

APPENDIX B

Regulatory Setting

APPENDIX B REGULATORY SETTING

The laws, ordinances, regulations, and guidance described in this section are applicable to the proposed project. The following table lists all regulations presented and the topic area to which they are generally applicable.

Regulation	Applicable Resource Sections
Federal Regulations	
Coastal Zone Management Act	Land Use/Recreation, Coastal Processes, Water Quality, Hydrology
Marine Protection, Research, and Sanctuaries Act	Land Use/Recreation, Coastal Processes, Water Quality, Hydrology, Biological Resources
Clean Air Act	Air Quality
Clean Air Act Toxic Air Contaminants	Air Quality
Clean Air Act Section 202(a)	Global Climate Change and Greenhouse Gas Emissions
Clean Water Act	Water Quality, Biological Resources
Clean Water Act Section 303(d) Total Maximum Daily Loads	Water Quality
Clean Water Act Section 401 Water Quality Certification	Water Quality
Clean Water Act Section 402 National Pollutant Discharge Elimination Program	Water Quality
Clean Water Act Section 403 Ocean Discharge Criteria	Water Quality
Clean Water Act Section 404 Discharge of Dredge or Fill Material	Water Quality, Biological Resources
Council on Environmental Quality Guidance	Global Climate Change and Greenhouse Gas Emissions
Endangered Species Act	Biological Resources
Executive Order 11990 – Protection of Wetlands	Water Quality, Biological Resources
Executive Order 11988 – Floodplain Management Conditional Letter of Map Revision and Letter of Map Revision	Water Quality, Hydrology
Executive Order 12088	Air Quality, Water Quality, Public Health and Safety
Federal Antidegradation Policy	Water Quality, Hydrology
Executive Order 13112, Invasive Species	Biological Resources
Federal Transportation Administration (FTA) Vibration Guidance	Noise (Vibration)
Magnuson-Stevens Fishery Management and Conservation Act, as amended 1996 (Public Law 104-267)	Biological Resources
Mandatory Greenhouse Gas Reporting Rule	Global Climate Change and Greenhouse Gas Emissions
Migratory Bird Treaty Act	Biological Resources
National Flood Insurance Act	Water Quality, Hydrology

Regulation	Applicable Resource Sections
Noise Control Act of 1972	Noise
National Historic Preservation Act	Cultural Resources
Rivers and Harbors Act, Section 10	Water Quality
U.S. Geological Survey Landslide Hazard Program	Geology and Soils
State Regulations	
Assembly Bill 32: California Global Warming Solutions Act of 2006	Global Climate Change and Greenhouse Gas Emissions
Assembly Bill 32: Climate Change Scoping Plan	Global Climate Change and Greenhouse Gas Emissions
Assembly Bill 411: Beach Sanitation: Posting	Water Quality
Assembly Bill 1493	Global Climate Change and Greenhouse Gas Emissions
Alquist-Priolo Earthquake Fault Zoning Act	Geology and Soils
Building Codes	Geology and Soils
California Clean Air Act	Air Quality
California Coastal Act	Land Use/Recreation, Coastal Processes, Water Quality
California Code of Regulations; Title 14 Division 1.5	Public Health and Safety
California Code of Regulations: Title 14 Section 630(b)(103)	Land Use and Recreation
California Code of Regulations ; Title 14, Section 4307	Paleontological Resources
California Code of Regulations; Title 14, Section 4308	Cultural Resources
California Code of Regulations Title 24	Noise
California Department of Fish and Game Code	Water Quality, Hydrology, Biological Resources
California Department of Transportation (Caltrans) Vibration Guidance	Noise (Vibration)
California Endangered Species Act	Biological Resources
California Environmental Quality Act	All resource areas
California Fish and Game Code Section 1602 Streambed Alteration	Water Quality, Hydrology, Biological Resources
California Fish and Game Code Section 3503 and 3503.5 Protection of Birds, Nests, and Raptors	Biological Resources
California Fish and Game Code Fully Protected Species	Biological Resources
California Government Code, Section 4216: Protection of Underground Infrastructure	Public Services and Utilities
California Government Code Sections 6253, 6254, 6254.10	Cultural Resources
California Government Code Section 65860	Cultural Resources
California Health and Safety Code Sections 7050.5, 7051, and 7052	Cultural Resources
California Native Plant Protection Act	Biological Resources
California Ocean Plan	Water Quality
California Penal Code, Title 14, Sections 622.5, 623	Cultural Resources
California Public Resources Code Section 5097.5	Cultural Resources
California Public Resources Code Sections 5097.9 to 5097.991	Cultural Resources
California Resolution Number 43	Cultural Resources
California State Lands Commission Public Trust Doctrine	Land Use/Recreation
California Street and Highways Code	Visual Resources
Construction General Permit	Water Quality, Hydrology, Geology/Soils
Executive Order S-1-07	Global Climate Change and Greenhouse Gas Emissions

Regulation	Applicable Resource Sections
Executive Order S-3-05	Global Climate Change and Greenhouse Gas Emissions
Executive Order S-13-08	Global Climate Change and Greenhouse Gas Emissions
Natural Community Conservation Plans and Habitat Conservation Plans	Biological Resources
Porter-Cologne Water Quality Control Act	Water Quality, Biological Resources
Seismic Hazards Mapping Act of 1990	Geology/Soils
Senate Bill 97	Global Climate Change and Greenhouse Gas Emissions
Senate Bill 922	Cultural Resources
Senate Bill 1374: Local Government Construction and Demolition Guide	Public Services and Utilities
Senate Concurrent, Resolution Number 87	Cultural Resources
Senate Bill X1-2	Global Climate Change and Greenhouse Gas Emissions
State Antidegradation Policy	Water Quality
State Implementation Plan	Air Quality
Surface Mining and Reclamation Act	Land Use, Chapter 1.0
Local Regulations	
Carlsbad Watershed Management Plan	Water Quality, Hydrology
Carlsbad Watershed Management Area Water Quality Improvement Plan	Water Quality, Hydrology
City of Carlsbad, Municipal Code, Section 8.48.010 Noise	Noise
City of Carlsbad, General Plan, Noise Element	Noise
City of Carlsbad, General Plan and Local Coastal Program, Land Use Plan	Land Use and Recreation
City of Carlsbad, General Plan, Land Use Element	Land Use and Recreation
City of Carlsbad, General Plan, Open Space and Conservation Element	Land Use and Recreation
City of Oceanside, Municipal Code, Chapter 38 Noise Control	Noise
City of Oceanside, General Plan, Noise Element	Noise
City of Oceanside, Grading Ordinance	Noise
City of Oceanside, Local Coastal Program, Land Use Plan	Land Use
City of Oceanside, General Plan, Land Use Element	Land Use
City of Oceanside, General Plan, Recreational Trails Element	Land Use
City of Oceanside, General Plan, Environmental Resource Management Element	Land Use
Construction Dewatering Permits	Water Quality
County of San Diego Guidelines for Determining Significance for Climate Change	Global Climate Change and Greenhouse Gas Emissions
San Diego County Vector Control Program	Public Health and Safety
San Diego Municipal Storm Water Permit	Water Quality, Hydrology
San Diego Regional Water Quality Control Board Basin Plan	Water Quality

Assembly Bill 32

In 2006, California passed the California Global Warming Solutions Act of 2006 (AB 32; California Health and Safety Code Division 25.5, Sections 38500, et seq.). AB 32 further details and puts into law the mid-term GHG reduction target established in Executive Order S-3-05:

reduce GHG emissions to 1990 levels by 2020. AB 32 also identifies ARB as the state agency responsible for the design and implementation of emissions limits, regulations, and other measures to meet the target.

In December 2008, ARB adopted its Climate Change Scoping Plan (Scoping Plan), which contains the main strategies California will implement to achieve the required GHG reductions required by AB 32 (ARB 2008). The Scoping Plan also includes ARB-recommended GHG reductions for each emissions sector of California's GHG inventory. ARB further acknowledges that decisions about how land is used will have large impacts on the GHG emissions that will result from the transportation, housing, industry, forestry, water, agriculture, electricity, and natural gas emissions sectors.

ARB is required to update the Scoping Plan at least once every 5 years to evaluate progress and develop future inventories that may guide this process. ARB approved the First Update to the Climate Change Scoping Plan: Building on the Framework in June 2014 (ARB 2014a). The Scoping Plan update includes a status of the 2008 Scoping Plan measures and other state, federal, and local efforts to reduce GHG emissions in California and potential actions to further reduce GHG emissions by 2020.

Assembly Bill 411: Beach Sanitation: Posting

AB 411 requires the State Department of Health Services to adopt regulations requiring the following:

- Test waters adjacent to all public beaches for microbiological contaminants, including but not limited to, total coliform, fecal coliform, and *Enterococci* bacteria;
- Establish protective minimum standards for the microbiological indicators that the department determines are appropriate for testing;
- Establish protocols for the following:
 - Determining monitoring site locations and monitoring frequency based on risks to public health.
 - Making decisions regarding public notification of health hazards, including, but not limited to the posting, closing, and reopening of public beaches.
- Perform testing weekly between April 1 and October 31 of each year if the beach is visited by 50,000 or more people annually and the storm drain is adjacent with summer flows.

- Monitoring frequency and locations may be reduced if the established minimum standards are not exceeded for 2 consecutive years.

Assembly Bill 939: Integrated Waste Management Act

AB 939 mandates a reduction of waste being disposed and establishes an integrated framework for program implementation, solid waste planning, and solid waste facility and landfill compliance. The California Integrated Waste Management Board (CIWMB) oversees a disposal reporting system, and facility and program planning. On January 1, 2010, all CIWMB duties and responsibilities, along with the Division of Recycling of the Department of Conservation, transferred to the new California Department of Resources Recycling and Recovery (CalRecycle, formerly CIWMB), which is within the Natural Resources Agency.

