

**CALENDAR ITEM  
C82**

A 76  
S 38, 39

10/14/14  
PRC 9148.9  
D. Simpkin

**CONSIDER A PUBLIC AGENCY PERMIT AND RIGHT-OF-WAY MAPS PURSUANT  
TO SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE AND THE  
CALIFORNIA PUBLIC RESOURCES CODE SECTION 6210.3**

**LESSEE:**

California Department of Transportation

**AREA, LAND TYPE, AND LOCATION:**

Sovereign land in the San Elijo Lagoon, city of Encinitas, San Diego County

**AUTHORIZED USE:**

Replacement of an existing bridge and the construction, use, and maintenance of a new bridge crossing the San Elijo Lagoon along Interstate 5.

**LEASE TERM:**

Continuous use, plus one year, beginning October 14, 2014.

**CONSIDERATION:**

Reasonable value of the right-of-way to be deposited into the State Parks and Recreation Fund.

**OTHER PERTINENT INFORMATION:**

1. The California Department of Transportation (Caltrans) owns or has the right to use the upland.
2. The proposed Caltrans Interstate 5 (I-5) North Coast Corridor Project (Project) will improve and maintain existing and future traffic operations on the I-5 freeway from La Jolla Drive in San Diego to Harbor Drive in Oceanside/Camp Pendleton, extending approximately 27 miles. As part of the I-5 Project, Caltrans will be removing the existing bridge crossing the San Elijo Lagoon and replacing it with a new 12 lane bridge.
3. Caltrans is now applying for the issuance of a Public Agency Permit and Right-of-Way map pursuant to section 101.5 of the Streets and Highways

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Code for the proposed replacement of the existing San Elijo Lagoon Bridge.

4. Caltrans has filed maps with the Commission showing the right-of-way area.
5. Section 101.5 of the California Streets and Highways Code requires Caltrans to determine the reasonable value of the proposed right-of-way and to deposit such amount in the State Parks and Recreation Fund. Additionally, section 84.5 of the California Streets and Highways Code requires Caltrans to consider, and report on, the feasibility of providing a means of public access to a navigable river for public recreational purposes during the design hearing process of the construction of a new bridge across a navigable river. However, Caltrans believes that a feasibility study is not required because the proposed bridge will be crossing the San Elijo Lagoon, which is a coastal wetland and not a navigable river.
6. Environmental Impact Report/Statement, State Clearinghouse No. 2004101076, was prepared for this project by Caltrans District 11 and certified on November 4, 2013. The California State Lands Commission staff has reviewed such document and Mitigation Monitoring Program prepared pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096) are contained in Exhibit D, attached hereto.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**EXHIBITS:**

- A. Site and Location Map
- B. Section 101.5 Right-of-Way Map
- C. Mitigation and Monitoring Program
- D. Statement of Findings

CALENDAR ITEM NO. **C82** (CONT'D)

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that an EIR/EIS, State Clearinghouse No. 2004101076, was prepared for this Project by Caltrans and certified on November 4, 2013, and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

Adopt the Findings, made in conformance with California Code of Regulations, Title 14, sections 15091 and 15096, subdivision (h), as contained in Exhibit D, attached hereto.

Determine that the Project, as approved, will not have a significant effect on the environment.

**SIGNIFICANT LANDS INVENTORY FINDING:**

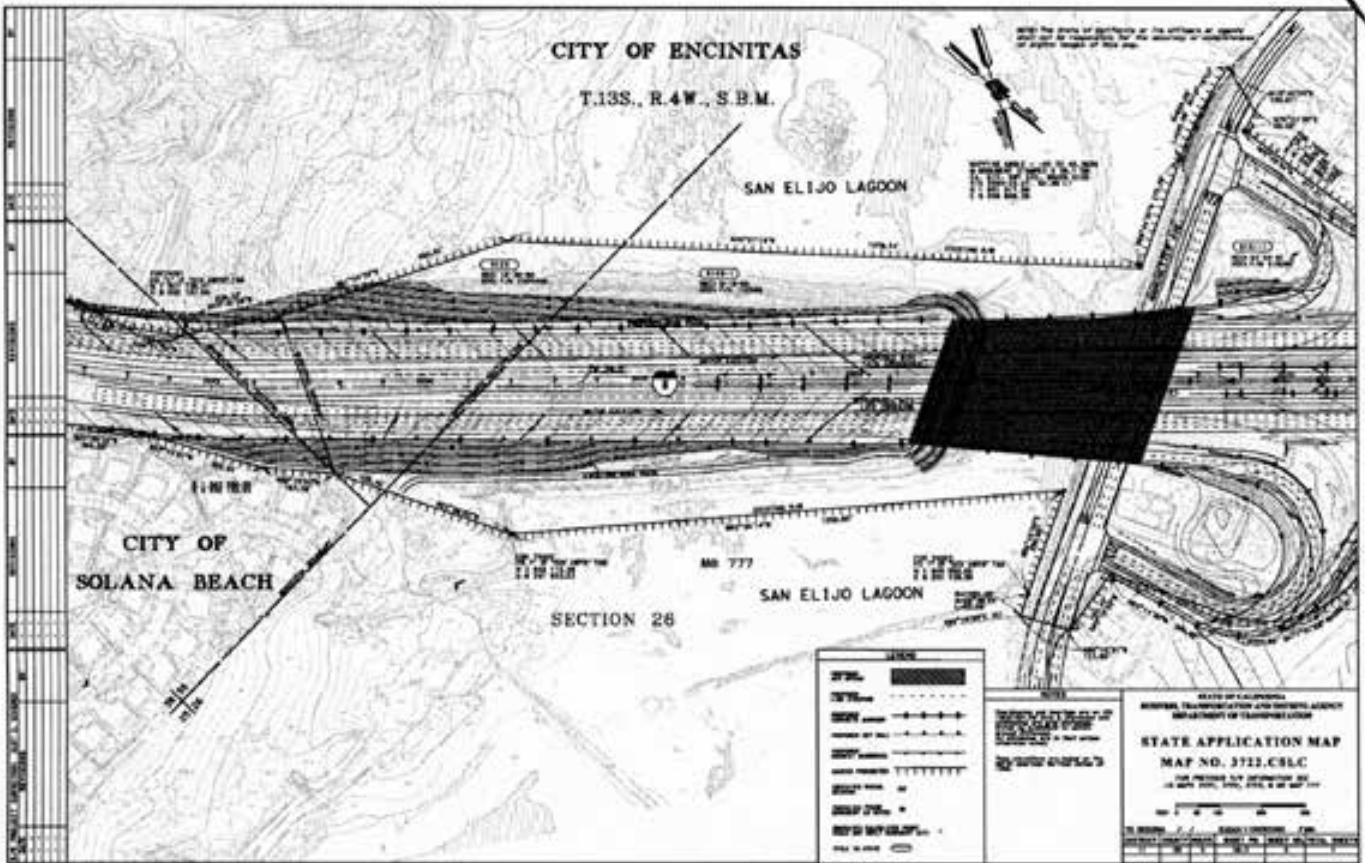
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

Authorize a Public Agency Permit to the California Department of Transportation and approve a Right-of-Way Map pursuant to section 101.5 of the Streets and Highways Code and as authorized by section 6210.3 of the Public Resources Code, effective October 14, 2014, for continuous use plus one year, of a right-of-way including the replacement of the San Elijo Lagoon Bridge along Interstate 5 near the city of Encinitas as shown on Exhibit A attached and by this reference made a part hereof.

NO SCALE

# SITE



### San Elijo Lagoon - Encinitas

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

# Exhibit A

PRC 9148.9  
CALTRANS  
STREETS & HIGHWAY  
CODE SECTION 101.5  
SAN DIEGO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.



