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STAFF REPORT: CDP HEARING

Application Number: **3-19-0463**

Applicant: **City of Morro Bay**

Project Location: The proposed water reclamation facility would be located on an undeveloped property inland of the intersection of South Bay Boulevard and Highway 1 in unincorporated San Luis Obispo County (APN 073-101-017); pump stations would be located within an existing City corporation yard at 170 Atascadero Road (APN 066-331-032) and on a City-owned lot at the intersection of Main Street and Highway 1 (APN 068-168-022), both in the City of Morro Bay; demolition of the existing wastewater treatment plant and restoration of that area would occur at that site at 160 Atascadero Road in Morro Bay (APN 066-331-034); new pipelines would extend from the two new pump stations to the water reclamation facility and to injection well sites along various road corridors in both the County and the City (primarily along the Quintana Road corridor adjacent to Highway 1); underground recycled water injection wells would be located at some eight locations in the lower Morro Valley, including adjacent to Lila Keiser Park, all in the City of Morro Bay; and outfall maintenance and modifications would take place in the Pacific Ocean some 2,900 feet offshore and near to Morro Rock.

Project Description: Subdivision of an existing privately-owned 396-acre parcel into two parcels, including a 27.6-acre City-owned parcel; construction of new 0.97-million-gallon-per-day average daily flow tertiary-treated wastewater treatment and water reclamation facility on the new City-owned parcel; construction of associated pipelines and

two new lift stations; construction of new underground recycled water injection wells; maintenance of and modifications to the existing ocean outfall; operation of the new water reclamation facility and overall system, including groundwater injection and other related components, moving forward; and decommissioning and demolition of the existing wastewater treatment plant and related improvements, and restoration of all affected areas.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The City of Morro Bay proposes to upgrade its wastewater treatment and water supply infrastructure, including to: construct a new water reclamation facility (WRF) on a to-be subdivided 27.6-acre lot just outside City limits in an agricultural area of unincorporated San Luis Obispo County; construct conveyance infrastructure comprised of new pipelines and pump stations, conveying raw wastewater to the new WRF and treated recycled water to new wells for groundwater injection/replenishment and potable reuse; make modifications to the existing ocean outfall; and decommission and demolish the existing City wastewater treatment plant (WWTP) and to restore the site.

The existing Morro Bay-Cayucos WWTP is located at 160 Atascadero Road in Morro Bay and is jointly owned and operated by the City and the Cayucos Sanitary District (CSD). The WWTP was originally built in 1954 in a low-lying area near the confluence of Morro Creek with the Pacific Ocean and it provides wastewater treatment services to the City and to the unincorporated community of Cayucos some six miles to the north. The WWTP was built before modern State and Federal water quality standards, and does not meet federal Clean Water Act (CWA) standards for full secondary treatment. Instead, the WWTP has been operating under a CWA waiver[1] for full secondary treatment requirements for biochemical oxygen demand and total suspended solids since 1984. In 2018, the City received a time schedule order (TSO) from the Central Coast Regional Water Quality Control Board (RWQCB or Regional Board) requiring compliance with full CWA secondary treatment requirements by February 28, 2023.

Because of the age of the existing WWTP, its failure to meet core CWA water quality standards, and the possibility of potential fines/penalties for failure to meet the Regional Board's TSO mandating CWA compliance by 2023, the City has been pursuing a new upgraded wastewater treatment facility for over a decade. The City and the CSD initially proposed to redevelop the WWTP at its current site, and the City approved a CDP for same in 2011. However, the City's CDP approval was appealed to the Coastal Commission by eleven different parties, and ultimately in 2013 the Commission denied the City's redevelopment-in-place proposal on the basis of LCP inconsistencies with respect to avoiding coastal hazards, land use priorities, recycled water provisions, and public view protections. Among the Commission's findings for its 2013 denial:

[1] Pursuant to Clean Water Act Section 301(h).

The first issue raised by the proposed project is that a new WWTP is not an allowed use under the LCP's zoning at its existing location. The existing WWTP is a non-conforming use under the LCP's certified light-industrial zoning of the site, and construction of a new WWTP on this site is not an allowable use and is therefore inconsistent with the LCP. At a minimum, approval of a new WWTP at the proposed location would first require that the LCP be amended to allow such a use. However, given that the site is located in a prime visitor-serving redevelopment opportunity area for the City, and given the other constraints to WWTP development at this location, it is not clear that such an LCP amendment would be appropriate.

Second, with respect to coastal hazards, the WWTP site is located in a tsunami run-up zone in an area that would also be inundated in a 100-year storm event through flooding (associated with Morro Creek), which could be exacerbated by dune migration and sea-level rise over time. The project proposes to address these issues by elevating the new WWTP on roughly four acres of fill up to seven and a half feet high, estimated by the Applicant to amount to approximately 35,000 cubic yards of fill (equivalent to approximately 3,500 large truckloads of fill soil). The LCP requires that risks from coastal hazards be minimized, and appears to contemplate flood elevation as a means to do that in certain circumstances. However, given the significant potential flooding at this location, and the uncertainty of future long-term risks over the potential life of the project, staff does not believe that siting a large public infrastructure project in a flood zone by using a such a large fill slope, instead of siting the WWTP out of a hazardous area, is consistent with the LCP (including with LCP policies requiring that projects with excessive grading be denied, and with policies designed to maximize protection of the existing landform by fitting development to existing topography and natural grade). In a 100-year flooding event, the WWTP would be an island, and in a tsunami, it would be under water; neither of which conservatively minimize hazard risk as required by the LCP.

The WWTP project would produce tertiary treated wastewater, but it only includes a small reclamation component, one that is designed to use only a portion of the reclaimed water that could potentially be produced. The vast majority of the treated wastewater would be discharged to the ocean via the existing WWTP ocean outfall that extends some 2,900 feet into the ocean. The City's LCP not only requires the project to include reclamation, but also requires protection and enhancement, where feasible, of Morro and Chorro groundwater basins, as well as coastal streams, wetlands, and related freshwater resources. Read as a whole, the LCP thus directs a WWTP project to maximize reclamation so that such recycled water can be made available to both offset potable water use as well as to enhance freshwater resources (e.g., through use for agricultural irrigation, urban landscaping, groundwater replenishment, etc.). These concerns are especially important given that the City receives much of its water from the State Water Project and reclamation would provide an important contingency in the event that such water transfers are suspended, reduced, or otherwise impacted (e.g., increase in costs, etc.).

> *Finally, the WWTP site is located in an LCP-designated sensitive view area between Highway 1 and Morro Rock. The LCP requires the scenic and visual qualities of the coast to be protected and where feasible enhanced, and requires development to be sited and designed to protect views to and along the ocean and other coastal areas. The new WWTP would be in a similar location as the plant to be demolished, but would be taller, including because it would be elevated on a fill slope above flood levels. Although the development pattern and area of the WWTP is not currently significantly visually sensitive, given that this is a non-conforming use and the area could potentially be redeveloped to connect upcoast Morro Bay with the Embarcadero as a visitor-serving and public recreational access unit, the development of such a facility is problematic from a visual perspective as well.*
>
> *In short, the proposed project is inconsistent with the City's LCP, including policies related to allowable uses and land use priorities, hazard avoidance and response, sustainable public infrastructure, and public viewshed protection, where these inconsistencies are largely related to the Applicant's chosen site; a site that is identified by the LCP for lower intensity industrial development than a WWTP, such as coastal-dependent commercial fishing related uses.*

Following the CDP denial and given the Commission's direction to the City and the CSD on the appropriate path to upgraded wastewater and water reclamation functions, the City developed a Water Reclamation Facility Citizens Advisory Committee, identified 17 potential sites for plant relocation, and developed criteria for a potential water reclamation facility project, including coastal hazards avoidance through plant relocation inland, water quality improvement through compliance with applicable water quality standards, and water supply security through recycled water provision. Over the past six-and-a-half years, through significant public input that shaped this project, including making critical decisions in public forums regarding WRF facility siting (e.g., in town vs. outside of town), components/operations, recycled water end uses (e.g., agricultural uses only or full potable reuse), funding (e.g., through two Citywide votes to raise utility fees to pay for the project), and process (i.e., two public hearings to approve the project's EIR and two affirmative votes by the Morro Bay City Council and County Board of Supervisors to authorize a consolidated CDP approval process), the proposed project is the end result of a process that began when the Commission provided direction as part of its CDP denial for the prior project proposal in January 2013.[2]

As mentioned above, the proposed project includes a series of related components, including a new tertiary-treated wastewater treatment and water recycling facility located at an inland location away from coastal hazards, new pipelines and pump stations, new recycled water injection wells, and decommissioning of the existing oceanfront WWTP and restoration of the site. The primary intent is to replace the existing WWTP, which does not meet Clean Water Act standards for secondary treatment, and replace it with the new WRF designed to exceed such

[2] It is worth noting that the Cayucos Sanitary District decided to separate its efforts from those of the City with respect to Cayucos' wastewater facility needs, but also considered the Commission's direction while undertaking its own project. Specifically, the CSD is in the middle of constructing its own WRF at an inland location out of harm's way nearer to Cayucos, where that plant is likewise designed to help Cayucos reach water supply sustainability through reclamation. The CSD WRF is currently scheduled to go online in 2020.

standards through tertiary treatment, and designed to provide for water reclamation for water supply security for the community. The City redesigned the proposed project at the Commission's direction to ensure that the WRF is sited away from coastal hazard threats at an inland and higher elevation, and to significantly enhance water quality protection in Morro Bay, including significantly through improved groundwater health and through much improved quality of discharge as compared to now. In addition and significantly, the proposed recycled water component of the project is estimated to provide the City, through groundwater replenishment and improved aquifer health, with some 825 acre-feet of water per year, or roughly 80 percent of its yearly water needs, thereby providing community water security in the face of climate change and scarcity.[3] And the City's proposal to decommission, demolish, and restore the existing WWTP site will remove a lower-priority industrial use from a prime oceanfront area that is adjacent to State and City public beaches, and near the City's Embarcadero tourist area. Put another way, *not* proposing the project as currently designed (i.e., *not* proposing to relocate the existing plant out of harm's way, *not* proposing water recycling and reuse, and *not* making higher and better use of prime oceanfront lands) were among the core reasons for the Commission's denial of the proposed CDP in 2013. And these issues have only become more significant since then with respect to Coastal Act consistency, including with respect to the guidance provided by the Commission on how to treat critical infrastructure along the shoreline in its 2015-adopted "Sea Level Rise Policy Guidance." Indeed, relocating critical wastewater infrastructure away from the shoreline and eliminating potential coastal hazard threats, which could have significant adverse impacts on coastal resources including water quality, is clearly warranted under the Coastal Act and the Commission's Guidance. And it also represents fundamental good planning and public policy by ensuring that expensive, sensitive, and critical public infrastructure is safe. Considering all of the above, this proposal meets numerous Coastal Act policies, including with respect to coastal hazards avoidance for critical public infrastructure (Sections 30235 and 30253), water supply and water quality (Sections 30230, 30231, and 30250), public access and recreation (Sections 30210 through 30224), and public views (Section 30251).

That said, a project of this magnitude and complexity is not without potential issues and coastal resource impacts. First and foremost, the proposed WRF at the City's selected location would result in the subdivision of an existing agricultural parcel, as well as the conversion and permanent loss of some 15 acres of agricultural land (i.e., the proposed new WRF parcel is 27.6 acres, but the development envelope would be 15 acres). The Coastal Act is protective of such lands, requiring the maximum amount of agricultural land to remain in agricultural use,[4] and it only allows conversion in limited circumstances, including if the conversion would be located within existing developed areas and would foster a logical infill community, or if continued agricultural use is infeasible. None of these circumstances apply in this case, including because the project is located in an unincorporated part of the County away from, and not contiguous with, existing developed areas, and because the site is currently used for agricultural

[3] And as indicated above, the City's water portfolio is currently heavily reliant on State Water Project water, which is both very expensive and unreliable.

[4] To both foster the continuance of the coastal zone's agricultural economy, but also to ensure that rural lands are protected from unwarranted development (and "sprawl"), including so as to facilitate stable urban growth boundaries.

grazing/rangeland purposes. Therefore, the proposed project is not consistent with the Coastal Act's agricultural protection policies. Such inconsistencies would normally require project denial.

However, denying this project would result in inconsistency with other core Coastal Act objectives (previously described) related to coastal hazards avoidance, water quality improvement, water supply resiliency, and public coastal access and recreation enhancement. In other words and as more fully explained in this report, project denial would cause a conflict between the Coastal Act's agricultural protection policies and its public access and recreation, water quality and water supply, and coastal hazards avoidance policies. Again, *not* proposing a project akin to this one (rather, instead, redeveloping the WWTP at its current low-lying risky site and not including a recycled water component, etc.) led to the Commission's 2013 CDP denial. Since then, and as described earlier, the City responded to the Commission's direction and developed the proposal before the Commission today. Denial of the proposed project (i.e., perpetuation of the status quo) would not be more protective of coastal resources, on balance, than approval due to the coastal resources inconsistencies implicated by the existing WWTP, and thus denial would not further the State's coastal zone management objectives specified in the Coastal Act.

In this type of case the Coastal Act provides that such conflict "be resolved in the manner which on balance is the most protective of significant coastal resources" (Section 30007.5). And it is clear to staff that *approval* of the project in this case would be the most protective of the various coastal resources at issue as compared to denial. With conditions to implement an agricultural mitigation program (as well as other conditions to ensure consistency with other Coastal Act policies, including in terms of maximizing recycled water and groundwater replenishment for improved aquifer health, requiring construction best management practices for coastal resource protection, and specifying how and when the existing WWTP is to be decommissioned and the site restored), the project as conditioned will be the most protective of significant coastal resources as directed by the Coastal Act. Thus, in resolving the identified Coastal Act conflicts, staff believes that the impacts related to coastal hazards, water quality and supply, and public access and recreation from denying this project (i.e., retaining the status quo) and not realizing the associated coastal resource benefits that would result from project approval will be more significantly adverse for coastal resources than the project's agricultural impacts, including when those impacts can be appropriately minimized and mitigated as is the case here. In short, approval of a CDP for the project as conditioned is, on balance, most protective of significant coastal resources.

Finally, opponents to the project have primarily been concerned about project costs, with some also concerned about the fact that the Commission is considering a consolidated CDP application. In both cases, certain opponents have claimed that those issues are also environmental justice issues, and are asking for the Commission to deny the project. With respect to project costs, these opponents argue that the proposed project is too expensive for Morro Bay and its 10,000 residents to afford, and that there are other less expensive viable alternatives that should be pursued. On the latter, no such viable alternatives have been identified. On the former, the City estimates that the project will cost $125 million to construct, and that it could raise monthly household utility bills from an average of $150 per month to an average of $191 per month (i.e., an increase of $41 per household per month). At the same time,

the City has been actively seeking grants and low-cost loans for the project,[5] and the City estimates that such efforts should decrease the costs to the community and reduce the $41 surcharge. In addition, most of the City's current water supply is imported via the State Water Project, for which the City currently pays $2,100 per acre-foot of water. This source has proven to be a volatile supply and most likely will increase in cost due to needed upgrades. Meanwhile, use of the City's existing groundwater supply only costs $1,000 per acre-foot. The WRF will provide a stable, reliable, and clean groundwater supply source that is projected to satisfy up to roughly 80 percent of the City's water supply needs, thus leading to a less expensive water source. While that is not to suggest that project is without costs, it is to suggest that they are being constrained as much as is possible. In addition, *not* pursuing the project also has costs, not the least of which are environmental costs (including in terms of hazards risks, water quality impairment, lack of water supply sustainability, inappropriate oceanfront land use, etc.), but also in terms of Clean Water Act violation costs. The rate increases were subject to two Proposition 218 votes of all ratepayers in the City,[6] and both passed.

