

**CALIFORNIA STATE LANDS
COMMISSION**

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Established in 1938

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June 30, 2025

File Ref: SCH # 2024060038

SANDAG

Attn: Tim Pesce

1011 Union Street, Suite 400

San Diego, CA, 92101

VIA ELECTRONIC MAIL: LOSSANcomments@sandag.org

Subject: Updated Notice of Preparation for an Environmental Impact Report for San Diego-Los Angeles-San Diego-San Luis Obispo Rail Realignment Project, San Diego County

Dear Tim Pesce:

The California State Lands Commission (Commission) staff has reviewed the subject Updated Notice of Preparation (NOP) for an Environmental Impact Report (EIR) for the San Diego-Los Angeles-San Diego-San Luis Obispo (LOSSAN) Rail Realignment Project (Project), which is being prepared by the San Diego Association of Governments (SANDAG). SANDAG has been assigned the responsibility for planning, funding allocation, Project development, and construction in the San Diego region for all transit projects and is, therefore, the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) The Commission is a trustee agency for projects that could directly or indirectly affect State sovereign land and their accompanying Public Trust resources or uses. Additionally, because the Project involves work on State sovereign land, the Commission will act as a responsible agency. Commission staff requests that SANDAG consult with us on preparation of the Draft EIR as required by CEQA section 21153, subdivision (a) and the State CEQA Guidelines section 15086, subdivisions (a)(1) and (a)(2).

Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways.

The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c); 6009.1; 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 Doctrine.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the state for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line (MHTL), except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court.

Any Project activities or improvements located on State sovereign land will require Commission review and authorization in the form of a lease. Final determination regarding the Commission's jurisdiction in the location of any specific Project activities or improvements will require a review of more detailed Project site plans. Such review can be facilitated via submittal of an Inquiry to the Commission, or via the lease application submittal process. Both Inquiries and lease applications can be submitted through the Commission's online system for Customer Applications and Records ([OSCAR | Online System for Customer Applications and Records -OSCAR Portal](#)).

Based on the information provided in the subject NOP, the proposed Project alternative alignments include components such as the potential placement of beach-quality sand excavated from tunnel boring or trench excavation activities onto beach(es) or nearshore in the vicinity of the study area, the removal of prior bluff stabilization improvements consistent with the California Coastal Commission's certification of Federal Consistency Certifications, and the construction of new bluff stabilization elements for the non-tunnel alignment included in the updated NOP. These activities are highly likely to involve State sovereign land and will require a lease from the Commission if said activities encroach waterward of the current MHTL. A MHTL survey from no more than six months prior to the submission of any application or Inquiry for these activities will be required and will need to be submitted along with any Inquiry or application in order for staff to properly review the Commission's jurisdiction.

Additionally, staff's review of the NOP indicates that the Project Alternatives would involve construction activities and improvements on lands within San Dieguito Lagoon, Los Peñasquitos Lagoon, and adjacent to the Del Mar Bluffs. These areas are likely to include sovereign lands within the Commission's

jurisdiction, and any activities or improvements in these areas that are situated on State sovereign lands would require a lease from the Commission. In order to definitively determine if Project activities in San Dieguito Lagoon, Los Peñasquitos Lagoon, or adjacent to the Del Mar Bluffs fall within the Commission's jurisdiction more detailed Project plans would be required.

Project Description

SANDAG proposes to potentially relocate the existing single-track alignment of the San Diego Subdivision from a rail line running along a terrace on coastal bluffs through the Cities of Solana Beach, Del Mar, and San Diego to a double-track alignment between the Solana Beach Station and the north end of Sorrento Valley in the City of San Diego. The Updated NOP for the Project includes a non-tunnel alignment, referred to as the "Del Mar Bluffs Double-Track Reinforced Alignment." SANDAG included several edited and one additional objective and need in the Updated NOP which now include:

- Improve rail service reliability by minimizing risks from climate change, including considerations for sea level rise, flooding, and the stability of coastal bluffs.
- Minimize impacts to existing homes, businesses, tourism, and major economic generators, including the Del Mar Fairgrounds, and transportation facilities, during and after construction.
- Demonstrate good public stewardship by delivering the project in a timely way that considers prior investments, construction, right-of-way, operations, and maintenance costs.

