to access the beach and is not supported by law or fact.**

## Executive summary

The petition is asking for a declaratory order for two very different types of projects. In regards to future rail maintenance and bluff stabilization projects, we believe the petition must be denied on the following basis:

1. Federal law and state law must apply to ensure appropriate management of coastal resources.
2. Congress did not intend the Interstate Commerce Commission Termination Act (ICCTA) to displace traditional state functions that do not regulate rail transportation.
3. Maintaining the track in place, potential future double tracking activities, and other future bluff stabilization projects involve land outside of the Right of Way (ROW) controlled by NCTD, including State Tidelands, City, or State Beaches. As such, federal and state law must be applied to ensure appropriate management of coastal resources.
4. Federal grant conditions for past and future bluff stabilization projects require compliance under the Coastal Act and Coastal Zone Management Act (CZMA).
5. NCTD is not the proper applicant for a petition, as the San Diego Association of Governments (SANDAG) was the applicant for the August 2020 California Coastal Commission Consistency Certification CC-0001-20<sup>1</sup>. SANDAG will also be the applicant for future projects, including track relocation and Del Mar Bluffs Stabilization Projects 5 and 6.
6. The Coastal Commission has concurred with Consistency Certifications and granted Coastal Development Permits (CDPs) for past bluff stabilization projects. Therefore, NCTD has no basis to preemptively claim that future projects will be denied under the Coastal Act.

In regards to the proposed safety fencing, we believe the petition must be denied primarily on the following grounds:

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<sup>1</sup> August 12, 2020: Coastal Commission Energy, Ocean Resources & Federal Consistency item 13b, After-the-fact Consistency Certification by SANDAG for Del Mar Bluffs Emergency Repair Project <https://www.coastal.ca.gov/meetings/agenda/#/2020/8>

1. The placement of fences, even if entirely in NCTD's ROW, has adverse impacts on historical coastal access, which is protected under Chapter 3 of the Coastal Act and must be subject to Coastal Commission review.
2. The Transit and Intercity Rail Capital Program stipulates that recipients of funding for the proposed safety fencing must comply with all relevant federal and state laws, regulations, policies, and procedures.

## **Future bluff stabilization, track maintenance, and double tracking**

NCTD has no grounds to attempt to preemptively bypass review of future bluff projects for the following reasons:

### **1. Federal and state law must apply to ensure appropriate management of coastal resources**

A decision to preempt coastal zone management, a role which has been designated to the state through the federal Coastal Zone Management Act, will frustrate the federal law designed for proactive coastal planning, increased transparency, and stakeholder input.<sup>2</sup> The Coastal Zone Management Act ("CZMA") was passed by Congress in 1972 to encourage coastal states to develop and implement coastal zone management plans. In enacting the law, Congress recognized the importance of meeting the challenge of continued growth in the coastal zone. Congress declared their intent "to preserve, protect, develop, and where possible, to restore and enhance, the resources of the Nation's coastal zone for this and succeeding generations."<sup>3</sup> The congressional declaration of policy included the purposes to protect natural resources, manage coastal development, prioritize coastal dependent uses, and provide for public access and recreation.

The CZMA requires that projects comply with the state's enforceable policies and will be carried out in a manner consistent with the state's Coastal Management Program.<sup>4</sup> The CZMA implements the national Coastal Zone Management Program, which is adopted within each state through Coastal Management Programs ("CMP"). In California, the CMP is implemented by the California Coastal Commission and governed by the state law, the California Coastal Act.<sup>5</sup> A key element of the Act is coordinating state and federal actions to give coastal states a strong voice in

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<sup>2</sup> 16 U.S.C. §§1451-1465.

<sup>3</sup> 16 U.S.C. sec 1452(1)-(6).

<sup>4</sup> 16 USC sec. 1456.

<sup>5</sup> Cal. Pub. Res. Code §§ 30000, *et seq.*

decision-making, which they otherwise would not have, for activities that may affect a state's coastal uses and resources. Accordingly, attempts to limit state review of major coastal projects undermine both the spirit and intent of the CZMA, which includes participation from coastal states and territories.

The California Coastal Commission has set the standard for effective coastal management plan implementation. No other agency, federal or state, is monitoring sea level rise, dynamic shoreline processes, bluff erosion, and coastal management needs like the California Coastal Commission. To mute their voice on the matter would be doing a disservice to not only beachgoers and residents, but also railroad commuters and industry alike by failing to implement long-term and comprehensive solutions to bluff erosion. California's long-standing commitment to coastal preservation is an intrinsic component of the State's internal decision-making process. The self-imposed review is meant to ensure that projects are thoroughly vetted so that they can move forward in an economically and environmentally sustainable manner.

Just as National Environmental Policy Act ("NEPA") compliance and enforcement is not preempted by the STB for this issue, neither should the Coastal Zone Management Act's purpose and objectives in creating a coastal management structure.

## **2. Congress did not intend the ICCTA to displace traditional state functions that do not regulate rail transportation.**

We respectfully suggest that the STB should not engage with this matter because it does not have jurisdiction over the repair and maintenance work that has been done or may be completed in the future with respect to this rail line. Under 49 U.S.C. § 10501, the STB oversees (1) rates, classifications, rules, practices, routes, services, and facilities with respect to rail carriers and (2) construction, acquisition, operation, abandonment, and discontinuance of rail tracks. The courts and STB agree that the Interstate Commerce Commission Termination Act ("ICCTA") does not provide federal jurisdiction over track repair activities.<sup>6</sup> The recent and potential future work on the rail line that is the subject of the NCTD petition does not implicate rate regulation, new construction, or abandonment; at most, future work to make this line safe and

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<sup>6</sup> Lee's Summit, MO v. Surface Transp. Bd., 231 F.3d 39, 42 n.3 (D.C. Cir. 2000); Detroit/Wayne County Port Authority v. I.C.C., 59 F.3d 1314 (D.C. Cir. 1995); Swanson Rail Transfer, LB—Declaratory Order—Swanson Rail Yard Terminal, Fed Carr. Case. P37354, 2011 WL 2356468, \*2 (June 14, 2011); Union Pac. R.R. Co.—Petition for Declaratory Order—Rehabilitation of Missouri-Kansas-Texas Railroad Between Jude and Ogden Junction, TX, 1998 WL 525587, \*3-4 (Aug. 19, 1998) (citing Texas & Pacific v. Gulf, Colorado & Santa Fe Ry., 270 U.S. 266 (1926)).

secure will involve repair and rehabilitation.

Such repair and maintenance work falls squarely within the states' historical police powers over railroads. Congress enacted the Interstate Commerce Act in 1887 to address the growing patchwork of state economic regulation and revised it to also address corruption and rate-fixing. Over the course of the 20th century, however, Congress slowly deregulated the industry as concerns about monopoly power faded. Those deregulatory efforts culminated in the ICCTA, which abolished the sprawling jurisdiction of the Interstate Commerce Commission and replaced it with the much more limited role of the new STB.<sup>7</sup>

In doing so, Congress did not intend STB authority to usurp a state's historical ability to make decisions on state law or expenditures. Here, the California Coastal Commission's oversight of bluff stabilization or restoration work is an exercise of traditional state power that does not implicate the STB's statutory jurisdiction. Such state oversight is essential to protect people and resources along this important stretch of the California coast.

### **3. Blufftop rail projects involve land outside of NCTD's ROW, including State Tidelands or City or State Beaches, and are subject to protection under the Coastal Act and CMZA**

In 2019, NCTD and SANDAG jointly applied for a Federal-State Partnership for State of Good Repair Program grant. The project was titled "Pacific Surfliner Coastal Bluff Track Bed Stabilization and Seismic Improvements Project" (Surfliner Coastal Bluff Stabilization Project). NCTD and SANDAG describe the project location in the Environmental Studies and Documents attachment to the Surfliner Coastal Bluff Stabilization Project grant application, and we are including this document as an attachment to our letter.

**The Proposed Action site is located along a 1.6-mile portion of the existing NCTD railroad ROW in the City of Del Mar; refer to Figures 1a and 1b. The Proposed Action extends from rail Milepost (MP) 244.1 near Coast Boulevard south to MP 245.7 at Torrey Pines State Beach. Within this reach, the NCTD rail alignment runs atop the coastal bluffs, which are generally 50 to 70 feet high. Railroad ROW varies between approximately 100 feet and 235 feet in width and, in**

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<sup>7</sup> In 1995, Congress completed its economic deregulation of the rail industry by adopting the ICCTA, which abolished the Interstate Commerce Commission and transferred its limited remaining powers to the new Surface Transportation Board. (Pub. L. 104-88, 109 Stat. 803.)

some places, extends onto the beach below. Portions of the Proposed Action site are also located within Torrey Pines State Beach along the base of the coastal bluffs that support the railroad tracks. The Proposed Action site lies entirely within the Coastal Zone.

As shown on Figures 1a and 1b, there are a variety of land uses within a 0.5-mile radius of the Proposed Action site that are considered sensitive, including residences, parks, beaches, schools, and a public library. The majority of the development within the vicinity of the Proposed Action is residential, with some commercial development primarily located along Camino Del Mar. The construction access and staging area for components 1 and 2A at the northern end of the Proposed Action Site is adjacent to two City parks, Powerhouse Park and Seagrove Park. The Del Mar Library is located approximately 900 feet east of components 1 and 2A. Toward the southern end of the Proposed Action site, components 8 and 9 and the associated construction access and staging areas are adjacent to/occur within Torrey Pines State Beach. Del Mar Elementary School is located approximately 430 feet east of components 2C, 4, 5, 6, 7, and 12.

*Pages 4 and 5 of a June 2016 CE Request, Environmental Studies and Documents attachment from the Surfliner Coastal Bluff Stabilization Project grant application*

NCTD and SANDAG state that portions of the projects are located outside of their ROW, on State Beach land. A CDP or Consistency Certification will be required to perform such extensive work outside of their ROW.

In addition to encroaching on state lands, construction activities for these proposed projects would also require access via the beach, potentially requiring a CDP:

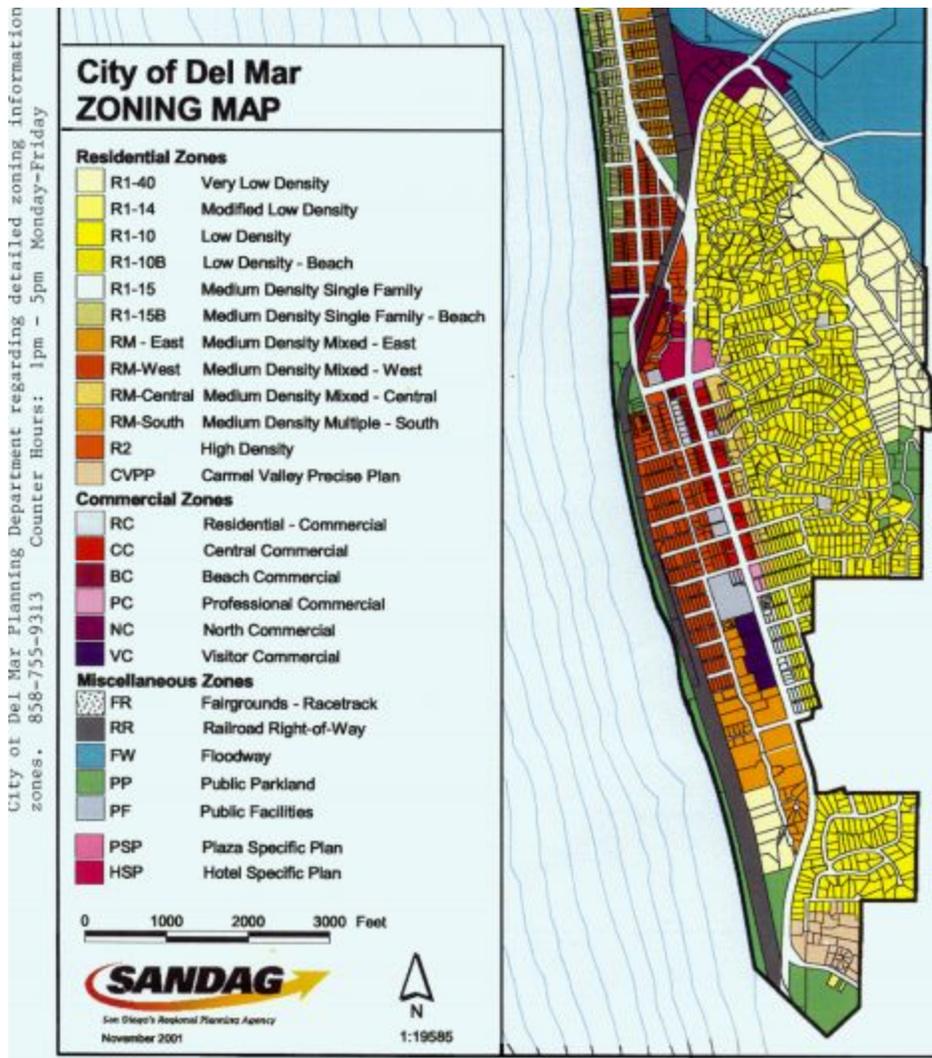
Components requiring access from the beach include stabilization of an existing storm drain headwall, temporary support of a surface outlet structure, replacement of an open chute structure with an underground storm drain, addition of a secondary outlet to an existing storm drain outlet structure, addition of new structural supports for three retaining walls and removal of debris from hydro-augers placed in 2002. The beach area would be accessed from the life guard tower at 17th Street to the north and the Torrey Pines State Beach to the south. All staging and work areas would require access by pickup trucks, flatbed trucks, dump trucks, a small back hoe, a drill rig and loader, and concrete ready-mix trucks. Parking would not be impacted. Work would be completed outside of the summer months when traffic and beach usage is at its peak. Removal of hydro-augers will require hand held equipment, lift and pickup truck to remove and dispose of the existing debris off site. Addition of the secondary outlet to the existing headwall would require use of hand held drilling equipment for additional outlet points. The remaining work would require excavation of existing materials, placement of new reinforcing and placement of concrete. All debris will be removed from the beach and disposed of offsite. No utilities are located within the work areas. All work areas will be temporarily fenced or flagged.

Construction of components on the beach could be completed during regular day time hours independent of train operations. The headwall, wood lagging retaining wall repair and reinforcement of the drainage chute outlet could be done concurrently with multiple crews, or sequentially with one move on of equipment. Placement of the new headwall would include excavation and shoring, followed by drilling and placement of the soil nails, placement of vertical reinforcing, placement of gunite and completed with placement of rockscape finish surface. Support for the retaining walls would include drilling and placement of the steel supports and placement of concrete followed by final placement of shims and connection to the existing wood lagging. Excavation and placement of concrete under the drainage chute outlet as well as modifications to the drainage outlet at MP 244.7 and removal of hydro-augers could be done concurrently with other projects. With mobilization and clean up, work on the beach would likely be completed within approximately 6 months. Addition of the storm drain replacement at the drainage chute would likely be in future phase due to funding, but would be completed in a similar work window outside of the summer months. This component would also require access from the rail corridor above the beach.

*Pages 15 and 16 of the June 2016 CE Request, Environmental Studies and Documents attachment from the Surfliner Coastal Bluff Stabilization Project grant application*

NCTD and SANDAG documented that construction equipment will need access to the state's beaches, and that project will be located outside of NCTD's ROW, so Coastal Act compliance will be required for these activities as well.

The below zoning map from Del Mar confirms that work areas will be outside the ROW.



*City of Del Mar Zoning Map, Figure 2, June 2016 CE Request, Environmental Studies and Documents attachment from the Surfliner Coastal Bluff Stabilization Project grant application*

As documented in NCTD's and SANDAG's grant application above, previous and future bluff stabilization work area is outside of NCTD's ROW. Thus this work will need Coastal Act compliance to perform work outside the ROW, especially on State Tidelands.

#### **4. Federal grants for bluff stabilization projects require consistency certification**

NCTD and SANDAG will be working on Del Mar Bluffs Stabilization Projects 5 and 6 in the coming years. We submit that NCTD must receive a Consistency Certification from the Coastal Commission as they are using federal funds for these bluff stabilization projects. Such a Certification is a requirement for federal grants.

NCTD and SANDAG themselves have stated this to be true in their own Surfliner Coastal Bluff Stabilization Project grant application. An August 2010 National Environmental Policy Act (NEPA) Categorical Exclusion (CE) Request for Del Mar Bluff Stabilization Project 3 was also included in the Surfliner Coastal Bluff Stabilization Project grant application:

### **Applicable Environmental Laws**

**The proposed action would be subject to the requirements of NEPA and the federal Coastal Zone Management Act, as described below. Also as described below, the proposed action would not be expected to result in the take of plant or wildlife species listed for protection under the Endangered Species Act or take/harm migratory birds protected under the Migratory Bird Treaty Act.**

*Page 10, April 202 CE Request, Environmental Studies and Documents attachment from the Surfliner Coastal Bluff Stabilization Project grant application*

This excerpt clearly states that previous Del Mar bluffs stabilization projects are subject to the CMZA.

In the same grant application, NCTD and SANDAG continue to document that a condition of Federal Grants for Del Mar Stabilization Project 3 was a Consistency Determination.

### **Coastal Zone Management Act**

**The proposed action would occur entirely within the California coastal zone, as established by the California Coastal Act of 1976, as amended (California Public Resources Code Sections 30000 *et seq.*). Because of its location within the coastal zone, the proposed action can only receive federal funding if it is consistent with the coastal resources planning and management policies contained in Chapter 3 of the California Coastal Act. This requirement, described below, stems from the Federal Coastal Zone Management Act of 1972 (33 U.S.C. Sections 1451 *et seq.*), as amended through Public Law 104-150 (the Coastal Zone Protection Act of 1996).**

**The Federal Coastal Zone Management Act (Section 1456(d)) mandates that:**

**State and local governments submitting applications for Federal assistance under other Federal programs, in or outside of the coastal zone, affecting any land or water use of**

natural resource of the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of section 6506 of title 31. Federal agencies shall not approve proposed projects that are inconsistent with the enforceable policies of a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this chapter or necessary in the interest of national security.

*Pages 11 and 12, April 202 CE Request, Environmental Studies and Documents attachment from the Surfliner Coastal Bluff Stabilization Project grant application*

CMZA (U.S. Code § 1456(d)) mandates that federal agencies shall not approve projects that are inconsistent with the state's coastal management program, in this case Chapter 3 of the Coastal Act.

NCTD and SANDAG have stated that previous Del Mar Bluffs stabilization projects were subject to the CMZA. NCTD and SANDAG have received federal funding for future Del Mar Bluffs Stabilization Projects 5 and 6. Therefore, in their own words, these future projects must also be subject to the CMZA.

## **5. NCTD is not the proper applicant for a petition**

On August 12, 2020, the California Coastal Commission concurred with an after-the-fact Consistency Certification (CC-0001-20) for two emergency bluff stabilization measures constructed on the Del Mar bluffs in 2019. SANDAG, not NCTD, was the applicant for this certification.

Here follows important background for the consistency process:

- The Federal Consistency Unit of the California Coastal Commission implements the federal Coastal Zone Management Act of 1972, as it applies to development projects and support to state and local governments.
- All federal agency activities affecting the coastal zone must be consistent with the enforceable policies of the state's certified program.
- The review process used to implement this requirement is called a consistency certification for federal support (i.e. funding) to state and local agencies.

In 1977, the federal government certified the California Coastal Management Program (CCMP). The enforceable policies of that document are Chapter 3 of the California Coastal Act of 1976. All consistency documents are reviewed for consistency with these policies.

Given that the Coastal Commission concurred that these activities were consistent, and NCTD was not the applicant for the Consistency Certification, we submit that

NCTD is not the proper applicant for a petition to the STB when it comes to this matter.

Additionally, NCTD is not currently scheduled to be the applicant for any Consistency Certifications for future bluff stabilization projects. As part of the August 2020 Certification, the staff report for this item noted the following:

*SANDAG's consistency certification also includes information on its future Del Mar Bluffs Stabilization Projects 5 and 6, ongoing planning efforts for relocating the railroad off the bluffs, development of sea level rise vulnerability analysis and hazard adaptation reports, and progress reports and timelines to keep the Commission informed about the status of these projects and planning studies. SANDAG will continue to submit consistency certifications for Del Mar Bluffs stabilization projects and continue its coordination with the Commission staff during project design and implementation to ensure the protection of critical public infrastructure and coastal resources consistent with the Coastal Act. (page 2, CC-0001-20 (SANDAG) staff report, emphasis added)*

Again, SANDAG is the planned applicant for future work, so it is not appropriate for NCTD to seek declaratory relief if they were not and will not be the applicant.

## **6. NCTD has no basis to preemptively claim that future bluff stabilization projects will not be found to be consistent with the Coastal Act**

In 2020, the Coastal Commission concurred with the Consistency Certification so did not create an obstacle for SANDAG, or NCTD, in terms of the emergency repairs.