With respect to the consolidated CDP application being considered by the Commission, some have argued that public participation is compromised and thus the CDP application should not be consolidated for review in front of the Commission.[7] CDP application consolidation is a tool that the Coastal Act expressly provides to help avoid multiple overlapping CDP processes, including potential appeals to the Commission of local government CDP actions where the Commission also retains some direct CDP jurisdiction, and to help avoid complicating review due to different standards of review for different components of the same project that span multiple permitting jurisdictions. Because it spans three different CDP jurisdictions, and because appeals of any City/County CDPs are reasonably foreseeable, consolidation here is particularly appropriate provided that public participation is "not substantially impaired" as required by the Coastal Act, which, in this case, it is not. In fact, the City has fostered significant local public participation, including creating a citizens advisory committee, having over 50 public meetings on the project

[5] For example, as of the time of publishing this report, the State Water Resources Control Board was recommending the City receive up to $105 million in low-interest loans and grants, and the City has also received a favorable rating to receive funding from the United States Environmental Protection Agency's water infrastructure loan program as well.

[6] Proposition 218 requires a vote of the people to raise certain government taxes, fees, and assessments. Under Proposition 218, property owners get to vote on proposed municipal utility rate increases, and if 50 percent plus one property owner objects to the increase, the increase cannot move forward.

[7] The proposed project spans three CDP jurisdictions, requiring a CDP from San Luis Obispo County for the portion of the proposed project within the unincorporated County (i.e., the WRF itself and new pipelines and related development extending to/from the City), a CDP from the City for the portion of the proposed project within the City (i.e., new pipelines, pump stations, demolition and restoration of the existing WWTP site and related development in the City), and a CDP from the Commission for the portion of the proposed project in the Pacific Ocean in the Commission's retained/direct jurisdiction (i.e., modifications to the ocean outfall line). When proposed projects span the Commission's retained/direct CDP jurisdiction and the delegated CDP jurisdiction of one or more local governments, such as in this case, the Coastal Act allows for the CDP application to be heard as one "consolidated" Coastal Commission CDP application if the applicants, local governments, and the Commission (through its Executive Director) all agree to consolidate, and "provided that public participation is not substantially impaired by that review consolidation" (Section 30601.3). In this case the Applicant/City (through the City Council), the County (through the County Board of Supervisors), and the Commission (through its Executive Director) all agreed that the criteria for consolidation were met and agreed to consolidate the CDP application before the Commission.

in the past two years alone (including two City Council hearings to solicit public input and Council direction/discussion on the proposed project in the past few months) and making project changes based on such public input. In addition, both the City Council and the County Board of Supervisors expressly voted to authorize consolidation following public hearings in the past few months. And now, the Coastal Commission has scheduled the CDP hearing in San Luis Obispo, which is about a 20-minute drive from Morro Bay, as a means of making it easier for affected City residents and local interested parties to participate. Considering all of the above, the City's efforts to date with regard to public participation and CDP consolidation for the proposed project do not raise any significant environmental justice concerns.

Finally, regarding the environmental justice aspects implicated by the WRF, it is important to keep in mind that the proposed project is meant to serve numerous public and coastal resource benefits for all ratepayers in the City of Morro Bay, including in terms of relocating critical wastewater infrastructure out of a coastal hazards area, of improving water quality through tertiary treatment, and through drinking water security and reliability through water recycling, groundwater replenishment, and indirect potable reuse. All of these components are significant public goods and provide security, resiliency, and adaptation for the entire Morro Bay community in an era of uncertainty brought by climate change. In short, the proposed project will benefit all Morro Bay residents and visitors with essential public goods and further environmental justice principles in this regard.

In conclusion, this proposed project is an important project that meets Coastal At consistency on many fronts—for the protection and enhancement of coastal resources, for providing essential public services to Morro Bay residents and visitors, and for providing adaptation and resiliency in an era of increased hazards exacerbated by climate change. The Commission directed the City to propose a project of this type back in 2013, finding that a project that perpetuated the City's water and wastewater status quo was not appropriate or consistent with the Coastal Act. The City responded to the Commission's directive, and the proposed project is the end result that addresses the Coastal Act concerns previously raised by the Commission in a way that provides a more sustainable wastewater and water supply future for the City. As conditioned, the proposed project is consistent with the Coastal Act, and staff recommends approval of the CDP. The motion to implement this recommendation in found on page 10.

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I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a CDP for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission* ***approve*** *Coastal Development Permit Number 3-19-0463 pursuant to the staff recommendation, and I recommend a* ***yes*** *vote.*

Resolution to Approve CDP: *The Commission hereby approves Coastal Development Permit Number 3-19-0463 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment**. The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This coastal development permit is granted subject to the following special conditions:

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two full size sets of Revised Final Plans with graphic scale to the Executive Director for review and approval. The Revised Final Plans shall be prepared by a licensed professional or professionals (i.e., architect, surveyor, geotechnical engineer, etc.), and shall be based on current professionally surveyed topographic elevations for the entire site. The Revised Final Plans shall be substantially in conformance with the proposed plans (prepared by Black & Veatch (dated February 2019) and dated received in the Coastal Commission's Central Coast District office on June 10, 2019) but shall be modified to achieve compliance with this condition, including that the Revised Final Plans shall show the following required changes and clarifications to the project:

   a) **Water Reclamation Facility (WRF) Approved Development Envelope.** All WRF development (including but not limited to buildings, tanks, infrastructure, parking, walkways, fences, etc.) shall be located within the development envelope and in the general configuration shown on **Exhibit 1**. Development shall be prohibited outside of the approved development envelope except for habitat restoration and enhancement related development (see **Special Condition 3** below) and access road related development. All development shall be identified on the Revised Final Plans.

   b) **Water Reclamation Facility Design.** The design and appearance of all WRF development shall reflect a rural agricultural theme (i.e., simple and utilitarian lines and materials, including use of board-and-batten siding, corrugated metal, muted earth tone colors, etc.). The plans shall clearly identify all measures that will be applied to ensure such design aesthetic is achieved, including with respect to all structures and all other project elements within view of Highway 1 (including the access road itself, all drainage facilities, curbs, landscaping, screens, signs, etc.). Development shall be sited and designed so as to reduce its visibility from Highway 1 to the maximum extent possible. At a minimum, the plans shall clearly identify all structural elements, materials, and finishes (including through site plans and elevations, materials palettes and representative photos, product brochures, etc.). Development shall blend with the natural topography as much as possible, and grading and retaining walls shall be minimized.

   c) **Pump Stations and Related Development Design**. All pump stations and all related development, including all power boxes and buildings, shall be sited and designed to limit impacts on public views as much as possible, including through limiting their footprint, siting elements below ground, minimizing the scale of any necessary above-ground elements, limiting above-ground access components (including manhole/hatch entries), using surface treatment and structural design consistent with and compatible with the immediately surrounding environment, limiting lighting to that necessary for public safety, removing non-native invasive plant species and landscaping with appropriate native plant materials (see also **Special Condition 1(d)**) including so that landscaping can help soften the appearance of any elements that are unavoidably above ground and to ensure seamless connectivity to the surrounding habitat and vegetation as

much as possible.

d) Landscaping. The Final Revised Plans shall include a landscape plan for the areas surrounding the WRF, pump stations, and other related development, where such landscaping shall be consist of native, non-invasive, and drought-tolerant species that provide appropriate screening and softening of development features in public views as much as possible. The landscape plan shall require all non-native plants on the site to be removed and the site kept free of such plants for as long as any portion of the approved development exists at this site. The landscape plan shall provide that all landscaped areas on the project site shall be maintained in a litter-free, weed-free, and healthy growing condition. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a "noxious weed" by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the site.

e) Lighting Minimized. Exterior lighting shall be wildlife-friendly, shall use lamps that minimize the blue end of the spectrum, and shall be limited to the minimum lighting necessary for pedestrian and vehicular safety purposes. All lighting (exterior and interior) shall be sited and designed so that it limits the amount of light or glare visible from Highway 1 to the maximum extent feasible (including through uses of lowest luminosity possible, directing lighting downward, etc.). The Revised Plans shall be submitted with documentation demonstrating compliance with these lighting requirements.

f) Windows and Other Surfaces. All windows shall be non-glare glass, and all other surfaces shall be similarly treated to avoid reflecting light, and all windows shall be bird-safe (i.e., windows shall be frosted, partially frosted, or otherwise treated with visually permeable barriers that are designed to prevent bird strikes).

g) Utilities. The Revised Final Plans shall clearly identify all utilities (e.g., water, stormwater, gas, electrical, telephone, data, etc.) and the way in which they will be connected to inland distribution networks. All such utilities shall be located underground.

h) Stormwater and Drainage. The Revised Final Plans shall clearly identify all stormwater and drainage infrastructure and related water quality measures (e.g., pervious pavements, etc.), with preference given to natural BMPs (e.g., bioswales, vegetated filter strips, etc.). Such infrastructure and water quality measures shall provide that all project area stormwater and drainage is filtered and treated to remove expected pollutants prior to discharge and directed to existing stormwater inlets/outfalls as much as possible. Infrastructure and water quality measures shall retain runoff from the project onsite to the maximum extent feasible, including through the use of pervious areas, percolation pits and engineered storm drain systems. Infrastructure and water quality measures shall be sized and designed to accommodate runoff from the site produced from each and every storm event up to and including the 85th percentile 24-hour runoff event. In extreme storm situations (i.e., greater than the 85th percentile 24-hour runoff event storm) where such runoff cannot be adequately accommodated onsite through the project's stormwater and drainage infrastructure, any excess runoff shall be conveyed inland offsite in a non-

erosive manner. All drainage system elements shall be permanently operated and maintained, and the plans shall identify all maintenance parameters for all stormwater and drainage infrastructure and related water quality measures, including based on manufacturers recommendations, which shall be provided. At a minimum, all traps/separators and/or filters shall be inspected to determine if they need to be cleaned out or repaired prior to October 15th each year, prior to April 15th each year, and during each month that it rains between November 1st and April 1st. Clean-out and repairs (if necessary) shall be done as part of these inspections. At a minimum, all traps/separators and/or filters must be cleaned prior to the onset of the storm season, no later than October 15th of each year. Debris and other water pollutants removed from filter devices during clean-out shall be contained and disposed of in a proper manner. All inspection, maintenance and clean-out activities shall be documented in an annual report submitted to the City Public Works Department no later than June 30th of each year. It is the Permittee's responsibility to maintain the drainage system in a structurally sound manner and its approved state.

All requirements above and all requirements of the approved Revised Final Plans shall be enforceable components of this CDP. The Permittee shall undertake development in conformance with this condition and the approved Revised Final Plans.

2. **Construction Plan.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two copies of a preliminary phased Construction Plan for each project component to the Executive Director for review and approval (see also **Special Condition 8** for additional construction requirements for any offshore development within the Pacific Ocean, including all work related to the ocean outfall). The Construction Plan shall, at a minimum, include and provide for the following:

   a) **Grading.** The Construction Plan shall include a grading plan where site grading shall be limited to the minimum necessary to construct the project.

   b) **Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on riparian corridors and public views, as well as to employ best management practices (BMPs) to protect water resources onsite and in the surrounding area. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.

   c) **Construction Methods and Timing.** The Construction Plan shall specify all construction methods to be used to avoid riparian resources and public view impacts as much as possible, including use of trenchless construction methods and other BMPs as much as possible. Construction work during nighttime is prohibited absent authorization from the Executive Director that such work will not adversely impact coastal resources and if lighting is minimized as identified in **Special Condition 1(e)**.

d) Traffic Control Plan. The Construction Plan shall identify all roads that may be impacted during construction, and shall specify measures to ensure their continued operation and to avoid impacts to adjacent areas, including neighborhoods, businesses, and public recreational access destinations, to the maximum extent feasible, including in terms of potential emergency access and evacuation.

e) Property Owner Consent. The Construction Plan shall be submitted with evidence indicating that the owners of any properties on which construction activities are to take place, including properties to be crossed in accessing the site, consent to such use of their properties.

f) Best Management Practices. The Construction Plan shall clearly identify all construction BMPs to be implemented during construction, including their location and their specific use parameters. The plan shall also contain provisions for specifically identifying and protecting any natural drainage swales (i.e., with sand bag barriers, filter fabric fences, straw bale filters, etc.) to prevent construction-related runoff and sediment from entering into these natural drainage areas, which ultimately deposit runoff into the Morro Bay Estuary and the Pacific Ocean. Silt fences, straw wattles, or equivalent measures shall be installed at the perimeter of all construction areas. At a minimum, the plan shall also include provisions for stockpiling and covering of graded materials, temporary stormwater detention facilities, revegetation, and restricting grading and earthmoving during rainy/inclement weather. The Plan shall indicate that: (a) dry cleanup methods are preferred whenever possible and that if water cleanup is necessary, all runoff shall be collected to settle out sediments prior to discharge from the site, and that all de-watering operations shall include filtration mechanisms; (b) offsite equipment wash areas are preferred whenever possible; if equipment must be washed onsite, the use of soaps, solvents, degreasers, or steam cleaning equipment shall be prohibited; in any event, such wash water shall be collected and appropriately disposed offsite, and shall not be allowed to enter any natural drainage areas; (c) concrete rinsate shall be collected and appropriately disposed offsite, and shall not be allowed to enter any natural drainage areas; (d) good construction housekeeping shall always be required (e.g., clean up all leaks, drips, and other spills immediately; refuel vehicles and heavy equipment offsite and/or in one designated location; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather); and (e) all erosion and sediment controls shall be in place prior to the commencement of grading and/or construction as well as at the end of each day. Particular care shall be exercised to prevent foreign materials from making their way to natural drainage areas. Contractors shall insure that work crews are carefully briefed on the importance of observing the appropriate construction BMP precautions and reporting any accidental spills and/or other forms of discharge.

g) Post-Construction. All construction areas shall be restored to their pre-construction state or better upon completion of work. Where appropriate and feasible, roads/sidewalks impacted by construction shall employ stormwater management infrastructure BMPs, including bioswales, pervious pavers, garbage traps, and vegetative strips.

h) Construction Site Documents. The Construction Plan shall provide that a copy of the signed CDP and the approved Construction Plan be maintained in a conspicuous location at each construction job site at all times, and that such copies shall be available for public review on request. The signed CDP and approved Construction Plan shall also be retained in the project file at the Commission's Central Coast District office and be available for review by the public on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.

i) Construction Manager. The Construction Plan shall provide that a construction manager be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that his/her contact information (i.e., address, phone numbers, email address, etc.) including, at a minimum, a telephone number (with message capabilities) and an email that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas while still protecting public views as much as possible, along with indication that the construction manager should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction manager shall record the contact information (name, phone number, email, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. Any critical and/or significant complaints and related responses shall be reported to the Executive Director as soon as possible, and all complaints and all actions taken in response shall be summarized and provided to the Executive Director on a weekly basis.

j) Construction Specifications. The construction specifications and materials (including all construction contracts) shall include appropriate penalty provisions to address non-compliance with the terms and conditions of this CDP and the approved Construction Plan, including provisions sufficient to offset the cost of retrieving or cleaning up improperly contained foreign materials, and provisions that require remediation for any work done inconsistent with the terms and conditions of this CDP and the approved Construction Plan.

k) Notification. The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this CDP. The Permittee shall undertake construction in accordance with this condition and the approved Construction Plan.