From the Project Description included in the updated NOP, Commission staff understands that the "Del Mar Bluffs Double-Track Reinforced Alignment" includes the following components which have the potential to impact State sovereign land.

- Trenches and Retaining Walls: The Del Mar bluffs would be trenched to install the rail line, and the trench would be stabilized with retaining walls.
- Bluff Stabilization Elements: New and expanded seawalls would be installed to stabilize the trenched bluffs on the western side adjacent to the beach. Slope stabilization would include 1.5 miles of sea walls up to approximately 20 feet in height.
- Construction and/or retrofit of existing bridge structures: Construction and/or retrofit of existing bridges would be required where the non-tunnel alignment does not deviate from the existing alignment to allow for the construction of the double track.

- Sand Placement: Potential placement of beach-quality sand excavated from trenching activities onto beach(es) or nearshore, in the vicinity of the Project area.
- Berm Raising and Widening: The alignment would require the raising and widening of a berm in Los Peñasquitos Lagoon to accommodate the double track and account for flooding and projected sea level rise.

Environmental Review

Commission staff have focused comments specifically on changes to the Project alignments identified in the Updated NOP that have potential to impact Commission jurisdictional land and the Public Trust. Commission staff requests that SANDAG consider these new comments when preparing the Draft EIR (DEIR), in addition to previously submitted comments (Attachment 1: July 19, 2024, CSLC NOP Comment Letter to SANDAG) to ensure that impacts to State sovereign land are adequately analyzed for the Commission's use of the EIR to support consideration of a future lease for the Project.

General Comments

1. Project Description: A thorough and complete Project Description should be included in the DEIR for all proposed rail alignments in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project Description should be as precise as possible in describing the details of all Project activities (e.g., types of equipment or methods that may be used, maximum area of impact or volume of sediment removed or disturbed, seasonal work windows, locations for beach sand placement, etc.), as well as the details of the timing and length of activities. In particular, please illustrate on figures and engineering plans and provide written description in the DEIR of activities occurring within and adjacent to Project area waterways. These figures should include temporary construction easements and anchoring locations which may be required for marine equipment or vessels used for bluff trenching, bluff stabilization improvements, existing bridge construction and/or retrofits, and berm widening and raising through Project area lagoons. Thorough descriptions will facilitate Commission staff's determination of the extent and locations of its leasing jurisdiction, make for a more robust analysis of the work that may be performed, and minimize the potential for subsequent environmental analysis to be required.

Biological Resources

2. Special status species and habitat: The construction of additional bluff stabilization structures over 1.5 miles of coastline between Del Mar and Torrey Pines Road has the potential to create long-term impacts to beach and nearshore coastal habitats. Staff recommend that SANDAG reach out to the California Department of Fish and Wildlife (CDFW), the United States Fish and Wildlife Service (USFWS), and the National Marine Fisheries Service (NMFS) as early as possible in the consultation process with the addition of the Del Mar Bluffs Double-Track Reinforced Alignment considering these potential impacts.

For land under the Commission's jurisdiction, the DEIR should disclose and analyze all potentially significant effects on sensitive species and habitats in and around the Project area, including special status wildlife, fish, and plants, and if appropriate, identify feasible mitigation measures to reduce those impacts. SANDAG should conduct queries of CDFW's California Natural Diversity Database and USFWS's Special Status Species Database to identify any special status plant or wildlife species that may occur in the Project area. The DEIR should also include a discussion of consultation with CDFW, USFWS, and NMFS, as applicable, including any recommended mitigation measures and potentially required permits identified by these agencies.

Commission staff do appreciate changes SANDAG made to the San Dieguito to I-5 Alternative Alignment in the Updated NOP to better avoid San Dieguito Lagoon and active lagoon restoration projects.

Climate Change

3. Sea Level Rise and Coastal Resilience: A tremendous amount of State-owned lands and resources under the Commission's jurisdiction will be impacted by rising sea levels. The impacts will be exacerbated by coastal development that impedes the inland migration of the shoreline, a process known as "coastal squeeze," leading to the inundation of public beaches and other tidelands that are State-owned land and subject to the protections of the Public Trust Doctrine. The DEIR must consider the effects that expanding bluff stabilization structures will have on public beaches by exacerbating coastal squeeze at the project location and potentially contributing to a reduction of sediment supply to downcoast beaches.

