

State of California – Natural Resources Agency

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July 19, 2024

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**SUBJECT: NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE SAN DIEGO-LOS ANGELES-SAN DIEGO-SAN LUIS OBISPO RAIL REALIGNMENT PROJECT, SCH #2024060038, SANDAG**

Dear Tim Pesce:

The California Department of Fish and Wildlife (CDFW) reviewed the Notice of Preparation (NOP) of the Draft Environmental Impact Report (DEIR) from the San Diego Association of Governments (SANDAG) for the San Diego-Los Angeles-San Diego-San Luis Obispo (LOSSAN) Rail Realignment (SDLRR) Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines<sup>1</sup>.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California “fish, wildlife, plants, and their habitat.” Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

**CDFW’s Role**

CDFW is California’s Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect State fish and wildlife resources.

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

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CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in “take”, as defined by State law, of any animal or plant species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or rare plant listed pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, § 1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

## **Project Description and Summary**

**Objective:** The objective of the Project is to eliminate transportation reliability risks due to erosion and increasing operating speed of the trains, by relocating existing railroad tracks away from eroding coastal bluffs. The Project proposes removal of the existing single-track alignment in the coastal communities of Solana Beach and Del Mar, and replacement with a double-track alignment between the Solana Beach Station and the north end of Sorrento Valley in the City of San Diego. The NOP identifies the following three Project alternative alignments (Figure 3, below), which will be analyzed in more detail in the DEIR. All of the proposed alignments will require tunneling.

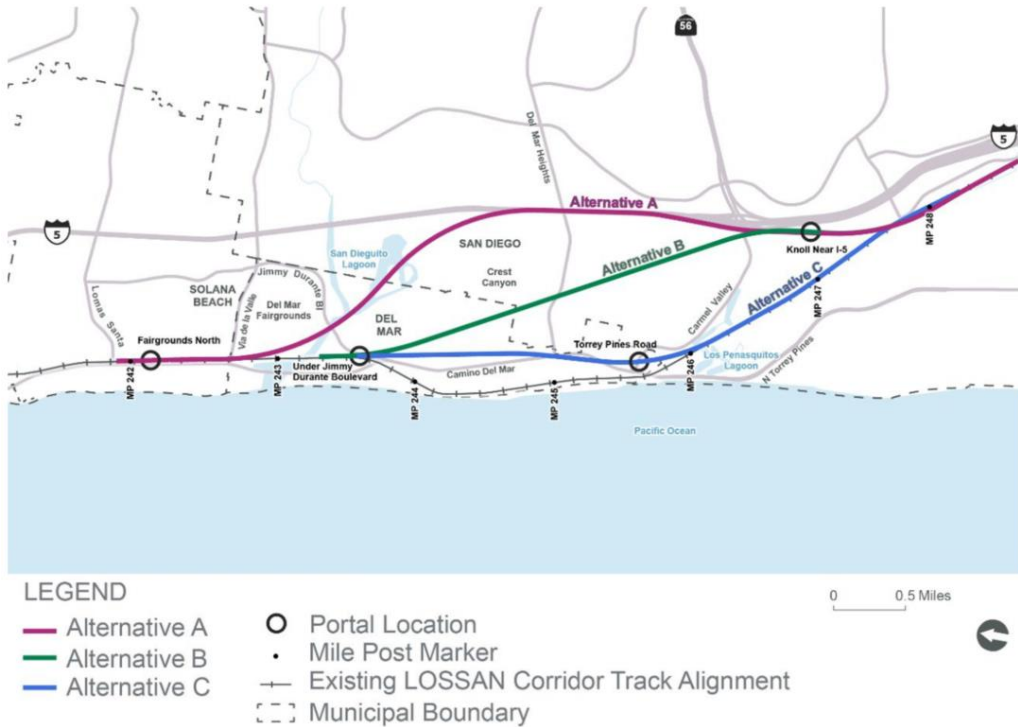
*Alternative A I-5 Alignment:* This 6.8-mile alternative would descend south from the Solana Beach Station, enter the Del Mar Fairgrounds North Portal, continue south into the fairgrounds, tunnel under the San Dieguito Lagoon, and turn to follow under the I-5, exiting through a knoll near the I-5 South Portal.

*Alternative B Crest Canyon Alignment:* This 5.3-mile alternative would descend south of the rail bridge that spans over the San Dieguito Lagoon and enter the Under Jimmy Durante Boulevard North Portal, continue tunneling through Crest Canyon, and exit at the knoll near the I-5 South Portal, before transitioning back to the existing alignment.

*Alternative C Camino del Mar Alignment:* This 4.9-mile alternative would descend immediately south of the rail bridge that spans over the San Dieguito Lagoon and enter the Under Jimmy Durante Boulevard North Portal. The tunnels would extend south parallel with Camino Del Mar, exiting at the Torrey Pines Road South Portal, bridge over Los Peñasquitos Lagoon, and then transition back to the existing alignment.

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Figure 3. Three Project Alternatives



Additional Project activities include: construction of bridge structures, U-structures, retaining walls, flood walls, twin-bored tunnels, cut-and-cover tunnels, tunnel portals, associated portal infrastructure; installation of a tunnel system power supply, tunnel ventilation systems, and communication systems; modifications of drainage and roadways; relocation of utilities; potential placement of beach-quality sand from excavation; and, removal of prior bluff stabilization improvements.