Assembly Bill 1493

AB 1493, signed in 2002, required that ARB develop and adopt by January 1, 2005, regulations that achieve reduction of GHG emissions from passenger vehicles and light-duty trucks, to begin with vehicles of model year 2009 and later. In 2004, ARB adopted standards requiring automobile manufacturers to meet fleet-average GHG emissions limits for all passenger vehicles with model years 2009–2016; emissions for the 2016 model year are approximately 37% lower than the 2009 model year limits. This is also known as Pavley I.

In April 2010, the U.S. Department of Transportation (DOT) and U.S. Environmental Protection Agency (EPA) established GHG emission and fuel economy standards for model year 2012–2016 light-duty cars and trucks. In the fall of 2010, California accepted compliance with these federal GHG standards as meeting similar state standards as adopted in 2004, resulting in the first coordinated national program, and is currently working with DOT and EPA on the new fuel economy and GHG standards for model year 2017–2025 cars and light-duty trucks. This standard is also known as Pavley II.

Alquist-Priolo Earthquake Fault Zoning Act

The purpose of the Alquist-Priolo Earthquake Fault Zoning Act of 1972 (renamed in 1994) is “to regulate development near active faults so as to mitigate the hazard of surface fault rupture.” The State Geologist (Chief of the California Division of Mines and Geology [DMG]) is required to delineate Earthquake Fault Zones (formerly known as “Special Studies Zones”) along known active faults. As defined by DMG, an active fault is one that has had surface displacement within Holocene time (roughly the last 11,000 years) and/or has an instrumental record of seismic activity. Potentially active faults are those that show evidence of surface displacement during

Quaternary time (roughly the last 2 million years), but for which evidence of Holocene movement has not been established. DMG evaluates faults on an individual basis to determine if a fault will be classified as an Alquist-Priolo Earthquake Fault Zone. In general, faults must meet certain DMG criteria, including seismic activity, historic rupture, and geologic evidence to be zoned as an Earthquake Fault Zone. Cities and counties affected by the zones must regulate certain development within the zones.

California Code of Regulations; Title 14, Section 4307

Title 14 Section 4307 requires that no person shall destroy, disturb, mutilate, or remove earth, sand, gravel, oil, minerals, rocks, paleontological features, or features of caves.

California Code of Regulations; Title 14, Section 4308

Title 14 Section 4308 requires that no person shall remove, injure, deface, or destroy any object of archaeological, or historical interest or value.

California Code of Regulations, Title 24

Title 24 of the California Code of Regulations (i.e., the California Building Standards Code) provides acoustical regulations for exterior-to-interior sound insulation. Title 24 regulations require that interior noise levels generated by exterior noise sources shall not exceed 45 dB L_{dn} , with windows closed, in any habitable room for residential uses.

Building Codes

Chapter 16A, Division IV of the California Building Code (CBC), titled “Earthquake Design,” states that “The purpose of the earthquake provisions herein is primarily to safeguard against major structural failures or loss of life.” The CBC and the Uniform Building Code (UBC) regulate the design and construction of excavations, foundations, building frames, retaining walls, and other building elements to mitigate the effects of seismic shaking and adverse soil conditions. The procedures and limitations for the design of structures are based on site characteristics, occupancy type, configuration, structural system height, and seismic zoning. Seismic zones range from 0 to 4, with areas mapped as Zone 4 being potentially subject to the highest accelerations due to seismic shaking and the shortest recurrence intervals. According to the UBC and CBC, the entire San Diego region is within seismic Zone 4. The CBC also contains (1) specific provisions to classify soils as expansive, (2) exploratory boring procedures, (3) soil boring reporting procedures, and (4) special building foundation and investigation requirements.

California Clean Air Act

ARB is the agency responsible for coordination and oversight of state and local air pollution control programs in California and for implementing the California Clean Air Act (CCAA). The CCAA was adopted in 1988 and required ARB to establish the California Ambient Air Quality Standards (CAAQS). ARB has established CAAQS for sulfates, hydrogen sulfide, vinyl chloride, visibility-reducing particulate matter, and criteria air pollutants. In most cases, the CAAQS are more stringent than the National Ambient Air Quality Standards (NAAQS) and incorporate a margin of safety to protect sensitive individuals.

California Coastal Act

The California Coastal Commission (CCC) was established in 1972 by voter initiative via Proposition 20. The California Coastal Act of 1976 tasked the agency with protection of coastal resources. The state authority controls construction along the state's 1,100 miles of shoreline through the issuance of coastal development permits. The CCC assists local governments in implementing local coastal planning and regulatory powers. Under the California Coastal Act, local governments are encouraged to adopt Local Coastal Programs (LCPs). The LCP consists of a Land Use Plan (LUP) with goals and regulatory policies as well as a set of Implementing Ordinances. The cities of Oceanside and Carlsbad have approved LCPs that address potential materials placement sites. Relevant policies specific to each LCP are discussed below under each jurisdiction.

Several sections of the California Coastal Act focus on shoreline construction, specifically Sections 30235, 30233, and 30706. All of these sections contain an element pertaining to the protection of existing structures and the protection of public beaches in danger of erosion. Under these sections, construction will be allowed through revetments, breakwaters, groins, or other means that alter natural shoreline processes; dredging of open coastal waters, lakes, wetlands, and other areas will be permitted only where less feasible environmentally damaging alternatives are not available. In particular, in Section 30233, dredging and spoils disposal, planned to avoid significant disruption to marine and wildlife habitats and water circulation, is allowed for restoration purposes. Section 30233 states further that dredge spoils suitable for beach replenishment should be transported to appropriate beaches or into suitable longshore current systems.

California Code of Regulations; Title 14 Division 1.5

California Code of Regulations (CCR) Title 14 Division 1.5 establishes the regulations for the California Department of Forestry and Fire Protection (CAL FIRE) and is applicable in all State

Responsibility Areas (SRAs)—areas where CAL FIRE is responsible for wildfire protection. Most of the unincorporated area of San Diego County is SRA and any development in these areas must comply with these regulations. Among other things, Title 14 establishes minimum standards for emergency access, fuel modification, setback to property line, signage, and water supply.

California Code of Regulations; Title 14 Section 630(b)(103)

California Code of Regulations; Title 14 Section 630(b)(103) allows for the State Fish and Game Commission to designate areas as ecological reserves. All ecological reserves are maintained for the primary purpose of developing a statewide program for protection of rare, threatened, or endangered native plants, wildlife, aquatic organisms, and specialized terrestrial or aquatic habitat types. Pursuant to this regulation, the State Fish and Game Commission declared the Buena Vista Lagoon an ecological reserve.

California Code of Regulations Title 17

On December 12, 2008, ARB approved subarticle 1 of CCR Title 17 to significantly reduce emissions from existing on-road diesel vehicles operating in California. The regulation requires affected trucks and buses to meet performance requirements between 2011 and 2023. Successful implementation of this measure will reduce diesel fuel consumption, truck operating costs, and nitrogen oxide emissions, as well as accelerate industry adoption of existing technologies to reduce GHG emissions.

California Department of Transportation

Caltrans provides guidance for analysis of groundborne noise and vibration. The proposed project is not subject to Caltrans regulations; however, these guidelines serve as another useful tool to evaluate vibration impacts. Caltrans guidelines recommend that a standard of 0.2 in/sec PPV not be exceeded for the protection of normal residential buildings, and that 0.08 in/sec PPV not be exceeded for the protection of old or historically significant structures.

California Fish and Game Code Section 1602

Under Sections 1601–1603 of the Fish and Game Code, agencies are required to notify the California Department of Fish and Wildlife (CDFW) prior to implementing any project that would divert, obstruct, or change the natural flow or bed, channel, or bank of any river, stream, or lake.

All diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake in California that supports wildlife resources are subject to regulation by the California Department of Fish and Wildlife (CDFW), pursuant to the Fish and Game Code, Section 1602. Section 1602 makes it unlawful for entity (i.e., any person, state, or local governmental agency, or public utility) to substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake without first notifying CDFW of such activity. The regulatory definition of a stream is a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation. CDFW's jurisdiction within altered or artificial waterways is based on the value of those waterways to fish and wildlife. A CDFW Streambed Alteration Agreement must be obtained for any project that would result in an impact on a river, lake, or stream that would adversely affect any fish or wildlife resource.

California Fish and Game Code Section

Section 3503 and 3503.5 – Protection of Birds, Nests, and Raptors

Section 3503 of the California Fish and Game Code states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird. Section 3503.5 specifically states that it is unlawful to take, possess, or destroy any raptors (i.e., species in the orders Falconiformes and Strigiformes), including their nests or eggs. Typical violations of these codes include destruction of active nests resulting from removal of vegetation in which the nests are located. Violation of Section 3503.5 could also include failure of active raptor nests resulting from disturbance of nesting pairs by nearby project construction. This statute does not provide for the issuance of any type of incidental take permit.

Fully Protected Species

Protection of fully protected species is described in Sections 3511, 4700, 5050, and 5515 of the California Fish and Game Code. These statutes prohibit take or possession of fully protected species and do not provide for authorization of incidental take of fully protected species.

California Endangered Species Act

California Endangered Species Act (CESA) (Fish and Game Code Section 2050 et seq.) prohibits the “take” (defined as “to hunt, pursue, catch, capture, or kill”) of state-listed species except as otherwise provided in state law. CESA, administered by CDFW, is similar to the federal Endangered Species Act (ESA), although unlike the federal law, CESA applies incidental take

prohibitions to species currently petitioned for state-listing status (i.e., candidate species). State lead agencies are required to consult with CDFW to ensure that their authorized actions are not likely to jeopardize the continued existence of any state-listed species or result in the degradation of occupied habitat.