The staff report for this after-the-fact Consistency Certification also noted that the Coastal Commission has granted Coastal Development Permits (CDPs) and concurred with Consistency Certifications for numerous previous bluff stabilization projects:

*"...the Commission found that bluff stabilization was necessary to protect the railroad trackbed and public safety and consistent with the geologic hazard minimization policies of Sections 30235 and 30253." (page 11, CC-0001-20 (SANDAG) staff report)*

This includes installation of various soldier piles and drainage improvements, as well as for SANDAG's previous Del Mar Bluffs Stabilization Projects 2, 3, and 4:

- *"In CDP 6-96-156, the Commission authorized installation of 24 soldier piles at 13th Street, including visual treatment for the top of the exposed piles so that the project would blend in with the surrounding terrain...."*

- *“In CDP 6-01-081, the Commission authorized the installation of 12 soldier piles between 7th and 8th Streets, including conditions requiring erosion controls, best management practices, annual reporting, and Commission staff review of staging and construction plans, monitoring and maintenance plans, and the use of materials and colors.*
- *“The Commission concurred with CC-048-04 for SANDAG’s Del Mar Bluffs Stabilization Project 2 for the installation of 1,326 linear-feet of soldier pile walls on the upper bluffs.*
- *“The Commission concurred with CC-020-10 for SANDAG’s Del Mar Bluffs Stabilization Project 3 for the installation of 1,060 linear-feet of soldier pile walls at seven additional priority areas along the bluffs.*
- *“The Commission concurred with CC-0004-18 for SANDAG’s Del Mar Bluffs Stabilization Project 4 for the installation of a variety of bluff stabilization and repair projects to protect the railroad trackbed, including bluff-top drainage improvements and slope failure repairs near: (1) 7th Street using an earth-colored cement slurry buttress fill within the eroded area of the upper bluff; (2) Anderson Canyon using new soldier piles, steel H-piles, concrete lagging, and backfilling; (3) 7th and 8th Streets using soldier pile walls on the upper bluff; and (4) 9th and 10th Streets using steel H-piles and lagging walls.” (page 10, CC-0001-20 (SANDAG) staff report)*

Despite this robust history of authorizations and certifications, NCTD states in their petition:

*...NCTD seeks a declaratory order now because it has numerous crucial, upcoming rail maintenance and upgrading projects that will be challenged under the Coastal Act or local coastal laws by Del Mar or the Commission based on their public statements described herein.*

This statement by NCTD is inconsistent with previous determinations by the Coastal Commission. NCTD has no basis to claim that the Coastal Commission will act any differently for future CDPs or Consistency Certifications. No case or controversy is currently before the Board; future tracks will be proposed, planned and funded in coming decades. The Coastal Commission has issued certifications to dozens of actions and not objected to a single one. Similarly here, there is no objection to certification by the Commission, and conjecture for future objections is speculation. It is illogical to regulate a future project when the scope, geographic location, and potential effects cannot be identified yet.

## Safety fencing

For decades, the San Diego community has enjoyed the bluffs in Del Mar as an area to view the ocean and access the beach below. Removing this historical access without providing any mitigation for the loss of access is inconsistent with Chapter 3 of California's Coastal Act. While the city of Del Mar denied NCTD a permit for the fence, this project should still be reviewed by the Coastal Commission. We also submit that NCTD does not have the authority to bypass local and state review, as NCTD would be using state funds to build the fence. In NCTD's petition to the STB, they state the following:

*This important fencing project is expected to cost over \$2 million and will be funded from California monies from the Transit and Intercity Rail Capital Program but may later include federal dollars depending on how the funding process plays out in the future. (page 13)*

However, guidelines for the Transit and Intercity Rail Capital Program, provided by the California State Transportation Agency (CalSTA), stipulate the following:

*Applicants must comply with all relevant federal and state laws, regulations, policies, and procedures.<sup>8</sup>*

Therefore, we submit that it is inconsistent with the state funds provided for the fencing project to attempt to bypass state laws such as the Coastal Act. While the federal funds are not being proposed to be used for the fencing, (thus precluding the need for a consistency certification by the Coastal Commission), the usage of state funds and impacts to coastal access mandate a review from the Coastal Commission under the California Coastal Act.

## **Bluff stabilization and fencing projects will cause adverse impacts to beach access**

A core principle of the California Coastal Act of 1976 is to maximize public access to and along the coast, in addition to recreational opportunities in the coastal zone (Cal. Pub. Res. Code § 30000 et seq). We believe that the actions conducted by SANDAG (and possibly NCTD) will have impacts to access and recreation that must be reviewed under the Coastal Act.

The LOSSAN railroad runs through a 1.7 mile stretch of highly unstable bluffs in Del Mar. We submit that these coastal bluffs provide important historic coastal access opportunities and are invaluable to the ecology and character of Del Mar. We further acknowledge that the rail corridor is considered critical infrastructure by regional,

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<sup>8</sup> <https://calsta.ca.gov/-/media/calsta-media/documents/tircp-2018-final-guidelines.pdf>

state, and federal entities; and that as a public transit option it provides opportunities for enhancing equity and reducing greenhouse gas emissions from transportation. The safety threat related to the railroad's position along the bluffs in Del Mar is not a new phenomena. The tracks themselves were once farther inland and in 1910 were relocated to the present location. Since that time, three trains have fallen to the beach, the last time in 1941.<sup>9</sup>



*Train wreck - first three days January 1941.  
Photo courtesy Larry Brooks, DMVA Historical Committee*

SANDAG, NCTD, the City of Del Mar, and other stakeholders are evaluating long-term options for relocating this stretch of railroad in order to address these predictable — and now imminent — hazards related to the erosion of the bluffs. There is also strong motivation to double track this segment of the track for capacity building and safety reasons. Double tracking is not feasible at the present location due to the associated risks. SANDAG is examining five long-term relocation alternatives. In the short-term, a

<sup>9</sup> <https://publishing.cdlib.org/ucpressebooks/view?docId=ft0h4nb01z;chunk.id=0;doc.view=prin>

six-phased project is underway to provide immediate stabilization of the railway through approximately 2050.

Del Mar's sensitive bluffs are an important source of habitat and coastal access, and dynamic beaches and bluffs must be given the space to erode. Armoring and stabilization will not ultimately be effective as the bluff is already eroding measurably every year at a rate that will increase significantly as sea levels rise. Relocation should be pursued as quickly as possible without forgoing expert review. It will not likely occur within the next two decades. We are working proactively to ensure that short-term solutions for bluff stabilization are as adaptive as possible. Our region's strategy to brace itself against ongoing erosion, which will accelerate with sea level rise, should not include measures that will result in disastrous impacts that far outlast the benefits of our measures.

According to a study by the City of Del Mar's SLR Technical Advisory Committee's (STAC) Coastal Hazards, Vulnerability, and Risk Assessments document:

*"The current localized vulnerability of the LOSSAN railroad to bluff erosion will increase in extent in the near-term and extend along almost the entire bluff before 2030. By this timeframe, the railroad would need to be moved inland or armored with a seawall to reduce the risk of the railroad collapsing (as a section of railroad collapsed and cause a train wreck in 1940). If a seawall is constructed, the beach will erode back to the seawall over time until little to no beach exists..."*

In view of the above findings as well as other findings by the Coastal Commission, future actions on this segment of railroad must be evaluated for impacts to recreation and access, given the projected loss of beach due to seawalls or other similar structures. Any analysis should include alternative analysis, including relocating the tracks inland.

We agree that maintaining the tracks in place is necessary in the short term. We also agree with NCTD's assertion that the location of the tracks along Del Mar's bluffs presents a risk. However, fencing and bluff stabilization projects will cause adverse impacts to beach access which are inconsistent with the core principles of the Coastal Act. Coastal access should ultimately be improved, not removed, along the current bluff-top railway location.

In conclusion, NCTD's petition for declaratory order must be denied for the forgoing reasons. Bluff and beach projects have and will negatively impact beach access and must continue to be subject to review under the state's coastal management program, as implemented by the federal Coastal Zone Management Act.

Sincerely,

Kristin Brinner & Jim Jaffee, Beach Preservation Committee co-leads  
Laura Walsh, Policy Manager  
San Diego County Chapter, Surfrider Foundation

Angela Howe, Legal Director  
Surfrider Foundation

Parties of record:

I certify on October 5, 2020 all parties of record have been served via email in this matter.

CC:

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Daniel Elliott  
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North County Transit District

Signed:

*Kristin Brinner*

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Kristin Brinner



Federal-State Partnership for State of Good Repair Program  
Applicant: San Diego Association of Governments  
Joint Applicant: North County Transit District

## **Pacific Surfliner Coastal Bluff Track Bed Stabilization and Seismic Improvements Project**

### **Environmental Studies and Documents**

Please use the link below to access all letters of support and additional application materials:  
<https://www.dropbox.com/l/scl/AAC1YDb9k1ASjpJHDeTW6Zvz-83qXsm4YX0>



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August 24, 2010

File Number 1143000

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 Federal Transit Administration, Region IX  
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MEMBER AGENCIES

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- Mexico

Dear Mr. Rogers:

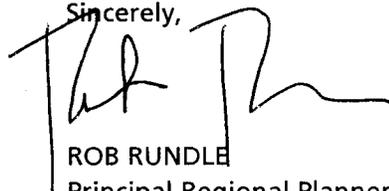
SUBJECT: Del Mar Bluffs Stabilization Project 3

The San Diego Association of Governments (SANDAG) respectfully requests your favorable consideration of the attached National Environmental Policy Act (NEPA) Categorical Exclusion (CE) Request for the Del Mar Bluffs Stabilization project. SANDAG proposes to implement the installation of soldier piles along approximately 1,060 linear feet of North County Transit District (NCTD) railroad Right-of-Way (ROW) in the City of Del Mar. The proposed action would improve the stability of coastal bluffs that underlie the railroad ROW. This section of ROW encompasses a portion of the Los Angeles to San Diego rail corridor.

SANDAG has identified the Del Mar Bluffs Stabilization as a high-priority project that is needed to accommodate railbed maintenance and improvements carried out within NCTD's existing ROW. Therefore, SANDAG is hereby requesting a CE under 23 C.F.R. 771.117(c)(18) to satisfy the requirements of the NEPA. The enclosed document provides justification that the Del Mar Bluffs Stabilization Project meets the criteria for a CE.

Thank you very much for your consideration, and we look forward to your written response. If you have any questions, please contact Cheryle Hodge at (619) 699-6938.

Sincerely,



ROB RUNDLE  
 Principal Regional Planner

RRU/CHO/ama

Enclosure

cc: Ramon Ruelas, SANDAG; Keith Kranda, NCTD; Patricia McColl, David Evans & Associates, Inc.

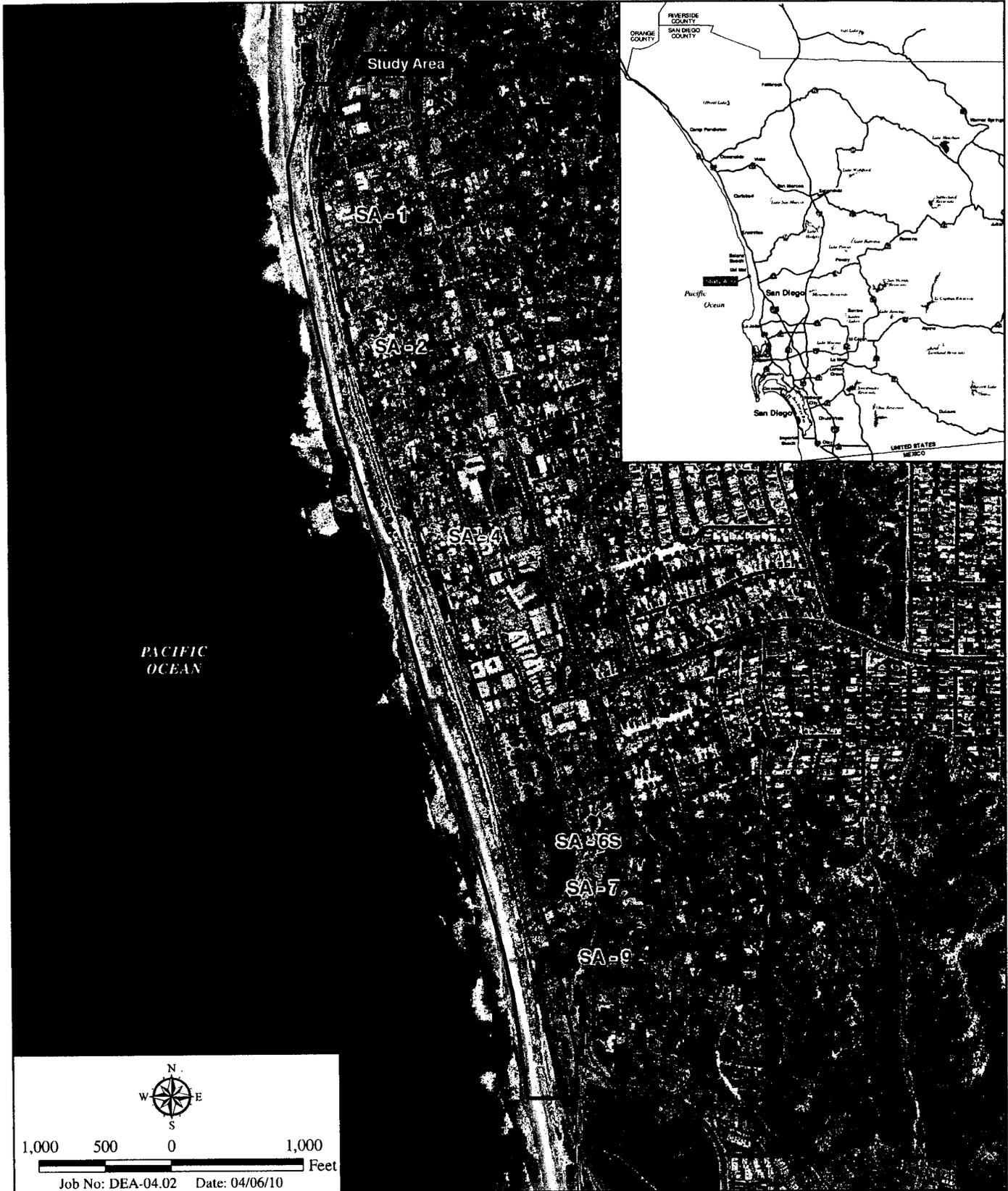
**Documentation for the Federal Transit Administration Regarding the  
National Environmental Policy Act Categorical Exclusion for  
Del Mar Bluffs Stabilization Project 3 – Preserving Trackbed Support**

**Introduction**

The Federal Transit Administration (FTA) is providing funding that would aid the San Diego Association of Governments (SANDAG) in the installation of the Del Mar Bluffs Stabilization Project 3 – Preserving Trackbed Support (“proposed action”). The proposed action would improve the stability of coastal bluffs that underlie the North County Transit District (NCTD) railroad right-of-way (ROW) in the City of Del Mar. This section of ROW encompasses a portion of the Los Angeles to San Diego (LOSSAN) rail corridor, which currently serves as the only operating rail link from southern San Diego County to points north. Geotechnical analyses conducted by SANDAG indicate that certain areas of the bluffs are currently in need of stabilization due to inadequate factors of safety for slope stability.

The proposed action would entail installation of soldier piles (described below) along approximately 1,060 linear feet of NCTD railroad ROW in the City of Del Mar. More specifically, the soldier piles would be installed at up to six separate locations within an approximately 1.6-mile-long section of ROW extending along the bluffs from 15<sup>th</sup> Street south to near the City of Del Mar/City of San Diego boundary (Figure 1). This section of the ROW corresponds to NCTD mileposts 244.1 to 245.7. Bluff stabilization would only be installed in areas where current bluff instability or erosion could potentially affect operation of the existing railroad track. Depending on SANDAG’s review of (future) contractor bids, less than 1,060 feet of bluff stabilization may be undertaken.

The National Environmental Policy Act (NEPA; 42 U.S.C. Sections 4332-4375) and the Council on Environmental Quality’s (CEQ’s) regulations for implementing NEPA (40 C.F.R. Sections 1500-1508) require that federal agencies determine the environmental impacts of their proposed actions, including any adverse environmental effects which cannot be avoided should a proposed action be implemented (42 U.S.C. Section 4332(C)). Pursuant to the CEQ’s implementing regulations, federal agencies may identify Categorical Exclusions (CEs) for “categories of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect and for which neither an environmental assessment or an environmental impact statement is required” (40 C.F.R. 1508.4). As described below, the proposed action qualifies for a CE because it would consist of railbed maintenance and improvements carried out within NCTD’s existing ROW (see 23 C.F.R. 771.117(c)(18)) and because there are no “extraordinary circumstances” (see 40 C.F.R. 1508.4) which would cause the proposed action to result in a significant effect on the environment.



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## Bluff Stabilization Areas

DEL MAR BLUFFS STABILIZATION PROJECT 3

Figure 1

## **Purpose of Proposed Action**

The coastal bluffs supporting NCTD's rail alignment in the City of Del Mar are subject to ongoing erosion and failures that could threaten the viability of rail service. It is critical that a means of stabilizing the bluffs and preserving trackbed support be implemented in order to maintain the use of the existing railroad track. This track is part of the LOSSAN corridor and represents the only operating rail link to southern San Diego County. The NCTD-owned and operated railroad track is used by commuters (on NCTD's *Coaster*), inter-city and long-distance travelers (on Amtrak's *Pacific Surfliner*) and freight trains (Burlington Northern and Santa Fe Railway). Loss of this rail link would have devastating social and economic impacts to the region. Furthermore, NCTD is required by the terms of a Shared Use Agreement with Amtrak and Burlington Northern and Santa Fe Railway Company to "efficiently maintain its rail line for both interstate and intra-state rail traffic."

The proposed action is part of a multi-phase approach to preserving the trackbed. To date, significant field investigations and geotechnical studies have been completed which characterize the nature and cause of bluff erosion, identify and prioritize the areas in need of stabilization, and introduce conceptual stabilization alternatives.

Several construction projects have been completed as a part of this phased approach. In 1998, approximately \$1.8 million in drainage improvements were constructed within the project limits. In 2003, additional surface and subsurface drainage improvements were made within the project limits and a landslide warning system was installed within designated "high-priority" areas. These drainage improvements were part of the first Del Mar Bluffs Stabilization Project. In addition to the planned repairs, an emergency repair project was constructed in late 2001 near the terminus of 8<sup>th</sup> Street after a failure of the bluff in that area.

In 2007, SANDAG completed Del Mar Bluffs Stabilization Project 2, which entailed the installation of concrete soldier piles (described in more detail below) along approximately 1,326 feet of the bluffs. Based on recommendations presented in the Del Mar Bluffs Stabilization Project 2 reports titled, "Type Selection Report" (Simon Wong Engineering 2004) and "Supplemental Geotechnical Evaluation and Determination of Site Specific Conceptual Repair Alternatives" (Leighton 2003), the second stabilization project instituted stability measures in the top priority areas. Due to funding limitations, Del Mar Bluffs Stabilization Project 2 did not provide trackbed support for all of the areas that had been identified as currently in need of stabilization.

The purpose of the proposed action is to stabilize up to six areas which were not stabilized during implementation of Del Mar Bluffs Stabilization Project 2 and preserve support for the existing NCTD railroad tracks. Although 10 areas of the bluffs have been identified as requiring stabilization due to inadequate factors of safety for slope stability, funding restrictions are

limiting the current proposed action to six specific areas (see Table 1 and Figure 1). These areas were selected based on a implementation (priority) ranking established in the “Geotechnical Evaluation Update and Determination of Areas for Stabilization” (Leighton 2010). The purpose of the proposed action is to stabilize these six areas and preserve support for the existing NCTD railroad track.

**Description of Proposed Action**

**Overview**

As noted previously, six separate areas, totaling approximately 1,060 linear feet, are proposed for bluff stabilization. Bluff stabilization would occur on the west (ocean-facing) side of the track. These locations are shown on Figure 1 and are listed in Table 1 in order of implementation ranking (priority). Because of funding restrictions, not all areas may be constructed—SANDAG cannot determine how many of the six areas can be stabilized until after it has received (future) contractor bids. Based on preliminary estimates, SANDAG anticipates that at least areas with an implementation ranking of 1 through 3 will be stabilized as part of this proposed action. Installation is projected to start in late Spring/Summer 2011.

