



REPORT TO COUNCIL

City of Sacramento

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Staff Report
October 24, 2006

**Honorable Mayor and
Members of the City Council**

**Title: Proposed Resolution Opposing a Toll Road through San Onofre State
Beach**

Location/Council District: Citywide

Recommendation: Transmit for Council consideration and possible action

Contact: Mark Prestwich, Special Projects Manager, 808-5380

Presenters: Mark Prestwich, Special Projects Manager, 808-5380

Department: City Manager's Office

Division: N/A

Organization No: 0310

Description/Analysis

Issue: At the request of Councilmember Hammond, staff has prepared a report on a proposed toll road through San Onofre State Beach and a resolution opposing the toll road for Council consideration and possible action.

Policy Considerations: The proposed resolution expresses concern that the taking of park land by a toll road would set a dangerous precedent that might in the future be cited in justifying the degradation of other state parks.

Environmental Considerations: N/A

Rationale for Recommendation: This report includes a proposed resolution opposing a toll road through San Onofre State Beach for Council consideration and possible action.

Financial Considerations: None

Emerging Small Business Development (ESBD): No goods or services are being purchased.

Respectfully Submitted by: M. J. Prestwich
Mark Prestwich, Special Projects Manager

Approved by: Patti Bisharat
Patti Bisharat, Director of Governmental Affairs

Recommendation Approved:

Ray Kerridge
Ray Kerridge
City Manager

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Attachment 1**Background**

The Foothill/Eastern Transportation Corridor Agency (F/ETCA) is one of two Transportation Corridor Agencies (TCA) formed in 1986 to plan, finance, construction and operate Orange County's public toll road system. Officials from 15 cities and county supervisorial districts near the 241, 261 and 133 Toll Roads are appointed to serve on the F/ETCA's Board of Directors. The toll roads are part of the California state highway system, but operated as a toll facility by the TCA.

The planned extension of State Route 241 (Foothill-South) extending the highway south from its current end at Oso Parkway to Interstate 5 near San Clemente represents the final segment of the County's toll road system. On February 23, 2006, after considering several alternatives, the F/ETCA selected (on a 14-1 vote) an alignment bisecting San Onofre State Beach as the preferred alternative for the 16.9 mile Foothill-South segment. About four miles of the preferred route would pass through San Onofre State Beach. Other alternatives avoiding San Onofre State Beach were analyzed.

The purpose of Foothill-South is to provide improvements to the transportation infrastructure system that would help alleviate future traffic congestion and accommodate the need for mobility, access, goods movement and future traffic demand on I-5. The need for additional transportation infrastructure is based on population and growth projections for the next 25 years.

On March 23, 2006, the California Attorney General and a coalition of environmental organizations filed individual lawsuits in California Superior Court in San Diego County against the F/ETCA alleging violations of the California Environmental Quality Act (CEQA). The Attorney General's office prepared a Briefing Paper (Attachment 3) outlining concerns with the proposed alignment. The coalition includes the California State Parks Foundation, the Sierra Club, Surfrider Foundation, Natural Resources Defense Council, Sea and Sage Audubon Society, Laguna Greenbelt Inc., and the Endangered Habitats League. The Native American Heritage Commission (NAHC) also sued contending the proposed toll road alignment would be built within feet of a religious and ceremonial site sacred to the Juaneno band, an Orange County tribe that is not yet federally recognized.

According to the California State Parks Foundation, 12 cities and one county have taken action opposing the proposed toll road alignment.

RESOLUTION NO.