3. Riparian Enhancement Plan. PRIOR TO OPERATON OF THE WRF, the Permittee shall submit two copies of a Riparian Enhancement Plan (REP) to the Executive Director for review and approval. The REP shall provide for riparian enhancement within the unnamed

creek and riparian area adjacent to the water reclamation facility site as generally shown on page 5 of **Exhibit 1**, where the goal of the REP shall be enhancing and restoring the area to a self-sustaining natural habitat state that can also function to help reduce downstream sedimentation and other pollutant loading. The REP shall be prepared by a qualified restoration ecologist, and shall take into account the specific condition of the site (including soil, exposure, water flows, temperature, moisture, wind, etc.), as well as restoration and enhancement goals. At a minimum, the plan shall provide for the following:

a) Baseline. A baseline assessment, including photographs, of the current physical and ecological condition of the creek and its riparian area, including a map demarcating the physical boundaries of the restoration program.

b) Success Criteria. A description of the goals and measurable success criteria of the REP in light of the primary goal specified above that the REP shall enhance and restore the area to a self-sustaining natural habitat state that can also function to help reduce downstream sedimentation or other pollutant loading, including, at a minimum, the requirement that success be determined after a period of at least three years wherein the creek and its riparian area has been subject to no remediation or maintenance activities other than weeding, and that this condition be maintained in perpetuity.

c) Non-Native and Invasive Removal. Removal of invasive and non-native plant species and planting of native species of local stock appropriate to riparian corridors in the Morro Bay area. Non-native and/or invasive plant species shall be prohibited. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist in the riparian area.

d) Landscape Screening. The REP shall be coordinated with the Landscape Plan (see also **Special Condition 1(d)**), including so that riparian area enhancement serves the dual purpose of also helping to provide the required screening if feasible and appropriate consistent with riparian enhancement objectives.

e) Hydrologic Inputs. The REP shall be coordinated with the post-construction drainage and erosion control system (see also **Special Condition 1(h)**), including so that any hydrologic inputs are consistent with riparian enhancement objectives.

f) Monitoring and Maintenance. Monitoring and maintenance provisions, including a schedule of the proposed monitoring and maintenance activities to ensure that success criteria are achieved.

g) Reporting. Provision for submission of annual reports of monitoring results to the Executive Director, beginning the first year after initial implementation of the REP and concluding once success criteria have been achieved. Each report shall document the condition of the creek and its riparian habitat with photographs taken from the same fixed points in the same directions, shall describe the progress towards reaching the success

criteria of the REP, and shall make recommendations, if any, on changes necessary to achieve success.

h) Provision for Possible Further Action. If the final monitoring report indicates that the REP has been unsuccessful, in part or in whole, based on the approved success criteria, the Permittee shall submit within 90 days a revised or supplemental plan to compensate for those portions of the original plan which did not meet the approved success criteria. The Permittee shall implement the revised or supplemental plan as directed by the Executive Director.

i) Restoration Completion. Restoration activities shall commence immediately upon completion of construction of the water reclamation facility, and shall be completed within six months.

The approved REP shall be implemented as directed by a qualified restoration ecologist. All requirements above and all requirements of the approved REP shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved REP.

4. Archaeological Protection. An archaeological monitor qualified by the Native American Heritage Commission shall be present during all ground disturbance (including grading activities), and shall be consulted to provide recommendations for subsequent measures for the protection and disposition of artifacts of historical or cultural significance in the event such artifacts are discovered. In the event that any article of historical or cultural significance is encountered, all activity that could damage or destroy these resources must cease and the Executive Director, the Native American Heritage Commission, and all appropriate local tribal representative(s) (as identified in the project's Cultural Resources Mitigation and Monitoring Program pursuant to EIR Mitigation Measures CUL-1 through 14) must be notified so that the articles may be suitably protected or flagged for future research. Mitigation measures shall be developed in accordance with Native American Heritage Commission and local tribal representative recommendations, and submitted to the Executive Director for review and approval, and such measures shall be required to address and proportionately offset the impacts of the project on such archaeological resources prior to recommencement of construction activity.

5. Agricultural Mitigation Program. PRIOR TO OPERATION OF THE WRF, the Permittee shall submit an Agricultural Mitigation Program to the Executive Director for review and approval. The Program shall specify the measures to be taken to mitigate for project agricultural impacts by providing an agricultural conservation easement over agricultural property of a similar quality as the project site, and of a type that is potentially threatened by urban development, at a ratio of at least 2:1 for the loss of agricultural land associated with the approved project (i.e., the easement must cover at least 30 acres of such agricultural land). The Program may also specify other measures to satisfy this mitigation requirement, including, but not limited to, protecting agricultural lands and operations through measures that facilitate the success of agricultural operations over land of a similar quality/type and amount contemplated to be protected by the agricultural conservation easement (e.g., providing recycled water to serve agricultural operations in lieu of more expensive water

supply options, City policies prohibiting urban growth into agricultural lands, etc.). If the Program identifies other such measures in whole or in part to satisfy this mitigation requirement, then the Executive Director must determine that such alternative measures provide a commensurate amount of mitigation (to the 2:1 conservation easement) to protect agricultural lands and operations in the City of Morro Bay and/or in the closely surrounding area. The agricultural conservation easement shall be recorded in a form and content acceptable to the Executive Director, and/or other acceptable mitigation measures shall be realized, prior to operation of the WRF.

All requirements above and all requirements of the approved Agricultural Mitigation Program shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Agricultural Mitigation Program.

6. **Recycled Water Management Plan.** PRIOR TO CONSTRUCTION OF THE WRF, the Permittee shall submit two copies of a Recycled Water Management Plan (RWMP) to the Executive Director for review and approval. The objective of the RWMP shall be to ensure that the maximum amount of tertiary-treated recycled water is produced, and the maximum amount of such water is used for beneficial reuse purposes, including injected underground in locations that will maximize its ability for groundwater replenishment and indirect potable reuse, including over the long term and taking into account potential sea level rise and increased aquifer seawater intrusion, and replacing existing potable water use with recycled water use where feasible and appropriate, including with respect to both urban and agricultural reuse (see also **Special Condition 5**). In addition, the Plan shall ensure that the sites designated for injection of treated wastewater are designed to maximize the long-term health and sustainability of groundwater and surface water and related resources (including wetlands, streams, creeks, lakes, riparian corridors, marshes, etc.) as much as possible, including with respect to potential sea level rise and increased aquifer seawater intrusion.

   All requirements above and all requirements of the approved RWMP shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved RWMP.

7. **Wastewater Treatment Plant Removal and Restoration Plan.** PRIOR TO OPERATON OF THE WRF, the Permittee shall submit two copies of a Wastewater Treatment Plant Removal and Restoration Plan to the Executive Director for review and approval. The Plan shall indicate how the existing wastewater treatment plant located at 160 Atascadero Road will be decommissioned and demolished, including through removal of all plant components (e.g., buildings, fences, storage tanks, etc.), and the site restored to a safe and level configuration roughly matching the surrounding areas. The WWTP site shall be restored within one year of WRF and Cayucos CSD operation.

   All requirements above and all requirements of the approved Wastewater Treatment Plant Removal and Restoration Plan shall be enforceable components of this CDP. The Permittee shall undertake development in accordance with this condition and the approved Wastewater Treatment Plant Removal and Restoration Plan.

8. **Outfall Assessment Plan.** PRIOR TO THE COMMENCEMENT OF ANY MARINE DEVELOPMENT, INCLUDING ANY OFFSHORE DEVELOPMENT ON THE OCEAN OUTFALL, the Permittee shall submit two copies of an Outfall Assessment Plan to the Executive Director for review and approval. The Plan shall specify the procedures for undertaking a complete inspection of the existing outfall line from the existing wastewater treatment plant connection point to the outfall line's termination point in the ocean so as to assess its integrity and long-term functioning, and to replace diffusers and remove sediment buildup as necessary, all prior to operation of the new WRF facility. The Plan shall also identify construction best management practices to avoid adverse impacts to coastal water quality to the maximum extent feasible.

   At a minimum, the Plan shall include the following coastal water quality and marine habitat protection elements, and shall be implemented consistent with vessel and worker safety:

   a) Prior to the start of offshore activities the Permittee shall provide awareness training to all Project-related personnel and vessel crew, including viewing of an applicable wildlife and fisheries training video regarding the most common types of marine wildlife likely to be encountered in the Project area and the types of activities that have the most potential for affecting such wildlife.

   b) A minimum of two qualified marine mammal observers shall be located on the derrick barge or other nearby project vessel to conduct observations, with two observers on duty during all outfall inspection and maintenance activities. The Plan shall identify any scenarios that require an additional observer on the barge or other Project vessel and, in these cases, make recommendations as to where this person should be placed to ensure complete coverage of the surrounding marine environment.

   c) Shipboard observers shall submit a daily sighting report to the Executive Director no later than noon the following day that shall be of sufficient detail to determine whether observable effects to marine mammals are occurring.

   d) The observers shall have the appropriate safety and monitoring equipment adequate to conduct their activities (including night-vision equipment, when applicable).

   e) The observers shall have the authority to temporarily halt any project activity that could result in harm to a marine mammal, sea turtle or other special status species, and to suspend those activities until the animals have left the area. For monitoring purposes, the observers shall establish a 1,640-foot (500-meter) radius avoidance zone around the derrick barge and other Project vessels for the protection of large marine mammals (i.e., whales) and a 500-foot (152-meter) radius avoidance zone around the derrick barge and other Project vessels for the protection of smaller marine mammals (i.e., dolphins, sea lions, seals, etc.) or sea turtles.

   f) In the event that a whale becomes entangled in any cables or lines (e.g., vessel mooring lines), the observer shall immediately notify the National Marine Fisheries Service (NMFS) and the Executive Director, so appropriate response measures can be implemented. Similarly, if any take occurs, as that term is defined in the Federal Endangered Species Act, including to a marine mammal or sea turtle, the observer shall

immediately notify the Executive Director, NMFS and any other required regulatory agency.

g) Propeller noise and other noises associated with pipeline removal and other decommissioning activities shall be reduced or minimized to the maximum extent feasible.

h) In addition to onsite monitoring, the Plan shall describe measures to be taken during the transit of project vessels and equipment to the project site in order to minimize the risk of collisions with marine mammals and/or sea turtles. Such measures shall include, but are not limited to, restrictions on vessel speed.

i) The captain of the derrick barge and the Permittee's project management team shall be responsible for ensuring that the Plan is implemented.

j) A final report summarizing the results of monitoring activities shall be submitted to the Executive Director and other appropriate agencies no more than 90 days following completion of pipeline removal and other offshore activities. The report shall include: (a) an evaluation of the effectiveness of monitoring protocols and (b) reporting of (i) marine mammal, sea turtle, and other wildlife sightings (species and numbers); (ii) any wildlife behavioral changes; and (iii) any project delays or cessation of operations due to the presence in the project area of marine wildlife species subject to protection.

k) There shall be no marine discharge of sewage or bilge/ballast water from project vessels during offshore project activities. A zero-discharge policy shall be adopted for all project vessels. All sediment from the outfall shall be collected and disposed of at an inland location. No discharge of any kind is allowed into marine waters.

The Plan shall also include provisions documenting the feasibility of outfall removal in the future, including defining triggers for when the outfall is no longer needed for effluent discharge, including full effluent beneficial reuse or through inland discharge.

All requirements above and all requirements of the approved Outfall Assessment Plan shall be enforceable components of this CDP. The Permittee shall undertake the outfall line assessment in accordance with this condition and the approved Outfall Assessment Plan.

9. Wastewater Service Boundary. Wastewater service to properties outside of the City's wastewater service area as shown in page 14 of **Exhibit 3** shall be prohibited without an amendment to this CDP. Expanded service area through a CDP amendment shall be prohibited unless, at a minimum, such expanded wastewater services will not lead to adverse coastal resource impacts, including that such amendment will not induce development growth within the County or the City inconsistent with either respective LCP, as applicable.

10. Coastal Hazards Risk. By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns:

a) Coastal Hazards. That the site of certain project components (including pump stations and pipelines near the shoreline and at low-lying elevations, and including the ocean

outfall) is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, tidal scour, coastal flooding, liquefaction, sea level rise, and the interaction of same.

b) Assume Risks. To assume the risks to the Permittee and the property that is the subject of this CDP of injury and damage from such coastal hazards in connection with this permitted development.

c) Waive Liability. To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such coastal hazards.

d) Indemnification. To indemnify and hold harmless the Coastal Commission, its officers, agents, and employees with respect to the Commission's approval of the development against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards.

e) Property Owners Responsible. That any adverse effects to property caused by the permitted development shall be fully the responsibility of the Permittee and/or property owners.

11. Coastal Hazards Response. By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that the intent of this approval is to allow for the approved project to be constructed and used consistent with the terms and conditions of this CDP for only as long as project components remain safe for use without additional measures beyond ordinary repair and/or maintenance as that term is defined in Section 30610(d) of the Coastal Act (including sealing and waterproofing repair and/or maintenance that does not involve extraordinary measures as that term is defined in Section 13252(a) of the Commission's regulations) and without reliance on a shoreline protective device or devices to protect them from coastal hazards. In lieu of shoreline protective devices, the intent of the CDP is that any project components that are threatened by coastal hazards shall require a CDP amendment to modify and/or relocate the threatened project components inland and away from the coastal hazards threat. By acceptance of this CDP, the Permittee agrees to waive any rights that it may have under Coastal Act Section 30235, the City's LCP, or other applicable laws, to shoreline protective devices to protect the development authorized by this CDP.

12. Public Rights. By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that the Coastal Commission's approval of this CDP shall not constitute a waiver of any public rights that may exist on the properties involved. The Permittee shall not use this CDP as evidence of a waiver of any public rights that may exist on the properties now or in the future.

13. Other Authorizations. PRIOR TO CONSTRUCTION OF THE WRF, the Permittee shall provide to the Executive Director written documentation of authorizations from the Central Coast Regional Water Quality Control Board, the State Water Resources Control Board, the

California Department of Fish and Wildlife, the California State Lands Commission, the National Marine Fisheries Service, and the U.S. Army Corps of Engineers, or evidence that no such authorizations are required. The Permittee shall inform the Executive Director of any changes to the project required by any other such authorizations. Any such changes shall not be incorporated into the project until the Permittee obtains a Commission amendment to this CDP, unless the Executive Director determines that no amendment is legally required.

14. **Minor Changes.** The Permittee shall undertake development in conformance with the terms and conditions of this CDP, including with respect to all Executive Director-approved plans and other materials, which shall also be enforceable components of this CDP. Any proposed project changes, including in terms of changes to identified requirements in each condition, shall either (a) require a CDP amendment, or (b) if the Executive Director determines that no amendment is legally required, then such changes may be allowed by the Executive Director if such changes: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

15. **Future Permitting.** All future proposed development related to this CDP shall require a new CDP or a CDP amendment that is processed through the Coastal Commission, unless the Executive Director determines a CDP or CDP amendment is not legally required.

16. **Indemnification by Permittee/Liability for Costs and Attorneys' Fees.** By acceptance of this CDP, the Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees – including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay – that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this CDP. The Coastal Commission retains complete authority to conduct and direct the Commission's defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION, BACKGROUND, AND DESCRIPTION

Project Location and Background
The City of Morro Bay is a seaside town of roughly 10,000 residents located along the central coast of California in San Luis Obispo County. The City was incorporated in 1964 and covers roughly five square miles, with the more urban portion of the community nearest to Morro Bay and the Pacific Ocean surrounded by open agricultural hills and Morro Bay State Park's protected parkland, coastal beaches, and the Morro Bay Estuary. The City's Department of Public Works provides wastewater services, and the wastewater service area is coincident with the City limit (see **Exhibit 1** for location maps and photos of the Morro Bay area, and page 14 of **Exhibit 3** for a map of the City's wastewater service boundary).