Under Section 2081, CDFW authorizes “take” of state-listed endangered, threatened, or candidate species through incidental take permits or memoranda of understanding if (1) the take is incidental to otherwise lawful activities, (2) impacts of the take are minimized and fully mitigated, (3) the permit is consistent with regulations adopted in accordance with any recovery plan for the species in questions, and (4) the applicant ensures suitable funding to implement the measures required by CDFW.

California Environmental Quality Act

The California Environmental Quality Act (CEQA) is a California statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible. CEQA applies to certain activities of state and local public agencies. A public agency must comply with CEQA when it undertakes an activity defined by CEQA as a “project.” A project is an activity undertaken by a public agency or a private activity that must receive some discretionary approval (meaning that the agency has the authority to deny the requested permit or approval) from a government agency that may cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment. The environmental review required imposes both procedural and substantive requirements. At a minimum, an initial review of the project and its environmental effects must be conducted. Depending on the potential effects, a further, and more substantial, review may be conducted in the form of an environmental impact report. A project may not be approved as submitted if feasible alternatives or mitigation measures are able to substantially lessen the significant environmental effects of the project.

California Government Code, Section 4216: Protection of Underground Infrastructure

This section of the California Government Code requires that an excavator must contact a regional notification center at least 2 days prior to excavation of any subsurface installation. The notification center will notify the utilities that may have buried lines within 1,000 feet of the excavation. Representatives of the utilities are required to mark the specific location of their facilities within the work area prior to the start of excavation. The construction contractor is required to probe and expose the underground facilities by hand prior to using power equipment.

California Government Code Sections 6253, 6254, and 6254.10

These sections authorize county and city governments, respectively, to enact zoning ordinances for the protection and regulation of buildings and structures of special historical value.

California Government Code Section 65860

This section allows counties or cities to regulate the use of buildings, structures, and land between business, industry, residential, and open space.

California Health and Safety Code Sections 7050.5, 7051, and 7052

Section 7050.5 establishes that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. Section 7052 establishes that disturbance of Indian cemeteries is a felony. Section 7052 addresses the removal of human remains from internment or a place of storage while awaiting internment or cremation, with the intent to sell them or to dissect them without authority or with malice or wantonness as a public offense punishable by imprisonment in a state prison.

California Native Plant Protection Act

The Native Plant Protection Act (NPPA) of 1977 (Fish and Game Code Sections 1900–1913) directed CDFW to carry out the Legislature’s intent to “preserve, protect and enhance rare and endangered plants in this State.” The NPPA gave the California Fish and Game Commission the power to designate native plants as “endangered” or “rare” and to protect endangered and rare plants from take.

California Ocean Plan

The Water Quality Control Plan for Ocean Waters of California (California Ocean Plan) establishes narrative and numerical water quality objectives to protect beneficial uses of California’s ocean waters and provides the basis for regulation of wastes discharged into the State’s coastal waters. These objectives are based on bacterial, physical, chemical, and biological characteristics as well as radioactivity. The Ocean Plan also includes an implementation program for achieving water quality objectives.

California Penal Code, Title 14, Sections 622.5 and 623

These sections establish that it is a misdemeanor offense for any person other than the owner to willfully damage or destroy archaeological or historical features on public or privately owned land.

California Public Resources Code Section 5097.5

Public Resources Code (PRC) Section 5097.5 provides that no person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, rock art, or any other archaeological, paleontological or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over the lands. Violation of Section 5097.5 is a misdemeanor.

California Public Resources Code Sections 5097.9 through 5097.991

Sections 5097.9 through 5097.991 establish regulations for the protection of Native American religious places; establishes the Native American Heritage Commission (NAHC); establishes repatriation of Native American artifacts; and requires notification of discovery of Native American human remains to a most likely descendant.

California Resolution Number 43

Resolution Number 43 requires all state agencies to cooperate with programs of archaeological survey and excavation, and to preserve known archaeological resources whenever reasonable.

California Scenic Highway Law

The California Scenic Highway Law created the California Scenic Highway Program to preserve and protect scenic highway corridors from change that would diminish the aesthetic value of adjacent lands. The State Legislature established the program through Senate Bill (SB) 1467 (Farr), which was then added to the Streets and Highways Code, Section 260-283. The program defines the process for the designation of official scenic highways. A legislatively appointed body, the Departmental Transportation Advisory Committee, recommends program criteria, reviews applications, and advises the Director of the California Department of Transportation to revoke scenic highways that are no longer in compliance with the program.

California State Lands Commission Public Trust Doctrine

The California State Lands Commission (CSLC) has exclusive jurisdiction over all of California's tide and submerged lands and the beds of naturally navigable rivers and lakes, which lands are sovereign lands, and swamp and overflow lands and State School Lands (proprietary lands). Authority of the CSLC originates and is exercised from the state's position as a landowner. The CSLC has statutory authority (Division 6 of the California Resources Code) to approve appropriate uses of state lands under its jurisdiction and is the administrator of the Public Trust Doctrine over sovereign lands.

The Public Trust is a sovereign public property right held by the state or its delegated trustee for the benefit of the people. This right limits the uses of these lands to waterborne commerce, navigation, fisheries, open space, recreation, or other recognized Public Trust purposes. Sovereign lands may only be used for purposes consistent with this public trust; uses include commerce, navigation, fisheries, open space, wetlands, and other related trust uses. The CSLC has an oversight responsibility for tide and submerged lands legislatively granted in trust to local jurisdictions (PRC Section 6301).

Management responsibilities of the CSLC extend to activities within submerged lands (from mean high tide line) and those within 3 nautical miles offshore. These activities include oil and gas developments; harbor development and management oversight; construction and operation of any offshore pipelines or other facilities; dredging; reclamation; use of filled sovereign lands; topographical and geological studies; and other activities that occur on these lands. The CSLC also surveys and maintains title records of all state sovereign lands as well as settles issues of title and jurisdiction. Authorization from the CSLC would be required for implementation of the materials disposal/reuse project component.

California Street and Highways Code

The California Street and Highways Code establishes standards for undertaking the development and designation of official scenic highways and assigns responsibility for the development of scenic highways to local jurisdictions. It establishes the State Scenic Highway system by designating highways that are either eligible for designation as a State Scenic Highway or have been designated as such. The code defines the criteria under which freeways may be designated a California Historic Parkway as a part of the overarching State Scenic Highway system.

Carlsbad Watershed Management Plan

The Carlsbad Watershed Network (CWN) was awarded a Clean Water Act grant from the SWRCB in 1999 to develop a Watershed Management Plan for the Carlsbad Hydrologic Unit (HU). The overall purpose of the Plan is to provide a vision for resource management of the Carlsbad HU, identify goals for realizing this vision, specify actions necessary to achieve these goals, outline a strategy for implementing these actions, determine the responsibilities of various stakeholders in implementing this strategy, and prescribe a measurable monitoring program to determine how well the actions have implemented the vision. The watershed management plan includes the following goals relative to the protection of water resources:

- Identify sources of water pollution and the relative contribution of those sources;
- Describe measurable management practices for water quality improvements;
- Identify measures to achieve clean water and other natural resource goals; and
- Identify means of monitoring progress towards achieving environmental and programmatic goals.

Carlsbad Watershed Management Area Water Quality Improvement Plan

Provision B of the San Diego Regional Municipal Storm Water Permit, Order R9-2013-0001 requires Responsible Agencies within the Carlsbad Watershed Management Area (WMA) to develop a Water Quality Improvement Plan (WQIP). Carlsbad WMA Responsible Agencies are City of Carlsbad, City of San Marcos, City of Encinitas, City of Solana Beach, City of Escondido, City of Vista, City of Oceanside, and County of San Diego.

The purpose of the Carlsbad WQIP is to guide Responsible Agencies' Jurisdictional Runoff Management Programs (JRMPs) toward achieving improved water quality in MS4 discharges and receiving waters. Through the WQIP approach, highest priority water quality conditions within the Carlsbad WMA are identified and strategies are implemented through the Responsible Agencies' JRMPs to progress toward improvements in water quality. The WQIP contains an adaptive planning and management process and a public participation component.

City of Carlsbad, Municipal Code, Noise Ordinance

Section 8.48.010 Noise, of the City's Municipal Code, limits allowable construction hours but does not limit construction noise levels. Construction activities are allowed to occur Monday through Friday between the hours of 7 a.m. to 6 p.m. and on Saturdays from 8 a.m. to 6 p.m., and not allowed all day on Sunday and any federal holidays, with exceptions to the limits on the hours of construction, including for projects that are "in the interest of the general public.", as discussed in detail below.

Exemptions. “The building official, city engineer, or other official designated by the city manager may modify the hours of construction specified in Section 8.48.010. In making a determination to lengthen or shorten the hours of construction, the city official shall consider the following:

- a. Whether the project is an emergency repair required to protect the health and safety of any member of the community;
- b. Whether the construction would be less objectionable at night than during daylight hours;
- c. The character and nature of the neighborhood in the vicinity of the work site;
- d. The potential for great economic hardship;
- e. If the work is in the interest of the general public;
- f. Whether there is a previously unforeseen effect on the health, safety or welfare of the public; and
- g. Any history of complaints regarding compliance with the limitation on hours of construction.

City of Carlsbad General Plan and Local Coastal Program Land Use Plan

The Carlsbad LCP map designates the Buena Vista Lagoon as Open Space. Buena Vista Lagoon and the materials placement site within Carlsbad are located within the coastal zone and identified as within the Mello II Segment and are subject to the policies and provisions included in the General Plan’s LCP LUP in compliance with the California Coastal Act of 1976.