Adopted by the Sacramento City Council

OPPOSING A TOLL ROAD THROUGH SAN ONOFRE STATE BEACH

BACKGROUND

- A. California's first state park was established in 1864 with land granted by President Abraham Lincoln, and the California state parks systems was created in 1927 "to preserve outstanding natural, scenic, and cultural values, indigenous aquatic and terrestrial fauna and flora, and the most significant examples of ecological regions of California."
- B. California state parks system contains a diverse collection of historical, environmental and recreational resources second to none in the nation.
- C. California state parks are designated for the benefit of all of California residents in order to improve our lives by providing healthy outdoor and educational experiences.
- D. California state parks provide a significant economic benefit to the people of California, generating, according to estimates from the Department of Parks and Recreation, about 80 million visitors from around the world who spend approximately \$2.6 billion directly with an additional \$4 billion in indirect contributions.
- E. Protection of state park lands is a matter of paramount statewide concern which requires that these lands not become the least costly alternative for major infrastructure projects deemed to be necessary for uses inconsistent with state park purposes.
- F. On November 18, 2005, the California State Park and Recreation Commission (Commission), in a resolution entitled "Opposing a Proposed Toll Road Alignment and Request for Action to Protect San Onofre State Beach," (i) urged abandonment of the proposed toll road, called the Foothill-South Toll Road, that would run "over four miles in length through the heart of the nearly 1,200 acre [inland portion of] San Onofre State Beach" and (ii) requested that the "Governor, in concert with the Attorney General's office, oppose any major transportation arterial through San Onofre State Beach using all appropriate methods, including litigation if necessary, to defend this valuable and irreplaceable public resource."
- G. The state park at San Onofre State Beach was set aside for the people of California in 1971 by Governor Ronald Reagan who proclaimed that "one of the greatest legacies we can leave to future generations is the heritage of our land, but unless we can preserve and protect the unspoiled areas which God has given us, we will have nothing to leave them" and has since become one of the top five most visited state parks in California.

- H. The taking of such park land by a toll road would destroy this unique Southern California coastal unit of the state parks system, and set a dangerous state-wide precedent that might in the future be cited in justifying the destruction and degradation of other state parks.
- I. The Commission recognized that "viable alternative routes and traffic improvements exist which do not depend upon San Onofre State Beach."

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The City Council endorses the California State Park and Recreation Commission's November 18, 2005 resolution and urges the Foothill/Eastern Transportation Corridor Agency to immediately and permanently withdraw its plans to construct a toll road with an alignment through the state park at San Onofre.
- Section 2. The City Manager shall provide a copy of this Resolution to the Commission, Foothill/Eastern Transportation Corridor Agency, and the offices of the Governor, California Resources Agency, California Department of Parks and Recreation, California Attorney General, State Treasurer and Department of Transportation.

Attachment 3

Briefing Paper: Foothills Toll Road-South and San Onofre State Beach

The Orange County Transportation Corridor Agencies (TCA) has proposed a sixteen-mile extension of Route 241 from Orange to San Diego Counties. A final Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) was released and certified during a February 23 TCA hearing. The final document recommends construction of the multi-lane toll road through San Onofre State Beach.

San Onofre State Beach

San Onofre State Beach is a more than 2,000-acre park that contains 3.5 miles of beaches and six access trails to the ocean bluffs. It is located within the County of San Diego, in the city of San Clemente. Although classified as a state beach, the park contains 1,183 acres (56% of the total park acreage) of upland habitat, nature preserve areas, and trails in the San Mateo Valley. The State Beach includes the world-famous surfing spot Trestles Beach, San Mateo Wetlands Natural Preserve, San Onofre Bluffs Campground, San Onofre Surf Beach and San Mateo Campground. According to the Department of Parks and Recreation's (DPR) "Quick Facts," San Onofre State Beach is the sixth most-visited park in the state park system.

San Onofre State Beach was originally designated a state park in 1971 by then-Governor Ronald Reagan in cooperation with then-President Richard Nixon. At the time of its dedication, President Nixon declared that San Onofre would eventually be deeded to the State of California: "As soon as it becomes possible formally to declare that the entire six miles of the beach front are in excess of Federal Government needs, the lease will be terminated and the six miles beach front area – with exception of the site of the San Onofre Nuclear Generating Station – will be deeded to the State of California for park purposes." [President Richard Nixon, *Press Statement*, March 31, 1971 (emphasis added)]. Governor Reagan agreed that San Onofre would forever remain a state park. "This expanse of acreage, San Onofre Bluffs [sic] State Beach, now has its future guaranteed as an official state park." [Governor Ronald Reagan, *Press Statement*, April 3, 1971 (emphasis added).] The state park land is leased by DPR from the U.S. Navy, on lands adjoining nearby Camp Pendleton U.S. Marine Corps Base. A 50-year lease was signed in 1971 between the Navy and DPR for the land, which vests DPR with authority to operate the park.

The underlying lands have not been transferred to the state in fee simple, largely because the Secretary of Navy is typically reluctant to give up lands without incentive or direction to convey these lands for park purposes. However, recent Department of Defense legislative proposals to authorize military departments to "convey certain surplus real property having conservation value to state and local governments or nonprofit conservation organizations" for conservation purposes in perpetuity could provide appropriate incentive. [*Report to Congressional Requesters*, U.S. General Accounting Office, June 2002, p. 28.¹] This raises the possibility that the underlying land could be conveyed to the state while also meeting the above-stated needs of the Department of Defense.