As stated in SANDAG's 'Post Value Analysis Study Assessment,' the new alternative would be "less climate resilient than other alternative concepts; would require routine beach replenishment if the beach is to be preserved and could require ongoing or emergency bluff stabilization maintenance."

The DEIR must thoroughly assess the long-term vulnerability of this alternative, which would not only continue to expose the existing critical infrastructure to coastal hazards, wave impacts, beach and bluff erosion, and long-term sea level rise, but also expand the critical infrastructure into a known hazard zone. The expansion of bluff stabilization could be vulnerable to scour and structural damage, potentially requiring frequent and costly repairs over time. By doubling down on infrastructure in a hazard zone, this alternative could lock in ongoing maintenance obligations, require additional armoring, and increase the cost for future adaptation if this alternative is not adequately resilient. The DEIR should evaluate the cumulative impacts and lifecycle of maintaining and defending this alignment, and compare them to the other alternatives. According to the Ocean Protection Council's 2024 Sea Level Rise Guidance, critical infrastructure, such as the LOSSAN Rail, should be considered extremely risk-averse and resilient to the High Sea Level Scenario.

Recreation

4. **Public Access:** The expansion of bluff stabilization structures for the Del Mar Bluffs Double-Track Reinforced Alignment has the potential to result in both temporary impacts to the beach and beach access during construction and long-term, permanent impacts due to sand loss and coastal squeeze from hard armoring structures like sea walls. The DEIR must evaluate the impacts to public access and use of the public beach at the project location due to the effects of the bluff stabilization structures on coastal processes, coastal squeeze, and sea level rise. These effects should be compared to all other alternatives, including where the existing bluff stabilization structures would be removed, allowing the bluff to naturally erode, thereby providing sediment downcoast and creating more space for the beach to migrate inland. The DEIR should also consider how the bluff stabilization structures could impede lateral access to up- and down-coast beaches, not only affecting the public's ability to use the beach at the project location but also adjacent beaches. In addition to impacts to access, the DEIR should also evaluate the impacts on various recreational activities. Not only can coastal squeeze prevent recreation activities that require a dry sandy beach (e.g., sunbathing), but waves hitting and reflecting off hard armoring structures can create unsafe conditions for swimming, surfing, beach walks, and other public uses of Public Trust tidelands.

Thank you for the opportunity to comment on the Updated NOP for the Project. As a trustee and responsible agency, Commission staff requests consultation on this Project and to be kept advised of changes to the Project Description and all other important developments. Please send additional information on the Project to the Commission staff listed below as the EIR is being prepared.

Please refer questions concerning environmental review to Robin Tuohy, Environmental Scientist, via email at Robin.Tuohy@slc.ca.gov. For questions concerning Commission leasing jurisdiction, please contact Jeffrey Plovnick, Public Land Management Specialist, via email at Jeffrey.Plovnick@slc.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Nicole Dobroski". The signature is written in a cursive, flowing style.

Nicole Dobroski, Chief
Division of Environmental Science,
Planning, and Management

cc: Office of Planning and Research
R. Tuohy, Commission
M. Wells, Commission
J. Plovnick, Commission

Attachment:

- 1) July 19, 2024, Notice of Preparation Comment Letter from the Commission staff to the San Diego Association of Governments.

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July 19, 2024

File Ref: SCH # 2024060038

SANDAG

Attn: Tim Pesce

401 B Street, Suite 800

San Diego, CA, 92101

VIA ELECTRONIC MAIL (LOSSANcorridor@sandag.org)

Subject: Notice of Preparation for an Environmental Impact Report for San Diego-Los Angeles-San Diego-San Luis Obispo Rail Realignment Project, San Diego County

Dear Tim Pesce:

The California State Lands Commission (Commission) staff has reviewed the subject Notice of Preparation (NOP) for an Environmental Impact Report (EIR) for the San Diego-Los Angeles-San Diego-San Luis Obispo (LOSSAN) Rail Realignment Project (Project), which is being prepared by the San Diego Association of Governments (SANDAG). SANDAG has been assigned the responsibility for planning, funding allocation, Project development, and construction in the San Diego region for all transit projects and is, therefore, the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) The Commission is a trustee agency for projects that could directly or indirectly affect State sovereign land and their accompanying Public Trust resources or uses. Additionally, because the Project involves work on State sovereign land, the Commission will act as a responsible agency. Commission staff requests that SANDAG consult with us on preparation of the Draft EIR as required by CEQA section 21153, subdivision (a) and the State CEQA Guidelines section 15086, subdivisions (a)(1) and (a)(2).

Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and

submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6009, subd. (c); 6009.1; 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 Doctrine.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line (MHTL), except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court.

Any Project activities or improvements located on State sovereign land will require Commission review and authorization in the form of a lease. Final determination regarding the Commission's jurisdiction in the location of any specific Project activities or improvements will require a review of more detailed Project site plans. Such review can be facilitated via submittal of an Inquiry application to the Commission, or via the lease application submittal process ([OSCAR | Online System for Customer Applications and Records -OSCAR Portal](#)).

Based on the information provided in the subject NOP, the proposed Project includes the potential placement of beach-quality sand excavated from tunnel boring activities either onto beach(es) or nearshore in the vicinity of the study area as well as the removal of prior bluff stabilization improvements consistent with the California Coastal Commission's certification of Federal Consistency Certifications. These activities are likely to involve State sovereign land and will require a lease from the Commission if said activities encroach waterward of the most landward surveyed MHTL. An MHTL survey from no more than six months prior to the submission of any application or inquiry for these activities will be required and will need to be submitted along with any inquiry or application in order for staff to properly review the Commission's jurisdiction.

Additionally, staff's review of the NOP indicates that the Project Alternatives would involve construction activities and improvements on State sovereign lands within San Dieguito Lagoon and Los Peñasquitos Lagoon. If under Commission jurisdiction, these activities and improvements would require a lease from the Commission. More detailed Project plans would be required to determine whether Project activities fall within the Commission's jurisdiction in Los Peñasquitos Lagoon.

Project Description

SANDAG proposes to potentially relocate the existing single-track alignment of the San Diego Subdivision from a rail line running along a terrace on coastal bluffs through the Cities of Solana Beach, Del Mar, and San Diego to a double-track alignment between the Solana Beach Station and the north end of Sorrento Valley in the City of San Diego. This Project would meet SANDAG's objectives and needs as follows:

- Improve rail service reliability
- Maintain passenger rail service to the existing train stations serving Solana Beach and Sorrento Valley and accommodate direct rail access to the Del Mar Fairgrounds
- Minimize impacts in the surrounding communities during and after construction.
- Avoid and/or minimize impacts on biological, cultural, and recreational resources of national, state, or local significance, including publicly owned parks, beaches, wetlands, ecological reserves, wildlife or waterfowl refuges, and any publicly or privately owned historic site listed or eligible for listing on the National Register of Historic Places.
- Help meet the goals of the 2021 Regional Plan and the 2018 California State Rail Plan by increasing passenger and freight train capacity, further reducing travel times, improving reliability, and accommodating additional rail service.
- Improve coastal access and safety by eliminating at-grade railroad crossings and minimizing other pedestrian-rail points of interaction.

From the Project description, Commission staff understands that the Project would include the following components that have the potential to affect State sovereign land:

- Sand Placement: Potential placement of beach-quality sand excavated from tunnel boring activities onto beach(es) or nearshore, in the vicinity of the study area.
- Removal of Bluff Stabilization Improvements: Removal of prior bluff stabilization improvements which could involve staging and/or use of construction equipment on state lands.
- Rail Line Construction: Depending on the Project Alternative that advances as the proposed Project, construction activities and infrastructure components including bored tunnels, cut-and-cover tunnels, bridges, floodwalls, and berms would occur in or affect the San Dieguito and Los Peñasquitos Lagoons.

Environmental Review

Commission staff requests that SANDAG consider the following comments when preparing the Draft EIR (DEIR) to ensure that impacts to State sovereign land are adequately analyzed for the Commission's use of the EIR to support a future lease approval for the Project.