**EXHIBIT C**  
**CALIFORNIA STATE LANDS COMMISSION**  
**MITIGATION MONITORING PROGRAM**

**INTERSTATE 5 NORTH COAST CORRIDOR, SAN ELIJO LAGOON BRIDGE**  
(State Clearinghouse No. 2004101076)

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The California State Lands Commission (Commission) is a responsible agency under the California Environmental Quality Act (CEQA) for the Interstate 5 North Coast Corridor, San Elijo Lagoon Bridge Project (Project). The CEQA lead agency for the Project is the California Department of Transportation (Caltrans).

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to discuss feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration. State CEQA Guidelines section 15097, subdivision (a), states in part:<sup>1</sup>

*In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.*

The lead agency has adopted a MMP for the whole of the Project (see Exhibit C, Attachment C-1) and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below. Any mitigation measures adopted by the Commission that differ substantially from those adopted by the lead agency are shown as follows:

- Additions to the text of the mitigation measure are underlined; and
- Deletions of the text of the mitigation measure are shown as ~~strikeout~~ or as otherwise noted.

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<sup>1</sup> The State CEQA Guidelines are found at California Code of Regulations, Title 14, section 15000 et seq.

**Table C-1. Project Impacts and Applicable Mitigation Measures.**

Potential Impact	Mitigation Measure (MM) <sup>2</sup>	Difference Between CSLC MMP and Lead Agency MMP
<u>Impact CR-1. Implementation of the Project could result in significant impacts to cultural resources if currently unknown archaeological sites are encountered during project construction.</u>	See Pages 15-16 of Attachment 1	<u>MM CR-1. Cultural Resource Measures.</u>  (A MM title was assigned)
<u>Impact P-1. Direct impacts to paleontological resources could occur when mass grading cuts extend into geological deposits containing fossils. Although the precise types, depths, and locations of various construction activities are not known at this time, unearthing of paleontological resources is anticipated.</u>	See Page 20 of Attachment 1	<u>MM P-1. Paleontological Resource Measures.</u>  (A MM title was assigned)
<u>Impact BIO-1. Implementation of the Project would result in potentially significant impacts to a number of sensitive native and non-native communities.</u>	BO2 – BO4 See Page 25 of Attachment 1	None
	BO7 and BO8 See Page 26 of Attachment 1	None
	BO9 See Pages 26-28 of Attachment 1	Measures a-c and e-h are omitted; otherwise the measures are the same.
	BO10 – BO12 See Page 28 of Attachment 1	None
	BO15 – BO34 See Pages 29-33 of Attachment 1	None
	BO42 – BO43	None

<sup>2</sup> See Attachment 1 for the full text of each mitigation measure (MM) taken from the MMP adopted by the CEQA lead agency.

Potential Impact	Mitigation Measure (MM) <sup>2</sup>	Difference Between CSLC MMP and Lead Agency MMP
	See Page 38 of Attachment 1	
<b><u>Impact BIO-2. Implementation of the Project would result in the Incidental take of Coastal California Gnatcatcher and Light-footed Clapper Rail.</u></b>	See Page 39 (1.1 and 1.2) of Attachment 1	<b><u>MM BIO-2.1. Reasonable and prudent measures for Coastal California Gnatcatcher.</u></b>  <u>(A MM title was assigned and measures were renumbered)</u>
	See Page 39 (2.1 and 2.2) of Attachment 1	<b><u>MM BIO-2.2. Reasonable and prudent measures for Light-footed Clapper Rail.</u></b>  <u>(A MM title was assigned and measures were renumbered)</u>  Within 30 calendar days of the completion of project activities within goby habitat, FHWA and/or Caltrans will provide the CFWO with a report documenting the area of goby habitat impacted, the number of dead or injured gobies observed in the action area, and the number of gobies captured and released. The report will include information on the general condition of all gobies that were killed, injured, and captured/released. It will also include an assessment of how or why gobies may have been injured or killed and information on where gobies were captured and released. Caltrans will report incidences of take (observed death or injury or capture and relocation of gobies) to the CFWO within 3 days. All field notes and other documentation generated by the biological monitor will be made available to the CFWO upon request. The purpose of this notification is to ensure that impacts to goby occupied habitat from the proposed project do not exceed the take thresholds.
	See Page 40 of Attachment 1	<b><u>MM BIO-2.3. Disposition of Sick, Injured, or Dead Specimens.</u></b>



Potential Impact	Mitigation Measure (MM) <sup>2</sup>	Difference Between CSLC MMP and Lead Agency MMP
		(A MM title was assigned)
<b><u>Impact BIO-3. Implementation of the Project would result in potentially significant impacts to eelgrass.</u></b>	See Page 40 of Attachment 1	<b><u>MM BIO-3. Eelgrass Surveys.</u></b>  (A MM title was assigned)
<b><u>Impact BIO-4. Implementation of the Project would result in potentially significant impacts to Wetlands and Other Waters.</u></b>	See Page 41 of Attachment 1	<b><u>MM BIO-4. Bioswales and Detention Basins.</u></b>  (A MM title was assigned)
<b><u>Impact BIO-5. Implementation of the Project would result in potentially significant impacts to Sensitive Plants, Animals, and Threatened and Endangered Species.</u></b>	See Page 41 of Attachment 1	<b><u>MM BIO-5a. Sensitive Plant Species.</u></b>  (A MM title was assigned)
	See Page 41 of Attachment 1	<b><u>MM BIO-5b. Sensitive Animal Species.</u></b>  (A MM title was assigned)
<b><u>AES-1. Impacts to visual and aesthetic resources. Impacts to visual and aesthetic resources as they relate to the Project on lands under the jurisdiction of the CSLC (Overcrossing, Undercrossing, Bridge, and Direct Access Ramp Structures).</u></b>	See Page 5 and 6 of Attachment 1	<b><u>MM AES-1a. Visual Mitigation</u></b>  (A MM title was assigned)
	See Pages 8-10 of Attachment 1	<b><u>MM AES-1b. Overcrossing, Undercrossing, Bridge, and DAR Structures.</u></b>  (A MM title was assigned)

**ATTACHMENT C-1**

**Mitigation Monitoring Program adopted by the  
California Department of Transportation**

# EXHIBIT D – THE INTERSTATE 5 NORTH COAST CORRIDOR PROJECT – SAN ELIJO LAGOON BRIDGE

## CALIFORNIA STATE LANDS COMMISSION STATEMENT OF FINDINGS

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### 1.0 INTRODUCTION

The California State Lands Commission (CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval for a Public Agency Permit and Right-of-Way maps to the California Department of Transportation, District 11 (Caltrans), for use of sovereign lands associated with the proposed Interstate 5 North Coast Corridor Project – San Elijo Lagoon Bridge (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)<sup>1</sup> The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code, §§ 6301, 6306.) All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

The CSLC is a responsible agency under CEQA for the Project because the CSLC must approve a Public Agency Permit and Right-of-Way maps for the Project to go forward and because Caltrans, as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. Caltrans analyzed the environmental impacts associated with the Project in a Final Environmental Impact Report/Statement (EIR/EIS) (State Clearinghouse [SCH] No. 2004101076) and, in November 2013, certified the EIR/EIS and adopted a Mitigation Monitoring and Reporting Program (MMRP), Findings, and a Statement of Overriding Considerations.

The portion of the Project on lands under CSLC jurisdiction involves the widening of the San Elijo Lagoon bridge and the addition of HOV/Managed Lanes, as well as pedestrian and bicycle upgrades.

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<sup>1</sup> CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in California Code of Regulations, Title 14, section 15000 et seq.