**Location:** The Project is located along a 60-mile section of the 351-mile LOSSAN Rail Corridor, which links San Diego, Los Angeles, and San Luis Obispo from the Orange County line to the Santa Fe Depot in Downtown San Diego. The existing alignment traverses the coastal bluffs between Del Mar and Solana Beach. The Project proposes three alternative locations for the realignments: Alternative A extends from Del Mar Fairgrounds, tunnels underneath San Dieguito Lagoon and along the Interstate-5 (I-5) corridor and resurfaces at a knoll near I-5. Alternative B extends from Jimmy Durante Boulevard, tunnels through Crest Canyon, and resurfaces at the same knoll near the I-5 corridor. Alternative C extends from Jimmy Durante Boulevard, tunnels parallel to the coast along Camino Del Mar, surfaces at Torrey Pines Road, and crosses Los Peñasquitos Lagoon via a bridge. The portal location near Torrey Pines Road would extend into Los Peñasquitos Lagoon.

**Biological Setting:** Potential impacts may occur to San Dieguito Lagoon and Los Peñasquitos Lagoon. Both lagoons provide important habitat for a variety of species. Encompassed within San Dieguito Lagoon is the 110-acre San Dieguito Lagoon

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Ecological Reserve, a CDFW owned-and-managed property. Habitats within the Reserve include riparian and coastal wetland communities, as well as California coastal sage scrub. The Reserve is also designated as a State Marine Conservation Area. Los Peñasquitos Lagoon is a 565-acre coastal estuary and is part of the Torrey Pines State Natural Reserve, which is owned and managed by California State Parks. The lagoon and adjacent uplands provide habitat for 25 sensitive plant species, several sensitive reptile species, as well as five special-status bird species. Bird species observed in the lagoon or adjacent uplands include: Belding's savannah sparrow (*Passerculus sandwichensis beldingi*; state endangered), coastal cactus wren (*Campylorhynchus brunneicapillus sandiegensis*; State Species of Special Concern (SSC)), coastal California gnatcatcher (*Polioptila californica californica*; federal threatened, SSC), light-footed Ridgway's rail (*Rallus obsoletus brevipes*; federal endangered, state endangered, State Fully Protected), California least tern (*Sternula antillarum browni*; federal and state endangered; State Fully Protected), and least Bell's vireo (*Vireo bellii pusillus*; federal and state endangered). There may also be suitable upland habitat on the Project site for Crotch's bumble bee (*Bombus crotchii*; candidate CESA listing).

## Comments and Recommendations

CDFW offers the comments and recommendations below to assist SANDAG in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish, wildlife, and plant (biological) resources and their habitat. The DEIR should provide adequate and complete disclosure of the Project's potential impacts on biological resources [Pub. Resources Code, § 21061; CEQA Guidelines, §§ 15003(i), 15151]. CDFW looks forward to commenting on the DEIR when it is available.

## Specific Comments

- 1) CDFW Ecological Reserve Impacts. The alignment for Alternative A extends under San Dieguito Lagoon. The NOP does not specify the mechanism for acquiring rights-of-way and/or easements through or under a state-owned and -managed ecological reserve. CDFW is unaware of any authority that would allow SANDAG to exercise eminent domain over property owned and managed by state agencies. Alternative A proposes a cut-and-cover tunnel traversing from the Del Mar Fairgrounds south toward San Dieguito Lagoon Ecological Reserve, extending into a bored tunnel underneath the Reserve, and exiting at a knoll near I-5. We have several concerns regarding potential tunneling underneath San Dieguito Lagoon, including associated impacts to biological resources as well as lands that are owned and managed by CDFW.

The DEIR should include a thorough analysis of the following elements, at a minimum, as they pertain to Alternative A:

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- a. permanent and temporary biological impacts to San Dieguito Lagoon;
- b. water quality impacts from tunneling;
- c. hydrological alterations to San Dieguito Lagoon;
- d. geotechnical risks, including those related to tunnel stability and subsidence;
- e. impacts from construction noise and vibration;
- f. impacts from operational noise and vibration; and
- g. identification of the appropriate legal mechanism through which any rights-of-way and/or easements will be acquired.

Although we have a strong preference for the development, analysis, and possible selection of an alternative that does not affect CDFW lands, we would welcome the opportunity to meet with SANDAG ahead of the DEIR preparation to discuss the biological resources impacts associated with the Project, including site-specific impacts, mitigation measures, and right-of-entry issues.