The LCP provides the following policies specific to Buena Vista Lagoon and shoreline access.

Section II-1, Mello II Segment, B. Land Use Policies, 7. Shoreline Access

Policy 7-6 Buena Vista Lagoon

An access trail shall be provided along the southern shoreline of Buena Vista Lagoon (See Exhibit 4.10), to facilitate public awareness of the natural habitat resources of the lagoon. To protect the sensitive resources of this area, access development shall be limited and designed in consultation with the State Department of Fish and Game. In permitted development of properties adjacent to the lagoon (See Exhibit 4.5), offers of dedication of lateral accessways, irrevocable for a term of 21 years, shall be required to be provided to the City of Carlsbad, State Coastal Conservancy, or other appropriate public agencies. Such access dedications shall be of at least 25 feet in width upland from environmentally sensitive areas and any required buffers thereto. In addition, the City of

Carlsbad, State Coastal Conservancy, and Wildlife Conservation Board shall seek to obtain lateral accessways across developed lands.

Policy 7-3 Access Along Shoreline

The City will cooperate with the State to ensure that lateral beach access is protected and enhanced to the maximum degree feasible, and will continue to formalize shoreline prescriptive rights. Irrevocable offers of dedication for lateral accessways between the mean high tide line and the base of the coastal bluffs, and vertical accessways where applicable, shall be required in new development consistent with Section 30212 of the California Coastal Act of 1976. There is evidence of historic public use adjacent to Buena Vista Lagoon. Paths crisscross the area near the railroad tracks to the ocean shoreline. Development shall provide access and protect such existing access consistent with the needs to protect the habitat.

City of Carlsbad General Plan, Land Use Element

The City of Carlsbad General Plan Land Use Map designates the portion of Buena Vista Lagoon within the city as Open Space. The Land Use Map also indicates the lagoon as a Special Resource Area

Currently, the City of Carlsbad is in the process of updating their General Plan. The new General Plan has not yet been approved but is in draft form. Review of the Draft General Plan shows that there are similar Open Space land use designations for Buena Vista Lagoon.

City of Carlsbad General Plan, Open Space and Conservation Element

Section F, Citywide Open Space Plan, Category 1, Natural Preserves (1b) states:

...The existing preserves, Batiquitos and Buena Vista Lagoons and the University of California Dawson Los Monos Reserve - should continue to be managed for natural resource values.

The Draft Open Space, Conservation, and Recreation Element, currently within the update process, contains an Existing and Planned Future Recreational Trails Map that shows the planned future Regional Coastal Rail Trail and Sea Wall trail alignment traversing the lagoon along the existing railroad corridor

City of Oceanside, General Plan, Noise Element

The City's General Plan Noise Element prohibits construction noise in excess of 85 dB at 100 feet from the source of noise and prohibits construction activities between 6:00 p.m. and

7:00 a.m. when such activities exceed the existing ambient noise level by 5 dB or more. The Noise Element also indicates that a special permit may be granted to extend construction hours by the Director of Public Works if “extenuating circumstances exist”.

City of Oceanside, Municipal Code, Noise Ordinance

Chapter 38 Noise Control, of the Oceanside Municipal Code limits operational noise, as 1-hour average sound levels (dBA L_{eq}) depending on the zoning district and time of day. The sound level limit applies at any point on or beyond the boundary of the property on which the sound is produced. The sound level limit at a location on a boundary between two zoning districts is the arithmetic mean of the respective limits for the two zones. Section 38.15 indicates that exceptions to the noise limits can be granted for construction, maintenance, or other public improvement activities by government agencies or public utilities by the city manager or designee. The noise limits for various zones are summarized in the table below.

Maximum Allowable 1-Hour Average Sound Level (dBA L_{eq})

Zone	7:00 a.m. to 9:59 p.m.	10:00 p.m. to 6:59 a.m.
Residential (Residential Estate, Residential Single Family, Residential Medium Density)	50	45
Residential (Residential High Density, Residential Tourist)	55	50
Commercial	65	60
Industrial	70	65
Downtown	65	55
Agricultural	50	45
Open Space	50	45

Notes: dB = A-weighted decibel.
Source: City of Oceanside 2008

Section 38.15 Exemptions for construction, maintenance or other public improvement activities by government agencies or public utilities.

“Notwithstanding anything in this chapter (38 Noise Control) to the contrary, the city manager, or the manager's designee, on a case-by-case basis, may authorize construction, maintenance or other public improvement activities by a government agency or a public utility, that exceed the noise, duration or hour of work limits established by this chapter, upon a determination that the authorization furthers the public interest.” (City of Oceanside 2008)

The City’s Grading Ordinance (Ordinance No. 81-20) states that grading and equipment operations within ½ mile of a structure used for human occupancy can only be conducted

Monday through Friday between the hours of 7:00 a.m. to 6:00 p.m. Further, the noise levels associated with any construction equipment should not exceed 85 dB at a distance of 100 feet (City of Oceanside 1974).

City of Oceanside General Plan and Local Coastal Program Land Use Plan

The Oceanside LCP map also designates Buena Vista Lagoon within Oceanside as Open Space. Buena Vista Lagoon and the materials placement site within Oceanside are located within the coastal zone and are subject to the policies and provisions included in the General Plan's LCP LUP in compliance with the California Coastal Act of 1976.

Within the LCP, two of the major coastal access findings state:

I.B.3. Lateral access along the beach is presently restricted because of the severely eroded condition of the beach from the southerly end of the Strand to the Buena Vista Lagoon. Restoration of the beach will greatly improve lateral access, as well as enlarging the usable beach area.

I.B.4. Existing rock seawalls may, in some instances, inhibit lateral access, especially at high tide. However, the presence of the seawalls bears a direct relationship to the beach erosion problem which both necessitates shoreline protection and inhibits lateral access. Restoration of the beach may diminish this problem.

The following recreation-related findings are presented in the LCP:

II.B.1. There has been a periodic decline in beach usage in Oceanside which corresponds to the seriousness of the beach erosion problem.

II.B.6. Future growth in beach usage in Oceanside will depend upon:

a. Restoration of the beach.

II.C.5. The City shall continue to take the initiative to resolve the problem of beach erosion.

Section III, C, Water and Marine Resources; Diking, Dredging, Filling, and Shoreline Structures; and Hazards Areas that:

Policy 4. The diking dredging or filling of Oceanside's coastal water shall be permitted where there are no less environmentally damaging alternatives and where feasible mitigation measures have been provided to minimize adverse environmental impacts and shall be limited the following:

- e. *Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas*
- f. *Restoration purposes*

Policy 5. Dredging and spoils disposal shall be planned and carried out to minimize disruption to marine and wildlife habitat and water circulation. Dredge spoils suitable for beach replenishment shall be transported for such purposes to appropriate beach or into suitable longshore current systems.

Within the LCP LUP, the Buena Vista Lagoon is also specifically identified and discussed in Section V, B, Environmentally Sensitive Habitat Areas.

City of Oceanside General Plan; Land Use Element

The Oceanside General Plan identifies issues and opportunities relative to planning decisions within Oceanside. The Oceanside General Plan Land Use Map designates the lagoon area as Open Space.

Policy A of Section 1.32 of the Land Use Element states:

The City shall utilize the certified Local Coastal Plan and supporting documentation for review of all proposed projects within the Coastal Zone. Specifically, the goals and policies of the Local Coastal Program Land Use Plan shall be the guiding policy review document.

In the Land Use Element, Section 3.17 Coastal Preservation, are the following policies:

- A. *The City shall attempt to preserve shoreline beach area as a valuable recreational asset and visitor inducement.*
- B. *The City shall continue with periodic replenishment of beach sand by the Federal government until permanent beach sand management systems are decided on and implemented.*

City of Oceanside General Plan; Recreational Trails Element

The Recreational Trails Element of the General Plan lists the following goals and policies relative to recreation associated with the Buena Vista Lagoon:

Objective 8.4. Provide links and associated signage to pedestrian amenities such as Buena Vista Lagoon and Calavera land in adjacent cities, the beach, and public parks.

Prioritization, Pedestrians

4. Provide hiking opportunities at Buena Vista Lagoon and in the City of Carlsbad

Appendix A of the Recreational Trails Element states:

Buena Vista Lagoon Trail; A joint powers agreement exists that regulates development around Buena Vista lagoon. This lagoon straddles the boundary between the cities of Oceanside and Carlsbad. Currently there is a small interpretive area located off Jefferson Street in the City of Carlsbad adjacent to the Oceanside boundary and an Audubon nature Center adjacent to the lagoon in the City of Oceanside. An application has been made for funds for a boardwalk, though this would be located within the City of Carlsbad. The City of Carlsbad has plans for a trail along the southern portion of the lagoon, providing connection to a regional trail.

In addition, a boardwalk across the lagoon is planned to connect the rail-trail with Coast Highway (Hill Street) this boardwalk will cross from Oceanside to Carlsbad.

City of Oceanside General Plan; Environmental Resource Management Element

The Environmental Resource Management Element includes the following as part of the Oceanside Implementation Program:

Coastal Preservation

1. The City will continue a program of periodic replenishment of the beach by artificial means, in cooperation with the Army Corps of Engineers, until a permanent solution is constructed to prevent beach erosion.

Clean Air Act

At the federal level, EPA is charged with implementing national air quality programs. EPA's air quality mandates are drawn primarily from the federal Clean Air Act (CAA), which was enacted in 1970. The most recent major amendments made by Congress occurred in 1990.