General Comments

1. Project Description: A thorough and complete Project Description should be included in the DEIR in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project Description should be as precise as possible in describing the details of all allowable activities (e.g., types of equipment or methods that may be used, maximum area of impact or volume of sediment removed or disturbed, seasonal work windows, locations for material disposal, etc.), as well as the details of the timing and length of activities. In particular, please illustrate on figures and engineering plans and provide written description in the DEIR of activities occurring within and adjacent to Project area waterways. Thorough descriptions will facilitate Commission staff's determination of the extent and locations of its leasing jurisdiction, make for a more robust analysis of the work that may be performed, and minimize the potential for subsequent environmental analysis to be required.

Biological Resources

2. Special Status Species: For land under the Commission's jurisdiction, the DEIR should disclose and analyze all potentially significant effects on sensitive species and habitats in and around the Project area, including special status wildlife, fish, and plants, and if appropriate, identify feasible mitigation measures to reduce those impacts. SANDAG should conduct queries of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database and U.S. Fish and Wildlife Service's (USFWS) Special Status Species Database to identify any special status plant or wildlife species that may occur in the Project area. The DEIR should also include a discussion of consultation with CDFW, USFWS, and the National Marine Fisheries Service (NMFS), as applicable, including any recommended mitigation measures and potentially required permits identified by these agencies.

Commission staff notes that Project construction activities could adversely affect the San Dieguito Lagoon Ecological Reserve, under the management of CDFW, and Los Peñasquitos Lagoon, managed by California State Parks and the Los Peñasquitos Lagoon Foundation. The lagoons provide critical habitat and resting areas for migrating waterfowl, nesting sites for sensitive bird species, nursery habitat for young fish, protect a diversity of plant and

animal species, and serve as saltmarsh habitat for a variety of flora and fauna. The San Dieguito Lagoon is also a State Marine Conservation Area. Therefore, SANDAG should also consult and/or coordinate with CDFW and California State Parks regarding potential impacts to the two lagoons

3. Lagoon Restoration Projects: The DEIR should discuss whether or how Project activities could affect current lagoon restoration projects and, if applicable, their related mitigation requirements. San Dieguito Lagoon is the site of various active restoration projects, including the [San Dieguito Lagoon Restoration Project Phase II](#) and [Southern California Edison's San Dieguito Wetlands Restoration Project](#), which are tied to mitigation requirements for other projects in accordance with CEQA and a Coastal Development Permit. Los Peñasquitos Lagoon is also the subject of a restoration effort undertaken by the [Los Peñasquitos Lagoon Enhancement Plan](#), a cooperative effort between California State Parks, State Coastal Conservancy, and the Los Peñasquitos Lagoon Foundation.
4. Invasive Species: The DEIR should consider the Project's potential to encourage the establishment or proliferation of aquatic invasive species (AIS), including aquatic plants. One of the major stressors in California waterways is the introduction of invasive species. Project activities, such as the placement of beach sand, have the potential to introduce invasive species if in-water methods of implementation are chosen. Construction boats and barges brought in from long stays at distant projects may transport new species to the Project area via vessel biofouling, wherein marine and aquatic organisms attach to and accumulate on the hull and other wetted surfaces of a vessel.

If the analysis in the DEIR finds potentially significant AIS impacts, possible mitigation could include contracting local vessels and barges or requiring contractors to inspect and clean the hull and other underwater surfaces of vessels prior to arrival in California. The Commission's Marine Invasive Species Program could assist with this analysis as well as with the development of appropriate mitigation (information at <https://www.slc.ca.gov/misp/>).

5. Hazardous Materials: The DEIR should explain how the beach-quality sand will be tested to determine if it is "clean" or safe for use and appropriate for the receiving area prior to being placed on the beach or in the near-shore environment. Mitigation measures should include spill contingency plans for vessels or other in-water construction equipment and any construction equipment used on beaches.
6. Water Quality: Construction activities occurring in or over the water could impact water quality through the accidental release of debris or through construction activities that may disturb sediment and increase turbidity. The

DEIR should discuss how the Project will prevent construction debris from entering the water and how any fallen debris would be addressed. The DEIR should also analyze turbidity impacts in the lagoon and Pacific Ocean from Project activities and identify relevant mitigation measures.

7. Construction Noise: The DEIR should also evaluate noise and vibration impacts on fish, birds, and marine mammals, as applicable, from in-water construction activities. Such activities potentially include the construction of floodwalls, boring of tunnels and relocation of beach sand, and the removal of bluff stabilization improvements. Mitigation measures could include, but are not limited to, species-specific work windows as defined by CDFW, USFWS, and NMFS as well as noise attenuation devices. Again, staff recommends early consultation with these agencies to minimize the impacts of the Project on sensitive species.