Caltrans determined that the overall Project could have significant environmental effects on the following environmental resource areas:

- Cultural Resources
- Paleontological Resources
- Hazards and Hazardous Materials
- Biological Resources
- Visual/Aesthetics
- Community Character and Cohesion
- Noise

Project components within the CSLC's jurisdiction (i.e., dredging, San Elijo Lagoon bridge installation, restoration activities) could have significant environmental effects on four of the resource areas noted above, as listed below:

- Cultural Resources
- Paleontological Resources
- Biological Resources
- Visual/Aesthetics

In certifying the Final EIR/EIS and approving the Project, Caltrans imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of these mitigation measures. However, even with the integration of all feasible mitigation, Caltrans concluded in the EIR/EIS that some of the identified impacts would remain significant. As a result, Caltrans adopted a Statement of Overriding Considerations to support its approval of the Project despite the significant and unavoidable impacts (see Attachment D-1). Caltrans determined that, after mitigation, the Project may still have significant impacts on Noise, Community Cohesion, and Visual/Aesthetics. Of these three resources, only significant impacts to Visual/Aesthetic resources may occur on lands under the jurisdiction of the CSLC. According to Caltrans' Findings (p. 36), "Specific to ocean views, view impacts from the project to the coastline, lagoons, and river valleys would be avoided or minimized as a matter of project design. These resources are typically most visible across or below the corridor's large lagoon and river bridges, and these views would be maintained." In addition, Caltrans' Findings state that "The proposed changes to the I-5 right-of-way would be focused and linear in nature, but implementation of any of the build alternatives would result in highly adverse changes to the existing visual environment along the I-5 right-of-way, primarily related to construction of retaining walls and potential soundwalls." Therefore, CSLC staff has determined that the Visual/Aesthetic impact specifically associated with the San Elijo Lagoon Bridge, which does not involve retaining walls and potential soundwalls, would not remain significant and would be reduced to less than significant with the inclusion of mitigation; as such, a Statement of Overriding Considerations by the CSLC is not necessary.

As a responsible agency, the CSLC complies with CEQA by considering the EIR/EIS and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the CSLC may require changes in a project to lessen or avoid the effects, either direct or indirect, of that part of the project which the CSLC will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or Project revisions are implemented, the CSLC adopts the Mitigation Monitoring Program (MMP) as set forth in Exhibit C as part of its Project approval.

## 2.0 FINDINGS

The CSLC's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each "public agency" that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the EIR/EIS certified by Caltrans for the Project identifies potentially significant impacts that fall within the scope of the CSLC's approval, the CSLC makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Resource Defense Fund v. Local Agency Formation Comm. of Santa Cruz County* (1987) 191 Cal.App.3d 886, 896-898.)

While the CSLC must consider the environmental impacts of the Project as set forth in the EIR/EIS, the CSLC's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the CSLC's exercise of discretion involves only issuing a Public Agency Permit and Right-of-Way maps for this Project, the CSLC is responsible for considering only the environmental impacts related to lands or resources subject to the CSLC's jurisdiction. With respect to all other impacts associated with implementation of the Project, the CSLC is bound by the legal presumption that the EIR/EIS fully complies with CEQA.

The CSLC has reviewed and considered the information contained in the Project EIR/EIS. All significant adverse impacts of the Project identified in the EIR/EIS relating to the CSLC's approval, which would allow the replacement of the San Elijo bridge and continued restoration of the San Elijo Lagoon, are included herein and organized according to the resource areas affected.

These Findings, which reflect the independent judgment of the CSLC, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

- (1) Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the CSLC. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.<sup>2</sup>

A discussion of supporting facts follows each Finding.

- Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
- Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.
- Wherever Finding (3) is made, the CSLC has determined that, even after implementation of all feasible mitigation measures and consideration of feasible alternatives, the identified impact will exceed the significance criteria set forth in the EIR. Furthermore, to the extent that potentially feasible measures have been alleged or proposed, the Findings explain why certain economic, legal, social, technological or other considerations render such possibilities infeasible. The significant and unavoidable impacts requiring Finding (3) are identified in the Final EIR, discussed in the Responses to Comments, and explained below. Having done everything it can to avoid and substantially lessen these effects consistent with its legal authority and CEQA, the CSLC finds in these instances that overriding economic, legal, social, and other benefits of the approved Project outweigh the resulting significant and unavoidable impacts. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines sections 15092 and 15093.)

These Findings are based on the information contained in the EIR/EIS and information submitted by the Applicant, all of which is contained in the administrative record. The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the Mitigation and Monitoring Program adopted as part of this Project approval (Exhibit C) and the Final EIR/EIS.

The CSLC is the custodian of the record of proceedings upon which its decision is based. The location of the CSLC's record of proceedings is in the Sacramento office of the CSLC, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825.

<sup>2</sup> See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

**A. SUMMARY OF FINDINGS**

Based on public scoping, there are no environmental issue areas in which the proposed Project will have No Impact.

The EIR/EIS subsequently identified the following impacts as Less Than Significant:

- Air Quality
- Energy
- Farmlands/Agricultural Lands
- Floodplains
- Geology and Soils
- Growth
- Hydrology and Water Quality
- Land Use
- Parks and Recreational Facilities
- Pedestrian and Bicycle
- Traffic and Transportation
- Utilities and Emergency Services

For the remaining potentially significant effects, the Findings are organized by significant impacts within the EIR/EIS issue areas as presented below.

**B. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION**

The impacts identified below were determined in the Final EIR/EIS to be potentially significant absent mitigation; after application of mitigation, however, the impacts were determined to be less than significant.

1. Cultural Resources	CR-1
2. Paleontological Resources	P-1
3. Biological Resources	BIO-1; BIO-2; BIO-3, BIO-4, BIO-5
4. Visual/Aesthetic Resources	AES-1

**1. CULTURAL RESOURCES**

**CEQA FINDING NO. CR-1**

Impact: **Impact CR-1.** Implementation of the Project could result in significant impacts to cultural resources if currently unknown archaeological sites are encountered during project construction.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR/EIS.

**FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project have the potential to result in significant impacts to cultural resources. The following mitigation measures (MMs), which are referenced in Section 3.8.4 of the Final EIR/EIS and detailed in the CSLC’s Mitigation

and Monitoring Program (adopted as part of this Project approval as Exhibit C), will be implemented as part of the Project to reduce this impact to a less-than-significant level.

### **MM CR-1. Cultural Resource Measures**

- The California Department of Transportation (Caltrans) will undertake efforts to avoid causing impacts to archaeological sites. Prior to construction, a Cultural Resources Treatment Plan will be developed. This plan will include an Archaeological Monitoring Area (AMA) Action Plan and an Environmentally Sensitive Area (ESA) Action Plan. Combined, these plans shall delineate AMA and ESA locations where a “qualified” archaeological monitor and a Native American monitor will be present during construction, identify the individuals involved, and their roles and responsibilities.
- The AMA and ESAs will be depicted on the design/construction plans. A letter will be sent to the Resident Engineer’s file, along with a copy of the AMA and ESA Action Plan. The archaeologist and Native American monitor will be present at the preconstruction meeting.
- A “qualified” archaeological monitor and a Native American monitor will be present at AMA and ESA locations during construction activities.
- The archaeologist and Native American monitor will work with Caltrans Construction Liaison to accurately delineate the boundaries of those sites requiring the establishment of ESAs. Fencing will be placed around ESA sites, as appropriate. ESA sites will be avoided by all construction activity.
- The construction contract will contain language related to unanticipated discoveries should they be made during construction, including diverting activities away from such finds until an archaeologist can assess their nature and significance. If unanticipated discoveries occur, Section 106 consultation with the State Historic Preservation Officer (SHPO) will be reopened, if appropriate. If cultural materials are discovered during construction, all earth-moving activity within and around the immediate discovery area will be diverted until a qualified archaeologist can assess the nature and significance of the find.
- If unanticipated human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities will cease in any area or nearby area suspected to overlie remains, and the County Coroner will be contacted. Pursuant to Public Resources Code (PRC) Section 5097.98, if the remains are thought to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC), who will then notify the Most Likely Descendant (MLD). At the same time, the person who discovered the remains



will contact the District 11 Chief of the Environmental Resources Branch so that they can work with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 will be followed, as applicable.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

## 2. PALEONTOLOGICAL RESOURCES

### CEQA FINDING NO. P-1

Impact: **Impact P-1.** Direct impacts to paleontological resources could occur when mass grading cuts extend into geological deposits containing fossils. Although the precise types, depths, and locations of various construction activities are not known at this time, unearthing of paleontological resources is anticipated.