The CAA required EPA to establish primary and secondary NAAQS. The CAA also required each state to prepare an air quality control plan, which is referred to as a State Implementation Plan (SIP). The federal Clean Air Act Amendments of 1990 (CAAA) added requirements for states with nonattainment areas to revise their SIPs to incorporate additional control measures to reduce air pollution. EPA is responsible for reviewing all SIPs to determine conformation to the mandates of the CAAA and to determine whether implementation would achieve air quality goals. If EPA determines an SIP is inadequate, a Federal Implementation Plan that imposes additional control measures may be prepared for the nonattainment area.

Toxic Air Contaminants

EPA and ARB have ongoing programs to identify and regulate TACs. Among the many substances identified as TACs are diesel exhaust particulates, asbestos, and inorganic lead. The regulation of TACs is generally through statutes and rules that require the use of the “maximum achievable” or “best available” control technology (MACT or BACT) to limit TAC emissions.

Particulate exhaust emissions from diesel-fueled engines (diesel PM) were identified as a TAC by ARB in 1998. The control of diesel PM emissions is a prominent concern of regulatory agencies at all levels. The majority of the estimated local health risk from TACs is from diesel PM. The composition of diesel PM emissions from diesel-fueled engines varies depending on engine type, operating conditions, fuel composition, lubricating oil, and whether an emission control system is present. Federal and state efforts to reduce diesel PM emissions have focused on the use of improved fuels, adding particulate filters to engines, and requiring the production of new-technology engines that emit fewer exhaust particulates.

MACT/BACT for asbestos and lead have been identified for many years and there are established rules and procedures to prevent dispersion and inhalation of these substances. Asbestos is a naturally occurring mineral that was used in building materials for thermal and acoustical insulation and fire resistance until the mid-1980s and a partial ban by EPA was imposed in 1989. Lead was used in paint for housing until 1978 when lead-based paint was banned by EPA for use in housing. Asbestos and lead, when disturbed during building demolition, can become airborne as inhalable health hazard pollutants and, therefore, require abatement before demolition.

Proposed Findings for Greenhouse Gases under the Federal Clean Air Act

On December 7, 2009, EPA signed two distinct findings regarding GHGs under Section 202(a) of the CAA:

- **Endangerment Finding:** The Administrator finds that the current and projected concentrations of the six principal GHGs threaten the public health and welfare of current and future generations.
- **Cause or Contribute Finding:** The Administrator finds that the combined emissions of these GHGs from new motor vehicles and new motor vehicle engines contribute to the GHG pollution which threatens public health and welfare.

Clean Water Act

The principal law that serves to protect the nation's waters is the Federal Water Pollution Control Act, which was originally enacted in 1948. This legislation, more commonly referred to as the Clean Water Act (CWA), underwent significant revision when Congress, in response to the public's growing concern of widespread water pollution, passed the Federal Water Pollution Control Act Amendments of 1972. The 1972 legislation established two fundamental, national goals: eliminate the discharge of pollutants into the nation's waters and achieve water quality that is both "fishable" and "swimmable." The 1972 amendments to the CWA also prohibited the discharge of any pollutant to waters of the U.S. from any point source (e.g., a discharge pipe) unless the discharge was authorized by a National Pollutant Discharge Elimination System (NPDES) permit. However, non-point source discharges (i.e., storm water or urban runoff) were not fully covered under the NPDES permit program until Congress amended the CWA in 1987. In the 1987 CWA amendments, Congress directed EPA to establish a permitting framework under the NPDES program to address non-point source storm water discharges associated with urban areas and certain industrial activities.

Relative to water quality protection and management for the proposed project, several sections of the CWA are important:

- Section 303(d) – TMDLs
- Section 401 – Water Quality Certification
- Section 402 – NPDES Program
- Section 403 – Ocean Discharge
- Section 404 – Discharge of Dredge or Fill Material

These sections are further described below:

Section 303(d) – Total Maximum Daily Loads

CWA Section 303 requires states to adopt water quality standards for all surface waters of the U.S. As defined by the CWA, water quality standards consist of two elements:

- designated beneficial uses of water bodies, and
- criteria that protect the designated uses.

Under CWA Section 303(d), states, territories, and authorized tribes are required to develop a list of water bodies that are considered to be "impaired" from a water quality standpoint. Water bodies that appear on this list either do not meet or are not expected to meet water quality

standards, even after the minimum required levels of pollution control technology have been implemented to reduce point-source discharges. The law requires that respective jurisdictions establish priority rankings for surface water bodies on the lists and develop action plans, referred to as total maximum daily loads (TMDLs), to improve water quality. TMDL refers to the amount of a specific pollutant that a river, stream, or lake can assimilate and still meet federal water quality standards as provided in the CWA. TMDLs account for all sources of pollution, including point sources, nonpoint sources, and natural background sources.

The CWA Section 303(d) list of impaired water bodies provides a prioritization and schedule for development of TMDLs for states. The State Water Resources Control Board (SWRCB), in compliance with CWA Section 303(d) (33 U.S. Code Section 1313[d]), publishes the list of water quality-limited segments in California, which includes a priority schedule for development of TMDLs for each contaminant or “stressor” affecting the water body (SWRCB 2011).

Section 401 – Water Quality Certification

Every applicant for a federal permit or license for any activity that may result in a discharge to a waterbody must obtain State Water Quality Certification for the proposed activity and comply with state water quality standards prescribed in the certification. In California, these certifications are issued by the SWRCB under the auspices of nine Regional Water Quality Control Boards (RWQCBs). Most certifications are issued in connection with the CWA Section 404 U.S. Army Corps of Engineers (USACE) permits for dredge and fill discharges.

Section 402 – NPDES Program

CWA Section 402 sets forth regulations that prohibit the discharge of pollutants into waters of the U.S. from any point source without first obtaining an NPDES Permit. The SWRCB implements the NPDES and the state’s water quality programs by regulating point-source discharges of wastewater and agricultural runoff to land and surface waters to protect their beneficial uses. To comply with the CWA water quality regulations, nine RWQCBs in California require permits for discharging or proposing to discharge materials that could affect water quality. The SWRCB and nine RWQCBs administer the NPDES Permit program.

Permitting the construction or modification of outfall structures, where the discharged effluent is authorized or otherwise complies with an NPDES Permit, also is governed under Nationwide Permit #7, requiring the permittee to submit a pre-construction notification to the district USACE engineer before beginning any project activity.

Although the NPDES Permit program initially focused on point source discharges of municipal and industrial wastewater that were assigned individual permits for specific outfalls, results of the Nationwide Urban Runoff Program identified contaminated stormwater as one of the primary causes of water quality impairment. To regulate runoff-related (nonpoint source) discharges, the U.S. Environmental Protection Agency (EPA) developed a variety of general NPDES Permits for controlling industrial, construction, and municipal stormwater discharges.

The SWRCB and nine RWQCBs also regulate discharges to, and the quality of, groundwater resources through the issuance of WDRs. WDRs are issued for discharges that specify limitations relative to the Water Quality Control Plan for the San Diego Basin (Basin Plan) (San Diego RWQCB 1994).

Section 403 – Ocean Discharge

CWA Section 403 provides that point-source discharges to the territorial seas, contiguous zones, and oceans are subject to regulatory requirements in addition to the technology- or water-quality-based requirements applicable to typical discharges. The requirements are intended to ensure that no unreasonable degradation of the marine environment will occur as a result of a discharge, and that sensitive ecological communities are protected. These requirements can include ambient monitoring programs designed to determine degradation of marine waters, alternative assessments designed to further evaluate the consequences of various disposal options, and pollution prevention techniques designed to further reduce the quantities of pollutants requiring disposal and thereby reduce the potential for harm to the marine environment. If CWA Section 403 requirements for protection of the ecological health of marine waters are not met, an NPDES permit will not be issued.

Section 404 – Discharge of Dredge or Fill Material

CWA Section 404 establishes a permit program, administered by USACE, regulating discharge of dredged or fill materials into waters of the U.S., including wetlands. Activities in waters of the U.S. that are regulated under this program include fills for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports), and conversion of wetlands to uplands for farming and forestry. CWA Section 404 permits are issued by USACE.

Coastal Zone Management Act

The U.S. Congress passed the 1972 Coastal Zone Management Act (CZMA) to manage the nation's coastal resources. The CZMA is administered by the U.S. Department of Commerce,

National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management. The CZMA balances competing land and water issues in coastal zones through the National Coastal Zone Management Program. Its goal is to preserve, protect, develop, and, where possible, restore or enhance the resources of the nation's coastal zone. Federal activities within or affecting the coastal zone must, to the maximum extent practicable, be consistent with the state's coastal management program.

Dewatering Permits

Discharges from specified groundwater extraction activities (such as construction dewatering) must be permitted either by the San Diego RWQCB under the General Order R9-2008-0002 for groundwater waste discharges to surface waters or authorized by the agency with jurisdiction if discharged to an MS4. Discharge via either of these mechanisms must meet applicable water quality objectives, constituent limitations, and pretreatment requirements.

Construction General Permit

Dischargers whose projects disturb 1 or more acres of soil, or less than 1 acre but are part of a larger common plan of development that in total disturbs 1 or more acres, are required to obtain coverage under the SWRCB's Order 2009-0009-DWQ (as amended by Orders 2010-0014-DWQ and 2012-0006-DWQ), the Construction General Permit (SWRCB 2009). Construction and demolition activities subject to this permit include clearing, grading, grubbing, and excavation, or any other activity that results in a land disturbance equal to or greater than 1 acre.

Permit applicants are required to submit a Notice of Intent to the SWRCB and to prepare a SWPPP. The SWPPP must identify BMPs that are to be implemented to reduce construction impacts on receiving water quality based on potential pollutants. The SWPPP also must include descriptions of the BMPs to reduce pollutants in stormwater discharges after all construction phases are completed at a site (post-construction BMPs).