Climate Change

8. Greenhouse Gas (GHG): A GHG emissions analysis consistent with the California Global Warming Solutions Act (Assembly Bill [AB] 32; Nuñez, Chapter 488, Statutes of 2006) and required by the State CEQA Guidelines should be included in the DEIR. This analysis should identify a threshold for determining significance of GHG emissions, calculate the level of GHGs that will be emitted as a result of construction and ultimate build-out of the Project, and, if impacts are significant, identify mitigation measures that would reduce them to the extent feasible.
9. Sea Level Rise: Governor Brown issued Executive Order B-30-15 in April 2015, which directs State government to fully implement the State's [Climate Adaptation Strategy](#) and factor in climate change preparedness in planning and decision making. Senate Bill 1 (Atkins, 2021) requires state and regional agencies to identify and, to the extent feasible, avoid, minimize, and mitigate the impacts of sea level rise. The bill also established specific goals for sea level rise adaptation, including enhancing the coastal environment, maximizing public access and recreational opportunities, and considering Californians' social and economic needs.

SANDAG should consider discussing in the DEIR if and how various Project components located on State-owned lands might be affected by sea level rise and whether "resilient" designs have been incorporated. A tremendous amount of State-owned lands and resources under the Commission's jurisdiction will be impacted by rising sea levels. The San Dieguito Lagoon and its surroundings are generally in a low-lying, flood-prone area that will be affected by rising sea levels. Additionally, because of their nature and location, these lands and resources are already vulnerable to a range of natural events, such as storms and extreme high tides.

As the Project is designed and evaluated, attention should be given to sea level rise projections to ensure the structures' designs are sufficient to ensure function, safety, and protection of the environment over the expected life of the structure. For bridges, this could include the location and design of the anchors/footings, height of the span, design or use of bank stabilization, etc. The DEIR should also consider how the structures' designs could exacerbate the impacts that sea level rise will have on State-owned lands and resources, such as displacing the limited and vulnerable wetland habitat in San Dieguito Lagoon.

The DEIR should also consider the projections for sea level rise and bluff erosion to evaluate how the removal of bluff stabilization and the "No Project" alternative could either alleviate or contribute to coastal squeeze and affect coastal resources and sediment supplies. The removal of bluff stabilization improvements adjacent to the Pacific Ocean could affect lands in the Commission's jurisdiction. As described in the Commission's [Shoreline Adaptation and the Public Trust](#) report, seawalls, riprap, and other forms of hard armoring can have several adverse effects on State-owned lands and resources, such as accelerating beach loss, blocking beach access, degrading scenic quality, and displacing intertidal habitat. As sea levels rise, these effects could become more pronounced as the bluff stabilization improvements stop the inland migration of the shoreline and decrease the sediment supplies that are critical for sustaining the beaches and nearshore ecosystems.

As demonstrated by recent bluff erosion and the need for SANDAG to implement multiple emergency repairs and five bluff stabilization projects, sea level rise and bluff erosion are significant threats to the existing railroad and its ability to operate safely. Since these threats are the impetus for the Project, SANDAG should consider including information in the DEIR that incorporates the current trends and acceleration in sea level rise and bluff erosion. As noted in the NOP, the bluff is eroding 0.4-0.6 feet per year. Therefore, assuming the current location of the shoreline and bluff would remain fixed over the Project lifespan could be misleading for the impact analyses for some resource categories, such as recreation, biological resources, cultural resources, and hazards.

Please note that when considering lease applications, Commission staff will (1) request information from applicants concerning the potential effects of sea level rise on their proposed projects, (2) if applicable, require applicants to indicate how they plan to address sea level rise and what adaptation strategies are planned over the projected life of their Project, and (3) where appropriate, recommend Project modifications that would eliminate or

reduce potentially adverse impacts from sea level rise, including adverse impacts on public access.