The existing Morro Bay-Cayucos Wastewater Treatment Plant (WWTP) is located at 160 Atascadero Road in Morro Bay and is jointly owned and operated by the City and the Cayucos Sanitary District (CSD). The WWTP was originally built in 1954 and provides wastewater treatment services to the City and to the unincorporated community of Cayucos some six miles to the north (see **Exhibit 1** for photos of the existing WWTP). The City's proposed Water Reclamation Facility (WRF) is proposed to be located adjacent to the City in an unincorporated portion of the County on a 15-acre portion of an approximately 396-acre parcel along Highway 1, just north of the northern terminus of South Bay Boulevard. Other project components, including new pipelines, pump stations, and injection wells, will be located within the City, and the ocean outfall portion of the project extends from the shoreline of the City some 2,900 feet offshore in the Pacific Ocean. Specifically, the collection system modifications include two new lift stations, one adjacent to the existing WWTP in a City corporation yard and one located at the corner of Highway 1 and Main Street on a City-owned parcel. Multiple pipelines running along an alignment between the existing WWTP and the WRF site are also proposed, including two pipelines to convey raw wastewater from the two new pump stations to the WRF, a waste discharge pipeline to convey brine/excess treated wastewater to the existing ocean outfall, and a pipeline to convey WRF-purified water to groundwater injection locations in the City. See locations of all proposed project components in **Exhibits 1 and 3**.

The existing WWTP was built before modern State and Federal water quality standards were in place, and does not meet federal Clean Water Act (CWA) standards for full secondary treatment. Instead, the WWTP has been operating under a CWA waiver[8] for full secondary treatment requirements for biochemical oxygen demand and total suspended solids since 1984. In 2018, the City received a time schedule order (TSO) from the Central Coast Regional Water Quality Control Board (Regional Board) requiring compliance with full secondary treatment requirements by February 28, 2023.

Because of the age of the existing WWTP, its failure to meet core CWA water quality standards, and possibility of fines/penalties if the City fails to meet the Regional Board's TSO mandating CWA compliance by 2023, the City has been pursuing a new upgraded wastewater treatment

[8] Pursuant to Clean Water Act Section 301(h).

facility for over a decade. The City and the CSD initially proposed to redevelop the WWTP at its current site at 160 Atascadero Road, and the City approved a CDP for same in 2011. However, the City's CDP approval was appealed to the Coastal Commission by eleven different parties (Appeal Number A-3-MRB-11-001), with the Commission finding "Substantial Issue" and taking jurisdiction over the CDP application in March 2011. Following significant back and forth between the City and Commission staff, particularly regarding potential project alternatives, in January 2013 the Commission denied a CDP for the City's redevelopment-in-place proposal on the basis of LCP inconsistencies with respect to avoiding coastal hazards, land use priorities, recycled water provisions, and public view protections. The Commission adopted findings for its denial, including those set forth in the summary of the adopted staff report:

The first issue raised by the proposed project is that a new WWTP is not an allowed use under the LCP's zoning at its existing location. The existing WWTP is a non-conforming use under the LCP's certified light-industrial zoning of the site, and construction of a new WWTP on this site is not an allowable use and is therefore inconsistent with the LCP. At a minimum, approval of a new WWTP at the proposed location would first require that the LCP be amended to allow such a use. However, given that the site is located in a prime visitor-serving redevelopment opportunity area for the City, and given the other constraints to WWTP development at this location, it is not clear that such an LCP amendment would be appropriate.

Second, with respect to coastal hazards, the WWTP site is located in a tsunami run-up zone in an area that would also be inundated in a 100-year storm event through flooding (associated with Morro Creek), which could be exacerbated by dune migration and sea-level rise over time. The project proposes to address these issues by elevating the new WWTP on roughly four acres of fill up to seven and a half feet high, estimated by the Applicant to amount to approximately 35,000 cubic yards of fill (equivalent to approximately 3,500 large truckloads of fill soil). The LCP requires that risks from coastal hazards be minimized, and appears to contemplate flood elevation as a means to do that in certain circumstances. However, given the significant potential flooding at this location, and the uncertainty of future long-term risks over the potential life of the project, staff does not believe that siting a large public infrastructure project in a flood zone by using a such a large fill slope, instead of siting the WWTP out of a hazardous area, is consistent with the LCP (including with LCP policies requiring that projects with excessive grading be denied, and with policies designed to maximize protection of the existing landform by fitting development to existing topography and natural grade). In a 100-year flooding event, the WWTP would be an island, and in a tsunami, it would be under water; neither of which conservatively minimize hazard risk as required by the LCP.

The WWTP project would produce tertiary treated wastewater, but it only includes a small reclamation component, one that is designed to use only a portion of the reclaimed water that could potentially be produced. The vast majority of the treated wastewater would be discharged to the ocean via the existing WWTP ocean outfall that extends some 2,900 feet into the ocean. The City's LCP not only requires the project to include reclamation, but also requires protection and enhancement, where feasible, of Morro and

Chorro groundwater basins, as well as coastal streams, wetlands, and related freshwater resources. Read as a whole, the LCP thus directs a WWTP project to maximize reclamation so that such recycled water can be made available to both offset potable water use as well as to enhance freshwater resources (e.g., through use for agricultural irrigation, urban landscaping, groundwater replenishment, etc.). These concerns are especially important given that the City receives much of its water from the State Water Project and reclamation would provide an important contingency in the event that such water transfers are suspended, reduced, or otherwise impacted (e.g., increase in costs, etc.).

Finally, the WWTP site is located in an LCP-designated sensitive view area between Highway 1 and Morro Rock. The LCP requires the scenic and visual qualities of the coast to be protected and where feasible enhanced, and requires development to be sited and designed to protect views to and along the ocean and other coastal areas. The new WWTP would be in a similar location as the plant to be demolished, but would be taller, including because it would be elevated on a fill slope above flood levels. Although the development pattern and area of the WWTP is not currently significantly visually sensitive, given that this is a non-conforming use and the area could potentially be redeveloped to connect upcoast Morro Bay with the Embarcadero as a visitor-serving and public recreational access unit, the development of such a facility is problematic from a visual perspective as well.

In short, the proposed project is inconsistent with the City's LCP, including policies related to allowable uses and land use priorities, hazard avoidance and response, sustainable public infrastructure, and public viewshed protection, where these inconsistencies are largely related to the Applicant's chosen site; a site that is identified by the LCP for lower intensity industrial development than a WWTP, such as coastal-dependent commercial fishing related uses…

In short, the Commission denied the proposed redeveloped WWTP because it did not conform with the allowable uses and land use priorities for the site in question designated under the LCP, and because such critical public infrastructure would be subject to the significant projected risks and uncertainties from coastal hazards, including because the site is located at the confluence of Morro Creek and the ocean. Furthermore, rebuilding in place would result in a critical lost opportunity for adaptation in the face of climate change, including in terms of both relocating essential public infrastructure away from coastal hazard risk areas as well as in terms of providing a new sustainable water source for the community.

Following the CDP denial and in response to the Commission's direction to the City and the CSD on the appropriate path to upgraded wastewater and water reclamation functions, the City began to study alternative site locations outside of the existing WWTP site inland and away from coastal hazard risk. From 2013 to the beginning of 2014, the City led a public community outreach process that sought to define project goals to guide the planning and design for a new wastewater facility. Some of the developed criteria included compliance with CWA treatment/effluent standards, distance to the City's existing sewer collection system, avoidance

of coastal hazards, potential noise/visual/smell impacts on adjacent neighborhoods, and sustainable use of public resources.

Based on these criteria, the City developed five comparative siting studies between 2013 and 2017, narrowing a total of 17 identified potential siting location options down to four: the Rancho Colina and Righetti sites, both in the Morro Valley off Highway 41; the Giannini site, located in the coastal foothills just east of and overlooking the City; and Tri-W site (now called the South Bay Boulevard site) in the Chorro Valley off Highway 1 (see **Exhibit 4** for these sites). By this time as well, the City and the CSD had decided to pursue different wastewater and water reclamation projects,[9] and the City's efforts focused on finding a suitable site to build a wastewater facility to serve its residents only.

In April 2016, the City Council directed further investigation of the four above-mentioned sites to address a variety of neighborhood compatibility and cost concerns, and officially developed the following project goals and objectives:

- Produce tertiary, disinfected water in accordance with Title 22[10] requirements for unrestricted urban irrigation in a cost-effective manner for all ratepayers.
- Design to be able to produce reclaimed wastewater for potential users, which could include public and private landscape areas, agriculture, or groundwater recharge. A master water reclamation plan should include a construction schedule and a plan for bringing on recycled water customers in a cost-effective manner.
- Allow for onsite composting.
- Design for energy recovery.
- Design to treat contaminants of emerging concern in the future.
- Design to allow for other possible municipal functions at the site (i.e., City corporation yard, as well as other potential uses such as a public park and education center).
- Ensure compatibility with neighboring land uses.
- Have a new WRF operational within five years.

In June 2016, the City selected the Tri-W/South Bay Boulevard site as the one that best met the Council's identified goals as well as the Commission's direction, including because it offered a site away from the shoreline and eliminated coastal hazards risk, would be located away from existing neighborhoods and thus avoided potential community impacts, and therefore offered a safe location for a long-term investment in critical public infrastructure. With a location selected,

[9] In April 2015, the CSD decided to pursue an independent path from the City to build its own new wastewater and water reclamation facility located outside the coastal zone. The CSD's Cayucos Sustainable Water Project, a new 340,000-gallon-per-day tertiary-treated wastewater treatment and water reclamation facility, broke ground in 2018 and is currently under construction at an inland location out of harm's way nearer to Cayucos, where that plant is likewise designed to help Cayucos reach water supply sustainability through reclamation.

[10] Title 22 refers to California's water quality laws/standards.

the City began undertaking more detailed planning analyses, including in terms of recycled water elements, engineering, and cost.

Project Description
The proposed project can be broken down into the following components:

- Subdivision of an existing privately-owned 396-acre parcel into a 27.6-acre parcel to be owned by the City and a 368.4-acre parcel to remain in private ownership for continued grazing/agricultural use.
- Construction of a new 0.97 million-gallon-per-day (MGD) water reclamation facility (WRF) on 15 acres of the newly created City-owned parcel designed to treat wastewater to a tertiary level.[11]
- Construction of conveyance infrastructure, including pipelines carrying untreated wastewater to the WRF and pipelines carrying treated water away from the WRF, and two pump stations (one at an existing City corporation yard at 170 Atascadero Road and the other on a City-owned lot at the intersection of Main Street and Highway 1, both in the City of Morro Bay).
- Injection of treated water underground for future productive use, a process called indirect potable reuse (IPR), via a new series of up to eight injection wells located at various locations within the lower Morro Valley, including adjacent to Lila Keiser Park, all in the City of Morro Bay.
- Decommissioning and demolition of the existing WWTP upon WRF operation, and restoration of the WWTP site.
- Use, inspection, and maintenance/repairs/upgrades to the existing ocean outfall.
- Operation of the new water reclamation facility and overall system, including groundwater injection and other related components, moving forward.

Each of these proposed project components is described more fully below.

Subdivision
The City proposes to site the new WRF on a portion of an existing 396-acre parcel located outside the City limits in unincorporated San Luis Obispo County. The parcel is located just north of the intersection of Highway 1 with South Bay Boulevard, and is locally known as the "Tri-W" site. The parcel is designated Agriculture pursuant to the County's LCP, and is currently used as non-irrigated rangeland for grazing. As proposed, the parcel would be subdivided into two parcels, one 27.6-acre parcel nearest the highway to be owned by the City,[12] with the remaining 368.4-acre parcel to remain in private ownership for continued grazing/agricultural use. See page 13 of **Exhibit 3** for the proposed subdivision map.

[11] Tertiary refers to a treatment process whereby wastewater is chemically treated in a manner to disinfect pathogenic microorganisms and viruses, thereby allowing for potential potable use. It is also sometimes referred to as "advanced treatment" since it exceeds the CWA standard secondary treatment requirements.

[12] The City plans to annex this property into the City's limits in the future following approval of the WRF.

Water Reclamation Facility
The WRF is proposed to be built on 15 acres of the subdivided 27.6-acre City parcel, and is designed to provide tertiary treatment for wastewater produced within the City's service area, which is coincident with existing City limits (i.e., the City currently only provides wastewater service for development within its City limits). The WRF will be sized to treat a maximum average annual daily flow rate of 0.97 MGD and a peak wet-weather flow of 8.14 MGD. The facility design includes modern wastewater treatment operations, including primary treatment via influent screening and grit removal, secondary treatment through biological means, and tertiary treatment via a membrane bioreactor, reverse osmosis and ultraviolet disinfection with an advanced oxidation process. Solid residuals from the secondary and tertiary processes would be mechanically dewatered and disposed of offsite, and liquid residuals (as well as tertiary treated water that is not otherwise used) would be directed through the ocean outfall approximately 2,900 feet offshore. The site will also house related buildings, an access road, and parking. See **Exhibit 3** for plans for the WRF.

Conveyance Pipelines and Pump Stations
Two new pipelines (one 12 inches in diameter and the other 16 inches in diameter) will convey raw wastewater from the existing collection system (which currently flows to the existing WWTP site) and, through two new pump stations,[13] will redirect such flows to the new WRF. In addition, a new 8-inch-diameter pipeline is proposed to convey treated water from the WRF to new injection wells located in the Morro Valley, and a proposed new 16-inch waste discharge pipeline will convey brine (and/or treated flows that cannot be injected for reuse) to the ocean outfall. The proposed pipeline route is approximately 3.6 miles and travels east from a new pump station located within an existing City-owned corporation yard along Atascadero Road, venturing south within the California Department of Transportation (Caltrans) right-of-way (ROW) around Lila Keiser Park before following an existing parkway/bike path across Morro Creek. It would continue southeast along the Main Street ROW until it joins and follows Quintana Road. Continuing in a southeast direction on Quintana Road, the pipelines would pass through the street crossings of Kennedy Way, Morro Bay Boulevard, then Kings Avenue, Bella Vista Drive, and La Loma Avenue to South Bay Boulevard. The proposed alignment then runs north on South Bay Boulevard, crosses under Highway 1 at the interchange overpass, and would continue north towards the proposed WRF site. With the exception of a new pipe bridge crossing over Morro Creek, the pipelines will be located underground. See page 7 of **Exhibit 1** for the locations and specifications of the proposed pipelines and pump stations, and pages 10 and 11 of **Exhibit 3** for the location of the pump stations (shown as "PS-B" and PS-A," respectively).

Recycled Water Program
One of the proposed project's goals is to enhance the City's water supply portfolio. The proposed end use for recycled water produced at the WRF is indirect potable reuse (IPR), which would involve groundwater replenishment in the Morro Valley (see map of proposed locations on page 12 of **Exhibit 3**) via up to eight new injection wells. Once injected underground,[14] the City

[13] One located in an existing City corporation yard on Atascadero Road and another located on Main Street at its intersection with Highway 1.

[14] As discussed in more detail subsequently, recycled water must be underground for at least two months before it can be used for potable consumption purposes, per the requirements of the California Department of Public Health.

would use its existing infrastructure to extract the water and deliver it to Morro Bay residents as part of the City's water supply portfolio for unrestricted residential, commercial, and industrial use. The City indicates that approximately 825 acre feet per year (AFY) of purified water would be injected into the aquifer, and use of such water would meet approximately 80 percent of the City's potable water demand.

The injection wells would be located within various locations within the Morro Valley, including the Narrows, which is the area on the eastern end of the City along Highway 41 where Morro Creek and Little Morro Creek converge (also known as the IPR-East location), and an area west of Highway 1 near the City's existing corporation yard and Lila Keiser Park (identified as IPR-West). Injection wells would be located on vacant lands owned by the City or within the City ROW, and each would be enclosed with fencing and have footprints of approximately 200 square feet each. Once injected into the groundwater basin, the water would be extracted for potable use and domestic consumption using the City's existing extraction wells and storage, distribution, pumping, and delivery facilities.

Wastewater Treatment Plant Decommissioning
Once the WRF (and the Cayucos CSD's wastewater facility) is operational and the existing WWTP is no longer needed, the City proposes to decommission and demolish it, and restore the site, leaving the site available for future uses. See **Exhibit 1** for the location and photos of the existing WWTP, and see **Exhibit 2** for the City's decommissioning, demolition, and restoration proposal.