The Construction General Permit also includes requirements for risk-level assessment for construction sites, a stormwater effluent monitoring and reporting program, rain event action plans, and numeric action levels for pH and turbidity.

Council on Environmental Quality Guidance

On February 18, 2010, the Council on Environmental Quality (CEQ) Chair issued a memorandum recognizing that many federal actions would result in the emission of GHGs, and that, where a proposed federal action may emit GHG emissions "in quantities that the agency

finds may be meaningful,” CEQ proposes that an agency’s National Environmental Policy Act (NEPA) analysis focus on aspects of the environment that are affected by the proposed action and the significance of climate change for those aspects of the affected environment. In particular, the guidance proposes a reference point of 25,000 metric tons (MT) per year of direct GHG emissions as a “useful indicator” of when agencies should evaluate climate change impacts in their NEPA documents. CEQ notes that this indicator is not an absolute standard or threshold to trigger the discussion of climate change impacts.

Endangered Species Act

The federal ESA of 1973 (16 United States Code [USC] Sections 1531 et seq.) directs the U.S. Fish and Wildlife Service (USFWS) to identify and protect endangered and threatened species and their critical habitat, and to provide a means to conserve their ecosystems. Section 9 of the ESA makes it unlawful for a person to take a listed animal without a permit. “Take” is defined by the ESA as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct” (16 USC 1532(19)). Through regulations, the term “harm” is interpreted to include actions that modify or degrade habitats to a degree that significantly impairs essential behavioral patterns, including breeding, feeding, or sheltering.

Section 7 of the ESA directs USFWS to use its existing authority to conserve threatened and endangered species and, in consultation with federal agencies, ensure that any action authorized, funded, or carried out by such agency does not jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat. Critical habitat is a specific geographic area(s) that is essential for the conservation of a threatened or endangered species and that may require special management and protection. Critical habitat may include an area that is not currently occupied by the species but that would be needed for its recovery.

Section 7(a)(2) requires federal agencies to consult with USFWS to ensure that they are not undertaking, funding, permitting, or authorizing actions likely to jeopardize the continued existence of listed species. In consultation for those species with critical habitat, federal actions must also ensure that activities do not adversely modify critical habitat to the point that it would no longer aid in the species’ recovery.

Executive Order 11988 – Floodplain Management

A draft amendment to Executive Order 11988 was issued on January 28, 2015 and includes revised guidelines for implementing EO 11988. Amended EO 11988 directs federal agencies to avoid, to the extent practicable and feasible, short- and long-term adverse impacts associated with the occupancy and modification of floodplains, and to avoid direct and indirect support of

floodplain development wherever a practicable alternative exists. Each federal agency is responsible for reducing the risk of flood loss, minimizing the impact of floods on human safety, health, and welfare, and restoring and preserving natural and beneficial values served by flood plains. In addition, amended EO 11988 advises agencies to use a higher flood elevation and expanded flood hazard area than the base flood previously described in the EO 11988 to ensure that climate change and other future changes are more adequately accounted for in agency decisions. Furthermore, Executive Order 11988 requires the prevention of uneconomic, hazardous, or incompatible use of floodplains; protection and preservation of natural and beneficial floodplain values; and consistency with the standards and criteria of the National Flood Insurance Program (NFIP). The basic tools for regulating construction in potentially hazardous floodplain areas are local zoning techniques and Federal Emergency Management Agency (FEMA) floodplain mapping. The Federal Insurance Rate Map (FIRM) is the official map created and distributed by FEMA and NFIP that delineates Special Flood Hazard Areas (SFHAs)—areas that are subject to inundation by a base flood—for every county and community that participates in the NFIP.

For projects that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source, and thus would result in the modification of the existing regulatory floodway, effective Base Flood Elevations, or an SFHA, a Conditional Letter of Map Revision (CLOMR) would be necessary.

Executive Order 11990 – Protection of Wetlands

EO 11990 is an overall wetlands policy for all agencies managing federal lands, sponsoring federal projects, or providing federal funds to state or local projects. This EO 11990 requires that when a construction project involves wetlands, a finding must be made by the federal agency that there is no practicable alternative to such construction, and that the proposed action includes all practicable measures to minimize impacts to wetlands resulting from such use.

Executive Order 12088

EO 12088 requires federal compliance with applicable pollution control standards concerning air and water pollution, and hazardous materials and substances. Federal agencies are directed to consult with state and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

Executive Order S-1-07

EO S-1-07, which was signed in 2007, establishes a goal that the carbon intensity of transportation fuels sold in California should be reduced by a minimum of 10% by 2020.

Executive Order S-3-05

EO S-3-05, signed in 2005, states that California is vulnerable to the impacts of climate change. It declares that increased temperatures could reduce the Sierra snowpack, further exacerbate California's air quality problems, and potentially cause a rise in sea level. To combat those concerns, EO S-3-05 established total GHG emission targets. Specifically, emissions are to be reduced to the 2000 level by 2010, the 1990 level by 2020, and to 80% below the 1990 level by 2050.

Executive Order S-13-08

EO S-13-08 launched a major initiative for improving the state's adaptation to climate impacts from sea level rise, increased temperatures, shifting precipitation, and extreme weather events. It ordered a California Sea Level Rise Assessment Report to be conducted by the National Academy of Sciences, which was released in 2012 (COSLR 2012). It also ordered the development of a California Climate Change Adaptation Strategy by the California Natural Resources Agency (CNRA). The Strategy, published in December 2009, assesses the state's vulnerability to climate change impacts, and outlines possible solutions that can be implemented within and across state agencies to promote resiliency (CNRA 2009). The Strategy focuses on seven areas: public health, biodiversity and habitat, ocean and coastal resources, water management, agriculture, forestry, and transportation and energy infrastructure. A progress report was issued in 2010 describing progress for each sector, amending CEQA, and the Cal-Adapt website was developed to support local governments in adaptation planning (CNRA 2010).

Federal Transit Administration

The Federal Transit Administration (FTA) provides guidance for analysis of groundborne noise and vibration related to transportation and construction-induced vibration. The proposed project is not subject to FTA; however, these FTA guidelines serve as a useful tool to evaluate vibration impacts. With respect to human response within residential uses (e.g., annoyance, sleep disruption), FTA recommends a maximum acceptable vibration standard of 80 VdB.

Federal Antidegradation Policy

The federal antidegradation policy has been in existence since 1968. The policy protects existing uses, water quality, and national water resources. It directs states to adopt a statewide policy that includes the following primary provisions:

- maintain and protect existing instream uses and the water quality necessary to protect those uses;
- where existing water quality is better than necessary to support fishing and swimming conditions, maintain and protect water quality unless the state finds that allowing lower water quality is necessary for important local economic or social development; and
- where high-quality waters constitute an outstanding national resource, such as waters of national and state parks, wildlife refuges, and waters of exceptional recreational or ecological significance, maintain and protect that water quality.

Magnuson-Stevens Fishery Management and Conservation Act, as amended 1996 (Public Law 104-267)

Federal agencies must consult with National Oceanic and Atmospheric Administration (NOAA) Fisheries on actions that may adversely affect Essential Fish Habitat (EFH). EFH is defined as those “waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.” NOAA Fisheries encourages streamlining the consultation process using review procedures under NEPA, Fish and Wildlife Coordination Act, CWA, and/or federal ESA provided that documents meet requirements for EFH assessments under Section 600.920(g). EFH assessments must include (1) a description of the proposed action, (2) an analysis of effects, including cumulative effects, (3) the federal agency’s views regarding the effects of the action on EFH, and (4) proposed mitigation, if applicable.

Mandatory Greenhouse Gas Reporting Rule

On October 30, 2009, EPA published the final version of the Mandatory Greenhouse Gas Reporting Rule in the *Federal Register*. In general, this national reporting requirement will provide EPA with accurate and timely GHG emissions data from facilities that emit 25,000 MT or more of carbon dioxide (CO₂) per year.

Marine Mammal Protection Act

The Marine Mammal Protection Act (MMPA) was enacted on October 21, 1972. All marine mammals are protected under the MMPA. The MMPA was enacted in response to increasing concerns among scientists and the public that significant declines in some species of marine mammals were caused by human activities. The MMPA established a national policy to prevent marine mammal species and population stocks from declining beyond the point where they ceased to be significant functioning elements of the ecosystems of which they are a part. The MMPA prohibits, with certain exceptions, the “take” of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the United States. The MMPA was amended substantially in 1994 to provide certain exceptions to the take prohibitions, including for small takes incidental to specified activities, when access by Alaska Natives to marine mammal subsistence resources can be preserved, and permits and authorizations for scientific research; and a program to authorize and control the taking of marine mammals incidental to commercial fishing operations.

Marine Protection, Research, and Sanctuaries Act

In 1972, Congress enacted the Marine Protection, Research, and Sanctuaries Act (MPRSA, also known as the Ocean Dumping Act) to prohibit the dumping of material into the ocean that would unreasonably degrade or endanger human health or the marine environment. MPRSA regulates the ocean dumping of all material beyond the territorial limit (three miles from shore) and prevents or strictly limits dumping material that “would adversely affect human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.” Virtually all material ocean dumped today is dredged material (sediments) removed from the bottom of waterbodies in order to maintain navigation channels and berthing areas. Other materials that are currently ocean disposed include fish wastes, human remains, and vessels. Ocean dumping cannot occur unless a permit is issued under the MPRSA. Section 103 of MPRSA authorizes the Corps to issue permits for transport and disposal of dredged material (i.e., material excavated from navigable U.S. waters) at designated ocean disposal sites, using EPA’s environmental criteria and subject to EPA’s concurrence. For all other materials, EPA is the permitting agency. EPA is also responsible for designating recommended ocean dumping sites for all types of materials.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) (16 USC Sections 703–712) makes it unlawful to take or possess migratory birds, except as permitted by USFWS. The MBTA protects all migratory bird, their eggs, their body parts, or their nests. Essentially all avian species native to the United

States are protected under the provisions of the MBTA; introduced species and nonmigratory upland game birds are not protected by the MBTA. “Take” under the MBTA is defined “to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect” protected birds (50 Code of Federal Regulations [CFR] 10.12). The current list of species protected by the MBTA includes several hundred species. Nearly all native birds in the San Diego region are considered migratory. Permits for take of nongame migratory birds can be issued only for specific activities, such as scientific collecting, rehabilitation, propagation, education, taxidermy, or protection of human health or safety and personal property.