- 2) Knoll Near I-5 Portal Location: The southern portal proposed for Alternative A and B is at a knoll that is south of Carmel Valley Road, between I-5 and the segment of Sorrento Valley Road Trail that is open to bikes, pedestrians, and some authorized vehicles, but closed to public vehicle traffic. The portal would exit from the knoll and extend into Los Peñasquitos Lagoon. Protocol-level surveys were conducted in 2023 for light-footed Ridgway's rail, coastal California gnatcatcher, least Bell's vireo, and southwestern willow flycatcher (AECOM Figure 4B; Attachment A). The survey identified at least two pairs and several individual light-footed Ridgway's rail in the brackish marsh habitat at the northeastern portion of Los Peñasquitos Lagoon, immediately south of the I-5 knoll portal location. Alternatives A and B both propose resurfacing the tunnel through the knoll near I-5 and constructing new track through the brackish marsh habitat at the northeastern portion of Los Peñasquitos Lagoon to connect with existing track. The segment through Los Peñasquitos Lagoon would significantly impact known light-footed Ridgway's rail habitat directly through removal and may also result in take of a federally and state endangered, and state fully protected species.

Fully protected species, such as light-footed Ridgway's rail, may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species,
- Live capture and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).
- Specified types of infrastructure projects—including transportation projects—may be eligible for a permit for take of fully protected species for unavoidable impacts

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to fully protected species if certain conditions are met (see Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the project planning process.

Regardless of whether this Project is eligible for take authorization of rails or not, we encourage SANDAG to avoid potential take of light-footed Ridgway's rail by identifying a southern portal location farther south, which would avoid impacts to Los Peñasquitos lagoon and light-footed Ridgway's rail.

- 3) Alternatives Analysis and Selection. CDFW would prefer the identification, analysis, and possible selection of a new alternative that does not impact CDFW lands. However, of the alternatives proposed in the NOP, CDFW would recommend Alternative B as the Preferred Alternative, with modifications to the location of the southern portal.. In addition to our concerns about impacts to CDFW lands associated with Alternative A, we also have concerns that Alternative C would result in significant environmental impacts from construction of a double track bridge through Los Peñasquitos Lagoon. Given that the existing single-track bridge already alters the hydrology and negatively affects the biological function of Los Peñasquitos Lagoon, CDFW strongly recommends against Alternative C. CDFW recommends selection of Alternative B, or another design that would more effectively minimize environmental impacts than Alternatives A or C.

The DEIR should include a thorough analysis of environmental impacts resulting from all three alignment Alternatives, or other feasible options which minimize biological impacts, including but not limited to:

- a. habitat impacts;
- b. special-status species impacts;
- c. construction noise and vibration analysis;
- d. operational noise and vibration analysis;
- e. hydrological impacts;
- f. water quality impacts; and,
- g. groundwater impacts.

- 4) Tunnel Boring Machine (TBM) Failure Provisions. The DEIR should discuss how repairs will be made to the TBMs, in the event that they malfunction during Project construction. There is a documented instance of TBM malfunction on a project in Seattle, requiring workers to remove the machine to perform repairs (Lindblom, 2014). An 80-foot-wide, 120-foot-deep access pit had to be excavated using heavy machinery, which delayed the Seattle project by two years. Given that the three proposed new alignments for this Project involve use of TBMs to construct tunnels, the DEIR should detail a repair plan and strategy, should the TBM malfunction. The discussion should analyze potential impacts from repair-related excavation and extended tunnel construction, such as noise, vibration, and biological resource impacts. Analysis should also be provided of how properties such as homes or open

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space on the surface would be impacted, so that workers could access the TBM from the surface.

- 5) Crotch's bumble bee (*Bombus crotchii*). The Project site may support habitat for Crotch's bumble bee, which includes grasslands and scrub. If Crotch's bumble bee is present in the Project site, the Project could grade and/or develop habitat supporting Crotch's bumble bee. The Project may result in temporal or permanent loss of suitable nesting and foraging habitat. In addition, Project ground-disturbing activities and vegetation removal during construction and tunneling activities may cause death or injury of adults, eggs, and larva, burrow collapse, nest abandonment, and reduced nest success.
  - a. Protection Status. The California Fish and Game Commission accepted a petition to list Crotch's bumble bee as endangered under CESA, determining the listing "may be warranted" and advancing the species to the candidacy stage of the CESA listing process. As a candidate species, Crotch's bumble bee is granted full protection of a threatened species under CESA. Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). In addition, Crotch's bumble bee has a state ranking of S1/S2. This means that Crotch's bumble bee is considered critically imperiled or imperiled and is extremely rare (often five or fewer populations). Crotch's bumble bee is also listed as an invertebrate of conservation priority under the [Terrestrial and Vernal Pool Invertebrates of Conservation Priority](#) (CDFW 2017).
  - b. Surveys and Disclosure<sup>1</sup>. CDFW recommends that SANDAG retain a qualified biologist familiar with the species to survey the Project site for Crotch's bumble bee and habitat. Surveys for Crotch's bumble bee should be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). The DEIR should provide full disclosure of the presence of Crotch's bumble bee and the Project's potential impact on Crotch's bumble
  - c. Mitigation. The DEIR should include measures to first avoid impacts on Crotch's bumble bee. If Crotch's bumble bee is present, a qualified biologist should identify the location of all nests in or adjacent to the Project site. If nests are identified, 15-meter no-disturbance buffer zones should be established around nests to reduce the risk of disturbance or accidental take. If the Project cannot avoid impacts, the City should require the Project Applicant to consult CDFW to

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<sup>1</sup> Please note that lack of records in the CNDDDB for Crotch bumble bee at the Project site does not mean that Crotch's bumble bee is not present. Reporting data to the CNDDDB is voluntary and it was only recently that entry of data became strongly recommended or required for candidate species like and Crotch's bumble bee. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review.

