



PUBLIC NOTICE

**U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT**

BUILDING STRONG®

**APPLICATION FOR PERMIT
San Dieguito Lagoon Double Track & Special Events Platform**

Public Notice/Application No.: SPL-2016-00825-WSZ

Project: San Dieguito Lagoon Double Track & Special Events Platform

Comment Period: March 3, 2017 through April 3, 2017

Project Manager: Winston Zack; (760) 602-4838; Winston.S.Zack@usace.army.mil

Applicant

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Contact

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Location

The 1.7-mile long Project site is located along the railroad that crosses San Dieguito Lagoon, between Mile Post (MP) 242 and MP 244 between Loma Santa Fe Drive in the north to Camino Del Mar in the south in the Cities of Solana Beach and Del Mar, San Diego County, California (Latitude: 32.977 N, Longitude -117.2677 W).

Activity

The Applicant proposes to permanently impact 1.39 acres of jurisdictional wetland (0.77 acre) and non-wetland (0.62 acre) waters of the U.S., and temporarily impact 2.9 acres of wetland (1.67 acres) and non-wetland (1.23 acres) waters of the U.S. within San Dieguito Lagoon for the construction of this double-track bridge replacement, and construction of a special events platform (Figures 1 and 2).

The Project proposes to construct and operate a second mainline rail track in the existing railroad right-of-way (ROW) in a 1.7-mile segment that includes San Dieguito Lagoon in the cities of Solana Beach and Del Mar. For more information see Additional Information section below.

Interested parties are hereby notified an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawings. We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the U.S. Army Corps of Engineers (Corps) Regulatory Division, you provide information that supports the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. Comments should be mailed to:

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
ATTN: Winston Zack
5900 LA PLACE COURT, SUITE 100
CARLSBAD, CALIFORNIA 92008

Alternatively, comments can be sent electronically to: Winston.S.Zack@usace.army.mil

The mission of the Corps Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this

proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made an environmental impact statement is not required for the proposed work.

Water Quality- The Applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps prior to permit issuance.

Coastal Zone Management- The Applicant has certified the proposed activity would comply with and would be conducted in a manner consistent with the approved State Coastal Zone Management Program. For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps authorization for the project, the Applicant must obtain concurrence from the California Coastal Commission the project is consistent with the State's Coastal Zone Management Plan. The District Engineer hereby requests the California Coastal Commission's concurrence or non-concurrence.

Essential Fish Habitat- The Corps acknowledges under existing lead agency guidance that the Federal Rail Authority (FRA) is the lead agency for Essential Fish Habitat (EFH) consultation pursuant to Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and the Corps shall review and potentially adopt its compliance with the MSA.

Cultural Resources- The Corps acknowledges under existing lead agency guidance that the FRA is the lead agency for cultural resources, and the Corps shall review and potentially adopt its compliance with the National Historic Preservation Act. The FRA has determined that the proposed actions can be approved with a finding of "No Historic Properties Affected". Consultation with the State Historic Preservation Officer (SHPO) was completed on May 21, 2015.

Endangered Species- The Corps acknowledges under existing lead agency guidance that the FRA is the lead agency for Endangered Species Act (ESA) compliance and shall be reviewing and potentially adopting their compliance with the ESA. The FRA has not yet completed ESA Section 7 consultation with the National Marine Fisheries Service (NMFS), and has made a preliminary determination that the proposed activity would not affect federally-listed endangered or threatened species, or their critical habitat. Therefore, formal consultation under Section 7 of the Endangered Species Act does not appear to be required at this time.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the Applicant's project is water dependent (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). The basic project purpose for the proposed project is railroad transportation. The project is not water dependent. The discharge of fill material is proposed to occur in special aquatic sites. Therefore, the Applicant must rebut the presumption that practicable alternative sites or designs that do not affect special aquatic sites are available, practicable, or less damaging.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the Applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is to increase the reliability, operational flexibility, and capacity of the Los Angeles-San Diego-San Luis Obispo (LOSSAN) rail corridor to add passenger and freight rail service to meet future transportation demands.

Additional Project Information

Baseline information- The 318.5-acre Project site is comprised mostly of disturbed, bare ground, urban development and non-sensitive (invasive) upland vegetation (81%), with only a small portion including sensitive upland vegetation communities (3%). Waters of the U.S. associated with the on-site Project site totals 44.15 acres consisting of jurisdictional wetlands, non-wetlands and open water. There are no proposed impacts to off-site jurisdictional waters.

Proposed Mitigation- The proposed mitigation may change as a result of comments received in response to this public notice, the Applicant's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines. In consideration of the above, the proposed mitigation sequence avoidance/minimization/compensation, as applied to the proposed project is summarized below:

Avoidance: The on-site Project are covers 44.15 acres of waters of the U.S. of which there are 20.01 acres of wetland and 24.14 of non-wetland waters of the U.S. Permanent impacts would occur to 1.39 acres (3.1%) of jurisdictional wetland (0.77 acre; 3.8%) and non-wetland (0.62 acre; 2.6%) waters of the U.S. Temporary impacts would occur to 2.9 acres of jurisdictional wetland (1.67 acres) and non-wetland (1.23 acres) waters of the U.S.