National Flood Insurance Act

The National Flood Insurance Act of 1968 established the National Flood Insurance Program (NFIP). The NFIP is a federal program administered by the Flood Insurance Administration of the Federal Emergency Management Agency (FEMA). It enables individuals who have property within the 100-year floodplain to purchase insurance against flood losses. Community participation and eligibility, flood hazard identification, mapping, and floodplain management aspects are administered by state and local programs and support directorate within FEMA. FEMA works with the states and local communities to identify flood hazard areas and publishes a flood hazard boundary map of those areas.

Natural Community Conservation Plans and Habitat Conservation Plans

Over the past two decades, regional planners have focused considerable effort on preparation of four habitat conservation plans (HCPs): the Multiple Species Conservation Program (MSCP) South, finalized in 1998; the Multiple Habitat Conservation Program (MHCP), finalized in 2003; the North County Multiple Species Conservation Program (NCMSCP), anticipated for completion in 2011; and the East County MSCP, which is expected to begin after the NCMSCP is adopted.

Six jurisdictions (the cities of Carlsbad, Chula Vista, La Mesa, Poway, San Diego, and the southern portion of the County of San Diego), have approved HCPs and signed implementing agreements that collectively cover 20% of the San Diego region. Seven jurisdictions (the cities of Encinitas, Escondido, Oceanside, San Marcos, Santee, Vista, and the northern portion of the County of San Diego) are working on agreements that cover another 73% of the region. Seven jurisdictions (the cities of Coronado, Del Mar, El Cajon, Imperial Beach, Lemon Grove, National City, and Solana Beach), which collectively cover slightly more than 1% of the region, are not pursuing agreements because they have limited natural habitats within their boundaries. The remaining 6% of the San Diego region is on military land conserved by Integrated Natural

Resource Management Plans, which are developed under voluntary, cooperative agreements among a Department of Defense installation, USFWS, and CDFW.

The regional HCPs in the San Diego region are designed to provide an umbrella of protection for multiple species by conserving their habitats and the linkages that allow them to travel between habitats. The HCPs were designed under the State's Natural Communities Conservation Planning program.

The North County Multi Habitat Conservation Program (MHCP) covers the entire the Buena Vista Lagoon (SANDAG 2003). The MHCP plan serves as an umbrella document to guide the preparation of subarea plans by each participating city and does not itself receive any permits (AMEC et al. 2003). To be approved, subarea plans must be consistent with the conservation and policy guidelines of the MHCP plan. The northern half of the lagoon occurs within the City of Oceanside; the Oceanside subarea plan will be the MHCP implementing document of the northern portion, once approved (Foothill Associates 2010). The southern half of the BSA occurs within the City of Carlsbad; the City of Carlsbad Subarea Plan (City of Carlsbad 2004) is the MHCP implementing document for the southern portion. Portions of the BSA are within conservation areas referred to as Hardline Focused Planning Areas within both subarea plans.

National Highway Transportation Safety Administration Fuel Economy Standards for Medium- and Heavy-Duty Engines

On August 9, 2011, EPA and the National Highway Transportation Safety Administration announced the first national fuel economy standards for medium- and heavy-duty trucks that will be implemented for new engines with model years 2014 through 2018.

National Historic Preservation Act

The National Historic Preservation Act (NHPA), as amended (16 USC Sections 470–470w), is the fundamental law concerning the protection of cultural resources on federal land, or that may be affected by an undertaking that requires federal financial assistance, or a federal permit, license, or approval.

Noise Control Act

The EPA Office of Noise Abatement and Control issued the federal Noise Control Act of 1972, which established programs and guidelines to identify and address the effects of noise on public health and welfare and the environment. Subsequently, EPA transferred responsibilities for regulating noise control policies from the federal government to state and local governments.

Municipal Noise Regulations Summary

The jurisdictions in which the BVLEP would occur have noise ordinances that include construction noise standards that would be applicable to the BVLEP. A noise ordinance typically includes limitations on the hours that construction work may be performed, maximum allowable noise levels, or both. In addition to the specific requirements, each ordinance typically includes a “General Prohibition” on noise that prohibits disturbing, excessive, or offensive noise that causes discomfort or annoyance to reasonable persons of normal sensitivity. A noise ordinance usually contains conditions and procedures for obtaining variances or exemptions from construction hours limitations. There are no applicable noise standards at materials placement for the offshore disposal location (LA-5). The following table summarizes the standards applicable at sensitive receptors.

Applicable Construction Noise Ordinance Criteria

Location	Jurisdiction	Construction Hours Prohibited	Construction Noise Level Limits
Buena Vista Lagoon			
Buena Vista Lagoon	City of Carlsbad ¹	6:00 p.m.–7:00 a.m. Monday –Friday 6:00 p.m.–7:00 a.m. Saturday; Sundays and holidays	None
	City of Oceanside ²	6:00 p.m.–7:00 a.m. weekdays, , Saturdays; Sundays; holidays	85 dB at 100 feet
	City of Oceanside ³	6:00 p.m.–7:00 a.m. weekdays, when exceeding ambient noise level by 5 dB or more, Saturdays; Sundays; holidays	85 dB at 100 feet
Sand Placement Sites			
Carlsbad Beach	City of Carlsbad	6:00 p.m.–7:00 a.m. Monday –Friday 6:00 p.m.–7:00 a.m. Saturday; Sundays and holidays	None
Oceanside	City of Oceanside	6:00 p.m.–7:00 a.m. weekdays, when exceeding ambient noise level by 5 dB or more, Saturdays; Sundays; holidays	85 dB at 100 feet

Sources:

¹ City of Carlsbad Municipal Code Section 8.48.010 Noise

² City of Oceanside Municipal Code Chapter 38.

³ City of Oceanside, General Plan Noise Element

Porter-Cologne Water Quality Control Act

Division 7 of the California Water Code is the basic water-quality control law for California. This law, titled the Porter-Cologne Water Quality Control Act (Porter-Cologne Act) and enacted in 1969, establishes a regulatory program to protect water quality and beneficial uses of state waters.

The Porter-Cologne Act is California's comprehensive water quality control law and is a complete regulatory program, designed to protect water quality and beneficial uses of the state's waters. It requires adoption of water quality control plans (basin plans) by the nine RWQCBs for watersheds within their regions. These basin plans are reviewed triennially and amended as necessary by the RWQCBs, subject to the approval of the California Office of Administrative Law, the SWRCB, and ultimately EPA. Moreover, pursuant to the Porter-Cologne Act, these basin plans become part of the California Water Plan when such plans have been reported to the legislature (California Water Code, Section 13141). The Porter-Cologne Act also regulates river or stream crossings during road, pipeline, or transmission line construction that may result in a discharge into a state water body that is not considered to be under USACE jurisdiction.

In some cases, an RWQCB may issue WDRs under the Porter-Cologne Act that define activities, such as the inclusion of specific features, effluent limitations, monitoring, and plan submittals that are to be implemented for protecting or benefiting water quality. WDRs can be issued to address both permanent and temporary discharges of a project.

Public Utilities Code [California Public Utilities Commission General Order 131-D]

Public electric utilities are regulated by the California Public Utilities Commission (CPUC). General Order 131-D sets forth provisions that must be adhered to when public electric utilities construct any new electric power generating plant or modify an existing electric power generating plant, substation, or electric transmission, power, or distribution line. A Permit to Construct must be obtained from CPUC, except when planned electrical facilities would be under 200 kilovolts and are part of a larger project that has undergone the adequate level of CEQA review and approval.

CPUC regulates Investor-Owned Utilities, including those that offer electric, natural gas, steam, and petroleum service to consumers. CPUC regulates both electric and natural gas rates and services provided by these utilities, including in-state transportation over the utilities' transmission and distribution pipeline systems, storage, procurement, metering, and billing.

Rivers and Harbors Act, Section 10

Section 10 of the Rivers and Harbors Act, administered by the Corps, requires permits for all structures (such as riprap) and activities (such as dredging) in navigable waters of the U.S.

San Diego Coastal State Park General Plan

The San Diego Coastal State Parks General Plan was prepared in 1984 by the California State Department of Parks and Recreation. The plan outlines long-range goals for the nine State Park System units on the San Diego County Coast, including the following state beaches: Carlsbad, South Carlsbad, Leucadia, Moonlight, San Elijo, Cardiff, Torrey Pines, and Silver Strand. The plan establishes a variety of management objectives that are intended to reduce or eliminate erosion, protect natural and cultural resources, and provide direction for future development effort near these state beaches.

San Diego County Vector Control Program

The San Diego County Vector Control Program (SDCVCP) is a branch within the County of San Diego – Department of Environmental Health. The SDCVCP is responsible for mosquito and vector-borne disease surveillance and control services in all 18 incorporated cities and the unincorporated areas of San Diego County. The SDCVCP has been reducing and controlling mosquitoes and other vectors since the 1930s. It is managed by County staff and is governed by the San Diego County Board of Supervisors. The SDCVCP currently treats the Buena Vista Lagoon for vector control purposes.