Cherished by swimmers, campers, kayakers, birders, fishermen, off-duty Marines, bicyclists and sunbathers, San Onofre has become one of the top six most visited state parks in California. The park is a unique and irreplaceable resource for Californians, providing, among many other things:

- **Beach Access.** The park contains *3.5 miles of beaches* and six public access trails to ocean bluffs.
- **World-Class Surfing.** Trestles Beach is a *world-renowned* surf spot and is considered one of the premier surf breaks in the nation.

¹ See <http://www.gao.gov/new.items/d02614.pdf>

- **Affordable Family Camping.** San Mateo Campground is the last coastal campground built *anywhere* in California in over 16 years. The 161-unit campground is *one of the only affordable coastal havens for middle and low-income families* in the region.
- **Habitat for Endangered Species.** The park provides unique habitat for *eleven* threatened or endangered species listed under federal law. This unprecedented concentration of biodiversity consists of the least Bell's vireo, southwestern willow flycatcher, California gnatcatcher, snowy plover, Pacific pocket mouse, arroyo toad, southern steelhead trout, Riverside and San Diego fairy shrimp, and thread-leaved brodiaea.
- **Clean Water.** San Mateo Creek, one of the *last relatively unspoiled watersheds in Southern California*, runs through the park, meeting the Pacific Ocean at Trestles. The park also includes the San Mateo Wetlands Natural Preserve.
- **Native Heritage.** The park contains *seven archeological sites*, including a Juaneno Indian village.

Southern California Edison's San Onofre Nuclear Generating Station is located near San Onofre State Beach, with three active nuclear reactors. As a condition of construction of the Generating Station, the Coastal Commission mandated the creation of San Mateo Campground as mitigation for the taking of five acres of bluff area.

Proposed Toll Road Extension

After a lull in Caltrans construction of new roadways in the greater southern California area in the mid-1980s, Orange County officials embraced toll roads as a way to construct corridors to help alleviate congestion on major roadways. In 1986, two joint-powers authorities were created in Orange County for the purpose of planning, financing, and operating toll roads in the county. The Foothill/Eastern Transportation Corridor Agency and the San Joaquin Hills Transportation Corridor Agency were established and seated with local elected officials from the areas where the toll roads would be created. The Foothill/Eastern Transportation Corridor Agency has jurisdiction over the existing 241, 261 and 133 toll roads and is the body with final decision-making authority for the proposed extension of the 241. Members of that body's Board of Directors include officials from the cities of Anaheim, Dana Point, Irvine, Lake Forest, Mission Viejo, Orange, Rancho Santa Margarita, San Clemente, San Juan Capistrano, Santa Ana, Tustin, Yorba Linda and Orange County Supervisors representing the Third, Fourth and Fifth Districts.

After the first section of the 241 was built near Lake Forest in 1993, the TCA began planning for the southern extension, referred to the Foothills-South. As proposed, the toll road would extend the already existing Route 241 from Oso Parkway to I-5 in San Diego County. TCA estimates the construction of the extension to be over \$800 million, which is proposed to be funded through bonds, developer impact fees and future toll revenues. However, questions have been raised about the viability of the proposed financing plan, as the San Joaquin Hills Toll Road (Route 73) has experienced lower-than-expected revenues and may force the San Joaquin Hills Transportation Corridor Agency into bankruptcy proceedings.

Impacts of Toll Road Extension through San Onofre State Beach

The road would occupy approximately four miles and over 320 acres of the park, and would fragment what is left. The resulting physical disruption, visual blight, contaminated runoff, noise, altered drainage patterns, habitat destruction, and related degradation would:

- devastate San Onofre as a recreational resource, including forcing the California Department Parks and Recreation to abandon San Mateo campground;
- wipe out endangered species habitat, causing serious harm to the species and pushing the fragile Pacific pocket mouse toward extinction;
- hinder public access to Trestles Beach; and
- disrupt the natural flow of San Mateo Creek, which nourishes the beach and surf breaks.