<b>Table 1 Proposed Stabilization Areas</b>					
Implementation			Implementation		
<u>Ranking</u>	<u>Length</u>	<u>Designation*</u>	<u>Ranking</u>	<u>Length</u>	<u>Designation*</u>
1	55 feet	SA-1	3	100 feet	SA-7
2	205 feet	SA-2	4	405 feet	SA-6S
3	135 feet	SA-4	4	160 feet	SA-9
			Total	1,060 feet	

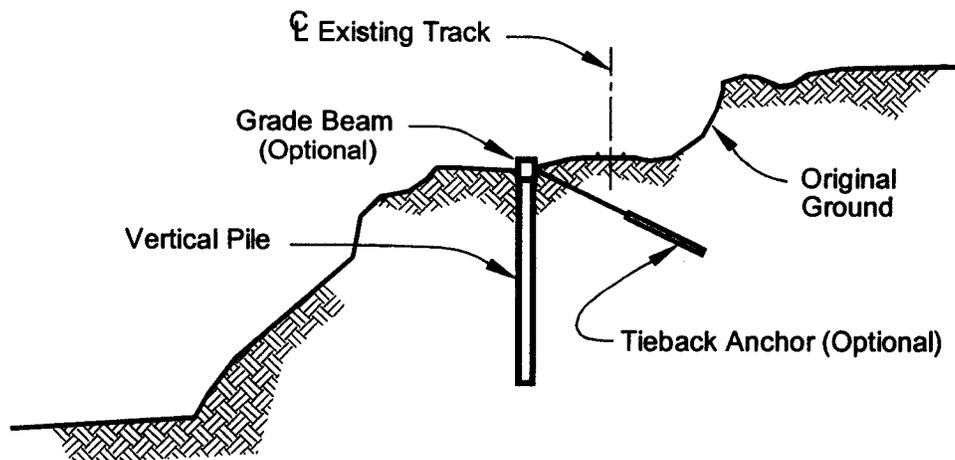
\* Designations are from Del Mar Bluffs Stabilization Project 3 – Preserving Trackbed Support’s “Type Selection Report” (David Evans and Associates 2010) and “Geotechnical Evaluation Update and Determination of Areas for Stabilization” (Leighton 2010). “SA” stands for “Stabilization Area.”

The proposed action would use soldier piles to improve bluff stability. Soldier piles are essentially underground, reinforced concrete columns. Spacing the soldier piles along a bluff provides improved support, provided that the soldier piles are anchored in a relatively stable geological formation.

For the proposed action, soldier piles, each approximately 30 to 36 inches wide, would be spaced approximately 10 feet on center (i.e., ten feet from the center of one pile to the center of the next) to create a “soldier pile wall.” The spacing of individual piles may vary by a few feet in either direction based on site specific conditions (such as the need to avoid drilling through existing

trackside facilities or drainage structures). Based on the extent of proposed bluff stabilization and the average 10-foot spacing, up to 134 piles may be installed.

The soldier piles would be 30 to 60 feet in depth, which would allow the piles to be anchored in the relatively stable Delmar geologic formation. Additional bluff stabilization may be provided through the installation of a grade beam at the top of the soldier pile wall. A grade beam is a beam that connects the top of one soldier pile to the next, creating a “cap” along the top of the wall. This grade beam would be constructed of reinforced concrete. In some locations it also may be necessary to further increase stability through the use of tie-backs, which anchor the piles or grade beam into the slope with grouted steel bars. The extent of tie-backs that would be used would not be determined until final design. The impact assessment in this CE assumes that tie-backs would be used at all eight stabilization areas, which may slightly overstate the actual effect of the proposed action on the environment. Figure 2 shows a typical cross-section of the proposed soldier piles, including a grade beam and tie-backs.



**Figure 2 – Cross Section**

## **Installation**

### Overview of Installation

Installation of each soldier pile generally would entail the following steps:

1. Drill 30- or 36-inch diameter hole
2. Install steel reinforcement bars or steel beams into the hole

3. Fill hole with concrete

Following soldier pile installation, the following steps also may be undertaken:

4. Install grade beam (if used)
5. Install tie-backs (if used)

These steps would be repeated as necessary until the appropriate number of piles is installed and (if applicable) the piles are covered with a grade beam and/or tied-back to the bluff. Additional soldier pile installation tasks would include site preparation and clean-up. The selected contractor would be responsible for disposing of excavated material off site at an appropriate location such as a landfill or construction site (it is probable that the excavated material will be suitable for use as construction fill).

### Construction Timing and Schedule

The timing of construction activities would depend in large part on which activities can be conducted during periods of active rail use (during the day) and which activities can only be conducted when no trains are operating (late night/early morning). SANDAG is investigating the potential for daytime installation (construction) of the soldier piles; however, this may require the use of specialized construction equipment that (A) does not currently exist, (B) may not be feasible to build and/or (C) could be prohibitively costly. Accordingly, for the purposes of the CE, it is assumed that with the exception of a few tasks such as site clean-up, fabricating metal reinforcement cages and stressing tie-backs, installation during active rail use is not feasible.

If installation of the soldier piles cannot happen when the rails are in active use, most construction activities would occur at night/early morning when train traffic is much lower than during the day. In order to avoid rail traffic (e.g., freight trains, *Pacific Surfliner* and the *Coaster*), installation would occur between 12:00 a.m. and 5:30 a.m. each weekday morning. If NCTD busses evening passengers around the Del Mar Bluffs, installation could start much earlier, extending from approximately 9:30 p.m. until 5:30 a.m. the following morning (with some minor interruptions for nighttime freight trains). Currently, it is anticipated that if bussing is used, it would occur on Monday, Wednesday, and Thursday evenings.

SANDAG estimates that up to three drill crews may be operating concurrently. It is projected that each drill crew could install at least one soldier pile per 5½-hour shift and at least two piles per 8-hour shift. For safety and constructability reasons, soldier pile holes would be filled each night (i.e., soldier pile holes would not be left open during the day). The progress of soldier pile installation could be affected by several factors such as subsurface geologic conditions, weather, equipment maintenance and repair requirements, and rail traffic levels.

Based on the above-noted projections, installation is projected to require up to approximately seven months, depending on whether bussing is used to allow up to three 8-hour shifts per week. Up to one additional month of mobilization (e.g., bringing supplies and equipment to the site, setting up a construction trailer, placing temporary rubber track crossing panels across the railroad track) and up to one additional month of demobilization (e.g., site clean up, removing equipment) may be required. Accordingly, the overall construction schedule is estimated at up to approximately nine months. This represents SANDAG's best estimate, and it may take the selected contractor slightly more or less time to complete the project. If fewer than 134 piles are installed, there would be a corresponding reduction in the overall construction schedule.

### Construction Laydown Areas

NCTD has identified six potential construction laydown areas (i.e., locations where construction materials could be stored or assembled) that could be used during construction. These potential laydown areas are located (1) north of SA-1, (2) north of SA-2, (3) north of SA-4 on the west side of the track, (4) north of SA-4 on the east side of the track, (5) north of SA-6S, and (6) at the southern end of the project area. To the extent feasible, the potential laydown areas have been located in areas of disturbed or developed habitat, thereby minimizing the potential biological resource impacts of the proposed action. Depending on the selected contractor, not all laydown areas may be used. Also, as described below, additional laydown areas may be identified in the future within disturbed or developed habitat.

### Equipment

Table 2 lists the types of equipment expected to be used during installation. The specific types of equipment would be determined by the selected contractor; however, based on past experience and the specific tasks necessary to install soldier piles, Table 2 is considered to accurately represent the types of equipment that would be used on site.

### Lighting

For safety reasons, the construction site would be well lit. Large, bright lights would be directed at the work area. Wherever safe and feasible, lights would be positioned to shine parallel to the tracks, thereby minimizing the amount of light affecting residents to the east and the beach/ocean to the west. Nonetheless, some reflected light would be expected to illuminate areas adjacent to the soldier pile installation zones (e.g., residential backyards and portions of the beach).

<b>Table 2</b>	
<b>Major Construction Equipment</b>	
<b>Equipment</b>	<b>Purpose</b>
Drilling rig with track- or truck-mounted auger (30- or 36-inch drill)	Drill holes for concrete piles
Loader or lift truck	Maneuver steel bars or beams within job site; load excavated material into dump trucks
Crane	Place steel beams into drilled holes
Dump truck	Haul excavated material off site
Concrete truck	Bring and pour concrete (piles and caps)
Concrete pump truck	Pump concrete from delivery point to placement site (piles and caps)
Backhoe	Excavate cap holes and trenches for tie-back drill
Excavator with tie-back auger (8-inch drill)	Drill tie-back holes
Grout pump	Pump grout into tie-back holes
Lights	Illuminate work area
Pickup trucks	Move workers, material and small equipment within work area
Generators	Provide power for lights and other equipment

**Safety**

Construction within a railroad ROW is inherently hazardous. Furthermore, most construction would occur at night and near the edge of steep bluffs, increasing the potential hazards associated with soldier pile construction. In addition to being required to follow federal and state construction site safety laws and regulations, the selected contractor’s crews would be required to undergo railroad safety training and follow NCTD’s rail-specific safety procedures. SANDAG would coordinate closely with NCTD and the contractor in terms of scheduled train operations, and NCTD inspectors would ensure that no damage to the railroad tracks occurs during soldier pile installation. Should any track damage occur, it would be repaired prior to continued rail operations through the site.

Public access to the construction zone would be prohibited. Any excavated areas (e.g., trenches) left open between construction shifts would be barricaded and marked with warning tape., Soldier pile holes would be filled each night (i.e., soldier pile holes would not be left open during

the day) for safety and constructability reasons. As discussed above, an additional safety measure is a well lit work area.

### Construction Traffic

Construction traffic would include trucks delivering material and equipment to the construction zone, trucks hauling away excavated material and workers' commute vehicles. During mobilization, approximately five to ten trucks would be required to bring equipment to the site, including the contractor's trailer, track crossings (i.e., hard rubber mats that allow trucks and equipment to traverse the railroad tracks), lights, generators, grout pumps and similar equipment.

Once construction begins, trucks would be used to bring steel beams or bars, concrete and other material to the project site (such as tie-backs and grout, if used). Up to 25 flat bed truck trips would be required to bring rebar and steel beams to the site, and up to an additional 15 truck trips would be required to bring other material. Given the estimated seven months of active construction, an average of roughly five to eight truck trips would be required each week to deliver rebar/beams and other material to the site (fewer than two trucks per night on average). Fewer flat bed trucks would be required if steel beams or bars are brought to the site using rail cars.

Concrete would be delivered nightly as needed to fill the pile holes and grade beam. Based on the size of the proposed piles and grade beam, an average of approximately four 10-cubic yard capacity concrete trucks would be required for each 5½-hour shift, and an average of approximately 7 concrete trucks would be required for each 8-hour shift. Similarly, an average of approximately 4 or 7 ten-cubic-cubic yard capacity dump trucks would be required to haul away excavated material during each 5½- or 8-hour shift, respectively.

An average of roughly 20 to 25 construction crew members and associated inspectors would be required each night, generating an equivalent number of vehicle trips to/from the site. Workers would primarily drive to/from the site in light trucks (e.g., pickup trucks or sports utility vehicles), with some cars and motorcycles. If fewer than three crews are operating concurrently, fewer construction workers may be on site each night.

Based on the above projections, an average of up to approximately 10 to 15 trucks would enter and exit the ROW each night, including trucks bringing concrete to the site, trucks hauling excavated material from the site and trucks bringing in additional material (e.g., steel beams and/or bars, tie-backs). An additional 20 to 25 construction workers' vehicles would enter and exit the area each night as well (although workers vehicles would not necessarily be parked within NCTD's ROW).

### Access To/From the NCTD ROW

Based on the location of the proposed action and site topography, it is probable that construction traffic would gain access to NCTD's ROW via the following:

1. Intersection of the ROW with Coast Boulevard, near the southern terminus of 15<sup>th</sup> Street;
2. Western terminus of 8<sup>th</sup> Street;
3. Torrey Pines State Beach north parking lot, which provides entrance to an access road leading to the ROW.

From these access points, most construction traffic exiting the ROW would depart to Interstate Highway 5 (I-5) by way of Camino del Mar and Del Mar Heights Road, Jimmy Durante Boulevard/Via de la Valle or Carmel Valley Road. Access to the ROW from I-5 would simply follow these routes in reverse. Where necessary for safety reasons, larger trucks would be flagged on and off of the ROW.

### Avoidance of Sensitive Biological Resources

Several measures have been incorporated into the proposed action that will minimize or avoid impacts to significant biological resources. These measures are listed below—refer to the discussion of “Biological Resources” for additional description of these measures:

- With the exception of the proposed tie-back installation areas and at the potential construction laydown area at the southern end of the project area, sensitive habitat (areas of Diegan coastal sage scrub, freshwater marsh, salt grass grassland, cismontane alkali marsh, tamarisk scrub, disturbed wetland, giant reed, mule fat scrub and coastal bluff scrub) between mileposts 244.1 and 245.7 would be temporarily fenced or flagged to prevent damage from construction equipment.
- Native habitat affected by tie-back installation or at the potential construction laydown area at the southern end of the project area would be re-seeded with a native plant mix appropriate for the habitat type affected.
- In the unforeseen event that any of the above-listed habitat types is adversely affected by construction despite the protective flagging/fencing, in-kind, on-site restoration (seeding or planting) would be conducted by SANDAG (in coordination with NCTD) to offset the impact.
- If construction is necessary during the coastal California gnatcatcher (*Polioptila californica californica*) breeding season (February 15 to August 31), three surveys for coastal California gnatcatcher would be conducted in the Diegan coastal sage scrub areas within 300 feet of proposed stabilization areas SA-7 and SA-9 prior to construction at those areas. These surveys would follow U.S. Fish and Wildlife Service (USFWS) protocol. If a gnatcatcher pair is located within 300 feet of SA-7 and SA-9, construction at those areas would be postponed until after the breeding season (August 31), unless other measures are agreed to through an informal consultation with the USFWS. This

measure would also apply to any proposed laydown areas within 300 feet of Diegan coastal sage scrub located along the southern end of the project area.

- If construction occurs during the raptor nesting season, December 15 through July 31, a survey will be conducted to determine if active raptor nests are present along the proposed construction area. The December 15 through July 31 nesting season is based on the red-tailed hawk which (A) is considered the most likely raptor species to nest along the ROW and (B) has an active nesting period that encompasses the nesting periods of other raptor species with the potential to occur in trees along the ROW (e.g., great horned owl, barn owl, American kestrel). A single survey<sup>1</sup> would be conducted 30 days or less prior to the start of construction (but not before December 15). If construction begins outside the breeding season but would extend into the season, the survey for active raptor nests would be conducted at the start of the breeding season (i.e., the second half of December). If active raptor nests are found within 300 feet of any proposed stabilization area or proposed construction laydown area, weekly biological monitoring of the nests would be conducted during the breeding season when grading/construction are ongoing to ensure that nesting raptors are not adversely affected by construction. Note that if adverse effects are observed, construction activities must be pulled back to 300 feet away from the nest until the nest is vacated naturally.

### **Maintenance and Repair**

Virtually no maintenance would be required for the soldier piles. If no future actions are taken to prevent erosion, it is probable that some portion of the soldier piles ultimately would be exposed. Given the variability of factors involved in erosion, it would be highly speculative to state when and where sections of the soldier piles could be exposed in the future. The specific actions that would be taken should a section of soldier piles be exposed by erosion would be determined when and if the piles are exposed, taking into account the location, nature and extent of the exposure. Measures that might be considered at that time could include placing timbers or concrete lagging between the piles and/or attaching a sandstone facing to the piles.

### **Applicable Environmental Laws**

The proposed action would be subject to the requirements of NEPA and the federal Coastal Zone Management Act, as described below. Also as described below, the proposed action would not be expected to result in the take of plant or wildlife species listed for protection under the Endangered Species Act or take/harm migratory birds protected under the Migratory Bird Treaty Act.

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<sup>1</sup> The USFWS has not adopted a protocol for nesting raptor surveys.

## NEPA

The Department of Transportation and FTA have promulgated regulations for obtaining a CE.<sup>2</sup> Pursuant to 23 C.F.R. 771.117(a), CEs are actions that meet the definition contained in 40 C.F.R. 1508.4 and, based on past experience with similar actions, do not involve significant environmental impacts. A CE is applicable to those actions that do not:

- Induce significant impacts to planned growth or land use;
- Require the relocation of significant numbers of people;
- Have a significant impact on any natural, cultural, recreational, historic, or other resource;
- Involve significant air, noise or water quality impacts;
- Have significant impacts on travel patterns; or
- Otherwise, either individually or cumulatively, have any significant environmental impacts.

A number of potential actions that meet the criteria for CEs and that normally do not require any further NEPA approval by the FTA are listed in 23 C.F.R. 771.117(c), including “Track and railbed maintenance and improvements when carried out within the existing right-of-way” (23 C.F.R. 771.117(c)(18)). As described below (see “Justification for a CE”), the proposed action consists of a railbed improvement that would be carried out within the existing ROW and that would not cause significant impacts.

### Coastal Zone Management Act

The proposed action would occur entirely within the California coastal zone, as established by the California Coastal Act of 1976, as amended (California Public Resources Code Sections 30000 *et seq.*). Because of its location within the coastal zone, the proposed action can only receive federal funding if it is consistent with the coastal resources planning and management policies contained in Chapter 3 of the California Coastal Act. This requirement, described below, stems from the Federal Coastal Zone Management Act of 1972 (33 U.S.C. Sections 1451 *et seq.*), as amended through Public Law 104-150 (the Coastal Zone Protection Act of 1996).

The Federal Coastal Zone Management Act (Section 1456(d)) mandates that:

State and local governments submitting applications for Federal assistance under other Federal programs, in or outside of the coastal zone, affecting any land or water use of

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<sup>2</sup> The FTA guidance for implementing NEPA, provided at 23 C.F.R. 771, also is applicable to the Federal Highway Administration which, like the FTA, is an agency of the Department of Transportation.

natural resource of the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of section 6506 of title 31. Federal agencies shall not approve proposed projects that are inconsistent with the enforceable policies of a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this chapter or necessary in the interest of national security.

In California, the referenced "enforceable policies" are contained in Chapter 3 of the California Coastal Act. Accordingly, SANDAG will be required to demonstrate the proposed action's consistency with Chapter 3 coastal resources planning and management policies. The Chapter 3 policies address public access, recreation, marine environment, land resources, development and industrial facilities (many of these policies are not applicable to a bluff stabilization project within an existing railroad ROW).

In California, coastal consistency certifications are processed through the Coastal Commission. Prior to implementing the proposed action, SANDAG will, in coordination with FTA, process a coastal consistency certification for the proposed action with the Coastal Commission. Concurrence from the Coastal Commission that the proposed action would be consistent with Chapter 3 of the California Coastal Act is anticipated because of the limited effect that soldier piles would have on coastal or marine resources, and based on the Coastal Commission's finding that Del Mar Bluffs Stabilization Project 2 was consistent with the Coastal Act.

### **Migratory Bird Treaty Act**

The proposed action is not anticipated to result in the take of migratory birds protected under the Migratory Bird Treaty Act<sup>3</sup>. As discussed below under "Biological Resources," the proposed action would take place almost exclusively in developed, disturbed and non-native vegetation communities, and these vegetation communities have limited potential to serve as nesting habitat for migratory bird species. Surveys of the proposed action's impact area did not identify it as potential habitat for burrowing owl, and measures are in place to avoid impacts to nesting raptors in trees adjacent to the proposed ROW. Also as described under "Biological Resources," additional measures are in place to avoid affects to coastal California gnatcatcher, if present.

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<sup>3</sup> The Migratory Bird Treaty Act of 1918 (16 USC §§ 703-712) is domestic legislation implementing international agreements made among the United States, England, Mexico, the former Soviet Union, and Japan to protect migratory bird populations. It protects indigenous species of birds that live, reproduce, or migrate within or across international borders at some point during their life cycles from unauthorized take or harm.

## Endangered Species Act

No federally listed plant species have been detected within the footprint of the proposed action; accordingly, no impacts to federally listed plant species are expected to occur with implementation of the proposed action. Although sensitive wildlife species such as the federally listed endangered California brown pelican (*Pelecanus occidentalis californicus*) have been observed in the area, no sensitive wildlife species are expected to utilize the areas that would be directly affected by construction of the proposed action due to their disturbed nature. Coastal California gnatcatcher may be present in Diegan coastal sage scrub habitat located near SA-7 and SA-9, and measures have been included in the proposed action to avoid any potential “take” of this species, if present.

## Justification for a CE

The following documents are incorporated by reference and provide the foundation for the justification that a CE is warranted for this action:

- *Del Mar Bluffs Stabilization Project 3 – Preserving Trackbed Support, Geotechnical Evaluation Update and Determination of Areas for Stabilization.* Prepared by Leighton and Associates for SANDAG. 2010.
- *Del Mar Bluffs Stabilization Project 3 – Preserving Trackbed Support, Type Selection Report.* Prepared by David Evans and Associates for SANDAG. 2010.
- *Del Mar Bluffs Stabilization Project 2 – Preserving Trackbed Support, Supplemental Geotechnical Evaluation and Determination of Site Specific Conceptual Repair Alternatives.* Prepared by Leighton and Associates, Inc. for NCTD. 2003.
- *Del Mar Bluffs Stabilization Project 2 – Preserving Trackbed Support, Type Selection Report.* Prepared by Simon Wong Engineering for NCTD. 2004.
- *Biology Technical Report for the Del Mar Bluffs Stabilization Project 2 – Preserving Trackbed Support.* Prepared by HELIX Environmental Planning, Inc. for NCTD. May 2004.
- *Biological Resources Technical Report Update for Del Mar Bluffs Stabilization Project 3.* Prepared by HELIX Environmental Planning, Inc. for SANDAG. December 2009.
- “North County Transit District - Del Mar Bluffs Project 2 - Preserving Trackbed Support Construction Noise Assessment.” Letter report from Pacific Noise Control to HELIX Environmental Planning, Inc. May 20, 2004.
- *Cultural Resources Survey Report for the North County Transit District’s Del Mar Bluffs Stabilization Project, Del Mar, California.* Prepared by Sinead Ni Ghahlain and Drew Palette, ASM Affiliates, Inc., for NCTD. 2001.