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determine if a CESA incidental take permit (ITP) is required. In addition, the City should require the Project Applicant to provide compensatory mitigation for removal or damage to any floral resource associated with Crotch's bumble bee. Floral resources should be replaced as close to their original location as is feasible.

- d. CESA ITP. Appropriate take authorization from CDFW under CESA may include an ITP, among other options [Fish & Game Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to the project and mitigation measures may be required to obtain an ITP. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP for the Project unless the Project's CEQA document addresses all the Project's impact on CESA endangered, threatened, and/or candidate species. The Project's CEQA document should also specify a mitigation monitoring and reporting program that will meet the requirements of an ITP. It is important that the take proposed to be authorized by CDFW's ITP be described in detail in the Project's CEQA document. Also, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for an ITP. However, it is worth noting that mitigation for the Project's impact on a CESA endangered, threatened, and/or candidate species proposed in the Project's CEQA document may not necessarily satisfy mitigation required to obtain an ITP.
- 6) Potential Beach/Nearshore Sediment Placement Impacts. The Project proposes to potentially place beach-quality sand excavated from tunnel boring activities onto beach(es) or nearshore in the vicinity of the study area. Beach or nearshore sediment placement could cause potential burial of sensitive marine species and their rocky bottom habitats via direct sediment placement or subsequent littoral drift causing substantial adverse effects. Several types of Habitat Areas of Particular Concern (HAPC) may occur at the proposed sediment placement site(s), including rocky reefs, seagrass (e.g., surfgrass), eelgrass, and/or canopy kelp. San Diego waters support commercially and recreationally important fish and invertebrate species such as California grunion (*Leuresthes tenuis*), California halibut (*Paralichthys californicus*), California spiny lobster (*Panulirus interruptus*), and the important forage fish Northern anchovy (*Engraulis mordax*). Nearshore sediment placement activities could impact HAPC and the species that inhabit them via direct burial/smothering, increased turbidity, and/or decreased light availability.

California grunions are vulnerable to disturbance from beach placement projects within the intertidal and nearshore during their reproductive cycle because they spawn and bury their eggs within the upper intertidal. Grunions have the potential to spawn within the Project's beach sediment placement footprint during the spawning season (March through August). Direct impacts could include crushing incubating eggs from driving heavy equipment within egg nests and burying incubating eggs



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from movement of sand, which may lead to inviable eggs or eggs unable to hatch out.

After the Project's proposed beach or nearshore sediment placement activity, the primary effect pathway of potential burial/smothering, increased turbidity, and or decreased light availability to rocky reef, seagrass, eelgrass, and/or algal communities is indirect. The NOP does not address how the potential indirect effects, as a result of the beach or nearshore sediment placement, would be monitored and/or mitigated for post-construction to avoid and minimize impacts to important species and HAPC.

HAPC, a subset of Essential Fish Habitat, are habitats of special importance to fish populations due to their rarity, vulnerability to development and anthropogenic degradation, and/or ability to provide key ecological functions. Rocky reefs, seagrass, eelgrass, and canopy kelp (e.g., giant kelp) have been designated as groundfish HAPC by the Pacific Fisheries Management Council under the Magnuson-Stevens Fishery Conservation and Management Act. Additionally, California grunions are an ecologically, recreationally, and culturally important species in southern California, and an important prey species for numerous marine species. CDFW makes the following recommendations to address marine concerns:

- a. CDFW recommends that the DEIR quantify the amount of rocky reef, seagrass, eelgrass, and/or canopy kelp that could be lost due to the Project and potential alternatives from nearshore sediment placement. If impacts cannot be avoided, compensatory mitigation may be required. Additionally, CDFW recommends that post-construction monitoring of the nearshore sediment placement should occur to ensure HAPC's are not impacted. CDFW recommends consulting with CDFW and NOAA Fisheries on the Project's impact analysis and all proposed mitigation measures for HAPC.
- b. CDFW recommends that the DEIR clarify the anticipated timing of sediment placement and if sediment being distributed across the beach profile will involve equipment operating below the mean high tide line. All beach placement operations should avoid equipment below the mean high tide line, unless sediment is being placed in the swash zone due to high sand content. CDFW also recommends a long-shore and cross-shore sediment transport model be used to identify appropriate sediment placement volumes and locations to avoid or minimize marine habitat impacts. Results from the sediment transport model should be included in the DEIR.
- c. CDFW recommends all beach sediment placement activities occur outside of grunion spawning season (March through August). If beach sediment placement does occur during grunion spawning season and the proposed beach placement site is considered suitable for grunion spawning, CDFW recommends that a grunion monitoring plan is included in the DEIR. If grunion spawning occurs

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within the Project area, work in that area below the mean high tide line should not be conducted until after the grunion eggs have hatched (2 weeks). The locations of the spawning run should be marked physically and/or by Global Positioning System (GPS) locations. The density of the grunion throughout the area should be noted using the Walker Scale. The Project should ensure that maintenance workers avoid the spawning area and that a 50-foot buffer is used to avoid impacting any spawning areas adjacent to the sediment placement sites. Grunion monitoring should be conducted by a qualified biologist for 30 minutes prior to and two hours following the predicted start of each spawning event. If more than 100 fish are reported, then avoidance and minimization measures should be implemented, such as relocation/rescheduling of work/equipment or specification of acceptable vehicle routes.