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR/EIS.

### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in significant impacts to paleontological resources. The following mitigation measures, which are referenced in Section 3.12.4 of the Final EIR/EIS and detailed in the CSLC's Mitigation and Monitoring Program (adopted as part of this Project approval as Exhibit C), will be implemented as part of the Project to reduce this impact to a less-than-significant level.

**MM P-1. Paleontological Resource Measures.** The paleontological mitigation program will consist of monitoring, fossil salvage, macrofossil and microfossil analysis, fossil preparation, report preparation, and curation, as summarized below.

#### *Monitoring*

- A qualified principal paleontologist (M.S. or Ph.D. in paleontology or geology familiar with paleontological procedures and techniques) will be retained to be present at pre-grading meetings to consult with grading and excavation contractors.
- A paleontological monitor, under the direction of the qualified principal paleontologist, will be on site to inspect cuts for fossils at all times during original grading involving sensitive geologic formations.

*Macrofossil/Microfossil Salvage/Analysis*

- When fossils are discovered, the paleontologist (or paleontological monitor) will recover them. Construction work in these areas will be halted or diverted to allow recovery of fossil remains in a timely manner.
- Fossil remains collected during the monitoring and salvage portion of the mitigation program will be prepared, sorted, and cataloged.

*Report Preparation*

- Once the grading plan is finalized, the types, depth, and locations of the construction activities will be analyzed to finalize the Paleontological Mitigation Monitoring Plan (PMMP) prepared by a qualified principal paleontologist.
- A Paleontological Mitigation Monitoring Report (PMMR) will be prepared by a qualified principal paleontologist to document the results of the mitigation program, including construction monitoring, fossil salvage, laboratory preparation of salvaged specimens, curation of prepared specimens, and storage of curated specimens.

*Curation*

- Although all fossils collected remain the property of the State, the collection must be properly curated at an approved facility (preferably local to the project location) and preserved for future researchers. A complete set of field notes, geologic maps, stratigraphic sections, and a copy of the final report will be curated with the fossils.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**3. BIOLOGICAL RESOURCES**

<b>CEQA FINDING NO. BIO-1</b>	
Impact:	<b>Impact BIO-1.</b> Implementation of the Project would result in potentially significant impacts to a number of sensitive native and non-native communities.
Finding(s):	(1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR/EIS.

FACTS SUPPORTING THE FINDING(S)

Implementation of any of the Project would result in potentially significant impacts to a number of sensitive native and non-native communities. The following mitigation measures, which are referenced in Sections 3.17.4 through 3.22.4 of the Final EIR/EIS, CSLC's Mitigation and Monitoring Program (adopted as part of this Project approval as Exhibit C) and included in the project Biological Opinion (BO), will be implemented as part of the Project to reduce this impact to a less-than-significant level.

**BO2.** No riprap will be used in channel bottoms for bridge construction to minimize impacts to aquatic habitats.

**BO3.** Retaining walls 6 feet or lower in height will be used as feasible on fill slopes within lagoons to minimize impacts to aquatic habitats from the bike / pedestrian path. Retaining walls will also be used as feasible on cut slopes through coastal mesas to minimize project impacts to sensitive upland habitats.

**BO4.** The I-5 lagoon bridges will be lengthened to accommodate a channel bottom width of at least 261, 134, and 105 feet at San Elijo, Batiquitos, and Buena Vista Lagoons, respectively, consistent with the recommendations in the lagoon bridge optimization studies.

**BO7.** Permanent project lighting will be of the lowest illumination necessary for safety and will be directed toward the roadway, Park and Rides, and other project facilities, and away from sensitive habitats. Light glare shields will be used to reduce the extent of illumination into sensitive habitats. Lighting adjacent to lagoons will be fitted with bird control spikes to ensure that raptors will not be able to use lighting as a perch to prey on listed bird species. With the exception of pathway lighting for the North Coast (NC) Bike Trail, there will be no night lighting of trails within lagoons, wildlife corridors, and sensitive habitat areas. Pathway lighting for the NC Bike Trail will be of the lowest illumination necessary for safety and will be designed to avoid light spill into adjacent sensitive habitats and wildlife movement areas. Caltrans will coordinate with the CFWO regarding the design of pathway lighting for the NC Bike Trail to ensure that the lighting will not negatively affect wildlife movement in the project area. Caltrans will review the permanent lighting plans and then submit them to the CFWO for review and approval.

**BO8.** All pedestrian trails and bike paths will be fenced in a manner that will encourage users to remain on the trails and paths. In areas where wildlife movement is expected, such as along river and lagoon bridge benches, fencing will be designed in a manner that will encourage users to remain on the trails and paths but which will not preclude wildlife from moving through habitat areas and accessing pedestrian benches during flood events (e.g., [three rail] spilt rail fencing). Signage will be posted and maintained at conspicuous locations to inform users about adjacent sensitive habitats and species as well as access restrictions. Plans for fencing and signage for each phase of project construction will be submitted to the

CFWO for approval at least 5 days prior to initiating project impacts in each phase. Fencing and signage will be installed prior to completion of each phase of project construction.

**BO9.** The following wildlife connectivity features will be constructed to ensure that ecosystem functions are maintained for the benefit of listed species:

- d. At San Elijo Lagoon, a 12-foot-wide wildlife bench will be constructed to the south, and existing pedestrian pathways to the north and south will be maintained and are expected to provide for wildlife movement at night and during flood events.
- i. Bridges where wildlife movement is expected will use columns rather than pier walls to improve visibility and openness and encourage usage by wildlife, including Carmel Creek, Los Peñasquitos and Soledad Creeks, and all lagoons (with the exception of San Dieguito Lagoon and the San Luis Rey River where pier walls may be required for stability).
- j. To the maximum extent feasible, rock slope protection will be avoided at wildlife benches. If rock slope protection is required, modifications (e.g., small pebble, dirt, soil covered rip rap, or grouted movement pathways) will be made such that animals of all sizes can use the wildlife benches.
- k. Monitoring will be conducted on the effectiveness of the wildlife connectivity features such that the effectiveness of wildlife connectivity features can be improved and to inform decision-making for future projects. This monitoring will include research on the degree to which various undercrossings are used by target species. Remote cameras will be used to document use of wildlife undercrossings. Monitoring will be conducted over a minimum of 5 years following construction of each wildlife connectivity feature to allow wildlife to become accustomed to the wildlife connectivity features. Annual monitoring reports, including photographs, modifications made to wildlife connectivity features to improve their functionality, and recommendations, will be provided to the CFWO each year for the duration of the 5-year monitoring period following each phase of project construction.
- l. Wildlife benches will be maintained in perpetuity to ensure that wildlife connectivity in the project area is not lost over time. The wildlife connectivity plan will include a detailed explanation of how wildlife benches will be maintained and how the maintenance will be funded.