- *Significance Evaluation of the Del Mar Bluffs Spillway (P-37-024195), Del Mar, California.* Prepared by Sinead Ni Ghahlain and Drew Palette, ASM Affiliates, Inc., for NCTD. July 2002.
- *Pacific Pocket Mouse (Perognathus longimembris pacificus) Survey for the Del Mar Bluffs Stabilization Project, City of Del Mar, San Diego County, California.* Prepared by Stephen J. Montgomery, SJM Biological Consultants, for NCTD. June 2002.
- *Final Mitigated Negative Declaration for the Del Mar Bluffs Stabilization Project 1, Drainage Improvements and Landslide Warning System.* State Clearinghouse Number 2001091003. Prepared by Project Design Consultants for NCTD. October 2001 (Final Mitigated Negative Declaration) and July 2002 (Addendum to Final Mitigated Negative Declaration).

In order to qualify for a NEPA CE, it must be demonstrated that the proposed action meets the criteria listed at 23 C.F.R. 771.117(a) and (c)(18). The criteria are discussed below.

### **23 C.F.R. 771.117(a) Criteria**

#### **Induce Significant Impacts to Planned Growth or Land Use**

The proposed action would occur entirely within an existing railroad ROW. Stabilizing the bluffs would not increase the capacity of the railroad tracks or otherwise support or restrict new development in the region. Accordingly, the proposed action would not affect planned growth.

The proposed action would not affect land use because it would not extend outside the existing ROW. Accordingly, land uses on either side of the tracks (residences to the east and public beach to the west) would remain.

#### **Require the Relocation of Significant Numbers of People**

Implementing the proposed action would not require the expansion of the NCTD ROW or otherwise require NCTD to purchase new easements or property, nor would it require the demolition, relocation or modification of any buildings (such as residences). Accordingly, the proposed action would not require the relocation of any people.

#### **Have a Significant Impact on Any Natural, Cultural, Recreational, Historic, or Other Resource**

##### *Biological Resources*

Within NCTD's ROW, the area below and immediately adjacent to the tracks has a low biological resource sensitivity. For operational and safety reasons, the train tracks have been laid

on a bed of crushed rock that nearly excludes all plant growth, and the area directly adjacent to the tracks is maintained to be kept free of weeds. Further from the tracks, however, the ROW supports a variety of habitat types and vegetation communities. A biology technical report prepared for Del Mar Bluffs Stabilization Project 2 (HELIX 2004) identified 11 habitat types in the vicinity of the proposed bluff stabilization areas, while a more recent update and addendum (HELIX 2009) identified 15 habitat types, some of which also exist as disturbed phases: salt grass grassland, coastal bluff scrub (including disturbed), non-native vegetation, Diegan coastal sage scrub (including disturbed), Torrey pines forest, freshwater marsh (including disturbed), mule fat scrub, beach, giant reed<sup>4</sup>, unvegetated bluff, cismontane alkali marsh (including disturbed), disturbed wetland, tamarisk scrub, disturbed habitat and developed.

Of these habitats, 10 are considered sensitive: salt grass grassland, coastal bluff scrub (including disturbed), Diegan coastal sage scrub (including disturbed), Torrey pines forest, freshwater marsh (including disturbed) mule fat scrub, cismontane alkali marsh (including disturbed), tamarisk scrub, disturbed wetland and giant reed area. (Giant reed [*Arundo donax*] is an invasive weed and is not in and of itself sensitive to impacts, see below.) Saltgrass grassland, coastal bluff scrub, Diegan coastal sage scrub, and Torrey pines forest are considered sensitive because they are highly restricted in extent and support sensitive plant and animal species. Freshwater marsh and cismontane alkali marsh are considered the most sensitive wetland communities, followed by mule fat scrub. In addition, tamarisk scrub, disturbed wetland and giant reed area, while dominated by non-native species, are often associated with wetlands or waters of the United States that are subject to the jurisdiction of the U.S. Army Corps of Engineers pursuant to Section 404 of the federal Clean Water Act.

One sensitive plant species, southwestern spiny rush (*Juncus acutus* ssp. *leopoldii*), was observed in the study area and is supported by the cismontane alkali marsh community. No other sensitive plants were observed in NCTD's ROW, and it is likely that the highly disturbed nature of the proposed stabilization areas precludes the presence of other sensitive plant species.

Similarly, although sensitive wildlife species such as the federal-listed endangered California brown pelican have been observed in the area, no sensitive wildlife species are expected to utilize the areas that would be directly affected by construction of the proposed action due to their disturbed nature. Coastal California gnatcatcher may be present in Diegan coastal sage scrub habitat located near SA-7 and SA-9, and raptors may nest in trees along or adjacent to much of the ROW.

Construction of the proposed action would occur on the western side of the ROW between the tracks and the beach. Construction would directly affect up to approximately 0.1 acre of native habitat and up to approximately 2.1 acres of non native, disturbed, or developed habitat, for an

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<sup>4</sup> The giant reed (*Arundo donax*) stands within the ROW are being actively eradicated by NCTD as part of an exotic species removal plan as mitigation for Del Mar Bluffs Project 1.

approximate total impact of up to 2.2 acres. An unquantified amount of disturbed and developed habitat would be traversed by construction traffic.

As noted previously, the proposed action incorporates measures that would avoid or minimize effects to sensitive habitats, thereby avoiding significant biological resources impacts. These measures include avoiding impacts to wetland habitat (freshwater marsh, cismontane alkali marsh, mule fat scrub, tamarisk scrub, disturbed wetland and giant reed area communities) and the Diegan coastal sage scrub habitat located near the southern end of the study area. Impacts to coastal bluff scrub also would be avoided, except for a minimal amount during tie-back installation, as described below, and at the potential construction laydown area at the southern end of the project area, where approximately 0.1 acre of disturbed coastal bluff scrub would be affected. With these exceptions, sensitive habitat communities would be flagged by a biologist familiar with these habitats and avoided during construction.

Although impacts to coastal bluff scrub would be minimized, it may not be feasible to install the tie-backs (if used) without some intrusion into (and effects on) this habitat. Impacts to coastal bluff scrub (including disturbed coastal bluff scrub) would not be considered significant because the habitats are too disturbed and isolated to be expected to support sensitive species and the impact area would be relatively small. In addition, the affected areas would be seeded with a native seed mix following construction. Impacts to disturbed and developed habitats would not be considered significant because they are not considered sensitive vegetation communities and do not support sensitive species.

With the exception of the above-referenced areas of coastal bluff scrub, sensitive habitat would be flagged or fenced with plastic snow fencing or other clearly identifiable fencing to prevent damage from construction equipment. The specific areas to be flagged/fenced will be determined in the field by a biologist experienced in identifying the above-listed habitat types. The biologist also will inspect the flagging/fencing prior to start of construction. In the unforeseen event that any of these habitat types are adversely affected by construction despite the protective fencing, in-kind, on-site restoration (seeding or planting) would be conducted by SANDAG to offset the impact. No other measures are required to avoid or minimize direct impacts to vegetation.

No sensitive animal species were observed at any of the proposed stabilization areas or at any of the proposed construction laydown areas. Other sensitive species are generally not expected to occur at any of the proposed stabilization areas or at proposed construction laydown areas due to the disturbances present at those locations. The coastal California gnatcatcher could potentially occur near SA-7 and SA-9. The coastal California gnatcatcher is a listed federally threatened species and is afforded protection under the federal Endangered Species Act. Although coastal bluff scrub is a potential habitats for coastal California gnatcatcher, the coastal bluff scrub that would be affected by the proposed action have very low potential for gnatcatchers because they

are located in an area of high human use (e.g., beachgoers, trains) and occur in relatively small, isolated patches. Also, only approximately 0.1 acre of disturbed coastal bluff scrub would be affected.

Because the proposed action is expected to be implemented in Spring/Summer 2011, it is probable that construction would occur during the coastal California gnatcatcher breeding season (February 15 to August 31). In the event that SANDAG determines construction is necessary during this period, three separate surveys for coastal California gnatcatcher would be conducted in the Diegan coastal sage scrub areas in the southern part of the study area within 300 feet of proposed stabilization areas SA-7 and SA-9 prior to construction at those areas. These surveys would follow USFWS protocols. Similarly, the use of any construction laydown areas within 300 feet of mapped Diegan coastal sage scrub (e.g., the southernmost potential laydown area) also would require three pre-construction surveys following USFWS protocol. If a gnatcatcher pair is located within 300 feet of SA-7, SA-9, and/or a potential construction laydown area, construction at that (those) location(s) would be postponed until after the breeding season (August 31), unless other measures are agreed to through an informal consultation with the USFWS.

Although raptor nests were not detected during the general wildlife survey of the project area, it is possible that raptor nests may be located along the ROW by the time construction starts (e.g., 2011). Project construction could result in indirect noise impacts to nesting raptors, if present, during the raptor breeding season extending from December 15 to July 31. If construction would begin during this breeding season, a pre-construction survey for nesting raptors would be conducted to identify active raptor nests in mature trees within 300 feet of the proposed stabilization areas and/or construction laydown areas. The survey would be conducted 30 days or less prior to the start of construction (but not before December 15). If construction begins outside the breeding season but would extend into the season, the survey for active raptor nests would be conducted at the start of the breeding season (i.e., the second half of December).

This activity, noted above, would consist of a single survey, conducted by a biologist able to identify raptor nests and signs of nesting activity. No survey would be required if construction occurs completely between August 1 and December 15. Additionally, no monitoring is necessary if construction occurs completely between August 1 and December 15 and/or the results of the raptor nest survey are negative.

If active raptor nests are found within 300 feet of any proposed stabilization area or proposed construction laydown area, weekly biological monitoring of the nests would be conducted during the breeding season when grading/construction are ongoing to ensure that nesting raptors are not adversely affected by construction. If adverse effects are noted (e.g., as indicated by the bird leaving its nest in definite response to construction vehicle presence), construction activities will be pulled back to 300 feet away from the nest until the nest is vacated naturally.

With the implementation of the above measures, which are incorporated into the proposed action as project design features, impacts to biological resources would be less than significant.

### *Visual Quality*

The proposed action would consist of structural elements installed almost completely below grade (i.e., underground), with limited surface visibility. In addition, concrete would be colored to help match the color of the existing bluffs, and native material would be used to backfill holes and trenches not filled with concrete, further helping to minimize the visibility of the soldier piles and grade beams. The portion of a soldier pile wall that might be visible would be the tops of the piles or the grade beam. In most areas, the soldier pile wall would be completely covered or only the tops of the piles or the top of the grade beam would be visible. In some locations, up to approximately three feet of the concrete grade beam might be exposed on its west side.

Views to the grade beam from inland areas would be intermittent. Although the tops or the piles or grade beams could be visible from some inland areas, these would not draw viewers' attention because they would be parallel to the existing railroad tracks (which include the rails, ties and ballast rock) and because most views would be directed toward the beach and/or ocean, not the NCTD ROW. Views to the top of the soldier pile wall from residences/back yards inland of the ROW would, for the most part, be obstructed by intervening topography. Views from these residences/back yards would also primarily be directed toward the ocean, not the railroad ROW.

The top of the soldier pile wall may be visible to passengers on passing trains (such as *Pacific Surfliner* or the *Coaster*), but only for extremely short periods of time (if at all) for any given passenger and probably only for passengers on the trains' lower levels. With regard to beachgoers, the potential for views to soldier pile walls would depend on the specific stabilization site and the bluff topography between that site and the beach. In general, however, views from the beach to the top of the soldier pile wall would be obstructed by topography.

As described above, if no future actions are taken to prevent erosion, it is probable that some portion of the soldier piles ultimately would be exposed. Given the variability of factors involved in erosion, it would be highly speculative to state when and where sections of the soldier piles could be exposed in the future. The specific actions that would be taken should a section of soldier piles be exposed by erosion would be determined when and if the piles are exposed, taking into account the location, nature and extent of the exposure. Measures that might be considered at that time could include attaching a sandstone facing (similar in appearance to the native Bay Point and/or Delmar geologic formations, as applicable) to the piles. Based on these factors, it is expected that visual impacts associated with the potential future exposure of soldier piles would not be significant.

### *Recreational Resources*

The proposed action would occur within an existing ROW and would not directly affect the nearby beach. Construction noise impacts would be relatively short term (see below), and would not significantly affect recreational use of the beach. Legal access routes to the beach would be maintained during construction. NCTD's existing, safety-driven prohibition on public access along its ROW may be more strictly enforced during soldier pile construction because of the increased presence of personnel working for NCTD, SANDAG, and the construction contractor during this period. This temporary change would not have a significant effect on beach access.

### *Cultural and Historic Resources*

During the environmental analysis of Del Mar Bluffs Stabilization Project 1, NCTD evaluated the potential for cultural (prehistoric and historic) resources along the Del Mar Bluffs portion of its ROW (ASM Affiliates 2001). This effort included a records search and pedestrian survey. No prehistoric resources were detected within the area that would be affected by the proposed action (i.e., Del Mar Bluffs Stabilization Project 3). Nine potential historic resources were detected along this section of ROW; however, all but one were ultimately determined to (A) be ineligible for the National Register of Historic Places and (B) not require mitigation or avoidance during construction (ASM Affiliates 2001; ASM Affiliates 2002). The one potentially National Register-eligible historic resource consists of the remains of a footbridge and gazebo associated with the turn-of-the-century Casa Del Mar Hotel (and later the Stratford Inn). Construction and maintenance of the proposed action would not affect the remains of the footbridge or gazebo because these remains are not in an area proposed for stabilization or in an area that would otherwise be disturbed during construction. Accordingly, the proposed action would not have a significant impact on cultural and historic resources.

### *Paleontological (Fossil) Resources*

The soldier piles would extend through the Bay Point Formation into the Delmar Formation. The Bay Point Formation, from the late Pleistocene age, and the Delmar Formation, from the Middle Eocene age, each have been rated as having a "high" paleontological sensitivity (Demere and Walsh 1994). Although the proposed action would entail drilling and trenching within these formations, significant impacts to paleontological resources are not anticipated because of (A) the relatively minor amount of formational materials that would be affected by drilling and trenching compared to the overall extent of these formations in the area and (B) the stabilizing effect that the proposed action would have on the bluffs. By implementing the proposed action, it is probable that paleontological resources that otherwise would be destroyed during bluff failures would be stabilized in place.

## Involve Significant Air, Noise or Water Quality Impacts

### *Air Quality*

Installation of the soldier piles would require up to approximately seven months of construction, plus up to two additional months of mobilization/demobilization. During construction, air pollutants generated by the proposed action would almost exclusively be the result of exhaust (e.g., tailpipe) emissions from construction equipment and generators (see Table 2). Given the relatively few pieces of construction equipment that would be operating at any given time and the short-term nature of the emissions, air quality impacts would not be significant.

### *Greenhouse Gas Emissions*

Currently, there are no formally adopted NEPA thresholds of significance for greenhouse gas emissions. However, on February 18, 2010, the CEQ published “Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions,” to provide draft guidance for public consideration and comment on the ways in which federal agencies can improve their consideration of the effects of greenhouse gas in NEPA compliance documents. The proposed CEQ guidance states:

CEQ proposes to advise Federal agencies to consider, in scoping their NEPA analyses, whether analysis of the direct and indirect GHG [greenhouse gas] emissions from their proposed actions may provide meaningful information to decision makers and the public. Specifically, if a proposed action would be reasonably anticipated to cause direct emissions of 25,000 metric tons or more of CO<sub>2</sub>-equivalent GHG emissions on an annual basis, agencies should consider this an indicator that a quantitative and qualitative assessment may be meaningful to decision makers and the public. For long-term actions that have annual direct emissions of less than 25,000 metric tons of CO<sub>2</sub>-equivalent, CEQ encourages Federal agencies to consider whether the action’s long-term emissions should receive similar analysis. CEQ does not propose this as an indicator of a threshold of significant effects, but rather as an indicator of a minimum level of GHG emissions that may warrant some description in the appropriate NEPA analysis for agency actions involving direct emissions of GHGs.

Although greenhouse gas emissions associated with proposed action construction have not been quantified, based on the level of construction activity involved, CO<sub>2</sub>-equivalent emissions would be well below the 25,000-metric-ton level addressed in the proposed CEQ guidance. Once the soldier piles are installed, there would be negligible levels of greenhouse gas emissions associated with their maintenance and repair.

As noted in the CEQ’s draft guidance, using NEPA’s “rule of reason” governing the level of detail in any environmental effects analysis, agencies should ensure that they keep in proportion the extent to which they document their assessment of the effects of climate change. Because (A) the proposed action would result in only short-term (up to seven months of) construction-

related greenhouse gas emissions with negligible long-term emissions and (B) CO<sub>2</sub>-equivalent emissions would be below the levels suggested by the CEQ as warranting detailed analysis under NEPA, no further discussion of the proposed action's less-than-significant greenhouse gas emissions are addressed in this CE.

### *Noise*

Construction of the proposed action (e.g., installation of the soldier pile walls) would generate short-term noise audible to adjacent residences and beachgoers. Once the soldier pile walls have been installed, they would not cause noise. Accordingly, this CE focuses on potential construction noise impacts.

A construction noise assessment of the Del Mar Bluffs Stabilization Project 2 (Pacific Noise Control 2004) determined that construction noise for that project would generate 8-hour sound levels ranging up to approximately 81 decibels (dB) at a distance of 50 feet during louder phases of construction<sup>5</sup>. This would be noticeably higher than ambient nighttime noise levels along the bluffs, which were measured at 53 to 60 dB. (On a given night, ambient noise levels may be outside this range, which represents measurements taken at four sites on a single night.) The FTA's *Transit Noise and Vibration Impact Assessment Final Report* (1995) states that nighttime construction generating 8-hour noise levels of 70 dB or greater is likely to result in an adverse community reaction. The *Transit Noise and Vibration Impact Assessment Final Report* also specifically notes, however, that generating an adverse community reaction does not necessarily constitute a significant impact under NEPA, and that impact significance determination should take into account the existing noise environment, absolute noise levels during construction activities, duration of the construction and adjacent land uses. The proposed action is very similar in scope to the Del Mar Bluffs Stabilization Project 2; therefore, it is expected that conclusions reached in the 2004 noise assessment would apply to the proposed action.

As noted above, installation of the soldier piles would take up to approximately seven months, plus up to two months of mobilization/demobilization. Assuming conservatively, however, that a drill crew installs only one soldier pile per night, construction would progress past any given residence in one to two weeks. This would serve to minimize the noise effects of construction at any single location. With regard to beachgoers, nighttime generally represents a low use period for the beach, and beachgoers also would have flexibility in selecting a section of beach away from active, bluff-top construction. Accordingly, noise effects on beach use are expected to be minimal.

In conclusion, while it is anticipated that nighttime construction would be perceived as a

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<sup>5</sup> The construction noise assessment was based on the potential 8-hour shifts. The use of 5½-hour shifts would result in a correspondingly lower 8-hour noise level. Accordingly, the use of 8-hour shifts is considered a conservative approach.

nuisance by adjacent residents, the proposed action would not generate significant noise impacts pursuant to NEPA because only a relatively narrow portion of the community would be directly affected (i.e., residents with homes along the ROW), intensive construction activity would be relatively short-term (up to approximately seven months), and the duration of construction near any single residence would be limited to one to two weeks as construction progresses along the ROW.

### *Water Quality*

Implementation of the proposed action would not substantially alter existing on-site drainage patterns, nor would it increase runoff volumes and velocities. Upon implementation of the proposed action, runoff on the bluffs would continue to flow west, down to the beach and ocean. Drainage improvements implemented as part of Del Mar Bluffs Stabilization Project 1 will help reduce the extent to which current drainage patterns erode the bluffs and undermine its stability—the proposed action addressed in this CE would not affect the Project 1 drainage improvements.

Installation of the proposed action would be subject to a Storm Water Pollution Prevention Plan (SWPPP), to be prepared by SANDAG prior to the start of construction. The SWPPP would address construction-related erosion and sediment control measures, soil stabilization, pollutant control measures for hazardous construction materials (such as fuels and lubricants), a best management practices (BMPs) inspection and maintenance plan, and a monitoring program and reporting plan. Implementation of the proposed action would not, therefore, generate substantial additional sources of polluted runoff.

The ROW proposed for bluff stabilization is not located within a mapped or designated 100-year floodplain.

### Impacts on Travel Patterns

The proposed action would help maintain the viability of an existing travel route (i.e., the railroad) that serves as an important link for commuters, inter-city and long-distance travelers, and freight between southern San Diego County and areas to the north.