- 7) Lake and Streambed Alteration. As described, the Project may have biological impacts on Los Peñasquitos Lagoon and San Dieguito Lagoon. Both lagoons are ecologically sensitive resources and host an array of sensitive listed and non-listed species. The DEIR should include an analysis of the Project's direct, indirect, and cumulative impacts on hydrologic features, including a discussion of impacts as they pertain to Fish and Game Code section 1600 *et seq.* CDFW recommends that SANDAG coordinate with CDFW to assess whether notification is appropriate. CDFW has regulatory authority over activities in streams that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project Applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the Applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. A Notification package for a LSAA may be obtained by accessing CDFW's web site at <http://www.wildlife.ca.gov/Conservation/LSA>.
  
- 8) Wetlands and Associated Natural Communities. According to the U.S. Fish and Wildlife Service's (USFWS) [National Wetlands Mapper](#), there are two wetland features in the Project site (USFWS 2022) that may be impacted by Project development. Impacts would occur from construction of a double track through Los Peñasquitos Lagoon as described in Alternative C, as well as construction of a track alignment adjacent to the I-5 knoll, described in Alternatives A and B. Natural communities adjacent to the wetlands could be removed or degraded through habitat modification (e.g., loss of water source, encroachment by the Project, edge effects leading to introduction of non-native plants).
  - a. Wetland Delineation and Impact Assessment. The DEIR should provide a wetland delineation, which should also identify streams, culverts, ditches, and

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storm channels that may transport water, sediment, pollutants, and discharge into any rivers, streams, and lakes<sup>2</sup>. The delineation should be conducted pursuant to the USFWS wetland definition adopted by CDFW (Cowardin et al. 1979). Be advised that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' Section 404 permit and Regional Water Quality Control Board Section 401 Certification. In addition, the DEIR should disclose the total impacts (linear feet and/or acreage) including impacts resulting from fuel modification on any river, stream, or lake and associated natural communities.

- b. Avoidance and Setbacks. CDFW recommends the Project avoid impacts on streams, wetlands, and associated natural communities by avoiding or minimizing Project-related development adjacent to streams and wetlands. Herbaceous vegetation adjacent to streams protects the physical and ecological integrity of these water features and maintains natural sedimentation processes. CDFW recommends SANDAG design the Project so that wetland impacts are avoided and/or minimized. The DEIR should discuss how the Project has been designed to avoid and/or minimize impacts so CDFW may assess potential impacts on biological resources.
- c. Mitigation. If avoidance is not feasible, SANDAG should fully compensate for impacts on wetlands, streams, and loss of associated natural communities. Higher mitigation should be provided to compensate for impacts on resources supporting rare, sensitive, or special status fish, wildlife, and natural communities.

**General Comments**

- 1) Disclosure. The DEIR should provide an adequate, complete, and detailed disclosure about the effects which a proposed project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, § 15151). Such disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as assess the significance of the specific impact relative to plant and wildlife species impacted (e.g., current range, distribution, population trends, and connectivity).
- 2) Project Description and Alternatives. To enable adequate review and comment on the proposed Project from the standpoint of the protection of fish, wildlife, and plants, CDFW recommends the following information be included in the DEIR:
  - a. A complete discussion of the purpose and need for, and description of the proposed Project;

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<sup>2</sup> "Any river, stream, or lake" includes those that are dry for periods of time (ephemeral/episodic) as well as those that flow year-round (perennial). This includes ephemeral streams and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a water body.

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- b. A range of feasible alternatives to the Project location to avoid or otherwise minimize direct and indirect impacts on sensitive biological resources and wildlife movement areas. CDFW recommends SANDAG select Project designs and alternatives that would avoid or otherwise minimize direct and indirect impacts on biological resources. CDFW also recommends SANDAG consider establishing appropriate setbacks from sensitive and special status biological resources. Setbacks should not be impacted by ground disturbance or hydrological changes from any future Project-related construction, activities, maintenance, and development. As a general rule, CDFW recommends reducing or clustering a development footprint to retain unobstructed spaces for vegetation and wildlife and provide connections for wildlife between properties and minimize obstacles to open space.
  - c. Project alternatives should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6). The DEIR shall include sufficient information about each alternative to allow meaningful evaluation, public participation, analysis, and comparison with the proposed Project (CEQA Guidelines, § 15126.6).
  - d. Where the Project may impact aquatic and riparian resources, CDFW recommends SANDAG select Project designs and alternatives that would fully avoid impacts to such resources. CDFW also recommends an alternative that would not impede, alter, or otherwise modify existing surface flow, watercourse and meander, and water-dependent ecosystems and natural communities. Project designs should consider elevated crossings to avoid channelizing or narrowing of watercourses. Any modifications to a river, creek, or stream may cause or magnify upstream bank erosion, channel incision, and drop in water level, which may cause the watercourse to alter its course of flow.
- 3) Biological Baseline Assessment. An adequate biological resources assessment should provide a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project site and where the Project may result in ground disturbance. The assessment and analysis should place emphasis on identifying endangered, threatened, rare, and sensitive species; regionally and locally unique species; and sensitive habitats. An impact analysis will aid in determining the Project's potential direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW also considers impacts to Species of Special Concern (SSC) a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures. The DEIR should include the following information:
- a. Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or