**BO10.** Caltrans will submit final project design plans to the CFWO for review and approval, based on the draft plans dated August 22, 2012, with the following revisions: 1) measures, such as the use of fabric weed barriers and mulch, will be incorporated into the design plans to limit the establishment and spread of invasive species along the oleander median; 2) gateway undercrossings and overcrossings

adjacent to lagoons will not include decorative night lighting or vertical features that may be used as a perch by raptors to prey upon listed species; 3) the design and elevation of suspended pedestrian bridges will not impede access by maintenance dredges at lagoons; 4) invasive species will be removed from planting palettes; 5) plans will clearly show that areas of temporary impact to native habitats will be replanted with native species; and 6) plans will specify that the height of vegetation planted near coastal lagoons will be limited (e.g., coastal sage and chaparral species up to approximately 8 feet in height) to prevent perching and predation by raptors on listed species.

**BO11.** Because the project is expected to start in 2014 and be phased over approximately 21 years, Caltrans will conduct updated surveys for the gnatcatcher, rail, and manzanita within 1 year prior to the commencement of vegetation clearing and construction activities for each project phase to ensure that survey information remains up to date. FHWA and Caltrans acknowledge that Section 7 consultation will be reinitiated if survey results indicate that additional impacts to these species may occur beyond those addressed in this biological opinion.

**BO12.** *Caulerpa taxifolia* surveys will be completed before and after construction at each of the lagoons to ensure there is no infestation within project limits. If *Caulerpa taxifolia* is found, measures will be implemented to eradicate it from the area.

**BO15.** The clearing and grubbing of native wetland and riparian habitats will occur between September 16 and March 14 and the clearing and grubbing of native upland habitats for the project will occur between September 1 and February 14, to avoid the rail and gnatcatcher breeding seasons, respectively [or sooner than September 16 or September 1, if a biologist knowledgeable of gnatcatcher and rail biology and ecology approved by the CFWO demonstrates to the satisfaction of the CFWO that all rail or gnatcatcher nesting is complete]. Caltrans will submit the biologist's name, address, telephone number, and work schedule on the project to the CFWO at least 5 working days prior to initiating project impacts.

**BO16.** Pile driving for bridge construction near the lagoons and San Luis Rey River will be completed between September 16 and February 14 to minimize construction noise impacts to rail and gnatcatcher breeding. Pile driving may commence earlier in the fall if a biologist knowledgeable of gnatcatcher and rail biology and ecology approved by the CFWO demonstrates to the satisfaction of the CFWO that all rail and gnatcatcher breeding is complete within the area where construction noise will exceed ambient levels as a result of pile driving. Caltrans will submit the biologist's name, address, telephone number, and work schedule on the project to the CFWO at least 5 working days prior to initiating project impacts.

**BO17.** Noise barriers will be installed at the edge of temporary impact areas near sensitive resources where feasible depending on inundation and effective heights required for walls. Noise walls would not be effective where fill slopes are significantly higher than impact areas.

**BO18.** All construction equipment used for the project will be equipped with properly operating and maintained mufflers.

**BO19.** During in-water bridge construction activities at all lagoons and the San Luis Rey River, bubble curtains or other methods to minimize acoustical impacts to aquatic species will be implemented. These measures will be developed in coordination with the CFWO when project design and construction methodology is further developed.

**BO20.** If nighttime construction is necessary, all lighting used at night for project construction (e.g., staging areas, equipment storage sites, roadway) will be selectively placed and directed onto the roadway or construction site and away from sensitive habitats. Light glare shields will be used to reduce the extent of illumination into sensitive habitats.

**BO21.** Appropriate best management practices (BMPs) will be used to control erosion and sedimentation and to capture debris and contaminants from bridge demolition and construction to prevent their deposition in coastal lagoons and waterways. No sediment or debris will be allowed to enter lagoons, creeks, rivers, or other drainages. All debris from the demolition and construction of bridges will be contained so that it does not fall into channels. Appropriate BMPs will be used during construction to limit the spread of resuspended sediment and contain debris. These may include cofferdams, blasting mats, silt curtains, turbidity curtains and/or other barriers. Water within cofferdams will not be returned to the San Luis Rey River or lagoons until it is clear and clean. This may be accomplished through the use of desiltation tanks or other appropriate measures. Collected sediments will be removed from the site and disposed of properly. BMPs (e.g., gravel bags) will be used at the discharge point to avoid erosion.

**BO22.** Erosion and sediment control devices used for the proposed project, including fiber rolls and bonded fiber matrix, will be made from biodegradable materials such as jute, with no plastic mesh, to avoid creating a wildlife entanglement hazard.

**BO23.** All equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities will be restricted to designated areas that are a minimum of 100 feet from drainages / lagoons and associated plant communities, to preclude adverse water quality impacts. Fuel cans and fueling of tools will not be allowed inside the drainages.

**BO24.** Impacts from fugitive dust will be avoided and minimized through watering and other appropriate BMPs.

**BO25.** Cationic polymers are attracted to the hemoglobin in fish gills and can cause suffocation at relatively low concentrations. Cationic polymers will not be used for dust control.

**BO26.** Bioswales and detention basins will be placed to avoid impacts to wetlands (e.g., these features will not be located at the base of slope within lagoons).

**BO27.** The project site will be kept as clear of debris as possible. All food-related trash items will be enclosed in sealed containers and regularly removed from the site. All spoils and material disposal will be disposed of properly.

**BO28.** If fill must be borrowed from or disposed of offsite, the construction contractor will identify any necessary borrow and disposal sites and provide this information to Caltrans for review. Caltrans will review borrow and disposal site information and submit the information to the CFWO. If borrow or disposal activities may affect a listed species or critical habitat, FHWA/Caltrans will reinitiate Section 7 consultation. (Under the current process, FHWA would reinitiate formal consultation and Caltrans, acting for FHWA, would reinitiate informal consultation.)

**BO29.** Contractors and construction personnel will strictly limit their activities, vehicles, equipment, and construction materials to the fenced project footprint.

**BO30.** Project personnel will be prohibited from bringing domestic pets to construction sites to ensure that domestic pets do not disturb or depredate wildlife in adjacent habitats.

**BO31.** A CFWO-approved biologist (Biological Monitor\*) will be on site during: a) initial clearing and grubbing; and b) weekly during project construction within 500 feet of offsite gnatcatcher, rail, goby, and manzanita habitat to ensure compliance with all conservation measures. (\*The Biological Monitor will be familiar with the federally listed species potentially affected by the project [i.e., gnatcatcher, rail, goby and Manzanita] and with the habitats that support these species.) Caltrans will submit the biologist's name, address, telephone number, and work schedule on the project to the CFWO at least 5 working days prior to initiating project impacts. The contract of the Biological Monitor will allow direct communication with the CFWO at any time regarding the proposed project. The Biological Monitor will be provided with a copy of this consultation. The Biological Monitor and a Caltrans Project Biologist\* will be available during pre-construction and construction phases to review grading plans, address protection of sensitive biological resources, monitor ongoing work, and maintain communications with the Resident Engineer to ensure that issues relating to biological resources are appropriately and lawfully managed. (\*The Caltrans Project Biologist will be a Caltrans biologist familiar with the federally listed species potentially affected by the project and with the habitats that support these species; he/she will be the primary contact for the CFWO during project implementation.) The Biological Monitor will perform the following duties:

- a. Perform a minimum of three focused preconstruction surveys, on separate days, to determine the presence of gnatcatchers or rails in the project impact footprint. Surveys will begin a maximum of 30 days prior to performing vegetation clearing / grubbing, and one survey will be conducted