### Otherwise, Either Individually or Cumulatively, Have Any Significant Environmental Impacts

### *Environmental Justice*

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (“Environmental Justice”), requires federal agencies to address the extent to which their action may cause high and adverse human health or

environmental effects on minority populations and low-income populations. The adverse effects of the proposed action would almost exclusively be limited to short-term construction-related impacts, such as noise. These impacts would not be considered “high and adverse human health or environmental effects.” Furthermore, the population affected by these impacts consists primarily of residents located to the immediate east of the railroad ROW. Coastal Del Mar is not populated by disproportionately high levels of low-income families or minorities—according to U.S. Census data, the 1999 median annual household income in Del Mar was just over \$81,000 and approximately 19 out of 20 Del Mar residents are white.

### *Cumulative Effects*

The proposed action would incrementally contribute to impacts in the same location as Del Mar Bluffs Stabilization Projects 1 and 2. As mitigated, those projects had less-than-significant effects on the environment. Based on a review of the proposed action’s impacts (as described above), and the impacts of Project 1 (as discussed in its California Environmental Quality Act Mitigated Negative Declaration, incorporated here by reference), and the impacts of Project 2 (as discussed in its NEPA Categorical Exclusion, also incorporated by reference) cumulative impacts would not be significant for several reasons:

- All three projects would avoid direct impacts to sensitive biological resources or potentially significant cultural (historical) resources
- Noise impacts from each project were/would be short term and limited to a relatively small number of residents at any given time
- Construction-related water quality effects would be minimized through the adoption and implementation of SWPPPs and BMPs

Immediately south of the proposed action area, the North Torrey Pines Road Bridge Seismic Retrofit project is scheduled to be constructed between June 2010 and January 2013. (The NCTD railroad ROW passes under the bridge.) This project includes replacing the entire superstructure of the bridge while retrofitting and rehabilitating the substructure. With the exception of a few nighttime closures, the North Torrey Pines Road Bridge will be open to two-way traffic during construction. The final construction will mirror the existing bridge in terms of bridge width and lane configuration, and all repairs will be made such that the existing historic character of the structure is maintained. Although this bridge retrofit project may result in the selected Del Mar Bluffs Stabilization contractor electing to access the railroad ROW from the north rather than the south, it would not otherwise contribute to cumulative impacts associated with the proposed bluff stabilization project. This assessment reflects the separate physical location and the nature of the bridge retrofit project compared to the proposed bluff stabilization along the railroad ROW.

No other planned projects or actions would reasonably contribute to cumulative effects associated with the installation of soldier piles in an existing railroad ROW.

**23 C.F.R. 771.117(c)(18) Criteria**

The proposed action meets the requirements of 23 C.F.R. 771.117(c)(18) because preserving trackbed support through bluff stabilization would be an improvement to the existing railbed and because the installation of the soldier piles and associated structures (such as tie-backs) would be contained entirely within NCTD's ROW.

**Conclusion**

The proposed action meets the requirements of 23 C.F.R. 771.117(a). It has been determined that the proposed action would not, either individually or cumulatively, have a significant effect on the human environment. The proposed action would not require the relocation of significant numbers of people, nor would it induce or result in significant impacts to planned growth or land use. It would not have significant impacts on any natural, cultural, recreational, or historic resources, nor would it significantly impact air, noise and water quality or travel patterns. In addition, the proposed action also meets the requirements of 23 C.F.R. 771.117(c)(18) because it entails railbed improvements that would occur entirely within NCTD's existing ROW. Thus, the proposed action is categorically exempt under NEPA and will not require the preparation of an EA or EIS.

This document demonstrates that Del Mar Bluffs Stabilization Project 3 – Preserving Trackbed Support qualifies for a NEPA CE pursuant to 23 C.F.R. 771.117(a) and 23 C.F.R. 771.117(c)(18).

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#### Project Design Consultants

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#### Simon Wong Engineering

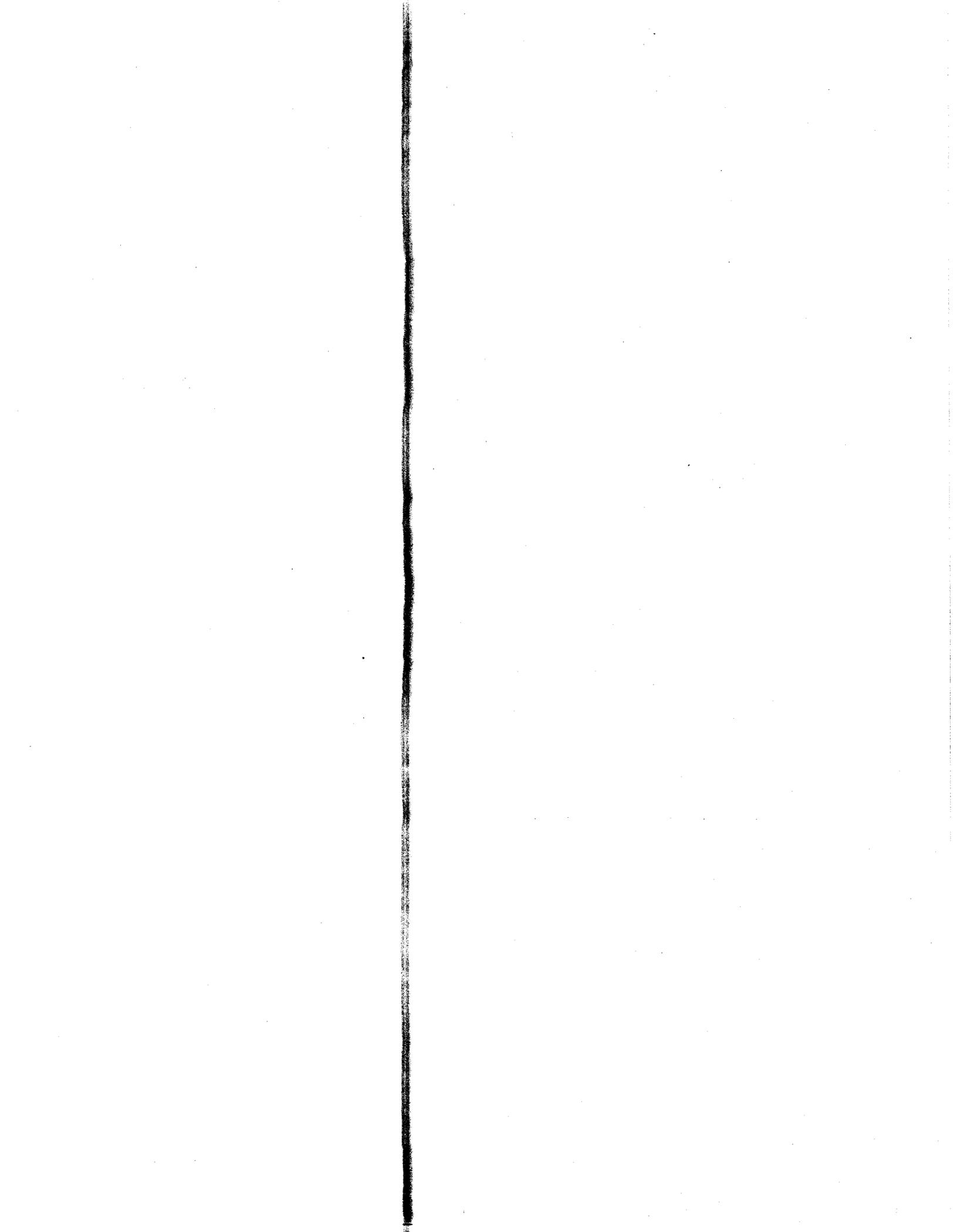
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#### SJM Biological Consultants

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**INFORMATION REQUIRED FOR PROBABLE  
CATEGORICAL EXCLUSION  
(Per 23 C.F.R. Part 771.118)**

The following information should be included in the letter or attached to the letter from the applicant to FTA Region 9 to support the request for a Categorical Exclusion (CE) determination.

     **A.**     **DETAILED PROJECT DESCRIPTION:**

The San Diego Association of Governments (SANDAG) proposes to implement the Del Mar Bluffs Stabilization Project 4 (Proposed Action) along a portion of the existing North County Transit District (NCTD) right-of-way (ROW) and within portions of Torrey Pines State Beach in the City of Del Mar. The Proposed Action is a continuation of the previous phases of bluff stabilization improvements and includes the design and installation of urgent bluff stabilization measures intended to preserve trackbed support and maintain the viability of rail operations through the year 2050. This track is part of the Los Angeles to San Diego (LOSSAN) rail corridor and represents the only operating rail link to southern San Diego County. Funding sources for this project include funds from the Federal Transit Administration (FTA), the State Transportation Improvement Program (STPIP) and the Transportation Development Act (TDA).

The Federal Transit Administration (FTA) is acting as the federal lead agency under the National Environmental Policy Act (NEPA; 42 United States Code [U.S.C.] 4321 et seq.). The Proposed Action meets the criteria for one of the class of actions that is categorically excluded from NEPA pursuant to Title 23 CFR 771.118(c)(8), which covers, "Maintenance, rehabilitation, and reconstruction of facilities that occupy substantially the same geographic footprint and do not result in a change in functional use, such as: improvements to bridges, tunnels, storage yards, buildings, stations, and terminals; construction of platform extensions, passing track, and retaining walls; and improvements to tracks and railbeds."

The Proposed Action is under consideration by FTA and SANDAG, and consists of several stabilization measures to protect the Del Mar Bluffs from further erosion, including drainage improvements, rehabilitation of damaged slopes, sea walls, and retaining walls and stabilization of areas with a moderate risk of slope failure. A detailed description of each of the Proposed Action components is provided below:

**Proposed Action Components**

Component 1 - Repair Storm Drain Headwall

As a result of exposure to several years of high tide and storm events, the existing storm drain headwall, built in 1910, at MP 244.3 has collapsed and concrete debris has fallen westerly onto the beach. A six-foot-long section of the existing 24-inch-diameter storm drain pipe was sheared off when the headwall rotated forward. Since the initial failure, the main section of the headwall and the two sidewalls have continued to shift, and the sidewalls are currently lying flat on the beach. Wave action continues to erode the slope and further undermine the existing storm drain pipe. Failure of the storm drain could cause a significant failure of the trackbed above.

Proposed stabilization improvements at this location include the construction of a new soil nail headwall finished with a rock sculpted gunite facing colored to match the existing bluffs. Additionally, the existing 24-inch storm drain pipe would be lined with a polyvinyl chloride (PVC) liner to prevent water intrusion into existing cracks. The concrete debris from the failed headwall would be removed from the beach and demolished. In addition, concrete debris from a failed headwall near MP 244.1 would also be removed from the beach.

Component 2 - Repair Timber Retaining Walls

Three timber retaining walls are located along the toe of the bluffs, including one below 13<sup>th</sup> Street, one below 12<sup>th</sup> Street, and one below 7<sup>th</sup> Street. The wall below 13<sup>th</sup> Street extends approximately 200 feet along the bluff with a maximum height of 8.2 feet, the wall below 12<sup>th</sup>

Street extends approximately 360 feet at a height of 5.5 feet, and the wall below 7<sup>th</sup> Street extends approximately 70 feet at a height of 5.5 feet. These walls consist of timber lagging that is in relatively good condition, but the existing vertical steel rails used to support the walls show signs of severe corrosion and many have rusted through compromising their integrity and capacity to support the timber retaining walls. These vertical supports must be replaced to avoid failure of the retaining walls.

Proposed improvements consist of reinforcing the walls by replacing the vertical supports and foundations. Two options for vertical supports are being considered, including galvanized steel H beams and reinforced concrete piles. New galvanized steel H beams could be placed in front of the existing walls as reinforcement. The H beams would be set in a drilled concrete foundation next to the existing wall face. The foundation depth at 13th Street and 12th Street would be approximately 15 feet, similar to the existing foundations. The foundation depth at 7th Street would be increased to approximately 10 feet to provide adequate support. Alternatively, precast prestressed concrete piles could be installed to reinforce the existing timber walls. The shape of the pile could be square or round similar to the foundation. The concrete piles would be set in a drilled concrete foundation similar to the H beam concept. The reinforced concrete piles would provide better resistance to the marine environment. The existing degraded rail beams would be removed after installation of the new vertical supports.

### Component 3 - Storm Drain Chute

Ongoing exposure to years of high tide and storm events continues to undermine an existing concrete storm drain chute structure at MP 244.4 below 12th Street. This chute structure conveys drainage from 12th Street via an existing 54-inch-diameter storm drain pipe and outlets to the beach. The chute structure is more than 50 years old and near its useful service life. Cement slurry has been previously placed in areas beneath the chute to help support the structure where undermining has occurred. Subsequent to those repairs, additional areas of erosion on the bluff beneath the chute have occurred, and portions of the existing concrete on the chute are cracked and spalled. Additionally, there are loose materials beneath the bowl-shaped outlet structure compromising its stability. Failure of the concrete chute would result in a major bluff failure and undermining of the trackbed.

A permanent solution to stabilize the chute structure would entail the construction of a new underground storm drain system and headwall to bypass the existing chute structure. An interim solution to support the structure is currently proposed until funding for a permanent solution can be secured. The proposed interim solution would provide additional concrete slurry under open cavities below the chute structure. Loose materials below the outlet structure would be removed and a concrete foundation would be installed to support the outlet structure.

### Component 4 - Replace/Repair Channel

Storm water runoff is collected from City streets and directed to an existing concrete-lined trapezoidal channel within the railroad ROW that extends between approximately 7<sup>th</sup> and 8<sup>th</sup> Streets east of the bluffs. This channel conveys large volumes of runoff from City streets, paved down drains, and storm drain pipes at high velocities, which tend to overtop and further erode the bluff. Localized erosion and a slope failure at 7<sup>th</sup> Street threaten the stability of the existing concrete channel. In particular, the section of channel north of 7th Street is deteriorated and in need of replacement/repair. Failure of the channel would cause major damage to the bluffs and support of the trackbed.

Proposed improvements consist of replacement/repair of the existing deteriorated channel with a similar concrete channel from 7<sup>th</sup> Street to the storm drain at 8<sup>th</sup> Street. New splash walls would be constructed along the west side of the channel opposite City down drains at Little Orphan Alley, and 7th Street to prevent further damage of the bluffs from runoff. The existing splash wall at 8<sup>th</sup> Street would be protected in place if possible.

#### Component 5 - Regrade Path

The existing dirt path on the west side of the existing concrete drainage channel on the top of the bluff has experienced erosion and as a result, storm water runoff tends to flow to the west over the top of the bluff and into the trackbed section. Slope failures have occurred where runoff concentrates at the bluff edge such as happened at 7<sup>th</sup> Street. Concentration of runoff over the bluffs exacerbates localized erosion and undermines the stability of the bluffs and support of the trackbed. Proposed improvements include filling and regrading the existing path, as well as placing a decomposed granite surface on the path to direct drainage to the east into the new concrete channel (component 4 above).

#### Component 6 - Slope Failure Repair

Storm water runoff has caused localized erosion and failures of the upper bluff near 7th Street and accelerated erosion on the lower bluff south of 7th Street. The path along the top of the bluff was approximately 12 feet wide, but has narrowed to approximately less than 5 feet wide where the slope failed. Proposed stabilization improvements include construction of a cement slurry buttress fill within the eroded area of the bluff. An earth colored lean mix concrete slurry would be utilized, and the gradient of the repaired slope would be consistent with the existing bluff. Once the slope is repaired, the section of the path above would be reconstructed to provide a consistent 12-foot width.

#### Component 7 - Fill Eroded Area

An area of localized erosion south of 7<sup>th</sup> Street and on the west side of the railroad tracks has created a gully adjacent to an existing access road. Storm water runoff concentrates at this gully and causes headward erosion toward the railroad tracks, which undermines the stability of the trackbed. Proposed improvements consist of filling the upper portion of the gully and grading the adjacent existing access road to disperse runoff over a larger area to prevent continued concentration of runoff that is accelerating the bluff retreat at this location.

#### Component 8 - Slope Failure at Access Road

A localized failure of the bluff has occurred along an existing access road on the west side of the railroad tracks at Anderson Canyon. A steel plate was placed over the area where the road was eroded, but continued erosion has resulted in additional slope failure. The steel plate has shifted and no longer covers the eroded area of the access road compromising the integrity of the access road. Continuous access along the railroad ROW is essential to maintenance for the railroad. Proposed improvements include the construction of four new steel H piles on the west side of the railroad tracks to reinforce the access road. Concrete lagging would be provided between the piles and the east side would be backfilled and compacted to restore the width of the access road. The depth of the piles would be approximately 32 feet.

#### Component 9 - Soldier Piles at Anderson Canyon

This area is located at Anderson Canyon west of the track and is underlain with fill with a large retaining wall at the toe of the bluff. Proposed improvements include the construction of a soldier pile wall constructed on the bluff top within the right-of-way. Soldier piles will be buried and match the previously constructed stabilization area to the north. The new piles could potentially conflict with other previously constructed stabilization area. The new piles would be placed in between any existing tiebacks. The depth of the piles would be approximately 60 feet.

#### Component 10 - Future Soldier Pile Stabilization Areas

There are six areas identified in the 2010 Type Selection Report (David Evans and Associates 2010) considered as part of Del Mar Bluffs Stabilization Project 3 that were not implemented in previous phases or proposed in the current phase. Additional evaluation after completion of the Type Selection Report indicated that SA-6S was not at immediate risk. The remaining areas

continue to show evidence of erosion and are in need of repair to stabilize the bluffs and support the trackbed. Although not proposed at this time due to funding constraints, SA-3, SA-5 and SA-6N would be stabilized during future phases with soldier piles, walls, and tiebacks on the top of the bluff within the railroad ROW. The depth of the piles would vary by location. Stabilization improvements at SA-9 have been designed and were environmentally cleared and permitted (per Coastal Consistency Certification number CC-048-07) but were not constructed due to funding constraints.

#### Component 11 - Upper Bluff Soldier Pile and Lagging Walls

There are existing wood soldier pile and lagging walls along the upper bluff at street level between Penny Lane and 10<sup>th</sup> Street, at the end of 10<sup>th</sup> Street, and at the end of 9<sup>th</sup> Street. Sections of the existing walls have failed potentially undermining the path and drainage system that flows along the top of the bluff and leaving an unprotected vertical drop adjacent to the path. Approximately 24 feet of new wall would be constructed between Penny Lane and 10<sup>th</sup> Street, 30 feet of new wall at the end of 10<sup>th</sup> street, and 12 feet of new wall at the end of 9<sup>th</sup> Street. The wall would be constructed using steel H piles with precast concrete lagging. The above grade portion of the wall and open fence would be constructed similar to the existing wood fence on top of the wall at 10<sup>th</sup> Street.

#### Component 12 - Drainage Outlet Structure Repair MP 244.7

The flow line of the existing outlet structure to the beach is lower than the sand level for part of the year blocking drainage and forcing storm flows to back up in the pipe. A series of 6-inch holes would be drilled through the existing concrete to act as a secondary outlet at a higher elevation.

#### Component 13 - Ongoing Maintenance Hydro-auger Removal

Hydro-augers were constructed at the north end of the project area as part of Del Mar Bluffs 1. Hydro-auger construction included drilling and placement of a 4-inch perforated pipe into the bluff face near the contact plane of the Del Mar Formation to collect ground water and remove it from the bluff. A second smaller "grout" tube was placed to pump concrete for an anchor at the end the pipe and keep the system in place. Over time the bluff has eroded and the ends of the hydro-augers have become exposed. Some of the pipes have slipped completely out of the bluffs. As a result, there is some debris on the beach and some protruding pipes in the bluff face. The protruding pipes would be cut off at the face of the bluffs and loose pipes would be removed from the bluff. The excess pipe and anchor debris on the beach will be removed and disposed of off-site.

#### **Proposed Action Construction**

Construction would be completed over a total duration of approximately nine months. The timing of construction activities would depend in large part on which activities can be conducted during periods of active rail use (during the day) and which activities can only be conducted when no trains are operating (late night/early morning). Construction of components on the beach could be completed during regular day time hours independent of train operations, but should avoid the summer months.

     B.

**LOCATION (INCLUDING ADDRESS): Attach a site map or diagram, which identifies the land uses and resources on the site and the adjacent or nearby land uses and resources. This is used to determine the probability of impact on sensitive receptors (such as schools, hospitals, residences) and on protected resources.**

The Proposed Action site is located along a 1.6-mile portion of the existing NCTD railroad ROW in the City of Del Mar; refer to Figures 1a and 1b. The Proposed Action extends from rail Milepost (MP) 244.1 near Coast Boulevard south to MP 245.7 at Torrey Pines State Beach. Within this reach, the NCTD rail alignment runs atop the coastal bluffs, which are generally 50 to 70 feet high. Railroad ROW varies between approximately 100 feet and 235 feet in width and, in

some places, extends onto the beach below. Portions of the Proposed Action site are also located within Torrey Pines State Beach along the base of the coastal bluffs that support the railroad tracks. The Proposed Action site lies entirely within the Coastal Zone.