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unique to the region (CEQA Guidelines, § 15125(c)). The DEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities. CDFW considers Sensitive Natural Communities as threatened habitats having both regional and local significance. Natural communities, alliances, and associations with a State-wide rarity ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the [Vegetation Classification and Mapping Program - Natural Communities](#) webpage (California Department of Fish and Wildlife, n.d.) ;

- b. A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (California Department of Fish and Wildlife, 2021). Botanical field surveys should be comprehensive over the entire Project site, including areas that will be directly or indirectly impacted by the Project. Adjoining properties should also be surveyed where direct or indirect Project effects could occur, such as those from fuel modification, herbicide application, invasive species, and altered hydrology. Botanical field surveys should be conducted in the field at the times of year when plants will be both evident and identifiable. Usually, this is during flowering or fruiting. Botanical field survey visits should be spaced throughout the growing season to accurately determine what plants exist in the Project site. This usually involves multiple visits to the Project site (e.g., in early, mid, and late-season) to capture the floristic diversity at a level necessary to determine if special status plants are present;
- c. Floristic alliance- and/or association-based mapping and vegetation impact assessments conducted in the Project site and within adjacent areas. The [Manual of California Vegetation](#), second edition, (Sawyer, Keeler-Wolf, & Evens, 2009) should also be used to inform this mapping and assessment. Adjoining habitat areas should be included in this assessment where the Project's construction and activities could lead to direct or indirect impacts off site;
- d. A complete and recent assessment of the biological resources associated with each habitat type in the Project site and within adjacent areas. A full literature review includes but is not limited to CDFW's [California Natural Diversity Database](#) (CNDDDB). The CNDDDB should be accessed to obtain current information on any previously reported sensitive species and habitat (California Department of Fish and Wildlife, n.d.). An assessment should include a minimum nine-quadrangle search of the CNDDDB to determine a list of species potentially present in the Project site. A nine-quadrangle search should be provided in the Project's CEQA document for adequate disclosure of the Project's potential impact on biological resources. Please see [CNDDDB Data Use Guidelines – Why do I need to do this?](#) for additional information (California Department of Fish and Game, 2011);

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- e. A complete, recent, assessment of endangered, rare, or threatened species and other sensitive species within the Project site and adjacent areas, including SSC and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project site should also be addressed such as wintering, roosting, nesting, and foraging habitat. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. See CDFW's [Survey and Monitoring Protocols and Guidelines](#) (California Department of Fish and Wildlife, n.d.) for established survey protocol. Acceptable species-specific survey procedures may be developed in consultation with CDFW and USFWS; and,
  - f. A recent wildlife and rare plant survey. A lack of records in the CNDDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review (CEQA Guidelines, § 15003(i)). CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if Project implementation build out could occur over a protracted time frame or in phases.
- 4) Direct and Indirect Impacts on Biological Resources. The DEIR should provide a thorough discussion of direct and indirect impacts expected to affect biological resources with specific measures to offset such impacts. The DEIR should address the following:
- a. A discussion of potential impacts from lighting, noise, temporary and permanent human activity, and exotic species, and identification of any mitigation measures. A discussion regarding Project-related indirect impacts on biological resources. These include resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with a Natural Community Conservation Plan (Fish & G. Code, § 2800 et. seq.));
  - b. A discussion of both the short-term and long-term effects of the Project on species population distribution and concentration, as well as alterations of the ecosystem supporting those species impacted (CEQA Guidelines, § 15126.2(a));
  - c. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the Project, should be fully analyzed and discussed in the DEIR;
  - d. A discussion of post-Project fate of drainage patterns, surface flows, and soil erosion and/or sedimentation in streams and water bodies. The discussion

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should also address the potential water extraction activities and the potential resulting impacts on habitat supported by the groundwater. Measures to mitigate such impacts should be included; and

- e. An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR.

- 5) Cumulative Impact. Cumulative impacts on biological resources can result from collectively significant projects which are individually insignificant. The Project, when considered collectively with prior, concurrent, and probable future projects, may have a significant cumulative effect on biological resources. The Project may have a potential to substantially reduce the number or restrict the range of endangered, rare, or threatened species. Species that may be impacted by the Project include, but are not limited to, the biological resources described in this letter.

Accordingly, CDFW recommends the DEIR evaluate the Project's potential cumulative impacts on biological resources. The Project may have a "significant effect on the environment" if the possible effects of the Project are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects (Pub. Resources Code, § 21083(b)). The SANDAG's conclusions regarding the significance of the Project's cumulative impact should be justified and supported by evidence to make those conclusions. Specifically, if SANDAG concludes that the Project would not result in cumulative impacts on biological resources, SANDAG, "shall identify facts and analysis supporting the Lead Agency's conclusion that the cumulative impact is less than significant" (CEQA Guidelines section § 15130(a)(2)).