Minimization: Unavoidable impacts to jurisdictional waters/wetlands were minimized through alternative railroad track designs that reduced impacts to jurisdictional waters/wetlands. Additional minimization measures include construction-related best management practices and the vegetation of graded slopes with native species. Additional minimization measures may be incorporated/required by the project.

Compensation: Compensatory mitigation for unavoidable impacts to waters of the U.S. may include the purchase of in-kind habitat credits at a Corps-approved mitigation bank or Permittee-responsible mitigation. The Applicant has proposed to mitigate for impacts from this project through onsite lagoon wetland restoration, and enhancement.

Proposed Special Conditions

Special conditions providing for the avoidance, minimization and mitigation of impacts to waters of the U.S., threatened and endangered species, and cultural resources would likely be incorporated into the Corps permit, if issued. No specific conditions are proposed at this time.

For additional information, please contact Winston Zack of my staff at (760) 602-4838 or via e-mail at Winston.S.Zack@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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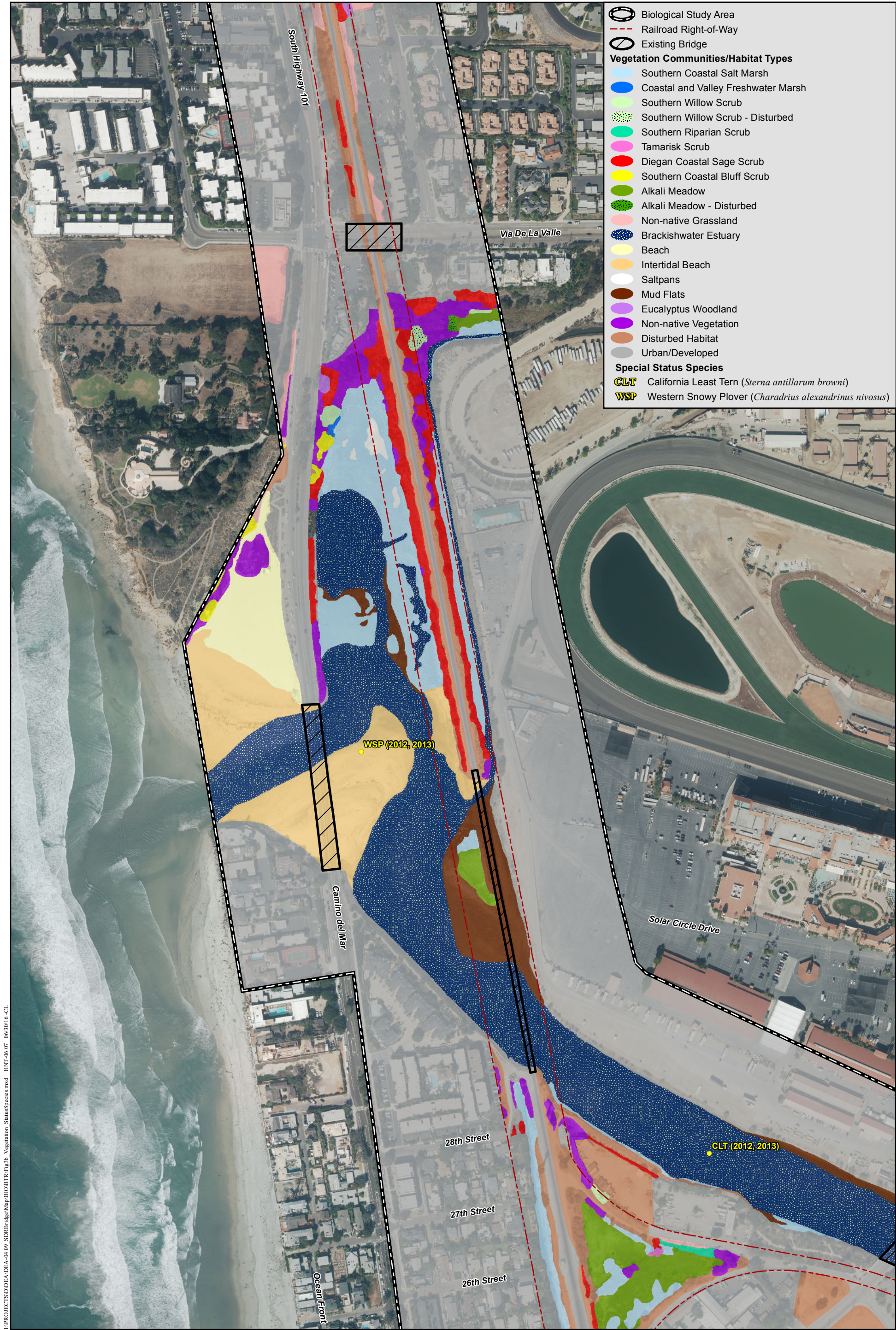
Regional Location Map

SAN DIEGUITO RIVER BRIDGE, DOUBLE TRACK,
AND DEL MAR FAIRGROUNDS SPECIAL EVENTS PLATFORM PROJECT



Proposed Action Location Map

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Vegetation Communities/Habitat Types and Special Status Species

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Figure 3b