As shown on Figures 1a and 1b, there are a variety of land uses within a 0.5-mile radius of the Proposed Action site that are considered sensitive, including residences, parks, beaches, schools, and a public library. The majority of the development within the vicinity of the Proposed Action is residential, with some commercial development primarily located along Camino Del Mar. The construction access and staging area for components 1 and 2A at the northern end of the Proposed Action Site is adjacent to two City parks, Powerhouse Park and Seagrove Park. The Del Mar Library is located approximately 900 feet east of components 1 and 2A. Toward the southern end of the Proposed Action site, components 8 and 9 and the associated construction access and staging areas are adjacent to/occur within Torrey Pines State Beach. Del Mar Elementary School is located approximately 430 feet east of components 2C, 4, 5, 6, 7, and 12.

**C. METROPOLITAN PLANNING AND AIR QUALITY CONFORMITY: Is the proposed project "included" in the current adopted MPO plan, either explicitly or in a grouping of projects or activities? What is the conformity status of that plan? Is the proposed project, or are appropriate phases of the project included in the TIP? What is the conformity status of the TIP?**

The MPO for this region is the San Diego Association of Governments (SANDAG). SANDAG received a finding of conformity from the U.S. DOT for San Diego Forward: The Regional Plan on December 2, 2015. The proposed project is included in this plan.

The proposed project is also included in the RTIP. The U.S. DOT made a finding of conformity for the 2016 RTIP (current RTIP) on December 16, 2016.

**D. LAND USE AND ZONING: Description of zoning, if applicable, and consistency with proposed use. (attach maps).**

Zoning designations for the Proposed Action site and surrounding area are provided in Figure 2, City of Del Mar Zoning Map. The majority of work associated with the Proposed Action would occur within areas designated as PP (Public Parkland), and RR (Railroad Right-of-way). Residential areas designated as RM-West, Medium Density Mixed – West, occur adjacent to the railroad ROW, including areas identified for staging and access. The Proposed Action entails the stabilization of existing facilities within the railroad ROW, State Lands, and City of Del Mar Beach. No new uses or zoning changes are proposed as part of the Proposed Action; therefore, the Proposed Action would be consistent with the surrounding land uses and no impacts to existing land use or zoning designations are anticipated.

**E. TRAFFIC AND PARKING IMPACTS: Describe potential traffic impacts; including whether the existing roadways have adequate capacity to handle increased bus and other vehicular traffic. Describe potential impacts to on and off-street parking.**

Construction of the Proposed Action would require use of local streets, freeways, State park roads, and beaches by construction equipment and delivery vehicles, which would result in temporary impacts to traffic and parking. No traffic signal or lane modifications would be required. Staging areas have been identified within the railroad ROW and would not require use of local roadways or parking lots. Work would be completed outside of the summer months to avoid impacts to beach traffic. While not planned, there is a potential that nighttime work could require a temporary closure of the track necessitating a bus bridge for through traffic. Bus bridges would be limited to approximately four additional bus trips in a day on an occasional basis. Bus bridges, if needed, would occur at night, outside of peak traffic time. The Proposed Action would not adversely affect bus services.

The proposed permanent improvements (stabilization of existing facilities) would not occur within public streets or result in long-term adverse effects on traffic or parking. Short-term, temporary

loss of one or two residential parking spaces may be required at the end of dead end streets along the rail corridor, where access to the railroad may occur intermittently during materials and equipment delivery. The ends of these streets would be subject to intermittent temporary closures during construction of component 11, which would replace sections of existing walls along the upper bluff at street level between Penny Lane and 10<sup>th</sup> Street, at the end of 10<sup>th</sup> Street, and at the end of 9<sup>th</sup> Street. No permanent loss of on- or off-street parking is proposed.

By stabilizing the bluffs, the Proposed Action would increase reliability of existing passenger rail services and provide for future demand on the LOSSAN Corridor while helping to reduce the number of vehicles on the road. The proposed maintenance of rail operations positively affects traffic and parking by ensuring the viability of rail operations through the year 2050.

**F. CO HOT SPOTS: If there are serious traffic impacts at any affected intersection, and if the area is nonattainment for CO, demonstrate that CO hot spots will not result.**

The Proposed Action is located in the San Diego Air Basin (SDAB) under the jurisdiction of the San Diego Air Pollution Control District (SDAPCD). The SDAPCD develops and administers local guidelines and regulations for stationary air pollutant sources within the SDAB, and also develops plans and programs to meet attainment requirements for both National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS). An area is designated as “in attainment” when it is compliant with the NAAQS and/or CAAQS, as set forth by the U.S. Environmental Protection Agency (USEPA) or the California Air Resources Board (CARB). The SDAB is currently in attainment for CO under the NAAQS and CAAQS; therefore, the Proposed Action would not exacerbate conditions of a non-attainment area for CO. During construction of the Proposed Action, CO emissions would primarily result from the use of construction equipment and motor vehicles. Emissions would be minimized through standard construction measures (i.e. minimize idling vehicles).

**G. HISTORIC RESOURCES: Describe any cultural, historic, or archaeological resource that is located in the immediate vicinity of the proposed project and the impact of the project on the resource. Discuss State Historic Preservation Officer (SHPO) consultation and findings. Discuss consultation with the Native American Heritage Commission (NAHC) and other Native American groups. Attach any relevant correspondence.**

The cultural resources survey report prepared for the Proposed Action (PanGIS 2018) evaluated potential impacts to archaeological and historic resources resulting from the Proposed Action. During the environmental analysis of Del Mar Bluffs Stabilization Project 1, NCTD evaluated the potential for cultural (prehistoric and historic) resources along the Del Mar Bluffs portion of its ROW (ASM Affiliates 2001). This effort included a records search and pedestrian survey. No prehistoric resources were detected within the area that would be affected by the Proposed Action. Nine potential historic resources were detected along this section of ROW; however, all were determined to be ineligible for National Register of Historic Places (NRHP). No Historic District has been identified within the vicinity of the Proposed Action.

An updated records search of the California Historical Resources Information Center (CHRIS) was filed with the South Coastal Information Center (SCIC) by PanGIS on January 9, 2018 (PanGIS 2018). The records search included a review of cultural resource records, reports, and historic maps. The records search indicated four previously recorded cultural resources are located within the Area of Potential Effect (APE) for the Proposed Action and two previously recorded resources are located outside of, but within 100 feet of the APE. In addition, one new resource (DMB-01) was recorded. This resource, which was not documented in the records search for the area, is a concrete pedestal and adjacent brass survey marker, likely marking the corner of the Torrey Pines State Park established in 1959.

Of the five sites in the APE, four have been previously determined not eligible for listing on the NRHP. The new resources (DMB-01) have not been evaluated for inclusion on the NRHP. The Proposed Action could potentially impact the four previously recorded sites due to construction of components 2 and 3, as well as potential staging area 5B. Impacts to these resources would not be

adverse because none are eligible for listing on the NRHP. Although DMB-01 has not been evaluated, this potential resource would not be impacted by the Proposed Action because it is outside the APE. No consultation with SHPO would be required.

A Sacred Lands File Search request of the Proposed Action area was submitted to the NAHC, and negative results were returned February 5, 2018. The NAHC provided PanGIS with a list of Native American contacts who may be able to supply information pertinent to the Proposed Action area. Each of the seventeen individuals listed were contacted by mail or email sent February 8, 2018, with follow up calls made on February 26, 2018. No replies to information requests were received by the time of this report.

**H. NOISE: Compare the distance between the center of the proposed project and the nearest noise receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Noise Assessment" with conclusions.**

As described in Item B, above, there are a variety of land uses within a 0.5-mile radius of the Proposed Action site that are considered sensitive noise receptors, including residences, parks, beaches, schools, and a public library. Noise sensitive land uses or receptors are land uses or individuals that may be subject to stress and/or interference from excessive noise. The construction access and staging area for components 1 and 2A at the northern end of the Proposed Action site is immediately adjacent to two City parks, Powerhouse Park and Seagrove Park. The Del Mar Library is located approximately 900 feet east of components 1 and 2A. Toward the southern end of the Proposed Action site, components 8 and 9 and the associated construction access and staging areas are adjacent to/occur within Torrey Pines State Beach. Del Mar Elementary School is located approximately 430 feet east of components 2C, 4, 5, 6, 7, and 12. Several hotels are located on Stratford Court and Camino Del Mar within the vicinity of the Proposed Action (approximately 400 and 900 feet from the railroad ROW, respectively). Outdoor uses such as hotel pools also are considered sensitive noise receptors.

The existing noise environment in the vicinity of the Proposed Action is comprised of multiple noise sources, including local roadways and the existing railroad operations. Construction of the Proposed Action would result in a temporary increase in noise levels experienced at nearby sensitive noise receptors. Although construction noise may be considered disruptive in some locations, noise impacts would be short term and only occur for up to a few weeks near any given sensitive noise receptor. Typically, construction activities would occur on weekdays during daylight hours, in accordance with municipal noise ordinances. There may be situations that could result in the necessity to work at night (e.g., when no trains are operating during late night/early morning hours), increasing potential noise effects experienced by sensitive receptors. Standard noise minimization practices for nighttime construction would be employed, such as temporary noise barriers or curtains, equipment enclosure, and/or use of equipment with mufflers. Construction impacts would be temporary.

Given the distance of the Proposed Action from nearby hotels, schools, and library, construction noise would not result in adverse noise impacts to these uses. Moreover, the majority of the Proposed Action components would be downslope of and/or separated by intervening topography from sensitive noise receptors. Once the proposed improvements have been installed, they would not be expected to result in noise generation, with the minor exception of vehicle noise associated with periodic maintenance and inspection visits by NCTD staff. No permanent impacts would result from the Proposed Action; therefore, a General Noise Assessment would not be required.

**I. VIBRATION: If the proposed project involves new or relocated steel tracks, compare the distance between the center of the proposed project and the nearest vibration receptor to the screening distance for this type of project in FTA's guidelines. If the screening distance is not achieved, attach a "General Vibration Assessment" with conclusions.**

Similar to noise impacts, FTA includes a screening procedure designed to identify projects that have little possibility of creating an adverse vibration impact. Vibration produced by the construction equipment and methods required to build the Proposed Action would occur with varying intensity and duration for each component. Vibration effects experienced at vibration-sensitive receptors (e.g., land uses in which ground-borne vibration could potentially interfere with operations or equipment, such as research, manufacturing, hospitals, and university research operations; residences; hotels; schools; etc.) would be infrequent and temporary. No adverse construction vibration impacts would occur, since no pile driving or similarly intense construction-related vibration activities are proposed. The Proposed Action would not include new or relocated tracks or any components that would result in an increase of operational vibration effects or result in long-term vibration impacts.

**J. ACQUISITIONS & RELOCATIONS REQUIRED: Describe land acquisitions and displacements of residences and businesses. Include discussion of any permanent or temporary easements required.**

The Proposed Action would not require acquisition or displacement of existing residences or businesses. No permanent ROW acquisition is required.

**K. HAZARDOUS MATERIALS: The presence of soil/water contamination can dramatically affect the cost, scope, and schedule of a project and create permanent liability for the transit agency through property ownership and hazardous waste disposal. Contaminated properties shall be identified and avoided if at all possible. If avoidance is not possible, contamination must be evaluated to identify possible effect on the project and the potential future liability. Contaminated soil and/or water must either be cleaned up prior to construction of the transportation project or specially managed during construction.**

A search of the State Water Resources Control Board GeoTracker Database (<https://geotracker.waterboards.ca.gov/>, accessed March 20, 2018) and the California Department of Toxic Substances EnviroStor Database (<http://www.envirostor.dtsc.ca.gov/public/>, accessed March 20, 2018), indicated that no hazardous materials sites have been identified within or near the Proposed Action site. The adjacent land uses are primarily single- and multi-family residential and recreational open space, which would not typically produce contaminants. Previous projects have completed excavation within the Proposed Action area without finding contaminated water or soil; no impacts related to hazardous materials or contaminated soils or water are anticipated.

**L. COMMUNITY DISRUPTION AND ENVIRONMENTAL JUSTICE: Provide a socio-economic profile of the affected community. Describe the impacts of the proposed project on the community. Identify any community resources that would be affected and the nature of the effect.**

The Proposed Action is located within the City of Del Mar. In general, Del Mar residents tend to be less ethnically diverse and have higher median household incomes and lower levels of poverty compared to regional averages (SANDAG 2016; <http://datasurfer.sandag.org/dataoverview>, accessed March 20, 2018). Census data from 2010 indicates that demographically the City is 91 percent white; 4 percent Hispanic; 3 percent Asian; 2 percent two or more ethnicities; and less than 1 percent each of Black, American Indian, and Pacific Islander. Within San Diego County, approximately 48 percent of the population is white; 33 percent Hispanic; 11 percent Asian; 5 percent Black; 3 percent two or more ethnicities; and less than 1 percent each of American Indian, Pacific Islander, and other. Compared to the regional average ethnicities within San Diego County, Del Mar is much less ethnically diverse. The U.S. Department of Health and Human Services guidelines define the poverty line as at or below an annual mean of \$24,300 for a family of four.

The median household income for the City of Del Mar is \$112,121. Based on the above considerations, the Proposed Action area is not considered an environmental justice community. Thus, implementation of the Proposed Action would not result in disproportionately high and adverse effects to environmental justice communities.

The Proposed Action use and function will remain the same as the existing condition. The proposed improvements are intended to extend the life and service of the rail corridor by stabilizing existing slopes, walls, and drainage facilities. No change in the character or use of the existing railroad is proposed, and no features are proposed that would highly contrast with the existing visual environmental or be incompatible with the surrounding features or uses. The proposed improvements will not divide the community or result in long-term disruptions to community activities. Construction of components proposed to occur on the beach would be scheduled to avoid the summer months, and are anticipated to require a total of 6 months for construction. Construction activities would not preclude the use of the beach as a recreational resource and access would not be affected. Construction noise impacts would be relatively short term and would not significantly affect recreational use of the beach. In addition, beach users also would have the flexibility in selecting a section of beach away from active construction areas.

\_\_\_\_ M.

**SECTION 4(f) USE:** Indicate parks and recreational areas, historic resources and any other Section 4(f) resources on the site map. If the activities and purposes of these resources will be affected by the proposed project, state how. State if the project will result in a use (direct and/or constructive use) or temporary occupancy of a Section 4(f) resource. If the project results in a Section 4(f) use, would the impacts be considered *de minimis*?

The public beach located at the base of the Del Mar Bluffs and the Torrey Pines State Beach are significant local and regional public recreational resources protected under Section 4(f) of the Department of Transportation Act of 1966. Other Section 4(f) resources potentially affected by the Proposed Action include Powerhouse Park and Seagrove Park, located immediately adjacent to the staging and access areas for components 1 and 2 (refer to Figures 1a and 1b). As described in Item G, no historic resources that would be protected by Section 4(f) would be impacted by the Proposed Action

Construction of the Proposed Action would require temporary access and work activities within the public beaches that are considered Section 4(f) resources. Work areas would require access by pickup trucks, flatbed trucks, dump trucks, a small back hoe, a drill rig and loader, and concrete ready-mix trucks. Work on the beach would be necessary to complete the new headwall and remove the debris of broken pipe and concrete (component 1), repair timber walls (component 2), repair the storm drain chute (component 3), drainage structure outlet repair (component 12), and remove hydro-augers (component 13). The remaining work areas (components 4 through 11) would be accessed from the NCTD ROW, above the bluffs.

According to Federal Highway Administration guidance (Section 4[f] Policy Paper dated July 12, 2012), temporary occupancy is not considered a Section 4(f) use if all of the following conditions exist:

- The land use is of short duration (defined as less than the time needed for the construction of the project);
- There is no change in ownership of the land;
- The scope of the work must be minor;
- There are no temporary or permanent adverse changes to the activities, features, or attributes of the property;
- The land must be fully restored to a condition at least as good as prior to the project; and
- There must be documented agreement from the official(s) with jurisdiction over the property with the above conditions.

The temporary use of beach areas would be for a short duration. Construction of components on the beach could be completed during regular day time hours independent of train operations, but should avoid the summer months. With mobilization and clean up, work on the beach would likely

be completed within approximately 6 months, which is approximately 3 months less than the overall construction period. No change in ownership would occur as a result of the temporary occupancy. Coordination with California Department of Parks and Recreation and City of Del Mar would occur to obtain permits or letters of permission to temporary use beach areas. The scope of construction work on the beach would be minor in that it would be limited to access and small work areas to complete the proposed stabilization improvements. While access and some construction activities would occur on the beach, temporarily affected areas would be limited to the near the toe of the bluffs. Construction activities would not preclude the use of the beach as a recreational resource and as discussed above, access would not be affected. In addition, beach users also would have the flexibility in selecting a section of beach away from active construction areas. Consequently, temporary construction impacts within beach areas would not adversely affect the features, attributes, or activities qualifying the beach areas for Section 4(f) protection. In addition, affected areas on the beach primarily consist of sand and rock—following construction, these areas would be in a condition similar existing conditions. Finally, coordination with the California Department of Parks and Recreation and City of Del Mar, the officials with jurisdiction of these 4(f) resources, regarding concurrence with these conditions would occur as part of the permit/permission process to grant temporary occupancy. Therefore, no temporary use of these 4(f) resources would occur.

The Proposed Action would not result in a direct or permanent use of these resources. Stabilization improvements proposed on the beach would occur to existing facilities, including storm drain structures and timber walls. These features already occur in beach areas, and the Proposed Action would entail repairs to these existing facilities. No new development in areas not previously disturbed is proposed.

The Proposed Action would not result in a construction use of 4(f) resources. Noise generated during construction activities would be relatively short term and would not significantly affect recreational use of the beach. No adverse vibration-related impacts would occur during construction. No operational noise or vibration would be generated following construction. The proposed improvements would generally result in visually similar or improved visual conditions and would not result in adverse effects related to visual resources that would adversely affect the recreational use of the beach. Additionally, impacts to ecological resources (refer to Items N and Q) would be minimal and would not adversely affect the features, attributes, or activities qualifying the beach areas for Section 4(f) protection 1

\_\_\_\_N. **IMPACTS ON WETLANDS: Show potential wetlands on the site map. Describe the project's impact on on-site and adjacent wetlands.**

The biological constraints letter report prepared for the Proposed Action (HELIX Environmental Planning, Inc. [HELIX] 2018) evaluated potential impacts to biological resources, including coastal wetlands and Waters of the U.S., during construction and operation of the Proposed Action.

Potential wetlands in the study area for biological resources include 0.83 acre of vegetated wetlands and 1.26 acres of unvegetated wetlands (Figures 3 through 7, Vegetation Map, and Table 1, Potential Wetlands Within the Biological Study Area).

**Table 1**  
**POTENTIAL WETLANDS WITHIN THE BIOLOGICAL STUDY**  
**AREA**

Vegetation Community/ Habitat Type	Area (acres)
<b>Vegetated Wetlands</b>	
Freshwater marsh	0.20
Arrow weed scrub	0.01
Saltgrass grassland	0.19
Arundo dominated riparian	0.12
Cismontane alkali marsh (including disturbed)	0.30
Mule Fat scrub	0.01
<b>Subtotal</b>	<b>0.83</b>
<b>Unvegetated Wetlands</b>	
Beach	1.26
<b>Subtotal</b>	<b>1.26</b>
<b>TOTAL</b>	<b>2.09</b>

Source: HELIX 2018

Except for beach, which is a non-sensitive community but may be considered a jurisdictional or wetland community that would fall under the jurisdiction of the U.S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and/or California Coastal Commission (CCC), the **Proposed Action would not result in direct temporary or permanent impacts to wetlands**. Short-term temporary impacts would occur for approximately nine months during the construction period caused by construction vehicles and equipment accessing the certain stabilization areas from the beach. Access routes and construction zones would occur on unvegetated portions of the beach. Such effects would not be considered adverse due to the temporary nature of activities and the lack of vegetation (i.e., no habitat loss). No mitigation or regulatory permits would be required.

Implementation of component 3 (storm drain chute) would result in direct permanent impacts to a very small area (approximately 56 square feet) of beach where a proposed concrete foundation would be installed beneath the outlet to support the chute structure. Component 2 (timber retaining walls) would also impact a very small amount of beach where the new vertical supports would be installed (approximately three-square feet for each support) along the existing walls. These beach areas that would be affected are unvegetated. Impacts would not be considered adverse given the small area affected and the fact that no vegetation loss would occur. No mitigation would be required.

Potential indirect effects to wetlands from the Proposed Action include those that may result from decreased water quality and increased fugitive dust. Potential impacts to water quality are addressed in Item P and potential impacts to air quality caused by construction are addressed in Item S.