The alignment through the park proposes to essentially bisect San Onofre State Beach. San Mateo Campground would be effectively disconnected from the remainder of the park, and as many as four separate parcels would be created, each with significantly diminished recreational, cultural and biological value. The proposed alignments would pass through the entire length of the San Mateo Valley portion of the park. Additionally, roads would be constructed approximately one-quarter of a mile from the beach, with merging ramps along coastal trail and within 25 to 50 yards of Trestles Natural Preserve. The impact of these roads on the upland portion of the park would be so severe that DPR has indicated it is likely to abandon the entire upland portion of the park should the toll road be built along the proposed alignment route.

Under the proposal promoted by TCA, almost 320 acres of park land (about 24% of the park) would be lost to the footprint of the toll road, with an additional 63 acres temporarily lost during construction. Public access between the beach area and the campground would be impossible, as the proposed road would cut the park in half, and potentially into smaller parcels. The potential loss of the 161-unit San Mateo campground would impact high-value camping that is largely used by families who seek low-cost vacation and recreation alternatives. The new toll road would also encourage development on currently undeveloped land, creating greater pressures on areas around remaining park lands.

Construction of the toll road would eliminate some of the last open space in southern California and cause a loss of habitat areas and obstruction of wildlife corridors. The road may also have significant negative impacts to archeological resources including an area designated a “Sacred Site” by the Native American Heritage Commission that is part of the San Mateo Archeological National Register District.

The proposed toll road would run along much of Cristianitos Creek and along San Mateo Creek. Water quality in the San Mateo basin and along the beaches would be degraded by runoff from motor oil, antifreeze, and brake and tire particles from vehicles using the toll road. Natural sediment flow in San Mateo Creek would be altered, changing the near-shore sandbars at the mouth of the creek that are responsible for the high-quality wave shape of the Trestles surf breaks.

TCA’s final environmental report does not acknowledge these significant impacts to the park and dismisses the impact to San Mateo Campground as inconsequential. The report does not disclose that irreplaceable recreational resources will be lost, that there are no coastal lands left that can provide comparable resources, or that the toll road would forever destroy or degrade this unique Southern Californian coastal unit of the state parks system.

Feasible Alternatives Have Not Been Adequately Studied

The problem of traffic congestion in Orange County can be addressed just as well or better by alternative solutions. The most obvious of these alternatives center on improvements to the County’s existing transportation and roadway system. These options include improving mass transit options, strategic double-decking on I-5, adding high occupancy toll (HOT) lanes on I-5, using congestion fees to alleviate

traffic in peak hours, and combination solutions such as selectively widening I-5 along with expanding selective arterial routes. These strategies reflect the most current trends in traffic solutions and are being employed throughout the nation with great success – but have been dismissed by proponents of the toll road.

To spotlight this problem, a coalition of organizations committed to protecting San Onofre State Beach retained Smart Mobility to conduct a review of TCA's environmental documentation and all relevant appendices and technical documents. The report found that using TCA's own data, a balanced set of arterial improvements and I-5 lane improvements will likely provide traffic benefits superior to the proposed toll road alignments. The report further found that TCA's traffic analysis fails to account for induced travel demand using "feedback loops" – a standard modeling technique that is widely recognized as essential and has been a best professional practice for traffic analysis for over ten years. The purported traffic reductions of the toll road would be even smaller after accounting for this factor.

As discussed in Smart Mobility's report, TCA expended great effort developing, modifying and refining numerous toll road alignments, but failed to give any serious consideration to non-toll road alternatives, despite their plainly superior traffic and environmental benefits. In its Environmental Impact Report, TCA portrayed those alternatives as impacting a greater number of private homes and businesses than the proposed toll road alignments, and eliminated most from further consideration on that ground. But, as discussed in the Smart Mobility report, TCA provided no evidentiary basis for this conclusion, and failed to explore even the most rudimentary refinements to these alternatives – refinements that could significantly reduce or even eliminate the need to take homes and businesses.

Inappropriate Exemptions from Environmental Review have been Secured

The TCA specifically secured an exemption from a critical federal law upholding environmental protection. Section 4(f) of the Department of Transportation Act of 1966 declares that "It is the policy of the United States government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands." (49 U.S.C. § 303) To avoid meeting the standards of this policy, TCA in October 1998 and October 2000 obtained riders in Department of Defense and Energy Appropriations bills (PL 105-261 and PL 106-398) to allow the Navy to convey an easement to the TCA and to remove Section 4(f) protections specifically for "the use by State Route 241 of parkland within Camp Pendleton that is leased by the State of California."