- the day immediately prior to the initiation of vegetation clearing. If any gnatcatchers or rails are found in the project impact footprint, the Biological Monitor will direct construction personnel to begin vegetation clearing / grubbing in an area away from the gnatcatchers and/or rails. It will be the responsibility of the Biological Monitor to ensure that gnatcatchers and rails will not be injured or killed by vegetation clearing / grubbing. The Biological Monitor will also record the number and location of gnatcatchers and rails disturbed by vegetation clearing / grubbing. Caltrans will notify the CFWO at least 7 days prior to vegetation clearing / grubbing to allow the CFWO to coordinate with the Caltrans Project Biologist on potential bird flushing activities;
- b. Oversee installation of and inspect the construction fencing and erosion control measures a minimum of once per week to ensure that any breaks in the fencing or erosion control measures are repaired immediately and that rails have not entered the project impact footprint;
  - c. Implement the goby capture, relocation and exclusion plan; and manzanita translocation plan;
  - d. Periodically monitor the work area to ensure that work activities do not generate excessive amounts of dust;
  - e. Train all contractors and construction personnel on the biological resources associated with the project and ensure that training is implemented by construction personnel. At a minimum, training will include: 1) the purpose for resource protection; 2) a description of the gnatcatcher, rail, goby, and manzanita and their habitats; 3) the conservation measures that should be implemented during project construction to conserve the gnatcatcher, rail, goby, and manzanita, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced project footprint to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); 4) environmentally responsible construction practices; 5) the protocol to resolve conflicts that may arise at any time during the construction process; and 6) the general provisions of the Act, the need to adhere to the provisions of the Act, and the penalties associated with violating the Act;
  - f. Request that the Resident Engineer halt work, if necessary, and confer with the Caltrans Project Biologist and the CFWO to ensure the proper implementation of species and habitat protection measures. The Caltrans Project Biologist will report any noncompliance issue to the CFWO within 24 hours of its occurrence;



- g. Monitor the project site immediately prior to and during construction to identify the presence of invasive weeds and recommend measures to avoid their inadvertent spread in association with the project. Such measures may include inspection and cleaning of construction equipment and use of eradication strategies. All heavy equipment will be washed and cleaned of debris prior to entering a lagoon area to minimize the spread of invasive weeds;
- h. Submit monthly email reports (including photographs of impact areas) to the Caltrans Project Biologist during clearing of, and construction within, 500 feet of gnatcatcher, rail, goby, and manzanita habitats. The monthly reports will document that authorized impacts were not exceeded and general compliance with all conditions. The reports will also outline the location of construction activities, the type of construction that occurred, and equipment used. These reports will specify numbers, locations, and sex of gnatcatchers, rails, and gobies (if observed), their observed behavior (especially in relation to construction activities), and remedial measures employed to avoid and minimize impacts to these species. The Caltrans Project Biologist will review reports and forward them to the CFWO. Raw field notes should be available upon request by the CFWO; and
- i. Submit a final report to Caltrans Project Biologist within 120 days of the completion of construction for each project phase that includes: photographs of habitat areas that were to be avoided and other relevant summary information documenting that authorized impacts were not exceeded and that general compliance with all conservation measures was achieved. As-built construction drawings with an overlay of habitat that was impacted and avoided will be provided as well once they have been completed. The Caltrans Project Biologist will review the report and forward it to the CFWO.

**BO32.** All native or sensitive habitats outside and adjacent to the permanent and temporary construction limits will be designated as Environmentally Sensitive Areas (ESAs) on project maps. ESAs will be temporarily fenced during construction with orange plastic snow fence, orange silt fencing, or in areas of flowing water, with stakes and flagging. No personnel, equipment or debris will be allowed within the ESAs. Fencing and flagging will be installed in a manner that does not impact habitats to be avoided and such that it is clearly visible to personnel on foot and operating heavy equipment. At the bridge construction areas where there is the potential for rail movement under the bridges, fencing will be installed in a manner that will direct rails to the open channel under bridges to the extent feasible. Caltrans will submit to the CFWO for approval, at least 5 days prior to initiating project impacts (except for impacts resulting from clearing to install temporary fencing), the final plans for initial clearing and grubbing of habitat and project construction. These final plans will include photographs that show the fenced and flagged limits of impact and all areas to be impacted or avoided. If work occurs beyond the fenced or demarcated limits of impact all work will cease until the

problem has been remedied to the satisfaction of the CFWO. Temporary construction fencing and markers will be maintained in good repair until the completion of each phase of project construction and removed upon completion of each project phase.

**BO33.** During project construction all invasive species included on National Invasive Species Management Plan, the State of California Noxious Weed List, and the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory list found growing within the project right-of-way will be removed. Weed removal will be conducted within the project right-of-way at least once per year during the construction period. Special care will be taken during transport, use, and disposal of soils containing invasive weed seeds and all weedy vegetation removed during construction will be properly disposed of to prevent spread into areas outside of the construction area.

**BO34.** A channel large enough for fish and rail movement will be kept open throughout project construction in the San Luis Rey River and each of the lagoons. Prior to initiation of construction in the San Luis Rey River and each of the lagoons, Caltrans will submit a plan to the CFWO for maintaining a channel for fish and/or rail movement in the San Luis Rey River and each of the lagoons.

**BO42.** All areas of temporary impact, as quantified in Table 2 of the BO (Appendix O), will be revegetated and restored with native species. These areas will be returned to original grade, as feasible. Prior to initiating project impacts, a restoration plan will be developed for the temporary impact areas. The plan will be submitted to the CFWO for review and approval. This plan will include a detailed description of restoration methods, slope stabilization, and erosion control, criteria for restoration to be considered successful, and monitoring protocol(s). Following the completion of construction activities within each area of impact, the restoration plan will be implemented for a minimum of 5 years, unless success criteria are met earlier and all artificial water has been off for at least 2 years. Temporary impact areas will be planted as soon as possible following re-grading after completion of construction to prevent encroachment by nonnative plants.

**BO43.** Cut and fill slopes adjacent to native habitats will be revegetated with native habitats with similar composition to those within the project study area as feasible, including over 86 acres of slopes near lagoons and other open space that will be revegetated with coastal sage scrub. Duff and rare plants from areas with coastal sage scrub, maritime succulent scrub, and maritime chaparral may be salvaged from the project impact footprint to the extent practicable to aid in revegetating slopes with native habitats (excluding areas with invasive nonnative species such as African veldt grass and onion weed). The revegetated areas will have temporary irrigation and will be planted with native container plants and seeds selected in coordination with the Caltrans Project Biologist. At least 3 years of plant establishment/maintenance on these slopes will be conducted to control nonnative plants. Bioswales and detention basins will be planted with appropriate species as

determined in coordination with the Caltrans Project Biologist and storm water pollution prevention professional. These areas will be planted as soon as possible following completed construction to prevent encroachment by nonnative plants. Slopes and interchanges located adjacent to developed urban areas will be planted with native and drought tolerant non-invasive species selected by the biologist and landscape architect.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. BIO-2**

Impact: **Impact BIO-2. Implementation of the Project would result in the Incidental take of Coastal California Gnatcatcher and Light-footed Clapper Rail.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR/EIS.

**FACTS SUPPORTING THE FINDING(S)**

Caltrans will implement significant conservation measures as part of the proposed action to minimize the incidental take of gnatcatchers and rails. In addition to these conservation measures, the following reasonable and prudent measures are necessary to monitor and report the effects of the incidental take on gnatcatchers and rails. The following mitigation measures have been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM BIO-2.1. Reasonable and prudent measures for Coastal California Gnatcatcher.**

- FHWA and/or Caltrans will monitor and report on compliance with the established take exemptions for gnatcatchers associated with the proposed action.
- Prior to initiating each phase of the proposed project, three preconstruction surveys will be conducted within all suitable gnatcatcher habitat within the footprint for that phase of the project, within 30 days prior to initiation of vegetation removal activities, to verify that no more than 6 gnatcatcher pairs in phase 1, 8 gnatcatcher pairs in phase 2, and 1 gnatcatcher pair in phase 3 (unless bridge construction is moved forward in project phasing to avoid impacts to coastal wetlands in which case take of 4 pairs of gnatcatchers would be advanced from phase 2 to phase 1), with 15 pairs in total, will be taken as a result of the project. Prior to initiating each phase of the project, FHWA and/or Caltrans will provide to the CFWO a map showing the

- distribution of gnatcatchers relative to the project footprint for that phase, an estimate of the number of gnatcatchers territories that will be impacted by the project in that phase, and the cumulative total of gnatcatcher territories impacted by the project to date, or confirm in writing that maps, distribution information, and the number of territories that will be impacted by the project as shown in the BA remain correct.
- FHWA and/or Caltrans will notify the CFWO within 30 days of completing removal of gnatcatcher occupied habitat in each project phase. The purpose of this notification is to ensure that impacts to gnatcatcher-occupied habitat from the proposed project do not exceed the take exemptions.