The Proposed Action would not directly drain into a waterway supporting wetlands or require alteration of surface water features, wetlands, navigable waterways, or waters of the U.S. (e.g. channels, storm drains). The Proposed Action would result in impacts to beach, which may fall under the jurisdiction of the USACE, RWQCB, and/or CCC. The approximate High Tide Line elevation, which is the vertical extent of USACE jurisdiction under the Clean Water Act, is shown on Figures 3 through 7. Other potential jurisdictional areas occur within the study area, including those mapped freshwater marsh, arrow weed scrub, saltgrass grassland, arundo dominated riparian, mule fat scrub, and cismontane alkali marsh (including disturbed). As described above, with the exception of beach, the Proposed Action would not directly impact these potential jurisdictional areas. Impacts to Waters of the U.S. would require a CWA Section 404 Permit from the USACE and a CWA Section 401 Water Quality Certification from the RWQCB. Component 3 (storm drain chute) would extend below the High Tide Line and would require a 404 permit from the USACE and a 401 Water Quality Certification from the RWQCB.

A Storm Water Pollution Prevention Plan (SWPPP) would be prepared for the Proposed Action prior to construction in order to obtain National Pollutant Discharge Elimination System permit coverage for storm water discharges. SWPPP Best Management Practices (BMPs) would be implemented to ensure that construction does not adversely affect water quality from the use, for example, of petroleum products (e.g., fuels, oil, and lubricants) and erosion of land cleared during construction. The Proposed Action does not involve new facilities that would create contaminants or pollutants that could indirectly affect coastal wetlands. The Proposed Action would not substantially alter existing on-site drainage patterns, nor would it increase runoff volumes and velocities. Upon implementation of the Proposed Action, runoff on the bluffs would continue to flow west, down to the beach and ocean. Therefore, potential, indirect effects to water quality during construction would be avoided or minimized. Refer to Item P for a more detailed discussion of impacts to water quality, navigable waters, and coastal zones.

Dust released during grading and excavation activities could cover vegetation in adjacent habitat areas. The resulting dust covering could reduce native plant productivity, in turn displacing native vegetation, reducing diversity, and affecting wildlife dependent on the vegetation. Indirect effects to plants associated with fugitive dust resulting from the Proposed Action would be minimized or avoided through implementation of Standard Specifications that are part of all the LOSSAN construction contracts to effectively reduce emissions during construction. The control measures include, but are not limited to, application of soil stabilizers (water) to disturbed areas, termination of soil disturbance during high wind events, and covering material stock piles. These dust abatement measures would be sufficient to avoid dust-related impacts to potential coastal wetlands, as well as to other biological resources.

The proposed improvements are limited to stabilization of existing features and will not provide new improvements that would alter the drainage pattern. The existing railroad ROW is a relatively narrow corridor (100 feet to 200 feet) running along the top of bluff separating the City of Del Mar from the Pacific Ocean. Drainage from the City of Del Mar flows generally westerly and is outlet at various points into the railroad right of way. A series of concrete channels within the railroad ROW collect runoff and direct it to underground storm drain systems that outlet to the beach below. The Proposed Action will repair/reconstruct a portion of one of the existing concrete channels that collects runoff from the City of Del Mar in the same location; provide a secondary outlet in an existing outlet structure on the beach, provide a temporary repair to a surface outlet on the beach and replace an open chute with an underground system. All work with the exception of the temporary repair to a surface outlet will be above the high tide line.

**O. FLOODPLAIN IMPACTS: Is the proposed project located within the 100-year floodplain? If so, address possible flooding of the proposed project site and flooding induced by proposed project due to its taking of floodplain capacity.**

Portions of the Proposed Action site are located within areas designated as Special Hazard Zone AE and VE, per the Federal Emergency Management Agency (FEMA) National Flood Insurance Program mapping (<http://msc.fema.gov/portal>). As part of the California Coastal Analysis and Mapping Project (CCAMP), FEMA completed a study of coastal flood hazards and released a preliminary Flood Insurance Rate Map (FIRM) reflecting the results. FIRM maps are used to manage areas subject to flooding and show a community's base flood elevations, flood zones, and floodplain/floodway boundaries. The City of Del Mar floodplain is shown on two panels of the FIRM: 06073C1307 and 06073C1309 (available at <http://www.delmar.ca.us/618/FEMA---CCAMP-Project>). Currently, properties located west of Ocean Front Avenue are not in the Floodplain Overlay Zone and are exempt from floodplain development regulations; however, the recent FEMA coastal hazard study indicates the beach front properties north of 18<sup>th</sup> Street to the San Dieguito Lagoon River Mouth should be mapped as Special Flood Hazard Area due to the associated high risk of wave action and coastal flooding. The VE Zone extends eastward of the beach, past existing seawalls, and onto private property.

The Proposed Action would reinforce an existing wall and replace a headwall with a more streamlined wall; it would not introduce large structures that would change floodplain elevations or floodways. Similar to the existing conditions, some Proposed Action features would be subject to coastal flooding effects, but would not induce flooding or contribute to adverse floodplain impacts.

P.

**IMPACTS ON WATER QUALITY, NAVIGABLE WATERWAYS, & COASTAL ZONES:**  
**Describe surface and ground water resources in the project vicinity and their approximate distance to the project. State if any Clean Water Act 303d Listed Impaired Water Bodies are in the project vicinity. Explain if the project would alter or create a new direct connection to a surface water body. If any of these are implicated, provide detailed analysis.**

Implementation of the Proposed Action would not substantially alter existing on-site drainage patterns, nor would it increase runoff volumes and velocities. Upon implementation of the Proposed Action, runoff on the bluffs would continue to flow west, down to the beach and ocean. Proposed drainage improvements, as well as those implemented as part of previous Del Mar Bluffs Stabilization projects, will help reduce the extent to which current drainage patterns erode the bluffs and undermine its stability.

Installation of the Proposed Action would be subject to a SWPPP, to be prepared prior to the start of, and implemented during, construction. The SWPPP would address construction-related erosion and sediment control measures, soil stabilization, pollutant control measures for hazardous construction materials (such as fuels and lubricants), a best management practices (BMPs) inspection and maintenance plan, and a monitoring program and reporting plan. Effective containment and cleanup facilities and procedures shall be provided if accidental spills of hazardous materials occur. Implementation of the Proposed Action would not, therefore, generate substantial additional sources of polluted runoff.

Contractor operations are not anticipated to use or generate any unusual or significant amounts of hazardous wastes. Potentially hazardous materials, which may be present on site during construction of the proposed action, are those generally associated with the operation and maintenance of vehicles and equipment. Though these potentially hazardous materials may be present on site, the amount of material would be limited due to the mobile nature of the installation activities. All wastes generated would be disposed of at an approved disposal site. Hazardous materials temporarily held on-site would be stored in secure areas and in properly placarded containers. The Contractor will develop a Spill Prevention and Containment Plan before construction begins to ensure that the release of any hazardous materials is properly controlled and cleaned up. This plan will demonstrate that hazardous material storage is as far away from sensitive areas as practicable, and that any such storage areas are fully contained to prevent discharges to sensitive areas.

The Proposed Action would involve filling (components 2 and 3), which would result in impacts to areas considered potential coastal wetlands. Such activities have been minimized to the fullest extent practicable. Avoidance and minimization measures to coastal wetlands are also described above. Spoils and excess excavated material would be transported to approved off-site receiving facilities.

Q.

**IMPACTS ON ECOLOGICALLY-SENSITIVE AREAS AND ENDANGERED SPECIES:**  
**Describe any natural areas (woodlands, prairies, wetlands, rivers, lakes, streams, designated wildlife or waterfowl refuges, and geological formations) on or near the proposed project area. If present, state the results of consultation with a federal or state resources agency on the impacts to these natural areas and on threatened and endangered fauna and flora that may be affected.**

Ecologically sensitive areas include areas 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 biological constraints letter report prepared for the proposed action (HELIX 2018) identified the following 12 vegetation communities and land cover types in the vicinity of the proposed bluff stabilization areas, some of which also exist as disturbed phases: freshwater marsh, arrow weed scrub, cismontane alkali marsh (including disturbed), mule fat scrub, arundo dominated riparian, saltgrass grassland, beach, unvegetated bluff, southern coastal bluff scrub (including disturbed), disturbed habitat, non-native vegetation, and developed land (refer to Table 2 and Figures 3 through 7). Of these habitats, five could be considered environmentally sensitive: freshwater marsh, arrow weed scrub, arundo

dominated riparian, cismontane alkali marsh, and southern coastal bluff scrub. Freshwater marsh, arrow weed scrub, arundo dominated riparian, and cismontane alkali marsh are considered environmentally sensitive due to their association with wetlands or Waters of the U.S., which are regulated by the USACE, RWQCB, and the CCC (see N above). Southern coastal bluff scrub is considered an environmentally sensitive habitat area because it is limited in availability.

**Table 2  
VEGETATION TYPES WITHIN THE STUDY AREA**

<b>Vegetation Type</b>	<b>Area (ac)</b>
Freshwater Marsh	0.20
Arrow Weed Scrub	0.01
Saltgrass grassland	0.19
Arundo Dominated Riparian	0.12
Cismontane Alkali Marsh (including disturbed)	0.30
Mule Fat Scrub	0.01
Beach	1.26
Southern Coastal Bluff Scrub (including disturbed)	0.69
Unvegetated Bluff	1.14
Non-native Vegetation	1.91
Disturbed Habitat	2.58
Developed Land	4.19
<b>Total</b>	<b>12.60</b>

Source: HELIX 2018

Within NCTD's ROW, the area below and immediately adjacent to the tracks has a low biological resource sensitivity. For operational and safety reasons, the train tracks have been laid on a bed of crushed rock that nearly excludes all plant growth, and the area directly adjacent to the tracks is maintained to be kept free of weeds. Further from the tracks, however, the ROW and adjacent areas support a variety of habitat types and vegetation communities. Construction of the Proposed Action would occur on the western and eastern sides of the ROW, and no impacts to freshwater marsh, arrow weed scrub, arundo dominated riparian, or cismontane alkali marsh would occur (see discussion of potential impacts to coastal wetlands, under Article 4, above). The Proposed Action also would not permanently impact southern coastal bluff scrub. Disturbed southern coastal bluff scrub occurs near the storm drain chute (component 3); however, the concrete slurry repairs would be accessed from the beach, and impacts to the habitat are not anticipated. Project-related actions for the timber retaining walls near 12th Street and 7th Street (component 2) would also be located near mapped southern coastal bluff scrub, but the habitat occurs on the bluff in back of the walls. Repair crews would achieve access from the beach and would not impact the habitat. Proposed improvements along the replaced channel (component 4) and the regraded path (component 5) would occur adjacent to an isolated patch of southern coastal bluff scrub, but impacts to the habitat would be avoided. Although some isolated patches of coastal bluff scrub occur within potential staging areas at the southern end of the Proposed Action site (Staging areas 5A and 5B), it is anticipated that these patches of habitat could be avoided by either reconfiguring the construction staging areas or protect the habitat in place via orange fencing.

**No federally listed plant or animal species were observed at any of the proposed stabilization areas or at any of the proposed construction staging areas.** Federally listed species are generally not expected to occur at any of the proposed stabilization areas or at proposed construction staging areas due to the disturbances present at those locations. Nesting bird and raptor surveys in trees and vegetation within 500 feet of the area of impact may be required to avoid disturbance to nesting birds should vegetation clearing occur during the general avian breeding season (January 15 – August 31).

Short-term temporary impacts would occur for approximately nine months during the construction period caused by construction vehicles and equipment accessing certain stabilization areas from

the beach. Access routes and construction zones would occur on unvegetated portions of the beach. These effects would not be considered adverse due to the temporary nature of activities and such activities would not result in habitat loss. Although some sensitive habitat could be affected by construction, intrusions into sensitive habitat would be small and could be offset by restoring disturbed areas (e.g., hydroseeding with native species) following construction. Sensitive habitat areas within and directly adjacent to the proposed improvement areas would be flagged and/or fenced with plastic snow fencing or other clearly identifiable fencing to prevent damage from construction equipment. The specific areas to be flagged/fenced will be determined in the field by a biologist. The biologist also will inspect the flagging/fencing prior to start of construction. No other measures are required to avoid or minimize direct impacts to sensitive habitat.

As discussed in Item N of this document, the Proposed Action would result in impacts to beach, which may be considered a jurisdictional or wetland community that would fall under the jurisdiction of the USACE, RWQCB, and/or CCC. If determined to be jurisdictional, impacts to Waters of the U.S. would require a CWA Section 404 Permit from the USACE and a CWA Section 401 Water Quality Certification from the RWQCB. A Coastal Zone Consistency Certification from the California Coastal Commission would be required in accordance with the Coastal Zone Management Act.

**R.** **IMPACTS ON SAFETY AND SECURITY:** Describe the measures that would need to be taken to provide for the safe and secure operation of the project after its construction.

The Proposed Action use and function will remain the same as the existing condition. Project improvements are intended to stabilize existing slopes, walls, and drainage facilities. Stabilization measures will extend the service life of these features but will not change their use or function. No additional measures would be needed to improve safety compared to the existing conditions. There are no provisions for pedestrian access within this section of the railroad right of way. The nearest at grade crossing is located to the north of the project site at Coast Boulevard. This at grade crossing is signalized and will not be impacted by the proposed stabilization improvements. Trespassing by pedestrians within this section of the rail right has been a challenge for NCTD and will likely continue. The trespassing challenges will not be worsened by construction of the stabilization improvements. Any removed no trespassing signs will be replaced and additional no trespassing signs will be added per LOSSAN design criteria.

**S.** **IMPACTS CAUSED BY CONSTRUCTION:** Describe the construction plan and identify impacts due to construction noise, utility disruption, debris and spoil disposal, air and water quality, safety and security, and disruptions of traffic and access to property.

**Beach Elements of Work**

Components requiring access from the beach include stabilization of an existing storm drain headwall, temporary support of a surface outlet structure, replacement of an open chute structure with an underground storm drain, addition of a secondary outlet to an existing storm drain outlet structure, addition of new structural supports for three retaining walls and removal of debris from hydro-augers placed in 2002. The beach area would be accessed from the life guard tower at 17th Street to the north and the Torrey Pines State Beach to the south. All staging and work areas would require access by pickup trucks, flatbed trucks, dump trucks, a small back hoe, a drill rig and loader, and concrete ready-mix trucks. Parking would not be impacted. Work would be completed outside of the summer months when traffic and beach usage is at its peak. Removal of hydro-augers will require hand held equipment, lift and pickup truck to remove and dispose of the existing debris off site. Addition of the secondary outlet to the existing headwall would require use of hand held drilling equipment for additional outlet points. The remaining work would require excavation of existing materials, placement of new reinforcing and placement of concrete. All debris will be removed from the beach and disposed of offsite. No utilities are located within the work areas. All work areas will be temporarily fenced or flagged.

Construction of components on the beach could be completed during regular day time hours independent of train operations. The headwall, wood lagging retaining wall repair and reinforcement of the drainage chute outlet could be done concurrently with multiple crews, or sequentially with one move on of equipment. Placement of the new headwall would include excavation and shoring, followed by drilling and placement of the soil nails, placement of vertical reinforcing, placement of gunite and completed with placement of rockscap finish surface. Support for the retaining walls would include drilling and placement of the steel supports and placement of concrete followed by final placement of shims and connection to the existing wood lagging. Excavation and placement of concrete under the drainage chute outlet as well as modifications to the drainage outlet at MP 244.7 and removal of hydro-augers could be done concurrently with other projects. With mobilization and clean up, work on the beach would likely be completed within approximately 6 months. Addition of the storm drain replacement at the drainage chute would likely be in future phase due to funding, but would be completed in a similar work window outside of the summer months. This component would also require access from the rail corridor above the beach.

### **Upper Bluff Elements of Work**

Components proposed on the upper bluff include stabilization of the bluff west of 7th Street, repair/reconstruction of the drainage channel between 7th Street and 8th stabilization of the existing path north of 6th Street, soldier pile stabilization of three existing retaining walls between 9th and 10th Streets, soldier pile stabilization of the existing railroad access road at Anderson Canyon and soldier pile stabilization of the trackbed at Anderson Canyon and south of Anderson Canyon (Areas SA 8 and SA 9 per Del Mar Bluffs 3). Staging areas are identified within the railroad ROW for longer term storage of materials and equipment. Primary access to the railroad ROW for access to staging areas and for work along the rail will be from the Torrey Pines State Beach parking lot access road, Coast Boulevard, and the termini for 7th Street and 12th Street. Additional access from 8th Street will be needed for the slope and path stabilization and channel repair work between 6th Street and 8th Street. The existing walls to be stabilized with new soldier piles between 9th Street and 10th Street are adjacent to the railroad right of way and will support the ends of the existing public streets. Access and short-term closures of the ends of these dead-end streets including 9th Street, 10th Street, and Penny Lane will be required to complete the repair work. Short-term impacts to residential parking may occur. Construction of new soldier piles for stabilization of the access road at Anderson Canyon and the two trackbed stabilization areas (SA 8 and SA 9) are completely within the railroad ROW and will be accessed from the Torrey Pines Beach State Park parking lot access road. All work areas will be fenced or flagged. Existing fiber optic lines located within the railroad right of way would not be impacted by the work. The construction contractor will be required to obtain a right of entry permit from the City and from the California Department of Parks and Recreation. A traffic control permit will likely be needed from the City for construction access over City streets.

All staging and work areas would require access by pickup trucks, flatbed trucks, dump trucks, a small back hoe, a drill rig and loader, and concrete ready-mix trucks. All work will be completed outside of the summer months. Slope stabilization and channel repair at 7th Street would include demolition of existing concrete, excavation and fine grading for new channel, excavation and placement of fill (soil cement) at slope failures and grading and placement of new stabilized surfacing on the existing path west of the channel. Work outside the foul zone of the rail would be completed during regular daytime work hours. Work within the foul zone would be completed during daytime work hours under a Form B or possibly under previously scheduled absolute work windows.

Installation of soldier piles generally would entail drilling a 24- or 36-inch diameter hole, installing steel reinforcement bars or beams into the hole, and filling the hole with concrete. Following soldier pile installation, a grade beam or tie-backs may be installed. For the wall repairs at 9th Street and 10th Street and the soldier pile wall at the Anderson Canyon access road, placement of lagging would be needed to complete the improvements. The soldier piles for work at 9th and 10th Street would be completed during day time hours. Soldier pile work for support of the access road could be completed during daytime hours under a Form B for work within the foul

zone, during one of previously established absolute work windows or during a night time work window. Construction of soldier piles to provide trackbed stabilization would be completed during night time work windows.

Clean up of all staging areas and work areas would follow completion of the work elements. The contractor would be responsible for disposal of excavated material off site at an appropriate location such as a landfill or construction site (it is possible that the excavated material will be suitable for use as construction fill). A Storm Water Pollution Prevention Plan (SWPPP) would be prepared prior to the start of, and implemented during, construction.

Impacts due to construction noise at night for drilling will be short duration and limited to a few days per week. Public utilities are limited to fiber optic lines running with the corridor. These lines will be protected in place and will not be disrupted. Any spoils or debris that is temporarily stockpiled on site will be protected by the contractor as outlined in the SWPPP. All debris will be removed from the site and disposed at a legal dumpsite.

**T. SUPPORTING TECHNICAL STUDIES OR MEMORANDA: List any technical studies or memoranda prepared for the project.**

ASM Affiliates, Inc. 2002. Significance Evaluation of the Del Mar Bluffs Spillway (P-37-024195), Del Mar, California. Prepared by Sinead Ni Ghahlain and Drew Pallette. July.

2001. Cultural Resources Survey Report for the North County Transit District's Del Mar Bluffs Stabilization Project, Del Mar, California. Prepared by Sinead Ni Ghahlain and Drew Pallette.

HELIX Environmental Planning, Inc. 2018. Biological Constraints Letter Report Update for Del Mar Bluffs Stabilization Project 4. March 8.

PanGIS. 2018. Cultural Resources Survey for Del Mar Bluffs Stabilization Project 4, Del Mar, San Diego County, California. February 21.

**U. PUBLIC OUTREACH AND AGENCY COORDINATION: Describe any federal/ state agency coordination, public outreach efforts, public meetings, or public hearing held or public notices posted for the project. Discuss if project information is posted on a project website.**

SANDAG made a presentation on the proposed project at the City of Del Mar City council on March 5<sup>th</sup>, 2018.

The action described above meets the criteria for a NEPA categorical exclusion (CE) in accordance with 23 CFR Part 771.118 (c)(8).



\_\_\_\_\_  
Applicant's Environmental Reviewer



\_\_\_\_\_  
Date

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## REFERENCE

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The list of CEs in 23 CFR 771.118 focuses on actions most applicable to FTA. It is FTA's responsibility to determine whether the action described by the grant applicant ("applicant") falls within the CE category (i.e., the action meets all conditions listed in the CE), whether the action is inappropriately segmented from a larger project, and whether there are unusual circumstances that would make a CE determination inappropriate).

Grant applicants should include sufficient information for FTA to make a CE determination. A description of the project in the grant application, as well as any maps or figures typically included with the application or as requested by the FTA Regional Office, should be submitted to FTA to determine whether the CE applies. Section 771.118(d), which is an open-ended categorical exclusion authority, lists example actions and requires documentation to verify the application of a CE is appropriate (i.e., the action meets the criteria established in § 771.118(a) and (b)).