San Diego Regional Municipal Storm Water Permit

The San Diego Regional Municipal Storm Water Permit (Order R9-2013-0001 [as amended by Order No. R9-2015-0001]) (Municipal Permit) regulates the conditions under which storm water and non-storm water discharges into and from municipal separate storm water systems (MS4s) are prohibited or limited. The 18 cities, County government, San Diego County Regional Airport Authority, and San Diego Unified Port District each owns or operates an MS4, through which it discharges storm water and non-storm water into waters of the U.S. within the San Diego Region. These entities are the San Diego County Copermittees (Copermittees) which, along with the applicable Orange County and Riverside County Copermittees, are subject to the requirements of the permit.

The Municipal Permit establishes prohibitions and limitations with the goal of protecting water quality and designated beneficial uses of waters of the state from adverse impacts caused by or

contributed to by MS4 discharges. The Municipal Permit requires that each jurisdiction covered under the permit implement a Jurisdictional Urban Runoff Management Program to control the contribution of pollutants to and the discharges from the MS4. The goal of the jurisdictional runoff management programs is to implement water quality improvement strategies and runoff management programs that effectively prohibit non-storm water discharges into the Copermittees' MS4s and reduce pollutants in storm water discharges from the Copermittees' MS4s to the maximum extent practicable.

The Municipal Permit requires that the Copermittees develop a WQIP for each of ten Watershed Management Areas in the San Diego region. These plans will identify the highest priority water quality conditions within each watershed and specific goals, strategies, and schedules to address those priorities, including numeric goals and action levels, and requirements for water quality monitoring and assessment.

Under Phase I of its storm water program, USEPA published NPDES permit application requirements for municipal storm water discharges for municipalities that own and operate separate storm drain systems serving populations of 100,000 or more, or that contribute significant pollutants to waters of the U.S. Under Phase II, small municipal separate storm sewer systems (MS4s) that are not permitted under the municipal Phase I regulations are regulated under the Phase II Small MS4 permit (Order 2013-0001-DWQ).

Under the Municipal Permit, Copermittees are required to implement storm water management requirements and controls, which include requirements for storm water BMPs during construction and post-construction, including implementing low impact development (LID) BMPs for development and significant redevelopment to reduce pollutants in storm water runoff from sites through more natural processes such as infiltration and biofiltration. The County developed a LID handbook for guidance in the BMP selection process (County of San Diego 2014a). Design techniques include minimizing impervious areas, conserving natural areas, and utilizing vegetation and landscaping for water quality treatment benefits.

Copermittees are also required to comply with hydromodification management requirements to mitigate the potential for increased erosion in receiving waters due to increased runoff rates and durations often caused by development and increased impervious surfaces.

The Municipal Permit requires Copermittees to implement a Hydromodification Management Plan (HMP) "to manage increases in runoff discharge rates and durations from all priority development projects, where such increased rates and durations are likely to cause increased erosion of channel beds and banks, sediment pollutant generation, or other impacts to beneficial

uses and stream habitat due to increased erosive force.” The HMP was prepared in 2009 and was finalized in January 2011 (County of San Diego 2011a).

The HMP requires priority development projects to implement hydrologic control measures so that post-project runoff flow rates and durations do not exceed pre-development flow rates and durations where they would result in an increased potential for erosion or significant impacts to beneficial uses or violate the channel standard.

San Diego Regional Water Quality Control Board Basin Plan

The basin plan for the San Diego Basin (RWQCB Region 9) establishes water quality objectives for constituents that could potentially cause an adverse effect or impact on the beneficial uses of water. Specifically, basin plans are designed to accomplish the following:

1. Designate beneficial uses for surface and ground waters,
2. Set the narrative and numerical objectives that must be attained or maintained to protect the designated beneficial uses and conform to California’s anti-degradation policy,
3. Describe implementation programs to protect the beneficial uses of all water in the region, and
4. Describe surveillance and monitoring activities to evaluate the effectiveness of the basin plans.

The basin plans incorporate by reference all applicable SWRCB and RWQCB plans and policies.

In addition to basin plan requirements, the RWQCB has water quality control authority under Section 401 of the CWA if the City were to apply for a Nationwide Permit under Section 404 of the CWA.

Senate Bill 97

SB 97, signed August 2007, acknowledges that climate change is a prominent environmental issue that requires analysis under CEQA. This bill directed the California Office of Planning and Research to develop amendments to the CEQA Guidelines for addressing GHG emissions. The amendments became effective March 18, 2010.

Senate Bill 922

SB 922 provides an exemption for Native American graves, cemeteries, archaeological site information, and sacred places in the possession of the NAHC, state, or local agencies from the California Public Records Act.

Senate Bill 1374: Local Government Construction and Demolition (C&D) Guide

SB 1374 seeks to assist jurisdictions with diverting their C&D material, with a primary focus on CalRecycle (formerly CIWMB) developing and adopting a model C&D diversion ordinance for voluntary use by California jurisdictions.

Senate Bill X1-2

In 2002, California established a Renewables Portfolio Standard (RPS) program, with the goal of increasing the percentage of renewable energy in retail sales of electricity. SB 1078 (2002) required investor-owned utilities to attain 20% RPS goal by 2020; SB 107 (2006) accelerated the timeframe for the goal to be achieved by 2010. On April 12, 2011, SB X1-2 was signed, requiring California electric utilities to procure 33% of their total energy supplies from certified renewable sources by December 31, 2020.

Senate Concurrent, Resolution Number 87

Resolution Number 87 provides for the identification and protection of traditional Native American resource-gathering sites on state land.

Seismic Hazards Mapping Act of 1990

The Seismic Hazards Mapping Act (SHMA) of 1990 (PRC Sections 2690–2699.6) directs the California Geological Survey to identify and map areas prone to earthquake hazards of liquefaction, earthquake-induced landslides, and amplified ground shaking. The purpose of the SHMA is to reduce the threat to public safety and to minimize the loss of life and property by identifying and mitigating these seismic hazards. Staff geologists in the Seismic Hazard Mapping Program compile Seismic Hazard Zone Maps to designate Zones of Required Investigation for areas prone to liquefaction and earthquake-induced landslides. Cities and counties are required to use the Seismic Hazard Zone Maps in their land use planning and building permit processes.

State Antidegradation Policy (Resolution 68-16)

The State's Antidegradation Policy restricts degradation of surface and ground waters. This policy protects water bodies where existing quality is higher than necessary for the protection of beneficial uses. The state policy establishes two conditions that must be met before the quality of high quality waters may be lowered by waste discharges. The state must determine that lowering the quality of high quality waters:

- 1) Will be consistent with the maximum benefit to the people of the state,
- 2) Will not unreasonably affect present and anticipated beneficial uses of such water, and
- 3) Will not result in water quality less than that prescribed in state policies (e.g., water quality objectives in Water Quality Control Plans).

Any activities that result in discharges to high quality waters are required to:

- 1) Meet waste discharge requirements that will result in the best practicable treatment or control of the discharge necessary to avoid pollution or nuisance, and
- 2) Maintain the highest water quality consistent with the maximum benefit to the people of the state.

The discharge would not be allowed under Resolution 68-16 if the discharge, even after treatment, would unreasonably affect beneficial uses or would not comply with applicable provisions of water quality control plans.

State Implementation Plan

In San Diego County, the San Diego Air Pollution Control District (SDAPCD) is the agency responsible for protecting the public health and welfare through the administration of federal and state air quality laws and policies. SDAPCD is responsible for monitoring air pollution, preparing the San Diego County portion of the SIP, and publicizing rules and regulations. The SIP includes strategies and tactics to be used to attain and maintain acceptable air quality in the County; this list of strategies is called the Regional Air Quality Strategy. The rules and regulations include procedures and requirements to control the emission of pollutants and prevent significant adverse impacts.

In response to the federal nonattainment designation for the 8-hour ozone standard, SDAPCD prepared, and ARB approved and submitted, the *Eight-Hour Ozone Attainment Plan for San*

Diego County to EPA in May 2007. The plan identifies control measures and associated emission reductions necessary to demonstrate attainment of the 8-hour ozone NAAQS. The SIP provides plans for attaining and maintaining the 8-hour NAAQS for ozone and demonstrates how the San Diego Air Basin (SDAB) would continue to maintain compliance with federal carbon monoxide (CO) standards. SDAB achieved the NAAQS for CO in 1993 and EPA approved a 10-year maintenance plan in 1998. The current version of the maintenance plan is the *2004 Revision to the California State Implementation Plan for Carbon Monoxide Updated Maintenance Plan for Ten Federal Planning Areas*.

SDAPCD does not have quantitative emissions limits for construction activities, nor for long-term emissions that may result from increased vehicle use. The Rules and Regulations include procedures and requirements to control emissions of pollutants and to prevent adverse impacts.

Surface Mining and Reclamation Act of 1975

The Surface Mining and Reclamation Act (SMARA) (PRC Sections 2710–2796) provides a comprehensive surface mining and reclamation policy with the regulation of surface mining operations to ensure that adverse environmental impacts are minimized and mined lands are reclaimed to a usable condition. SMARA also encourages the production, conservation, and protection of the state’s mineral resources. PRC Section 2207 provides annual reporting requirements for all mines in the state, under which the State Mining and Geology Board is also granted authority and obligations.

U.S. Geological Survey Landslide Hazards Program

The Landslide Hazards Program (LHP) was created by the USGS and has been operating since the mid-1970s. The primary objective of the LHP is to reduce long-term losses from landslide hazards by improving the understanding of the causes of ground failure and suggesting mitigation strategies. The federal government takes the lead role in funding and conducting this research, whereas the reduction of losses due to geologic hazards is primarily a state and local responsibility. In the San Diego region, the Unified Disaster Council is the governing body of the Unified San Diego County Emergency Services Organization.