Ocean Outfall
The City and the CSD currently jointly own and use an ocean outfall that extends from the existing WWTP and passes under sand dunes and the beach and then extends some 2,900 feet into the ocean to discharge partially secondary-treated wastewater. The City would continue to use the outfall for discharge of brine (i.e., byproducts of tertiary treatment) and any excess tertiary-treated wastewater that cannot be injected underground.[15] Discharge water quality will be in accordance with applicable California Ocean Plan discharge requirements promulgated by the State Water Resources Control Board (State Water Board). To better accommodate the discharge, the City proposes to clean and replace 28 of the outfall's 34 existing diffusers that suffer from an estimated 30 cubic yards of sediment buildup. To do so, they will first conduct a condition-and-hydraulic assessment of the outfall, where divers will visually inspect the outfall's exterior, measure pipe thickness, identify any coating defects, and use a remotely operated vehicle to video the inside of the outfall to both quantify and characterize the sediment that must be removed. The City will then clean out and maintain the outfall, including through replacement of the diffusers if necessary, where such work would be staged from a barge offshore with no disturbance of the dunes, beach, or surf zone. All sediment removed from the outfall would be pumped onto the barge, transported to land, and disposed of at an appropriate inland location. See page 7 of **Exhibit 1** for the location of the existing outfall and the City's proposed assessment, maintenance and repair/upgrade plans for the outfall.

[15] Note that the CSD's WRF under construction would also use the outfall for disposal of brine and excess tertiary water, but the CSD is also currently looking at alternative discharge arrangements nearer to Cayucos.

B. STANDARD OF REVIEW

If a CDP for a particular development is needed from both the Commission and a local government or governments with a certified LCP, Coastal Act Section 30601.3 allows the Commission to act on a single consolidated CDP (with the policies of Chapter 3 of the Coastal Act as the standard of review, and the certified LCPs as non-binding guidance), as long as the Commission's Executive Director, the local governments, and the applicant agree to such consolidation and if public participation would not be substantially impaired. In this case, the proposed project is located within three CDP permitting jurisdictions: the new WRF is located within unincorporated San Luis Obispo County subject to the County's LCP; the proposed pipelines, pump stations, injection wells, and the existing Plant are all located within the City of Morro Bay and subject to the City's LCP; and the existing ocean outfall is located within the Commission's original/retained jurisdiction and subject to the Coastal Act. All parties agreed (including through two affirmative votes by the Morro Bay City Council and the San Luis Obispo County Board of Supervisors) to consolidate the CDP application, and thus the standard of review for this consolidated CDP application is the policies of Chapter 3 of the Coastal Act. See additional discussion about the consolidation process in the Environmental Justice section of this report.

C. AGRICULTURAL RESOURCES

Applicable Policies

Sections 30241, 30242, and 30250 of the Coastal Act require the protection of agricultural lands within the coastal zone by, among other means, requiring that the maximum amount of prime agricultural land be maintained in agricultural production, that lands suitable for agricultural use not be converted to non-agricultural uses unless continued agricultural use is infeasible, and by otherwise requiring new development to be located within existing developed areas without adverse impacts to coastal resources, which include agriculture.

> ***Section 30241.*** *The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:*
>
> *(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*
>
> *(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
>
> *(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.*

(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.

(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.

(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.

Section 30242. *All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.*

Section 30250. *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, coastal resources. In addition, land divisions, other than lease for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

To protect the agricultural economy and to minimize conflicts between agricultural and other uses, Coastal Act Section 30241 identifies a series of measures, including establishing stable urban-rural boundaries, providing agricultural buffers, ensuring that non-agricultural development is directed first to lands not suitable for agriculture or to transitional lands on the urban-rural boundary, ensuring that adjacent development does not diminish agricultural productivity, restricting land divisions, and controlling public service or facility expansions. Other lands suitable for agricultural use and productivity of soils and timberlands are to be protected as well, with certain exceptions. These requirements are implemented in order to protect an area's agricultural economy, minimize conflicts between agricultural uses and other land uses, and concentrate development in and around existing developed areas. For example, non-prime agricultural lands often physically buffer the more valuable prime agricultural lands from conflicts with other uses. Thus, protection of non-prime agricultural lands also serves to protect agricultural production on prime lands. Conversion and fragmentation of any agricultural land not only diminishes opportunities for economies of scale, but also increases the exposure of the remaining farm operations to conflicts with nearby urban users over such matters as noise, odor, pesticide use, smoke, and animals.

Conversions of agricultural lands to non-agricultural uses are only allowed under limited circumstances, such as when they are surrounded by urban uses. Conversions of agricultural

lands around the periphery of urban areas may occur only where the viability of agricultural is severely limited or where conversion would complete a logical and viable neighborhood and contribute to a stable urban limit. Pursuant to Coastal Act Section 30242, conversions of "other lands suitable for agricultural use" (i.e., conversions other than those governed by Coastal Act Section 30241) are allowed only when continued or renewed agricultural use is infeasible, when they would preserve prime land, or where they would concentrate development.

Finally, Coastal Act Section 30250, cited in Sections 30241 and 30242, also protects rural agricultural lands by directing that new development be located in existing developed areas able to accommodate it and by requiring that land divisions outside of urban areas, other than for agricultural leases, not result in parcel sizes that can compromise agricultural viability.

Proposed Project and Analysis
The fertile soils, moderate climate, and groundwater resources of San Luis Obispo County allow it to have unique, diverse, and valuable agricultural resources. From grazing/rangelands to rich irrigated croplands, agriculture is a significant part of the County's economy. According to the project's EIR, the gross value of the County's agricultural production for 2016 totaled nearly a billion dollars ($914,724,000), an increase of ten percent from the previous year driven primarily by increases in production of wine grapes, strawberries, and avocados. The Chorro Valley, a long east-west valley extending from the Pacific Ocean through the City of San Luis Obispo, contains substantial areas of agricultural use, including grazing land along its gentle rolling hillsides north of Highway 1.

The WRF project site is located within the hillsides overlooking the Chorro Valley (as shown in **Exhibit 1**), and the site is currently used for grazing. According to the project's EIR:

> *The proposed WRF site is underlain by Cropley clay soils, which consist of clay overlying silty clay loam that is typically found at a depth of 36 to 60 inches (JFR Consulting, 2016). Those soils are designated by the Natural Resources Conservation Science (NRCS) as prime farmland if irrigated. Historically, that portion of the project area and its adjacent land has been used for rangeland and has not been irrigated (JFR Consulting, 2013). Currently, the WRF site is not irrigated. As a result, the property in which the proposed WRF is located on does not support Prime Farmland (JFR Consulting, 2016).*

Because the property is not and historically has not been irrigated but rather is used as rangeland for grazing, and based on California Department of Conservation farmland mapping and designations, the EIR concluded the site's soils to be "Farmland of Local Potential." Farmland of Local Potential is defined as agricultural soils having the potential characteristics of prime soils or soils of statewide significance (a classification just below prime), but are not irrigated or used for cultivation purposes. Nonetheless, these soils are conducive to being used for grazing and other agricultural uses. The site currently and historically supports agricultural grazing activities, for which the Coastal Act requires protection.

The project proposes to subdivide an existing 396-acre parcel used for grazing into two parcels (see page 13 of **Exhibit 3**). A 368.4-acre parcel would remain privately owned and in agricultural use (i.e., continued grazing). The 27.6-acre parcel would be owned and annexed by

the City and the WRF would be constructed on a portion of this parcel. Specifically, of the 27.6 acres, a total of 15 acres would be needed to house the WRF and associated buildings, including the driveway and related ancillary facilities (i.e., all WRF-related development on the 27.6-acre subdivided parcel would be confined to a 15-acre development envelope). The remaining 12.6 acres would remain undeveloped. Thus, the project would subdivide an existing agricultural parcel and would convert 15 acres of it to non-agricultural use.[16] Such subdivision and conversion raises Coastal Act consistency issues as described above, including whether such agricultural conversion meets the Coastal Act's strict tests to allow for same.

As previously described, after the Commission's 2013 CDP denial of the then-proposed WWTP upgrade at the current Plant site, the City looked at some 17 alternative sites in its initial screening process (see a map of the 17 reviewed sites in **Exhibit 4**). While some sites were in existing urban areas within City limits that did not raise rural agricultural land issues, these were dismissed due to a variety of factors, primarily coastal hazards (for locations near the existing WWTP site) and neighborhood compatibility (e.g., noise, smell, and visual impacts that a wastewater facility would have on existing residential and commercial neighborhoods). The remaining sites were all located within rural areas outside of the City limits that were all designated for agricultural use. The City is surrounded by the Pacific Ocean, the Morro Bay Estuary, Morro Bay State Park, and agricultural lands. Therefore the City is limited in its ability to place such critical infrastructure outside the existing urban core in an area that would not have impacts on some other sensitive/protected coastal resources. Thus, the City selected the proposed site because it determined that on balance it would have the least impact on coastal resources, including because the site has not and does not serve as irrigated, prime agricultural soils supporting active row crop production and cultivation (which is prevalent in the Morro and Chorro valleys just outside of town), and is not within or surrounded by protected park land for which siting of the WRF could adversely impact public access and recreational opportunities. Furthermore, although not the standard of review, the County's LCP, which also serves as its General Plan, includes policies that explicitly allow for the siting of public infrastructure projects within agricultural lands, subject to certain findings and conditions. Specifically, Section 23.08.288(d) of the Coastal Zone Land Use Ordinance (CZLUO) (which serves as the LCP's Implementation Plan) addresses siting public utility facilities areas containing sensitive coastal resources, stating:

> ***CZLUO Section 23.08.288 – Public Utility Facilities.*** *The requirements of this section apply to Public Utility Facilities where designated as S-13 uses by Coastal Table 'O', Part I of the Land Use Element… d. Limitation on use, sensitive environmental areas. Uses shall not be allowed in sensitive areas such as on prime agricultural soils, Sensitive Resource Areas, Environmentally Sensitive Habitats, or Hazard Areas, unless a finding is made by the applicable approval body that there is no other feasible location on or off-site the property. Applications for Public Utility Facilities in the above sensitive areas shall include a feasibility study, prepared by a qualified professional approved by the Environmental Coordinator. The feasibility study shall include a constraints analysis, and analyze alternative locations.*

[16] As will be explained below, the County's LCP expressly allows for siting of public infrastructure projects within agricultural lands (CZLUO Section 23.08.288(d)), so no change in land use designation or zoning would be required for siting of the WRF on agricultural land.

The County's LCP defines "Public Utility Facilities" to include wastewater treatment plants, and the LCP's Coastal Table O, which lists all of the potentially allowable uses for each land use designation, lists public utility facilities as an allowed use in the Agriculture land use category (specifically, as an "S-13" use, meaning such use is subject to the special additional standards and findings in CZLUO Section 23.08.288). Thus, the County's LCP recognizes that agricultural lands are a finite and sensitive resource requiring strict protection, but also allows for public facility siting on such lands should such option be the least environmentally damaging feasible alternative. The intent is that these types of facilities serve broad public benefits that may outweigh the potential adverse impact to agricultural resources. It also recognizes that much of the County outside of existing developed areas is designated Agriculture, and an outright prohibition on allowing for this critical infrastructure on these rural lands would force their location within urban communities regardless of their potential resultant impacts on and incompatibilities with those communities. Indeed, the CZLUO's allowance for siting wastewater treatment plants on rural agricultural lands was central to the Commission's CDP approval for a wastewater plant in the Chorro Valley just outside of nearby Los Osos in 2010.[17] Based on the County's LCP/General Plan allowance, and based on the multi-year analysis of various potential sites within and outside of the City, including the project's potential impacts on sensitive/protected lands and/or on urban communities if sited elsewhere, the City determined that the South Bay Boulevard site was the least environmentally damaging alternative.

All that said, and while the Commission acknowledges the City's reasoning and constraints in terms of selecting a site with the least impact on coastal resources, including in terms of the County's LCP allowing for same in this type of situation, the proposed project at the City's selected location will still result in the subdivision of an existing agricultural parcel, as well as the conversion and permanent loss of some 15 acres of agricultural lands. As previously described, the Coastal Act, which is the standard of review for this project, is very protective of such lands, requiring the maximum amount of agricultural land to remain in agricultural use and only allowing conversion of agricultural land in limited circumstances, including if the conversion would be located within existing developed areas and would foster a logical infill community, or if continued agricultural use is infeasible.[18] None of these circumstances apply in this case, including because the project is located in an unincorporated part of the County away from and not contiguous with existing developed areas, and because the site currently is used for agricultural grazing. Therefore, the proposed project is not consistent with the Coastal Act's agricultural protection policies.

Approvable Project – Conflict Resolution

Thus, as described above, the proposed project is inconsistent with the Coastal Act's agricultural protection policies. Such inconsistencies would normally require the project's denial. However, its denial would mean that other Coastal Act objectives related to coastal hazards avoidance,

[17] The Los Osos Wastewater Project (CDP A-3-SLO-09-055/069), approved by the Commission in June 2010. The plant is now operational and provides tertiary-treated wastewater and recycled water for the unincorporated community of Los Osos.

[18] The purpose of limiting the circumstances under which agricultural conversion can take place under the Coastal Act is to both foster the continuance of the coastal zone's agricultural economy, but also to ensure that rural lands are protected from inappropriate development (and 'sprawl'), including so as to facilitate stable urban growth boundaries.

water quality improvement, water supply resiliency, and public coastal access and recreation enhancement would not be met. In other words, and as more fully explained in the conflict resolution section of this report, denial would cause a conflict between Coastal Act Sections 30241, 30242, and 30250 (agricultural protection) and Sections 30210 through 30224 (public access and recreation), Sections 30230 and 30231 (water quality), and Sections 30235 and 30253 (coastal hazards). In this case, denial would preclude the decommissioning of an existing oceanfront plant (which does not treat wastewater to full secondary treatment standards) and would also preclude the associated development and operation of a new tertiary-treated wastewater treatment plant and recycled water facility. The existing oceanfront plant is located in a low-lying area that is subject to coastal hazards threats, and is located on prime oceanfront lands that should be used for higher priority Coastal Act uses, such as public access and recreational uses. In fact, *not* proposing a project akin to this one (i.e., redeveloping the WWTP at its current low-lying risky site and not including a recycled water component) led to the Commission's 2013 CDP denial. Since then, and as described earlier, the City thoughtfully considered the Commission's direction and developed the proposed project. As will be discussed further in this report, denial of the proposed project will result in different Coastal Act coastal resource problems that on balance will be less protective of coastal resources overall than approving the project as proposed for the South Bay Boulevard site.

In short, denial of the project to maintain consistency with the Coastal Act's agriculture policies would result in a conflict with the Coastal Act's public recreational access, water quality, and coastal hazards policies. In this type of case the Coastal Act provides that such conflict "be resolved in the manner which on balance is the most protective of significant coastal resources" (Section 30007.5). As described more fully in the "Conflict Resolution" section of these findings (see Section I), approval in this case would be the most protective of the various coastal resources potentially implicated by this proposed project. Even for such approvals on the basis of conflict resolution, all Coastal Act inconsistencies need to be reduced to the maximum extent feasible, and thus the project needs to be conditioned to minimize, and then mitigate for, any impacts to agricultural resources. Thus, **Special Condition 5** is included to require preparation of an Agricultural Mitigation Program. The Program shall specify the measures to be taken to mitigate for project agricultural impacts by providing an agricultural conservation easement over agricultural property of a similar quality as the project site, and of a type that is potentially threatened by urban development, at a ratio of at least 2:1 for the loss of agricultural land associated with the approved project (i.e., the easement must cover at least 30 acres of such agricultural land). The Program may also specify other measures to satisfy this mitigation requirement, subject to Executive Director determination that that such alternative measures provide a commensurate amount of mitigation (to the 2:1 conservation easement) to protect agricultural lands and operations in the City of Morro Bay and/or in the closely surrounding area. This condition is similar to what the Commission required in terms of agricultural mitigation for the Los Osos wastewater project.