Documentation demonstrating compliance with environmental requirements other than NEPA, such as Section 106 of the National Historic Preservation Act ("Section 106"), or Section 7 of the Endangered Species Act, may be necessary for the processing of the grant. Other applicable environmental requirements must be met regardless of the applicability of the CE under NEPA, but compliance with other environmental requirements does not elevate an action that otherwise is categorically excluded under section 771.118(c) to section 771.118(d).

Pursuant to 40 C.F.R. § 1506.5, applicants or applicants' contractors may prepare NEPA documents for submittal to federal agencies. However, the applicant is responsible for submitting accurate and complete documentation to FTA. The applicant should prepare a separate transmittal letter or statement to accompany the CE verifying that they have reviewed the information contained in the document when they transmit it to FTA. The transmittal should include the following statement:

*"in submitting the \_(project name)\_ categorical exclusion (CE) to the FTA, the applicant \_(insert name/agency info)\_ affirms that it has reviewed and supports the information presented documenting the proposed action as meeting the criteria for a CE in accordance with 23 CFR Part 771.118 (d)(# - insert appropriate number here). Following independent review and verification by FTA, applicant (insert DOT name/info) requests that it be notified of the acceptability of its submission"*

FTA Planning and Environment Resources: [http://www.fta.dot.gov/12347\\_15129.html](http://www.fta.dot.gov/12347_15129.html)

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### 23 C.F.R Part 771.118 FTA Categorical Exclusions [as amended, January 29, 2016]

(a) Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significant environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts.

(b) Any action which normally would be classified as a CE but could involve unusual circumstances will require FTA, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such **unusual circumstances** include:

- (1) Significant environmental impacts;
- (2) Substantial controversy on environmental grounds;
- (3) Significant impact on properties protected by Section 4(f) of the DOT Act or Section 106 of the National Historic Preservation Act; or
- (4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

**(c) Actions that FTA determines fall within the following categories of FTA CEs and that meet the criteria for CEs in the CEQ regulation (40 CFR 1508.4) and paragraph (a) of this section normally do not require any further NEPA approvals by FTA.**

- (1) Acquisition, installation, operation, evaluation, replacement, and improvement of discrete utilities and similar appurtenances (existing and new) within or adjacent to existing transportation right-of-way, such as: utility poles, underground wiring, cables, and information systems; and power substations and utility transfer stations.
- (2) Acquisition, construction, maintenance, rehabilitation, and improvement or limited expansion of stand-alone recreation, pedestrian, or bicycle facilities, such as: a multiuse pathway, lane, trail, or pedestrian bridge; and transit plaza amenities.
- (3) Activities designed to mitigate environmental harm that cause no harm themselves or to maintain and enhance environmental quality and site aesthetics, and employ construction best management practices, such as: noise mitigation activities; rehabilitation of public transportation buildings, structures, or facilities; retrofitting for energy or other resource conservation; and landscaping or re-vegetation.
- (4) Planning and administrative activities which do not involve or lead directly to construction, such as: training, technical assistance and research; promulgation of rules, regulations, directives, or program guidance; approval of project concepts; engineering; and operating assistance to transit authorities to continue existing service or increase service to meet routine demand.
- (5) Activities, including repairs, replacements, and rehabilitations, designed to promote transportation safety, security, accessibility and effective communication within or adjacent to existing right-of-way, such as: the deployment of Intelligent Transportation Systems and components; installation and improvement of safety and communications equipment, including hazard elimination and mitigation; installation of passenger amenities and traffic signals; and retrofitting existing transportation vehicles, facilities or structures, or upgrading to current standards.
- (6) Acquisition or transfer of an interest in real property that is not within or adjacent to recognized environmentally sensitive areas (e.g., wetlands, non-urban parks, wildlife management areas) and does not result in a substantial change in the functional use of the property or in substantial displacements, such as: acquisition for scenic easements or historic sites for the purpose of preserving the site. This CE extends only to acquisitions and transfers that will not limit the evaluation of alternatives for future FTA-assisted projects that make use of the acquired or transferred property.
- (7) Acquisition, installation, rehabilitation, replacement, and maintenance of vehicles or equipment, within or accommodated by existing facilities, that does not result in a change in functional use of the facilities, such as: equipment to be located within existing facilities and with no substantial off-site impacts; and vehicles, including buses, rail cars, trolley cars, ferry boats and people movers that can be accommodated by existing facilities or by new facilities that qualify for a categorical exclusion.
- (8) Maintenance, rehabilitation, and reconstruction of facilities that occupy substantially the same geographic footprint and do not result in a change in functional use, such as: improvements to bridges, tunnels, storage yards, buildings, stations, and terminals; construction of platform extensions, passing track, and retaining walls; and improvements to tracks and railbeds.
- (9) Assembly or construction of facilities that is consistent with existing land use and zoning requirements (including floodplain regulations) and uses primarily land disturbed for transportation use, such as: buildings and associated structures; bus transfer stations or intermodal centers; busways and streetcar lines or other transit investments within areas of the right-of-way occupied by the physical footprint of the existing facility or otherwise maintained or used for transportation operations; and parking facilities.
- (10) Development of facilities for transit and non-transit purposes, located on, above, or adjacent to existing transit facilities, that are not part of a larger transportation project and do not substantially enlarge such facilities, such as: police facilities, daycare facilities, public service facilities, amenities, and commercial, retail, and residential development.

(11) The following actions for transportation facilities damaged by an incident resulting in an emergency declared by the Governor of the State and concurred in by the Secretary, or a disaster or emergency declared by the President pursuant to the Robert T. Stafford Act (42 U.S.C. 5121):

(i) Emergency repairs under 49 U.S.C. 5324; and

(ii) The repair, reconstruction, restoration, retrofitting, or replacement of any road, highway, bridge, tunnel, or transit facility (such as a ferry dock or bus transfer station), including ancillary transportation facilities (such as pedestrian/bicycle paths and bike lanes), that is in operation or under construction when damaged and the action:

(A) Occurs within the existing right-of-way and in a manner that substantially conforms to the preexisting design, function, and location as the original (which may include upgrades to meet existing codes and standards as well as upgrades warranted to address conditions that have changed since the original construction); and

(B) Is commenced within a 2-year period beginning on the date of the declaration.

(12) Projects, as defined in 23 U.S.C.101 that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational right-of-way.

(13) Federally funded projects:

(i) that receive less than \$5, 179,656.40 of Federal funds; or

(ii) with a total estimated cost of not more than \$31,077,938.40 and Federal funds comprising less than 15 percent of the total estimated project cost

Based on the attached formula and as required by Section 1314 of the FAST Act, the following adjustments are made for Categorical Exclusions for Projects of Limited Federal Assistance:

1. The \$5,000,000 monetary limit is adjusted to \$5, 179,656.40.

2. The \$30,000,000 monetary limit is adjusted to \$31,077,938.40.

Effective January 29, 2016, these adjusted figures must be used when applying the limited Federal assistance categorical exclusion to projects. This change also affects Title 23 of the Code of Federal Regulations (CFR), subsections 771.117(c)(23) and 771.118(c)(13), which will be amended as soon as practicable.

(14) Bridge removal and bridge removal related activities, such as in channel work, disposal of materials and debris in accordance with applicable regulations, and transportation facility realignment.

(15) Preventative maintenance, including safety treatments, to culverts and channels within and adjacent to transportation right-of-way to prevent damage to the transportation facility and adjoining property, plus any necessary channel work, such as restoring, replacing, reconstructing, and rehabilitating culverts and drainage pipes; and, expanding existing culverts and drainage pipes.

- (16) Localized geotechnical and other investigations to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.

**(d) Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of this section may be designated as CEs only after FTA approval. The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:**

- (1) Modernization of a highway by resurfacing, restoring, rehabilitating, or reconstructing shoulders or auxiliary lanes (e.g., lanes for parking, weaving, turning, climbing).
- (2) Bridge replacement or the construction of grade separation to replace existing at-grade railroad crossings.
- (3) Acquisition of land for hardship or protective purposes. Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition qualify for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.
  - (i) Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to others, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.
  - (ii) Protective acquisition is done to prevent imminent development of a parcel which may be needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.
- (4) Acquisition of right-of-way. No project development on the acquired right-of-way may proceed until the NEPA process for such project development, including the consideration of alternatives, has been completed.
- (5) (RESERVED for a future d-list example)
- (6) Facility modernization through construction or replacement of existing components.
- (7) Minor transportation facility realignment for rail safety reasons, such as improving vertical and horizontal alignment of railroad crossings, and improving sight distance at railroad crossings.
- (8) Modernization or minor expansions of transit structures and facilities outside existing right-of-way, such as bridges, stations, or rail yards.

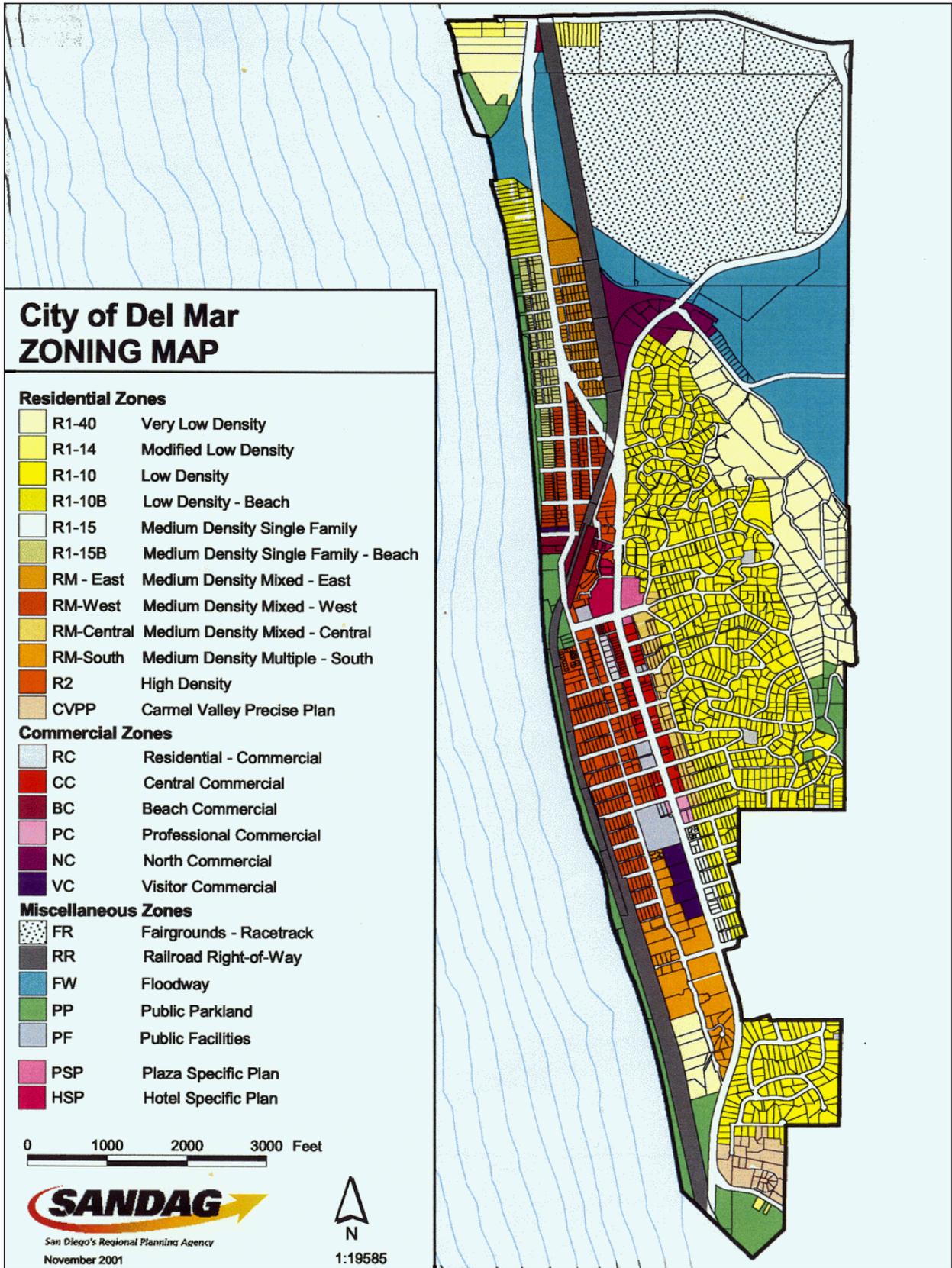


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Source: Base Map Layers (SanGIS, 2017)



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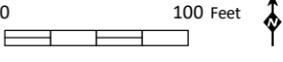
Source: City of Del Mar, Maps & Zoning, <http://www.delmar.ca.us/DocumentCenter/View/289> (accessed, 03/20/18)

-  Study Area
-  Approximate Project Feature
-  Approximate Staging Area
-  Approximate High Tide Line
- Vegetation**
-  Freshwater Marsh
-  Arrow Weed Scrub
-  Saltgrass Grassland
-  Non-native Vegetation
-  Arundo Dominated Riparian
-  Beach
-  Unvegetated Bluff
-  Disturbed Habitat
-  Developed Land



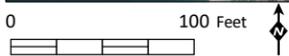
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Source: Base Map Layers (SanGIS, 2017)

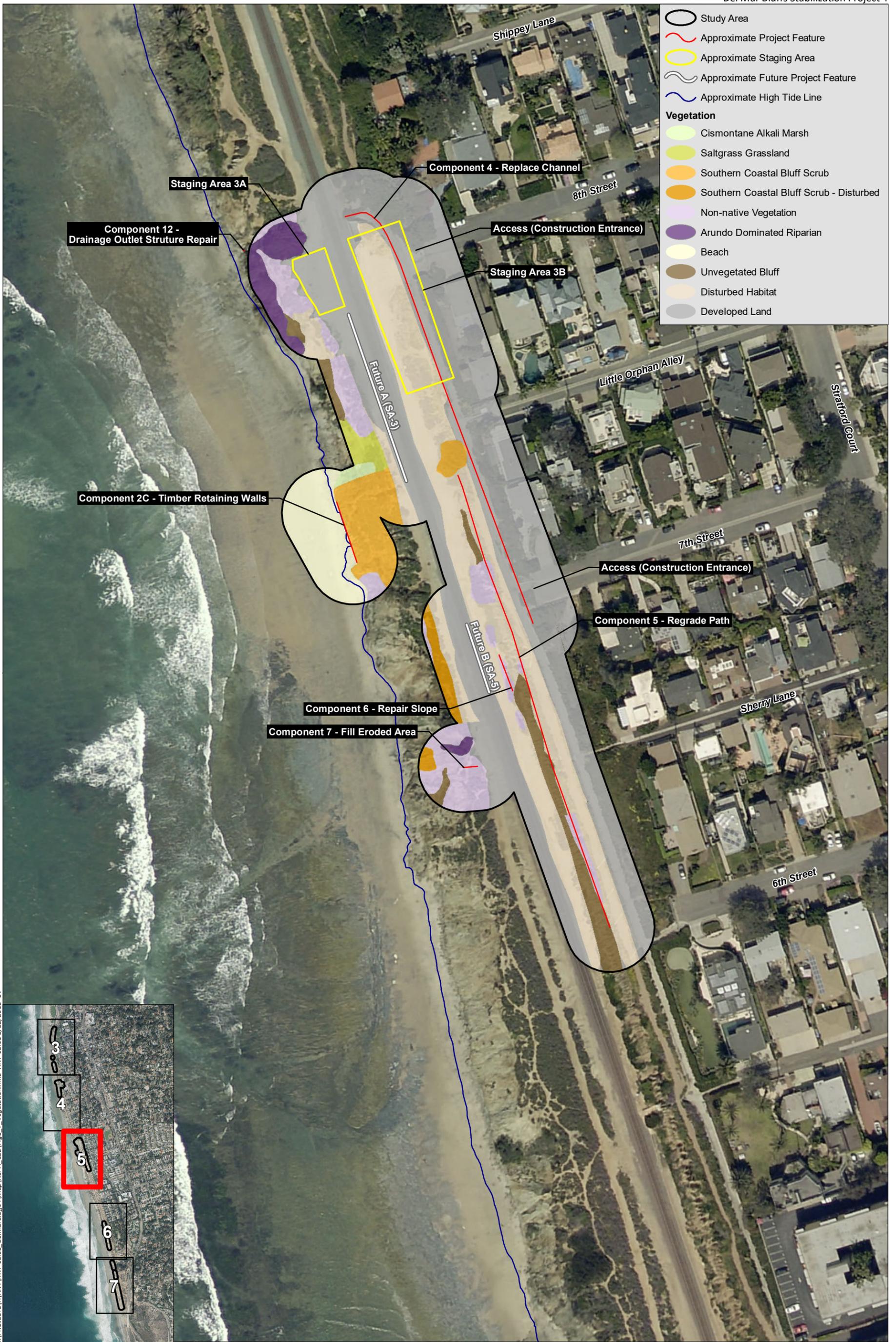




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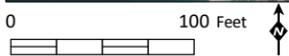


Source: Base Map Layers (SanGIS, 2017)



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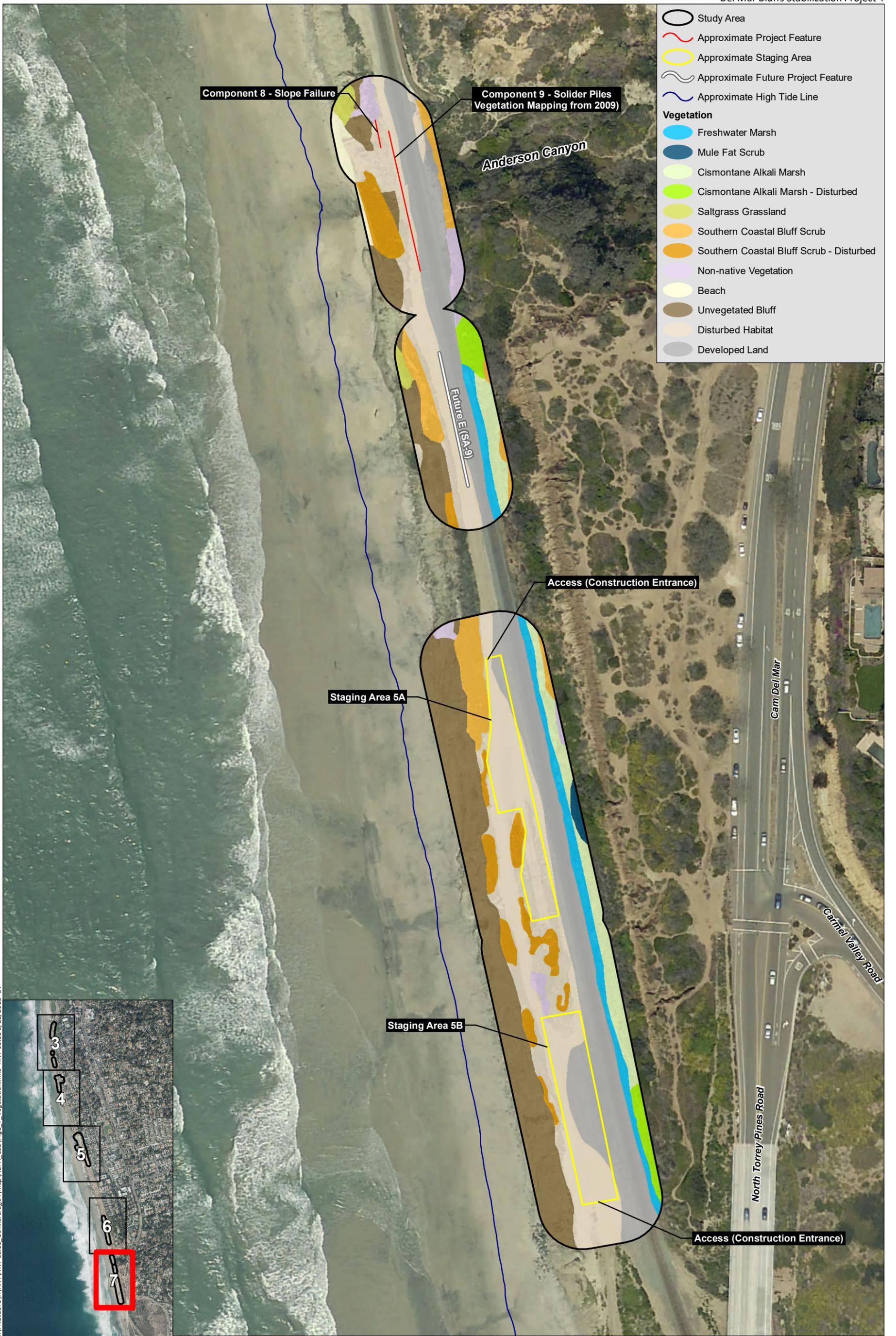
Source: Base Map Layers (SanGIS, 2017)





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