Cultural Resources

10. Title to Resources: Infrastructure components (e.g., bridges, berms, floodwalls, and tunnels) identified in Figure 2 could require excavation activities on lands within the Commission's jurisdiction. The DEIR should identify that title to all abandoned archaeological sites and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the California State Lands Commission (Pub. Resources Code, § 6313). Commission staff requests that SANDAG consult with Commission staff should any such resources on State lands be discovered during construction of the proposed Project. In addition, Commission staff requests that the following statement be included in the EIR's Mitigation and Monitoring Plan: "The final disposition of archaeological, historical, and paleontological resources recovered on State lands under the jurisdiction of the Commission must be approved by the Commission."

Recreation:

11. Public Access: The DEIR should discuss how Project activities may disrupt or otherwise impact public access to State lands. On page 7, the NOP identifies several Project infrastructure components which could potentially impact public access, including the placement of beach quality sand onto beach(es) and the removal and replacement of existing bluff stabilization improvements. Staff encourages SANDAG to consider a Project design and construction timeline which avoids or minimizes disruptions to public access.

Tribal Cultural Resources:

12. Consideration of Tribal Cultural Resources: AB 52 includes both procedural and substantive requirements, including the requirement that lead agencies strive to avoid significant adverse changes to tribal cultural resources, regardless of whether consultation is requested or occurs, and incorporate mitigation measures recommended by tribes unless the lead agency determines those suggestions are not feasible. Commission staff encourages SANDAG to go beyond the requirements of AB 52 by conducting outreach and consultation with all tribes culturally affiliated with the Project area, as determined by the Native American Heritage Commission. The Commission strongly encourages early, frequent, and meaningful engagement with all culturally affiliated tribes that may be affected by this Project.

Alternatives

13. Alternatives: In addition to describing mitigation measures that would avoid or reduce the potentially significant impacts of the Project, SANDAG should identify and analyze a range of reasonable alternatives to the proposed Project that would attain most of the Project objectives while avoiding or reducing one or more of the potentially significant impacts (see State CEQA Guidelines, § 15126.6). In addition to a No Project alternative, the DEIR should identify the environmentally superior alternative.

Environmental Justice

14. Environmental justice is defined by California law as “the fair treatment and meaningful involvement of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.” (Gov. Code § 65040.12) This definition is consistent with the Public Trust Doctrine’s principle that management of trust lands is for the benefit of all people.

The Commission adopted an updated [Environmental Justice Policy and Implementation Blueprint](#) in December 2018 to ensure that environmental justice is an essential consideration in the agency’s processes, decisions, and programs. The twelve goals outlined in the Policy reflect an urgent need to address the inequities of the past, so they do not continue. Through its policy, the Commission reaffirms its commitment to an informed and open process in which all people are treated equitably and with dignity, and in which its decisions are tempered by environmental justice considerations.

Although not legally required in a CEQA document, Commission staff suggests that SANDAG include a section describing the environmental justice community outreach, engagement undertaken in developing the DEIR, and the results of such outreach. Environmental justice communities often lack access to the decision-making process and experience barriers to becoming involved in that process. It is crucial that these communities are consulted as early as possible in the Project planning process.

The California Office of Environmental Health Hazard Assessment developed the [CalEnviroScreen](#) mapping tool to assist agencies with locating census tracts near proposed projects and identifying the environmental burdens, should there be any, that disproportionately impact those communities. Commission staff strongly recommends using the [CalEnviroScreen](#) tool and then, as applicable, reaching out through local community organizations, such as the [California Environmental Justice Alliance](#). Engaging in early outreach will facilitate more equitable access for all community members. In

this manner, the CEQA public comment process can improve and provide an opportunity for more members of the public to provide input related to environmental justice.

Commission staff also recommends incorporating or addressing opportunities for community engagement in mitigation measures. Commission staff will review the environmental justice outreach and associated results as part of any future Commission action.

Thank you for the opportunity to comment on the NOP for the Project. As a trustee and responsible agency, Commission staff requests consultation on this Project and to be kept advised of changes to the Project Description and all other important developments. Please send additional information on the Project to the Commission staff listed below as the DEIR is being prepared.

Please refer questions concerning environmental review to Robin Tuohy, Environmental Scientist, via email at Robin.Tuohy@slc.ca.gov. For questions concerning Commission leasing jurisdiction, please contact Jeffrey Plovnick, Land Management Specialist III, via email at Jeffrey.Plovnick@slc.ca.gov.

Sincerely,



Nicole Dobroski, Chief
Division of Environmental Science,
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