Conclusion

The Commission directed the City to pursue a new WRF facility in its 2013 denial, one that would improve wastewater treatment quality, produce and provide recycled water and, critically, relocate such critical public infrastructure away from the shoreline and its attendant coastal hazards risk and open up that oceanfront land to more productive access/recreational uses. As will be more fully discussed below, this project accomplishes all of these goals. At the same

time, the Coastal Act is clear about the required protection of agricultural lands, and about potential development in rural areas more broadly, where such development is only permissible in limited circumstances that are not applicable in this case. However, in this case, denial would lead to conflicts with the other Coastal Act policies cited above. Fortunately, the Coastal Act allows for approval notwithstanding policy conflicts if the project as a whole resolves such conflicts in a manner which, on balance, is the most protective of significant coastal resources. In this case, the project includes appropriate mitigation to help offset and mitigate unavoidable agricultural impacts, and with the other coastal resource protections and benefits that would accrue as part of the proposed project, the project as a whole can be approved through the conflict resolution process (see also Section I).

D. WATER RESOURCES, WATER QUALITY, AND PUBLIC SERVICES

Applicable Policies

The Coastal Act protects marine and freshwater resources, including in terms of ensuring the protection of coastal water quality, encouraging wastewater reclamation and recycled water, and minimizing alterations of streams and riparian vegetation. Coastal Act Sections 30230 and 30231 specifically state:

> ***Section 30230.*** *Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*
>
> ***Section 30231.*** *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

In addition, the Coastal Act requires public works facilities, such as wastewater treatment plants, to be limited in their service capacities to accommodate only the types and amount of development that can be built consistent with other Coastal Act policies. In particular, Coastal Act Section 30254 ensures that public works facilities do not induce growth that cannot be accommodated in a Coastal Act-consistent manner:

> ***Section 30254.*** *New or expanded public works facilities shall be designed and limited to accommodate needs generated by development or uses permitted consistent with the provisions of this division….*

And finally, with respect to wastewater treatment facilities, the Coastal Act discusses the relationship between the Commission and the State Water Board, including in terms of water

quality regulations. Coastal Act Chapter 5 identifies the Legislature's intent that the Coastal Act not "increase, decrease, duplicate or supersede the authority of any [then] existing state agency," while requiring all state agencies to "carry out their duties and responsibilities in conformity with [the Coastal Act]."[19] Coastal Act Section 30412 includes guidance on implementation of the Coastal Act in relation to the programs of the State Water Board and the Regional Boards. It states in relevant part:

> ***30412*** *(b) The State Water Resources Control Board and the California regional water quality control boards are the state agencies with primary responsibility for the coordination and control of water quality. The State Water Resources Control Board has primary responsibility for the administration of water rights pursuant to applicable law. The commission shall assure that proposed development and local coastal programs shall not frustrate this section. The commission shall not, except as provided in subdivision (c), modify, adopt conditions, or take any action in conflict with any determination by the State Water Resources Control Board or any California regional water quality control board in matters relating to water quality or the administration of water rights.*
>
> *Except as provided in this section, nothing herein shall be interpreted in any way either as prohibiting or limiting the commission, local government, or port governing body from exercising the regulatory controls over development pursuant to this division in a manner necessary to carry out this division.*
>
> *(c) Any development within the coastal zone or outside the coastal zone which provides service to any area within the coastal zone that constitutes a treatment work shall be reviewed by the commission and any permit it issues, if any, shall be determinative only with respect to the following aspects of the development:*
>
> *(1) The siting and visual appearance of treatment works within the coastal zone.*
>
> *(2) The geographic limits of service areas within the coastal zone which are to be served by particular treatment works and the timing of the use of capacity of treatment works for those service areas to allow for phasing of development and use of facilities consistent with this division.*
>
> *(3) Development projections which determine the sizing of treatment works for providing service within the coastal zone.*
>
> *The commission shall make these determinations in accordance with the policies of this division and shall make its final determination on a permit application for a treatment work prior to the final approval by the State Water Resources Control Board for the funding of such treatment works. Except as specifically provided in this subdivision, the decisions of the State Water Resources Control Board relative to the construction of treatment works shall be final and binding upon the commission.*

[19] Coastal Act Sections 30401 and 30402.

As a result, as opposed to setting chemical/biological standards for water quality treatment, discharge, and use (which is the purview of the State and Regional Water Boards pursuant to their laws),[20] the Commission's review of a wastewater treatment facility is limited to questions of siting, visual impacts, and appropriateness of service areas. Consistent with past Commission practice when reviewing proposed wastewater treatment projects,[21] the Commission defers to the State Water Board for setting water quality effluent standards for both wastewater and drinking water, but the Commission reviews the project's land use elements to ensure consistency with the Coastal Act's coastal resource protection requirements.

Considering all of the above-referenced Coastal Act sections together and applied to this proposed project, the proposed WRF and its associated components must be: 1) sited and designed so as to ensure protection of streams, riparian areas, and groundwater, including both during and post-construction; 2) operationally designed to treat wastewater in a manner protective of water quality and to allow for wastewater reclamation; and 3) sized so as to not induce growth that cannot be developed in a Coastal Act consistent manner.

Proposed Project and Analysis

The proposed project includes a series of components, including a new tertiary-treated wastewater treatment facility, new pipelines and pump stations, new recycled water injection wells, modified effluent stream, and improvements to the existing ocean outfall. The intent is to replace the existing Plant, which does not meet Clean Water Act standards for secondary treatment, with a new modern plant designed to exceed such standards through tertiary treatment. The result will be a modified effluent stream to the ocean that will be reduced in volume and will be cleaner than is currently the case (i.e., the current effluent stream does not meet CWA secondary treatment requirements, and the modified effluent stream will meet tertiary treatment standards).[22] The project relocation will eliminate the coastal hazards threats inherent at the existing Plant site (see further discussion on this point below in the "Coastal Hazards" section of this report in Section E), and the potential damage and water quality impairment such hazards could cause. And the proposed recycled water component is meant to improve groundwater health by injecting clean recycled water underground in various locations in the lower Morro Valley (see map of proposed locations on page 12 of **Exhibit 3**) for replenishment and then, using the City's existing groundwater extraction infrastructure, pumped to provide a clean and sustainable local water source. The City estimates the recycled water program will provide the City with some 825 AFY of water, or roughly 80% of its yearly water needs, thereby providing water security in the face of climate change and water scarcity. Again, as mentioned above, the

[20] Including the State's Porter-Cologne Water Quality Control Act, the Federal Clean Water Act, and the Federal Safe Drinking Water Act. Under these laws for this project, the Central Coast Regional Water Quality Control Board will regulate groundwater injection water via a Waste Discharge Requirement authorization pursuant to Title 22 of the California Code of Regulations, will regulate wastewater treatment and ocean discharge via a National Pollutant Discharge Elimination System (NPDES) permit, and the State Water Board's Division of Drinking Water will regulate drinking water standards via a Groundwater Recharge for Recycled Water Project Title 22 Engineering Report.

[21] Including for the Los Osos Wastewater Project.

[22] For example, the City's previous Waste Discharge Order/NPDES permit from the Central Coast Regional Water Quality Control Board only required the City to remove 30% of the effluent's Total Suspended Solids prior to ocean discharge, but the new Order, which the City must meet by 2023, requires 85% removal.

previous iteration of the project proposal (i.e., redevelopment in place) would have resulted in potentially significant water supply and water quality impacts due to the coastal hazards, reduced water quality treatment, and the lack of water reclamation. These identified potentially significant impacts were among the core reasons for the Commission's denial of the proposed CDP designed to redevelop the existing WWTP in situ in 2013. Clearly, at this broad level, this current proposal meets numerous Coastal Act water resources objectives.

Improved Water Quality

At its core, the proposed project will resolve longstanding Clean Water Act problems associated with the existing WWTP effluent stream, an effluent stream that does not currently meet secondary treatment standards at all times. Specifically, the City indicates the existing WWTP is not sized appropriately to treat peak wet-weather flows. As is the case with most wastewater plants, rain events tend to lead to higher volumes of wastewater flow entering the system, including from "inflow and infiltration" wherein stormwater (as opposed to wastewater) may be directly connected into the sewer lines improperly (e.g., via roof drains, sump pumps, etc.) ("inflow"), and where groundwater/stormwater can seep into the sewer lines through cracks and leaks ("infiltration"). Both of these conditions lead to increases in the volume of wastewater that needs to be treated since these water sources mix with the wastewater in the sewer lines. While some inflow and infiltration is typical, the City's amount is particularly large. And this leads to problems at the existing WWTP since it is not sized appropriately to treat all of the wet weather flows to full secondary standards. It is during these wet weather flows that the City fails to meet all CWA secondary treatment standards for biochemical oxygen demand and total suspended solids. The new WRF will address these issues by being appropriately sized to handle the City's wet weather flows and give all wastewater proper treatment, including by exceeding existing secondary treatment standards through tertiary treatment. In other words, the new WRF will handle more flow and make it cleaner. For example, the City's 33-year average annual effluent concentrations for biochemical oxygen demand and total suspended solids were 50.9 milligrams per liter (mg/L) and 32.1 mg/L, respectively. The new WRF is expected to treat such effluent to less than 5 mg/L for biochemical oxygen demand and less than 1 mg/L for total suspended solids. Thus, the proposed project is a water quality enhancement project that should result in improved Estuary and Pacific Ocean health relative to the baseline conditions.

That said, a project of this magnitude and complexity is not without potential issues and concerns of its own with respect to water quality protection. Furthermore, some of the proposed project's specific parameters need additional refinement and specificity to ensure adequate protection of water quality as a result of undertaking the proposed project. These issues are discussed below.

Construction-Related Impacts

With respect to construction, the project spans a wide geographic scope and includes multiple discrete components, including the WRF within undeveloped, unincorporated County grazing lands and in proximity to an unnamed seasonal creek that flows into the Morro Bay Estuary;[23] pipeline infrastructure would be placed predominantly under existing roads (with the exception

[23] The Morro Bay Estuary holds numerous titles and designations due to its ecological and recreational significance, including "State Marine Reserve" and "State Marine Recreational Management Area" by the California Department of Fish and Wildlife, as well as being a Federally-designated "Estuary of National Significance" under the National Estuary Program.

of a new aboveground pipe bridge spanning Morro Creek adjacent to an existing bike path bridge); two pump stations would be constructed within existing developed areas within the City; the existing Plant would be demolished and the site restored; and work would take place on the ocean outfall in the Pacific Ocean. Construction related to all of these project components could have impacts on water quality, both temporary (e.g., through siltation and runoff into creeks and waterways from ground disturbance/grading) and permanent (e.g., through changes in site geography/topography and surface runoff flow), and could have ocean impacts.

The City proposes to address such impacts largely through avoidance measures. For example, the WRF and its access roads will be located some 120 to 160 feet away from the unnamed drainage and will avoid any construction activity within it. The City proposes to construct pipelines using trenchless methods as much as possible to avoid direct impacts to other wetlands and streams. That said, water quality impacts could still occur, and the area's hydrologic connections into the Estuary and Pacific Ocean (and work in the ocean itself) demand the highest level of care and protection given their extremely sensitive status. Thus, the project is conditioned to include a construction plan that includes best management practices (BMPs) to protect water quality and marine resources during construction, including minimizing grading as much as possible, maintaining good construction site housekeeping controls and procedures, the use of appropriate erosion and sediment controls, the use of trenchless construction methods or other similar construction techniques that avoid water quality impacts as much as possible, and ocean-work specific BMPs such as prohibitions on discharge into ocean waters and onsite monitors to protect against impacts to marine mammals and other marine species, all to protect marine resources during outfall work (see **Special Conditions 2 and 8**). In addition, to ensure protection of the WRF-adjacent unnamed creek (and ultimately the Estuary) and to mitigate for potential adverse impacts both during and after construction to water resources otherwise, **Special Condition 3** also requires a post-construction riparian enhancement and restoration plan, including to ensure that the unnamed seasonal creek and its associated riparian area are restored to a self-sufficient, high-quality habitat area that can also function to help reduce downstream sedimentation and other pollutant loading. **Special Condition 1(h)** requires post-construction stormwater and drainage management measures. As conditioned, construction-related water quality impacts will be mitigated in accordance with the Coastal Act.

Recycled Water Program

Morro Bay receives its drinking water from three primary sources. About 93% of its supply is imported from the Sierra Nevada via the State Water Project.[24] This supply is augmented with groundwater via local wells in the Morro Valley, and desalination/brackish water purified via a City-owned desalination plant. The desalination plant is located within a City corporation yard adjacent to the existing WWTP along Atascadero Road, and is permitted to intake seawater from five wells along Embarcadero Road for emergency, non-routine water supply purposes only.[25]

[24] As of 2018, according to the City's draft update to its General Plan/Local Coastal Program Conservation Element.

[25] Including through the terms and conditions of the Commission's 2016 approval of CDP 9-16-0849, which authorized the City's use of the seawater wells and desalination plant for emergency purposes only. That CDP also required that any change in water use, including in terms of using the desalination plant for more than just emergency purposes or using it to treat other water sources, requires a CDP amendment.

These sources have proven volatile and unreliable over the years, including due to drought-related abrupt delivery reductions from the State; groundwater contamination from nitrates; seawater intrusion; occurrences of MTBE;[26] and from high cost and operational treatment breakdowns from desalination. Indeed, in its 2013 denial of CDP A-3-MRB-11-001 (for the proposed redevelopment of the WWTP in place), the Commission made findings that recognized the City's water supply issues:

> *The proposed WWTP is a major public works project and investment in community infrastructure that relies heavily on a poorly supported conclusion that the City's water supplies are stable. In fact, the City's water supply has many constraints, including availability and reliability of State Water; the use of an unpermitted,[27] expensive desalinization plant; the overuse and contamination of the Morro and Chorro groundwater aquifers; and the threats to stream levels in the groundwater basin associated with the Morro and Chorro Creeks.*

Because of these issues, because clean, treated water is too precious a resource in California for it to continue to be disposed of in the ocean (as is the case now), because the Coastal Act encourages water reclamation and the reduction of ocean discharge, and because it is required by the LCP, in denying CDP A-3-MRB-11-001 the Commission directed the City to pursue recycled water in any new plant proposal in order to help provide a stable and reliable water source that protects habitat and is consistent with the LCP:

> *In summary, the development of new wastewater facilities offers an opportunity to the City of Morro Bay, much like the permitted development of a new wastewater facility in Los Osos. This project provides it the opportunity to improve the City's long-term water availability, allowing it to reduce its dependence on expensive, outdated and unreliable water sources. A newly devised plan for a WWTP that incorporated meaningful water reclamation and recycling would help conserve water in situ for habitat protection of sensitive species and bring the project into further compliance with LCP policies that state that water reclamation is the second highest priority for the City.*

Based on this Commission direction, the City has undertaken numerous analyses to understand the feasibility of recycled water, how best to provide for it, and how best to use it. In March 2017, the City prepared a *Master Water Reclamation Plan* (Plan) that identified IPR[28] as the

[26] MTBE (i.e. Methyl tert-butyl ether) is a volatile, flammable, and colorless liquid that is sparingly soluble in water. MTBE is a blending component of gasoline and has historically been used to protect air quality. However, MTBE has led to groundwater contamination and was banned in California as a gasoline additive in 2002.

[27] At the time of the Commission's denial of the WWTP CDP in 2013, the City's initial CDP authorizing desalination plant use (CDP 3-94-046) had expired and the desalination plant was unpermitted at that time. However, as described above, the permitting issue has since been resolved through the Commission's approval of CDP 9-16-0849 in 2016.