**MM BIO-2.2. Reasonable and prudent measures for Light-footed Clapper Rail.**

- FHWA and/or Caltrans will monitor and report on compliance with the established take exemptions for rails associated with the proposed action.
- Prior to initiating each phase of the proposed project, three preconstruction surveys will be conducted within all suitable rail habitat within the footprint for that phase of the project, within 30 days prior to initiation of vegetation removal activities, to verify that no more than one pair in phase 1, two pairs in phase 2, and one pair in phase 3 (unless bridge construction is moved forward in project phasing to avoid impacts to coastal wetlands in which case take of all four pairs of rails would occur in phase 1), with four pairs in total, will be taken as a result of the project. Prior to initiating each phase of the project, FHWA and/or Caltrans will provide to the CFWO a map showing the distribution of rails relative to the project footprint for that phase, an estimate of the number of rail territories that will be impacted by the project in that phase, and the cumulative total of rail territories impacted by the project to date, or confirm in writing that maps, distribution information, and the number of territories that will be impacted by the project as shown in the BA remain correct.
- FHWA and/or Caltrans will notify the CFWO within 30 days of completing removal of rail occupied habitat in each project phase. The purpose of this notification is to ensure that impacts to rail-occupied habitat from the proposed project do not exceed the take thresholds.

**MM BIO-2.3. Disposition of Sick, Injured, or Dead Specimens.** Upon locating dead, injured, or sick individuals of threatened or endangered species, initial notification must be made to the Division of Law Enforcement in either San Diego, California, at 619-557-5063 or in Torrance, California, at 310-328-6307 within 3 working days. Notification should also be sent by telephone and writing to the office in Carlsbad, California, at 6010 Hidden Valley Road, Suite 101, Carlsbad, California 92011, 760-431-9440. Written notification must be made within 5 calendar days and include the collection date and time, the location of

the animal, and any other pertinent information. Care must be taken in handling sick or injured animals to ensure effective treatment and care, and in handling dead specimens to preserve biological material in the best possible state. The remains of intact specimens shall be placed with educational or research institutions holding the appropriate State and Federal permits. Remains shall be placed with the San Diego Natural History Museum, San Diego. Arrangements regarding proper disposition of potential museum specimens shall be made with the institution by the authorized biologist prior to implementation of the action.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. BIO-3**

Impact: **Impact BIO-3. Implementation of the Project would result in potentially significant impacts to eelgrass.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR/EIS.

FACTS SUPPORTING THE FINDING(S)

Implementation of any of the Project would result in potentially significant impacts to eelgrass beds (refer to Section 3.17.2 of the Final EIR/EIS). The following mitigation measure has been incorporated into the Project to reduce this impact to a less-than-significant level.

**MM BIO-3. Eelgrass Surveys.** Eelgrass surveys will be completed at all lagoons with the exception of Buena Vista prior to bridge construction. In lagoons where eelgrass is identified in proximity to I-5 improvements, eelgrass surveys will continue during and after construction, and mitigation will be implemented in accordance with the REMP.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. BIO-4**

Impact: **Impact BIO-4. Implementation of the Project would result in potentially significant impacts to Wetlands and Other Waters.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR/EIS.

FACTS SUPPORTING THE FINDING(S)

As detailed in Section 3.18 of the EIR/EIS, the Project would result in some aquatic resource loss. In addition to the Mitigation Measures identified above under Impact BIO-1, the following mitigation measure is identified in the Final EIR/EIS to reduce potential project-related impacts to wetlands and other waters below a level of significance.

**MM BIO-4. Bioswales and Detention Basins.** Bioswales/detention basins would be placed in the loop ramps, and bioswales would be placed on slopes (i.e., not at base of slope within lagoons), as appropriate to treat runoff from the freeway.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. BIO-5**

Impact: **Impact BIO-5. Implementation of the Project would result in potentially significant impacts to Sensitive Plants, Animals, and Threatened and Endangered Species.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR/EIS.

**FACTS SUPPORTING THE FINDING(S)**

As detailed in Section 3.19, Section 3.20, and Section 3.21 of the Final EIR/EIS, implementation of the Project would potentially result in significant impacts to a number of sensitive (including threatened and endangered) plant and animal species, whose ranges and numbers have been reduced due to past disturbance by urban development and related infrastructure, including I-5. A number of indirect impacts to threatened and endangered species would also result from the Project, including effects related to increases in lighting, exposure to invasive species, potential for pollution from runoff, and long term noise levels, as well as edge effects. There is also a potential for construction-related noise impacts to both bird and fish species from pile driving during bridge footing construction at the abutments (the foundation upon which the bridge rests).

In addition to the Mitigation Measures identified above under Impact BIO-1, the following mitigation measures are identified in the Final EIR/EIS and ECR to reduce potential project-related impacts to sensitive (including threatened and endangered) plant and animal species below a level of significance.

**MM BIO-5a. Sensitive Plant Species.** Seed will be collected or plants will be salvaged to the extent practicable in the impact areas as mitigation. Salvaged plants and seed will be planted in mitigation sites, on revegetated new slopes, or

in revegetated areas that were temporarily impacted. The majority of these species could potentially be salvaged or mitigated by planting in an off-site preserve.

**MM BIO-5b. Sensitive Animal Species.** To minimize impacts to migratory birds, construction will not occur in more than two lagoons at any one time. Exclusion devices will be installed on bridge drain holes and ledges during the non-breeding season (September 1 through February 15) to stop swallows, swifts, and any other birds or bats from nesting on or within bridges to be demolished.

- In-water construction activities at the San Luis Rey River will take place outside of the steelhead migration window when steelhead adults and juveniles are expected to be using the lower reach of the San Luis Rey River.
- Silt curtains, coffer dams, and/or other barriers will be used to prevent steelhead from entering the construction zone and prevent sedimentation and debris from entering the river.
- Best management practices will be implemented during construction to minimize impacts on steelhead and aquatic habitat in the San Luis Rey River. These include sediment control measures to minimize erosion and impacts to water quality, measures to prevent debris and fresh concrete from entering the river channel, and fueling and maintenance of heavy machinery in areas away from the river channel and sensitive habitats.
- All removal of native vegetation or non-native shrubs and trees located within the impact areas will be completed outside of the bird breeding season (February 15 to August 31), if possible, to avoid impacts to nesting birds. Otherwise, a qualified biologist will thoroughly survey all vegetation prior to removal to ensure there are no nesting birds on site. If nesting birds are identified on site, vegetation removal will be delayed until the chicks have fledged or the nest has failed.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

#### 4. VISUAL/AESTHETICS

**CEQA FINDING NO. AES-1**

Impact: **AES-1. Impacts to Visual and Aesthetic Resources.** Impacts to visual and aesthetic resources as they relate to the Project on lands under the jurisdiction of the CSLC (Overcrossing, Undercrossing, Bridge, and DAR (Direct Access Ramp) Structures).