- 6) Nesting Birds. To avoid impacts to nesting birds, CDFW recommends that clearing of vegetation occur outside of the peak avian breeding season, which general runs from February 1 through September 1 (as early as January 1 for some raptors). If Project construction is necessary during the bird breeding season, a qualified biologist with experience in conducting breeding bird surveys should conduct weekly bird surveys for nesting birds, within three days prior to commencing work in the Project area, and ensure no nesting birds in the Project area would be impacted by the Project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. For the given Project site, CDFW generally recommends a 100-foot buffer from common avian species, 300 feet for listed or highly sensitive, and 500 feet for raptors. The buffer should be delineated by temporary fencing and remain in effect as long as construction is occurring. No Project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left

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the nest, and will no longer be impacted by the project. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

- 7) Mitigation Measures. Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in a project through the use of feasible alternatives or mitigation measures (CEQA Guidelines, §§ 15002(a)(3), 15021). Pursuant to CEQA Guidelines section 15126.4, an environmental document shall describe feasible measures which could mitigate impacts below a significant level under CEQA.
- 8) Level of Detail. Mitigation measures must be feasible, effective, implementable, and fully enforceable/imposed by the lead agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, § 15126.4).
  - a. The DEIR should provide mitigation measures that are specific and detailed (i.e., responsible party, timing, specific actions, location) in order for a mitigation measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).
  - b. Disclosure of Impacts. If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the proposed Project, the DEIR should include a discussion of the effects of proposed mitigation measures (CEQA Guidelines, § 15126.4(a)(1)). In that regard, the DEIR should provide an adequate, complete, and detailed disclosure about the Project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.
- 9) Compensatory Mitigation. The DEIR should include compensatory mitigation measures for the Project's significant impacts (direct and/or through habitat modification) to sensitive and special status plants, animals, and habitats. Mitigation measures should emphasize avoidance and minimization of Project-related impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore inadequate to mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement and financial assurance and dedicated to a qualified entity for long-term management and monitoring.
- 10) Long-term Management of Mitigation Lands. For proposed preservation and/or restoration, the DEIR should include measures to protect the targeted habitat values



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in perpetuity. The mitigation should offset Project-induced qualitative and quantitative losses of biological resources. Issues that should be addressed include (but are not limited to) restrictions on access, proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, and increased human intrusion. An appropriate endowment should be set aside to provide for long-term management of mitigation lands.

- 11) Translocation/Salvage of Plants and Animal Species. Translocation and transplantation is the process of removing plants and wildlife from one location and permanently moving it to a new location. CDFW generally does not support the use of translocation or transplantation as the primary mitigation strategy for unavoidable impacts to endangered, rare, or threatened plants and animals. Studies have shown that these efforts are experimental and the outcome unreliable. CDFW has found that permanent preservation and management of habitat capable of supporting these species is often a more effective long-term strategy for conserving plants and animals and their habitats.
- 12) Scientific Collecting Permit. A scientific collecting permit would be necessary if to the Project will involve the capture and relocation of wildlife not listed as fully protected or pursuant to CESA. Pursuant to the California Code of Regulations, title 14, section 650, qualified biologist(s) must obtain appropriate handling permits to capture, temporarily possess, and relocated wildlife to avoid harm or mortality in connection with Project-related activities. CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). A Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650). For more information, please see our website at [https://wildlife.ca.gov.Licensing/Scientific-Collecting](https://wildlife.ca.gov/Licensing/Scientific-Collecting).
- 13) Use of Native Plants and Trees. CDFW recommends SANDAG require the Project Applicant to provide a native plant palette for the Project. The Project's landscaping plan should be disclosed and evaluated in the DEIR for potential impacts on biological resources such as natural communities adjacent to the Project site (e.g., introducing non-native, invasive species). CDFW supports the use of native plants for the Project especially considering the Project's location adjacent to protected open space and natural areas. CDFW strongly recommends avoiding non-native, invasive species for landscaping and restoration, particularly any species listed as 'Moderate' or 'High' by the [California Invasive Plant Council](#) (California Invasive Plant Council, n.d.). CDFW supports the use of native species found in naturally occurring plant communities within or adjacent to the Project site. In addition, CDFW supports planting species of trees, such as oaks (*Quercus* genus), and understory vegetation (e.g., ground cover, subshrubs, and shrubs) that create habitat and

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provide a food source for birds. CDFW recommends retaining any standing, dead, or dying tree (snags) where possible because snags provide perching and nesting habitat for birds and raptors. Finally, CDFW supports planting species of vegetation with high insect and pollinator value.

## ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The [CNDDDB website](#)<sup>3</sup> provides direction regarding the types of information that should be reported and allows on-line submittal of field survey forms. In addition, information on special status native plant populations and sensitive natural communities, should be submitted to CDFW's Vegetation Classification and Mapping Program using the [Combined Rapid Assessment and Relevé Form](#)<sup>4</sup>. SANDAG should ensure data collected for the preparation of the DEIR is properly submitted.

## FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

## CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist SANDAG in identifying and mitigating Project impacts on biological resources. Questions regarding this letter or further coordination should be directed to Jessie Lane, Environmental Scientist, at (858) 354-4105 or [Jessie.Lane@wildlife.ca.gov](mailto:Jessie.Lane@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
B6E58CFE24724F5...

Erinn Wilson-Olgin  
Regional Manager  
South Coast Region

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<sup>3</sup> <https://wildlife.ca.gov/Data/CNDDDB>

<sup>4</sup> <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

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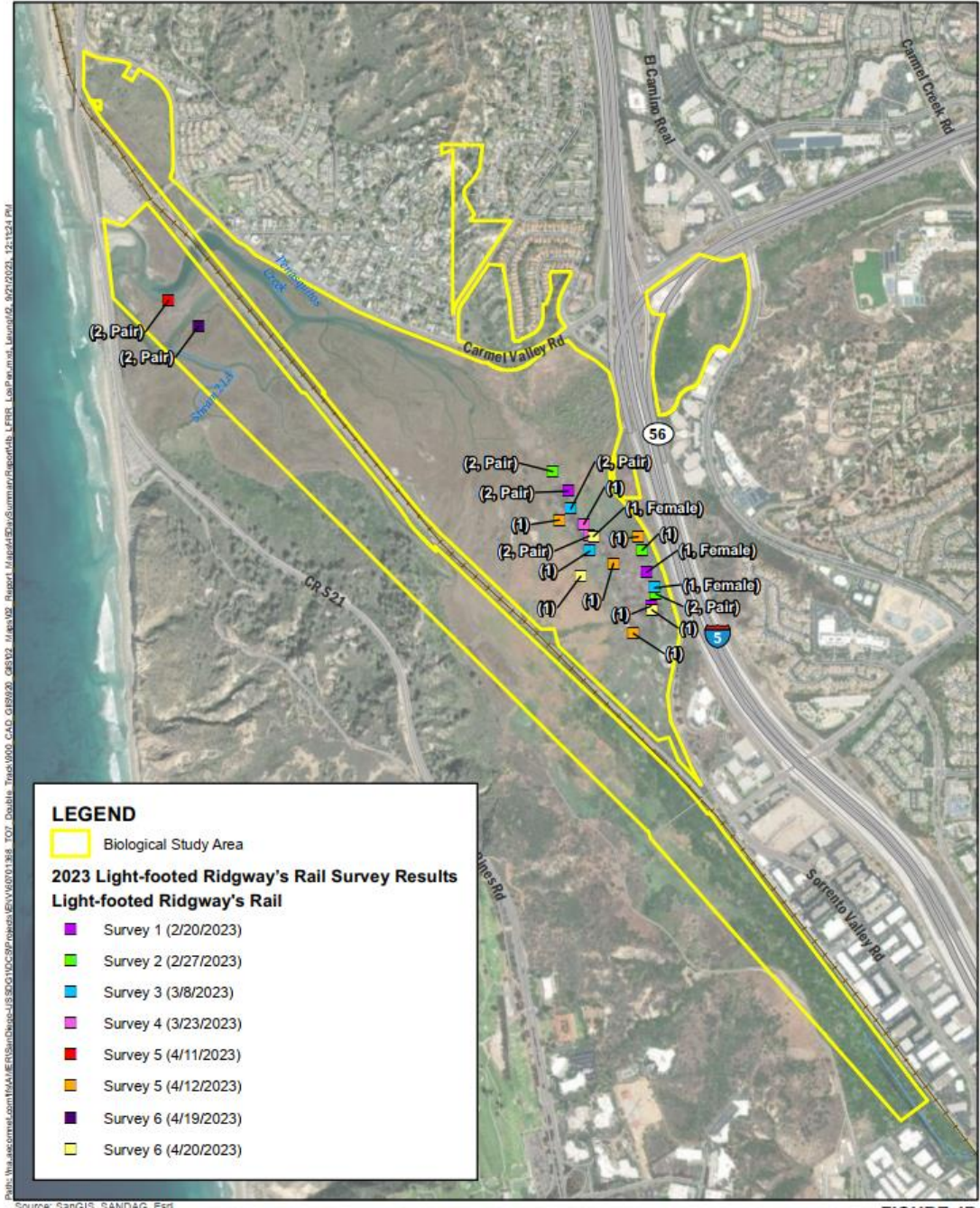
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**Attachment A: 2023 Light-footed Ridgway's Rail Survey Results (AECOM)**



Path: \\aecomnet.com\1\A\ERIS\SanDiego\JIS\2011\DC\99\Profes\ENV\0701\188\_TOT\_Double\_Track\_V000\_CAD\_01890203\_08102\_Maps\02\_Report\_Maps\01\Summary\Reports\01a\_LFRB\_LosPeasquitos\_Lagoon\02\_9/21/2023\_1211241.PVI  
 Source: SanGIS, SANDAG, Esri.

**FIGURE 4B**  
**2023 LIGHT-FOOTED RIDGWAY'S RAIL SURVEY RESULTS**  
**(LOS PEÑASQUITOS LAGOON)**  
 SUMMARY REPORT FOR THE SAN DIEGUITO  
 TO SORRENTO VALLEY DOUBLE TRACK PROJECT  
 DATE: 9/21/2023