[28] Indirect Potable Reuse is a process whereby treated recycled water passes through an environmental buffer, such as a lake, river, or groundwater aquifer, for a period of time (in this case, a minimum of two months pursuant to State law) before the water is used for consumption. Because the State does not currently allow for Direct Potable Reuse (i.e., directly sending treated recycled water to drinking water infrastructure for potable domestic consumption without first passing through a type of environmental buffer), IPR is a preferred mechanism to allow for domestic consumption of recycled water and is used in other locations in California, including in Orange County

preferred recycled water use option over other alternatives such as no recycled water, supplying only agricultural uses, and urban reuse only (i.e., use only for urban landscaping, golf courses, and urban commercial buildings). The Plan evaluated numerous factors, including cost and recycled water demand, and identified IPR as the preferred scenario, including because it could economically and securely augment City water supply for all users – urban, agricultural, and domestic. The Plan states:

> *The IPR alternative provides the highest potential water supply benefit. Supplementing the potable water supply with highly treated recycled water is the highest form of allowable beneficial reuse, and will allow the City to reduce or eliminate reliance on imported water.*

However, the Plan did note that groundwater injection has risks, including because of the Morro Valley's existing groundwater quality impairment from nitrates and seawater intrusion, which the City indicates are products of the valley's agricultural uses and low-lying location near the ocean. Thus, more technical work was needed to understand whether existing groundwater quality impairment would preclude reuse of injected treated wastewater, including whether such highly treated water would become contaminated and unfit for use without extensive cleanup, or whether the treated and injected water would be reusable at all. Building upon the Plan's initial analysis, the City then undertook a technical review to determine whether treated water could be safely injected and extracted and, if so, where. The results of this analysis were provided in the study entitled *Lower Morro Valley Basin Screening-Level Groundwater Modeling for Injection Feasibility*. Among the study's findings:

> *1. It is likely feasible for the aquifer to accept the recycled water available for injection (825 acre-feet per year [AFY]);*
>
> *2. A minimum of four injection wells would likely be needed to achieve the desired recycled water injection capacity;*
>
> *3. Depending on the injection well locations, up to approximately 1,200 AFY of groundwater could potentially be produced for potable supply without the model indicating seawater intrusion would occur; and*
>
> *4. The 2-month minimum subsurface recycled water response retention time required under Title 22 will likely be met.*

The study found that the groundwater basin could support replenishment in a manner that did not implicate or worsen seawater intrusion, and would meet the State's required two-month retention period (i.e., injected recycled water must remain underground for at least two months before it is extracted and used for IPR). The report therefore concluded that IPR could supply a significant amount of the City's water demand, based on a 2015 demand of 1,074 AFY and a 2040 projected demand of 1,437 AFY. Finally, additional technical analysis was completed in April 2019, which found that groundwater injection in the City's identified well sites in the lower Morro Valley

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where the Orange County Water District's Groundwater Replenishment System is the world's largest system for IPR. It began operation in January 2008, currently produces and injects 100 MGD of recycled water into the Orange County Groundwater Basin, and is currently undertaking an expansion project to increase capacity to 123 MGD by 2023.

would improve groundwater quality and health, including in terms of nitrates and seawater intrusion, so much so that pumped groundwater would not need further treatment for distribution. The study states:

> • *Predictive nitrate scenarios indicate that all wells have significantly lower nitrate concentrations under either injection well configuration....*
>
> • *Predictive scenarios indicate that both the Narrows and the Southside injection well layouts prevent seawater intrusion in predictive scenarios.*

Thus, while final engineering still needed to be performed, including in terms of the specific sites and number of injection wells, and including in terms of approvals from the State Water Board's Division of Drinking Water for final regulatory compliance, the analysis the City has undertaken and proposed as part of this project has shown that using IPR, pumped groundwater could be delivered to the City's existing drinking water distribution network for human consumption and other uses.

In sum, the City's recycled water program entails IPR, where clean, tertiary-treated WRF water would be delivered by pipeline to groundwater injection well sites in the lower Morro Valley for groundwater replenishment, and ultimately for residential, commercial, and industrial use. The program will improve groundwater quality and aquifer health, including in terms of nitrates and seawater intrusion, and allow for a new, clean, local, and resilient water source.

Special Condition 6 is included to codify and provide performance standards for the City's proposed recycled water program, including to ensure that it is undertaken in a manner that best protects coastal resources. This condition is similar to that which the Commission required for the Los Osos wastewater project (i.e., requiring maximum recycled water in a manner that meets applicable drinking water quality requirements, and best protects groundwater aquifers, streams, and their habitats, including in the long term and taking into account potential sea level rise and resultant additional seawater intrusion). As proposed and as conditioned, the project's recycled water components offer an exciting opportunity for the City to materially improve groundwater/surface water quality and aquifer health for both human use and for natural resources, and will give the City needed water supply security, all in conformance with the Coastal Act.

Ocean Outfall

The City and the CSD currently jointly own and use the ocean outfall, which extends some 2,900 feet into the ocean from the existing WWTP site, to discharge wastewater, some of which does not meet CWA secondary treatment standards during peak wet-weather flows. The City would continue to use the outfall for discharge of brine (i.e., byproducts of tertiary treatment) and any excess tertiary-treated wastewater that cannot be injected underground or otherwise beneficially reused.[29] Discharge water quality would be in accordance with applicable California Ocean Plan discharge requirements promulgated by the State Water Board, and in fact would be of higher water quality than is currently required. As mentioned previously, because of the inadequate size

[29] Note that the CSD's WRF will also use the outfall for brine and excess tertiary water disposal, but the CSD is currently looking at alternative discharge arrangements nearer to Cayucos.

of the existing WWTP to fully treat all wet weather flows, some effluent is discharged to the ocean without meeting full secondary treatment standards for biochemical oxygen demand and total suspended solids. And the City has been operating under a CWA 301(h) waiver to allow for this discharge. However, the Regional Board has given the City until 2023 to address this and ensure all discharge meets secondary treatment. The proposed WRF will do just that, but will exceed secondary treatment requirements by going to tertiary treatment. To accommodate this discharge and ensure its cleanliness to improve marine water quality, the City proposes to clean and replace/upgrade 28 of the outfall's 34 existing diffusers that suffer from an estimated 30 cubic yards of sediment buildup and thus are not functioning optimally.[30] To do so, they will conduct a condition and hydraulic assessment of the outfall, where divers will visually inspect the outfall, measure pipe thickness and identify any coating defects, and use a remotely operated vehicle to video the inside of the outfall to both quantify and characterize the sediment that must be removed. Cleaning of the outfall and the replacement/upgrade of the diffusers would all be staged from a barge offshore with no disturbance of the dunes, beach, or surf zone. All sediment from inside the outfall would be pumped onto the barge, transported to land, and disposed of at an appropriate inland location. Special conditions are necessary to ensure that all such ocean-related work is done in a manner that is sensitive to the marine work environment, including onsite monitors to protect marine mammals and prohibitions on any ocean discharge (see **Special Condition 8**).

While the proposed project and its water quality upgrades are important improvements to public infrastructure in light of the law, the continued use of the ocean outfall raises some questions about its long-term need, including whether it is appropriate to have such infrastructure in the ocean or whether other alternatives, including complete inland beneficial reuse of treated effluent without ocean discharge, are feasible. As such, **Special Condition 8** requires an Outfall Assessment Plan that will evaluate the feasibility of outfall removal, including defining triggers for when such removal might be possible. As conditioned, the proposed maintenance to and modifications of the outfall are appropriate to help improve water quality, and with conditions designed to potentially remove the outfall eventually if continuance of the outfall is deemed unnecessary and removal and relocation is deemed feasible, this portion of the project can be found consistent with the Coastal Act.

Service Area and Potential Growth Inducement

And finally, as described above, Coastal Act Section 30254 requires that public works facilities be sized to accommodate an amount of development that can be built in a Coastal Act-consistent manner. In other words, Section 30254 helps to regulate the capacity of the WRF, including through service area boundary limits, in order to ensure that such public infrastructure does not serve as a catalyst for expansive development (such as urban sprawl) in a manner that is inconsistent with LCPs and the Coastal Act. Thus, the Commission has implemented Section 30254 with respect to past wastewater treatment facilities (and other public works) through limits on capacity and/or through limits on the locations/types of development that can be serviced in order to ensure the protection of coastal resources.

[30] A diffuser is a component on an ocean outfall that operates to spread and regulate effluent discharge. Instead of all effluent discharging from one point source, diffusers allow effluent to discharge out of potentially many point sources. The intent is to improve water quality by spreading and diluting effluent discharge into the receiving water for better assimilation.

In this case, the existing WWTP is designed to treat a maximum of 2.06 MGD, with an average daily flow of 0.88 MGD. The proposed WRF is designed to treat an average daily flow that is slightly larger than currently treated, namely 0.97 MGD, and is sized to treat a peak wet-weather flow maximum of 8.14 MGD, all for properties located in the City's wastewater service area (shown on page 14 of **Exhibit 3**). As mentioned earlier, the City indicates the need for the additional wet-weather capacity is not to encourage a significant increase in growth, but rather to better treat peak flows during wet-weather events. These are the flows that the existing WWTP cannot treat to full secondary treatment because of its inadequate sizing. While the City has a plan to upgrade and replace its aging sewer pipelines and stormwater infrastructure,[31] including to address such inflow and infiltration problems, for now the City is sizing the plant to be able to accommodate such volumes and meet Regional Board water quality orders.

To address potential concerns regarding unintended growth inducement impacts, the City has a suite of existing tools to regulate future development for unintended growth inducement. In addition to its existing LCP,[32] which includes many policies to ensure coastal resource protection with respect to the impact of increased development, any growth in Morro Bay also must be consistent with Measure F, a voter-approved growth management ordinance that limits the city to 12,200 residents.[33] In order to exceed this number, a majority of voters must elect to remove the limit. And finally, the City's wastewater service area is coincident with the City limits, and the City does not propose to extend its service area to lands outside City limits into unincorporated San Luis Obispo County at this time. In other words, the proposed project will only be allowed to serve LCP-consistent growth and infill development within the City limits, ensuring that it does not somehow induce inappropriate growth and development.

That said, the City is surrounded by rural lands in the County, and while the prospect for growth supported by the WRF outside the City limits is not a significant concern in the near future, public infrastructure improvements such as this are often inducements to such growth in rural areas. For now, this potentiality is adequately constrained by the LCP, Measure F, and the wastewater service area boundary, but the City could potentially pursue development changes in the future that might target such rural lands. That is not the Commission's intent in approving this project; rather the Commission approves this project with the understanding that the City intends to support appropriate LCP-consistent growth in the City, but not outside of the City and in rural areas.

[31] The OneWater Morro Bay Plan, approved by the City Council in 2018. The Plan is a blueprint identifying a comprehensive upgrade of the City's water, wastewater, and stormwater infrastructure. Such upgrades will be partially paid for through the same surcharge in wastewater rates approved by the City Council, and affirmed by vote of Morro Bay residents, that will help pay for the WRF.

[32] With respect to the role of the LCP in limiting growth inducement impacts, it is worth noting the following two points: first, the City is essentially entirely within the coastal zone, and thus the LCP's coastal resource protection framework would apply to almost all new development proposals within the City; and second, the LCP is currently being updated via the assistance of Coastal Commission LCP grants. Commission staff and City staff have been cooperatively and proactively working on the LCP update, including to ensure that the LCP update adequately accounts for appropriate growth-inducement-limiting policies.

[33] The most recent California Department of Finance population estimate of Morro Bay as of January 1, 2018 was that the City has 10,503 residents.

Thus, **Special Condition 9** ensures that wastewater service provided by the WRF is only allowed within the existing service area/City limit as specified on page 14 of **Exhibit 3**, and any proposal to extend service beyond this area, including in areas in the County or in areas annexed by the City in the future, would require an amendment to this CDP with a finding that coastal resources would be protected by the proposal, including that such an amendment will not induce development growth within the County or the City inconsistent with either respective LCP, as applicable.

As proposed and conditioned above, the project will relocate an existing wastewater facility that does not meet CWA water quality standards and is located in a coastal hazard area with a new facility located safely inland away from coastal hazards that will exceed such standards through tertiary treatment. As a result, at its core the proposed project will result in enhanced Morro Bay Estuary and Pacific Ocean water quality. The project will also help improve groundwater aquifer health and water supply security through water recycling, and does not serve as a catalyst for inappropriate urban sprawl in conflict with the Coastal Act. The project is therefore consistent with the Coastal Act's water resources, water quality, and public service policies.

E. COASTAL HAZARDS

Applicable Policies
Coastal Act Section 30235 addresses the use of shoreline protective devices:

> ***30235.*** *Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

Coastal Act Section 30253 addresses the need for new development to ensure long-term structural integrity, minimize future risk, and to avoid landform-altering protective devices along the shoreline:

> ***Section 30253.*** *New development shall do all of the following:*
>
> *(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
>
> *(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Coastal Act Sections 30253 and 30235 acknowledge that seawalls, revetments, cliff retaining walls, groins, and other such structural or "hard" methods designed to forestall erosion also alter natural landforms and natural shoreline processes. Accordingly, under Section 30235 shoreline

protective devices are required to be allowed only to serve a coastal-dependent use, or to protect existing, not new, structures or public beaches in danger of erosion (subject to the requirement that adverse impacts to local shoreline sand supply are mitigated or eliminated, and per other Coastal Act sections that other coastal resource impacts are also addressed). In other words, new, non-coastal-dependent development (such as wastewater treatment facilities) are not obligated shoreline protective devices in their proposed siting and design, and instead should be located safe from coastal hazards threat without reliance on such devices. The Coastal Act provides these limitations because shoreline protective devices can have a variety of negative impacts on coastal resources, including adverse effects on sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on- and offsite, ultimately resulting in the loss of beaches.

Taken together with other Coastal Act policies, including those described earlier regarding the protection of water quality and minimizing adverse wastewater discharge, application of the Coastal Act leads to the conclusion that critical wastewater infrastructure be sited and designed in a manner that protects water resources, including ensuring that it be safe from flood risks – particularly when such flood risks could result in adverse coastal water quality due to wastewater infrastructure failure – in a manner that does not require shoreline protective devices, thereby ensuring the protection of water quality and marine biological resources as well as natural shorelines and beaches.

Proposed Project and Analysis

The proposed project is a proactive coastal adaptation response to the hazard threats, existing and future, facing development along the Morro Bay shoreline, including at the existing WWTP site. That is, the project seeks to relocate an existing low-lying wastewater treatment plant in need of significant repairs inland and away from the shoreline. Doing so will eliminate the coastal hazard threats inherent at the existing site, which is located at the confluence of the ocean with Morro Creek, including with respect to coastal and riverine flooding, ocean waves, erosion, and their interaction, including as all of these threats are potentially exacerbated by sea level rise and other climate change impacts. Indeed, relocating critical wastewater infrastructure away from the shoreline and eliminating potential coastal hazards threats for such structures, which could have enormous adverse impacts on coastal resources, is an outcome clearly warranted under the Coastal Act (including as described above) and in the Commission's Sea Level Rise Policy Guidance. It is consistent with the direction the Commission gave the City in its 2013 denial for a proposed redevelopment of the WWTP in place, a project that did *not* propose relocation or adaptation in the face of clear coastal hazards. And it also represents fundamental good planning and public policy under the Coastal Act by ensuring that sensitive and critical public infrastructure is safe over the long term, which is protective of coastal resources.

Therefore, as proposed, the relocation of the existing WWTP to an inland location away from coastal hazards constitutes important and necessary investments in critical public infrastructure while also ensuring the protection of public health and ocean water quality for coastal waters that are adjacent to two State and City beaches (Morro Strand State Beach and Morro Rock City Beach), which are known for their public recreational value and high biological productivity. The restoration of the existing WWTP site also will allow for some other more appropriate (i.e., non-industrial) public use along the shoreline. A safely located wastewater treatment facility away from coastal hazards is critical to meeting numerous Coastal Act objectives that relate to

coastal hazards safety due to the inherent nature and function of a wastewater treatment plant, including with respect to the aforementioned policies protecting water quality and the biological productivity of coastal waters (Sections 30230 and 30231), and public access and recreation (Sections 30210 through 30224). Thus, the WRF is consistent with the Coastal Act coastal hazards policies (Sections 30235 and 30253).