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR/EIS.

#### FACTS SUPPORTING THE FINDING(S)

The following mitigation measures, which are referenced in Section 3.7.4 of the Final EIR/EIS and detailed in CSLC's Mitigation and Monitoring Program (adopted as part of this Project approval as Exhibit C), will be implemented as part of the Project. For the overall Project, Caltrans found that even with implementation of the stated mitigation, the impact would not be reduced to a less than significant level. As discussed in Section 1.0 Introduction, the CSLC has determined that the Visual/Aesthetic impact specifically associated with the San Elijo Lagoon Bridge, which does not involve retaining walls and potential soundwalls, would not remain significant and would be reduced to less than significant with the inclusion of mitigation.

#### **MM AES-1a. Visual Mitigation**

- Visual mitigation will consist of adhering to design requirements in consultation with the District 11 DLA and following the Design Guidelines: I-5 NCC Project.
- During project design and construction, the DLA will analyze the visual effects of specific project features, synthesize applicable mitigation measures from this document and the Design Guidelines: I-5 NCC Project, apply those requirements to actual design features in specific locations, and submit proposals to the project design team. The team and DLA will then develop design solutions considered to be reasonable visible mitigation solutions that achieve team consensus, and can in turn be implemented. The DLA also will provide technical assistance during construction and perform mitigation monitoring of all visual mitigation requirements.
- Caltrans will consult with the property owners and/or officials with jurisdiction over recreational areas during project design for potential aesthetic options, as applicable. During the design process, shareholder interaction will continue, guidelines will become more and more specific, locally oriented design details will be added, and a design palette of specific features and products will be developed.
- Mitigation measures that require regular maintenance and are located outside Caltrans right-of-way, such as trees planted along local streets, or measures that require the installation of non-standard equipment within the right-of-way such as pedestrian bridge lighting, can be implemented only if the responsible local government is willing to maintain them in perpetuity.



**MM AES-1b. Overcrossing, Undercrossing, Bridge, and DAR Structures.** The visual mitigation in regards to “Overcrossing, Undercrossing, Bridge, and DAR Structures” consists of adhering to the following design requirements:

- Bridge type selection and all other structure design will be consistent with the design themes contained in the Design Guidelines: I-5 NCC Project. Some mitigation features may be new or non-standard and require approvals or design exceptions.
- Wherever possible, abutments will be short seat abutments placed at the top of slopes. The visual mass of abutments will be minimized as much as possible. High cantilever abutments will be used in locations where space does not exist for short seat abutments at the top of a slope.
- At each overcrossing, bridge abutments will be of the same type to produce a symmetrical appearance. Where overcrossing structures are replaced, high cantilever abutments will be used in lieu of secondary tie back walls. Temporary tie back walls will be terrain-contoured walls and will receive architectural features consistent with permanent walls in the viewshed. Temporary tie-back walls will be removed when overcrossing structures are reconstructed.
- In locations where retaining walls must be incorporated into abutments, they will be designed as terrain-contoured walls if possible, and located away from the edge of shoulder to allow space for a planted buffer at their base.
- Slope paving will be enhanced with integral concrete color, texture, and deeply textured facing materials such as veneer block or natural rock.
- Bridge signage will be designed to visually integrate with bridge architecture. Concrete sign pedestals will be consistent in appearance with bridge design themes.
- Sidewalks will be provided on both sides of each overcrossing. They will have a 6-foot minimum width on a two-lane structure with a curb-to-curb width of 32 feet or less. On wider streets, both sidewalks will be a minimum of 10 feet in width. Sidewalk widths will be selected based on SANDAG regional guidelines (Planning and Designing for Pedestrians, June 2002) and local pedestrian design guidelines. Where possible, sidewalks will receive score patterns, surface texture, and/or integral color.
- Wherever possible, low profile barrier separations between pedestrian and vehicular traffic will be provided on overcrossings where Caltrans policy prohibits or restricts architectural features and pedestrian amenities on or near concrete bridge rails. Sidewalks in these locations will be a minimum of 10 feet in width.

- Pedestrian lighting, enhanced fencing and railings, and other urban amenities will be provided on each overcrossing whenever feasible. Local agency streetscape design guidelines will be continued within Caltrans right-of-way at each overcrossing and interchange whenever feasible. Container trees located on structures will also be provided in locations where the responsible local agency has requested them and agreed to maintain them in perpetuity.
- Where possible, bicycle shoulders, lanes, or paths will be provided on both sides of each overcrossing. A minimum shoulder width of four feet will be provided for Class III facilities.
- Bridge abutments will be of the same type on all four quadrants to give widened undercrossings a symmetrical appearance.
- Bridge widening will be done using box girder construction wherever possible. Girders will be similar in appearance on both sides of the bridge to produce a symmetrical appearance.
- In locations where street widening occurs, tie-back walls will be terrain contoured walls, and receive architectural features consistent with those required for retaining walls and with community values and goals.
- Pedestrian sidewalks 10 feet in width (minimum) will be provided at undercrossings on both sides of the street wherever possible. In all cases, existing sidewalk configurations on local streets will be continued across Caltrans right-of-way.
- Bicycle shoulders, lanes, or paths will be provided at each undercrossing. The type of facility will consider regional and local planning goals. A minimum shoulder width of 4 feet will be provided for Class III facilities.
- Enhanced pedestrian lighting including bridge soffit lighting will be provided at each undercrossing.
- Slope paving at undercrossings will be enhanced with deeply textured facing materials such as scored veneer block or natural rock to add visual interest and deter graffiti.
- Mitigation measures listed for overcrossing and undercrossing structure symmetry, abutment design, tie back walls, slope paving, sidewalks, bicycle routes, and streetscape features will also apply to freeway bridges as appropriate.
- See-through bridge rails such as Caltrans Type 80 rail will be used on freeway bridges with views to ocean, rivers, lagoons, or other scenic resources, unless noise abatement is necessary.

- Pedestrian overcrossings will be a minimum of 15 feet in width.
- Pedestrian lighting, enhanced fencing, railings, architectural features, and other urban amenities will be provided on each pedestrian overcrossing. Existing streetscape elements and design themes will be continued within Caltrans right-of-way.
- DAR retaining walls will have a 15-foot maximum height, allowing approximately 10 feet of minimum vertical clearance under the connecting ramp structure.
- Pedestrian and bicycle traffic on existing overcrossings to be converted to DAR overcrossings will be routed to a separate pedestrian overcrossing structure in the immediate vicinity, if possible.
- On structures where pedestrians are present, sidewalks will be 15 feet in width on each side. Bridge barriers, fences, and sidewalks will be designed to provide standard stopping sight distance at DAR termini to enable pedestrians to be visible to drivers. Barrier separations between pedestrian and vehicular traffic will be provided if Caltrans policy requires bridge barriers to adhere to freeway crash standards.
- Bicycle shoulders, lanes, or paths will be provided on both sides of each DAR overcrossing open to non-vehicular traffic. The type of facility will consider regional and local planning goals. A minimum shoulder width of 4 feet will be provided for Class III facilities.
- Pedestrian lighting, enhanced fencing and railings and other urban amenities will be provided on each DAR local street overcrossing and be consistent with local values and goals. Existing streetscape elements and design themes will be continued within Caltrans right-of-way at each DAR overcrossing. Local streetscape guidelines will be followed. Enhancements or enhancement features such as decorative lighting and street furniture will be incorporated if local agencies accept permanent maintenance responsibility. Container trees located on structures will also be provided in locations where the responsible local agency has requested them and agreed to maintain them in perpetuity.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less than significant level.

ATTACHMENT D-1

CALIFORNIA DEPARTMENT OF TRANSPORTATION  
STATEMENT OF OVERRIDING CONSIDERATIONS