With respect to other project components, including associated pipelines and pump stations, because of the location of the existing Plant, and because other development exists in the area, the City's existing wastewater pipeline network necessarily leads to the existing WWTP site. As such, the City does not propose as part of this CDP application to relocate this pipeline network, and instead proposes to use the existing infrastructure along with the new infrastructure and the new WRF as part of its overall wastewater system. Part of this system includes building one of two new pump stations within an existing City corporation yard just inland from the existing Plant site to intercept wastewater flows and pump them to the new WRF. See proposed location and specifications of this proposed pump station shown as "PS-A" on page 11 of **Exhibit 3**.

The proposed new pump station and reliance on existing wastewater pipelines in this shoreline area raises issues and questions about the appropriateness of leaving such infrastructure in place in terms of coastal hazards issues, or whether it makes sense now, as part of the comprehensive WRF project, to relocate these pipelines further inland away from coastal hazards. The City analyzed the feasibility of doing the latter, and evaluated some 10 potential alternative locations for the pump station and associated infrastructure. The City also evaluated the coastal hazards risk and relocation/hazards avoidance benefit of each option. Ultimately, the City concluded that it was not feasible at this time to relocate the existing wastewater pipeline network in the existing WWTP area, including because of cost, land ownership, and logistics. The City indicated that a project of this magnitude was not part of the broader wastewater relocation project scope and would be difficult – financially and otherwise – to include it now, and would entail a more robust analysis of the interconnected nature of the pipelines and how existing development along the shoreline (such as the Morro Bay High School and City-owned park and recreational facilities) would remain serviced. And finally, the analysis concluded that relocation of the wastewater pipelines today would not provide the same type of avoidance benefit as does relocating the Plant itself. Notably, the analysis found that the pipes and pump stations are all located underground and thus are not subject to the same level of hazard risk as an above-ground wastewater treatment plant. By placing and keeping these pipes underground, and with relatively minor flood-proofing measures at above-ground entry points (e.g., watertight doors, elevation above flood levels, etc.),[34] these components should be safe from hazards risk for the foreseeable future, and thus relocation is not critically needed at this time to address coastal hazards issues. Thus, the expense and logistics associated with undertaking this large pipeline relocation effort would not result in significantly safer infrastructure as to justify the expense and effort to undertake that relocation at this time. Ultimately, the City chose not to try to relocate the existing

[34] The pump station site within the City corporation yard is within the 100-year floodplain per the Federal Emergency Management Agency's current Flood Insurance Rate Map. To protect critical equipment, structures and equipment at the pump station will be set at a minimum of two feet above the 100-year flood elevation. Mitigation measures to protect the fill used to raise the site from washout and erosion under flood conditions will also be implemented. To further ensure the continued operability of both the pump stations, an emergency generator will be provided that will power the entire pump station in the event of a power outage.

pipeline network in the area of the existing WWTP as part of the current CDP application. Beyond the question of whether the existing pipeline network should be relocated, the currently proposed project will require new pipeline to be installed to carry wastewater to the new WRF for treatment, as well as new pipeline to inject reclaimed water to the underground well sites.

The Commission recognizes the City's reasoning, and concurs that a major pipeline relocation endeavor is not warranted at this time for the reasons described above. However, such recognition is not an indication that the pipelines (both new and existing, including upon their redevelopment/replacement), pump station, and other associated infrastructure will forever be safe and are entitled to stay in their current location forever. As described above, while the pipeline/pump station infrastructure will be sited below ground and will employ other flood-proofing measures to appropriately and adequately minimize hazards risk *today*, this infrastructure is not sited in such a manner that the Commission can find with confidence that it would definitively never need shoreline armoring to protect it in place at some point in the *future*, especially considering the uncertainties associated with erosion and sea level rise. Thus, the project raises issues with respect to whether the location of the pipelines and pump station meets the intent of the Section 30253 requirement that new development be sited and designed to assure stability and structural integrity without the use of shoreline protection to make it so *over time*. Special conditions are thus necessary to ensure consistency with the Coastal Act's hazards policies, including by addressing coastal hazards risk and responses to such risk into the future.

The approval is therefore conditioned to require the City to assume all of the risk for developing in an area of coastal hazards and to prohibit future shoreline armoring to protect the pump station and pipeline network in this location (see **Special Conditions 10 and 11**). Specifically, by approving this CDP the Commission allows for the approved pump station and associated wastewater pipelines to be constructed and used for only as long as they remain safe for use without additional measures beyond ordinary repair and/or maintenance (including sealing and waterproofing repair and/or maintenance that does not involve extraordinary measures) without the need for shoreline protective devices to protect them from coastal hazards. In lieu of armoring, the intent of this CDP in consideration of the relevant coastal hazard policies is that these facilities would be relocated inland and away from coastal hazards threat if threatened in the future. In this way, the project meets the requirements of Section 30253, and will not be allowed shoreline armoring.

In conclusion, the proposed project constitutes an important and necessary investment in critical public infrastructure. All such development modernizes the operations of the City's wastewater treatment infrastructure to produce needed recycled water for productive use in a very water scarce area, while also ensuring the protection of public health and ocean water quality for coastal waters that are known worldwide for their public recreational value and high biological productivity. Thus, a safe, well-functioning wastewater treatment facility relocated inland away from coastal hazards without shoreline armoring and the capital improvements needed to ensure it remains so are critical to meeting numerous Coastal Act objectives, particularly with respect to minimizing coastal hazards risk (Coastal Act Sections 30235 and 30253), which due to the inherent nature and function of a wastewater treatment plant also ensures the protection of water quality and the biological productivity of coastal waters (Sections 30230 and 30231), and water recycling and water supply (Sections 30231 and 30250).

As conditioned, the project is consistent with the Coastal Act's mandates to ensure that development, and particularly critical public wastewater infrastructure, is sited out of harm's way in a manner that allows it to be safe over the long-term from coastal hazards.

F. SCENIC AND VISUAL RESOURCES

Applicable Policy
Coastal Act Section 30251, cited below, protects the aesthetic and visual quality of coastal areas.

> ***Section 30251.*** *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Proposed Project and Analysis
The project proposes to replace the existing WWTP along the scenic Morro Bay coastline adjacent to Morro Strand State Beach and Morro Rock City Beach with a new facility located on a rural, agricultural site outside of the developed core of Morro Bay. With respect to the existing WWTP site, as described before, one of the Commission's reasons for its 2013 CDP denial was that the then-proposed project would perpetuate an industrial facility on a scenic portion of the City's coastline adjacent to two public beaches and dunes, and that redeveloping a plant at that location would result in a lost opportunity to visually rehabilitate this part of the coast in relation to its aesthetic appeal of its natural surroundings. The now-proposed project heeds the Commission's direction and proposes to decommission and demolish the existing Plant, and restore the site to leave it available for future, more visually and site-appropriate uses. (See more discussion about future uses in the "Public Access and Recreation" section below.) As such, this portion of the proposal is consistent with the Coastal Act's visual protection policies.

With respect to the new WRF site, as described previously, the Coastal Act is very protective of rural, open space lands, including in terms of the visual respite they provide in an increasingly urbanized society. Any development in these areas raises potential concerns regarding visual compatibility with rural character. In this case, much of the proposed WRF project site is outside of views from Highway 1, and is mostly protected from northbound and southbound motorist views by undulating hillsides and slope topography. However, the project site is visible for a brief moment when traveling along Highway 1 in the vicinity of its intersection with South Bay Boulevard, where the hillside transitions into a small valley. The City identified this valley portion of the site near Highway 1 as optimal for the WRF facility, including because it was closest to existing roads, would minimize the length and amount of new roads and associated grading/retaining walls (compared to developing on steeper slopes further inland), and because it would avoid further agricultural impacts by placing the WRF close to Highway 1 instead of

bifurcating expansive agricultural lands if located farther inland. Using the preferred location, the City prepared a visual analysis to identify potential Highway 1 visual impacts of the proposed WRF structures, and the results identified a small window when the proposed WRF buildings would be visible from the highway (see proposed renderings in **Exhibit 3**). To address this visual impact, and to ensure that during the short time when drivers would see the WRF structure that it does not detract from the area's rural, agricultural aesthetic, the City proposes to design the buildings using agriculturally-appropriate colors and materials, and will plant trees and other vegetation to provide visual screening and softening. As explained in the project's EIR:

> *…the proposed WRF building forms and architecture would be informed by development along the Highway 1 corridor, with an overall impression of the WRF complex as a dairy farm or ranch. Generally, the proposed building forms would be recognizably agricultural, using simple rectangular floor plates and gable roofs at varying slopes that reflect the use of the enclosed volumes. Those building shapes would be articulated where appropriate with clerestories and roof vents.…Colors would be selected for compatibility with the prevalent pattern along the neighboring stretch of Highway1, such as red roofs and white or light brown walls to blend well with the surrounding environment, as seen at Cuesta College, Camp San Luis, and a number of the barns on farm properties. Tree plantings will further reinforce the historical settlement pattern of the area and provide some visual screening of structures, using drought tolerant species such as deodar cedar. With application of these architectural treatments as part of the proposed project design criteria, the WRF would blend in with the scenic character of the hillside areas along the Highway 1 corridor.*

Special Conditions 1 and 2(a) are included to further refine these proposed objectives, including in terms of ensuring that the proposed WRF is sited and designed in a manner so as to conceal its visibility from the public viewshed as much as possible, ensuring that the development minimizes grading and landform alteration, provides for vegetative screening, minimizes lighting, places utilities underground, and includes a rural, agricultural aesthetic (similar to what the Commission required for the structures at the wastewater treatment plant in nearby Los Osos, which was similarly situated outside of town in a rural, agricultural area). These conditions also apply to the two proposed pump stations. While one of them will be located inside an existing City corporation yard, the other will be located on a visible street-side corner along Main Street near its intersection with Highway 1. Thus, **Special Condition 1(c)** similarly requires the pump stations to be sited and designed so as to soften visual impact and minimize their above-ground footprint as much as possible.

Therefore, as proposed and as conditioned, the project should have minimal impacts on visual resources, including in terms of avoiding and mitigating potential adverse impacts on public views from Highway 1, and should overall benefit public views in terms of the decommissioning of the existing wastewater facility and removing a fenced-in, industrial development from a visually sensitive public coastal area flanked by public beaches. Overall, as conditioned, the project will not adversely impact, and in some aspects will significantly improve, visual resources over baseline conditions. Therefore, as conditioned, the proposed project is consistent with Coastal Act Section 30251.

G. ARCHAEOLOGICAL RESOURCES

Applicable Policy
The Coastal Act requires development to implement reasonable mitigation measures to protect identified archaeological or paleontological resources. Section 30244 of the Coastal Act states:

> ***Section 30244.*** *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

Proposed Project and Analysis
The Morro Bay area contains a rich Native American history, including being the home of the Northern Chumash tribe. As such, and since the proposed project includes a large construction geography spanning a number of miles (including both the WRF site itself but also needed associated new pipelines, pump stations, and injection wells), the project has the potential to adversely impact known and unknown artifacts and remains of tribal concern. The project's EIR identified a total of six sites of archaeological significance that may be impacted by construction activities, including shell middens and burial sites. These sites are all located in the lower Morro Valley where proposed new pipelines, pump stations, and recycled water injection wells would be located.

The City actively worked with Northern Chumash tribal representatives to shape the project, including with respect to the alignment of the new pipelines to avoid known cultural sites as much as possible and to include appropriate mitigation measures to further mitigate potential adverse impacts. Namely, the proposed project includes a suite of archaeological protection measures, including retaining a qualified archaeologist to carry out all required monitoring activities in a manner that meets the Secretary of the Interior's standards; having the archaeologist and qualified Native American monitor be on site during construction; and preparation of a cultural resources mitigation and monitoring program to further identify best management practices, including in terms of avoidance measures and procedures for potential recovery of human/archaeological remains.[35] The Northern Chumash representative indicates agreement and support for the proposed project (see attached correspondence).

Special Condition 4 builds upon and incorporates these measures by, among other means, requiring that a qualified archaeologist be present during any ground disturbance, and that, in the event that any article of historical or cultural significance is encountered, all activity that could damage or destroy these resources must cease and a mitigation plan be developed in consultation with the Executive Director, the Native American Heritage Commission, and all appropriate tribal representatives as identified in the cultural resources mitigation and monitoring program.

[35] It should be noted that despite these measures and the concurrence of the Native Chumash representatives, the EIR concluded that the potential impacts would remain significant and unavoidable. The City certified the EIR with a Statement of Overriding Consideration given that the project's environmental benefits as a whole outweighed impacts to historic and archaeological resources from construction-related ground disturbance. See additional detail in the CEQA findings in this report. Despite the fact that the EIR concluded that potential project impacts to cultural resources would be significant and unavoidable, the archaeological protection measures are sufficient to ensure consistency with respect to Section 30244 of the Coastal Act.

Thus, as conditioned, the project is consistent with the Coastal Act Section 30244 regarding the protection and mitigation of archaeological resources.

H. PUBLIC ACCESS AND RECREATION

Applicable Policies
Coastal Act Sections 30210 through 30224 specifically protect public access and recreation, and Section 30240 protects parks and recreational areas. In particular:

> ***30210.*** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*
>
> ***30211.*** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*
>
> ***30212(a).*** *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. …*
>
> ***30213.*** *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. …*
>
> ***30220.*** *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*
>
> ***30221.*** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*
>
> ***30222.*** *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*
>
> ***30223.*** *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*
>
> ***30240(b).*** *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

These overlapping Coastal Act policies clearly protect public recreational access to and along the beach/shoreline and to offshore waters for public recreational access purposes, particularly free and low-cost access. The Coastal Act's access and recreation policies provide significant direction regarding not only protecting public recreational access, but also by requiring that access is provided and maximized. Specifically, Coastal Act Section 30210 requires that *maximum* public access and recreational opportunities be provided. This direction to maximize access and recreational opportunities represents a different threshold than to simply provide or protect such access, and is fundamentally different from other like provisions in this respect. In other words, it is not enough to simply *provide* access to and along the coast, and not enough to simply *protect* such access; rather such access must also be *maximized*. This terminology distinguishes the Coastal Act in certain respects, and provides fundamental direction with respect to projects along the California coast that raise public access issues, such as this one. And also important for this project, Sections 30220 through 30223 establish a prioritization of desirable uses in oceanfront/shoreline areas, with general industrial uses being a lower relative priority, and recreational uses being among the most important.

Proposed Project and Analysis

The proposed project seeks to replace the existing WWTP, which is located near the shoreline along Atascadero Road and adjacent to Morro Strand State Beach and Morro Rock City Beach (which are heavily-recreated beaches with sensitive dunes), with a new facility located well inland in unincorporated San Luis Obispo County. Upon WRF operation, the City proposes to decommission and demolish the existing Plant and to restore the site to natural grade. As proposed, the project seeks to relocate a wastewater treatment plant away from prime coastal zone resources along the shoreline. Such a proposal forwards Coastal Act objectives inasmuch as the Act instructs that the current industrial use is a low-priority use for such prime coastal oceanfront land (including due to the incompatibility of the presence of critical, sensitive public infrastructure in an area subject to coastal hazards), and the proposed project will foster additional public coastal access and recreation at the site. Indeed, the perpetuation of an industrial use along the Morro Bay shoreline was a primary reason for the Commission's 2013 CDP denial for redeveloping the Plant at its current location. In its denial, the Commission found:

> *Perhaps even more critical, particularly in light of the fact that it is not an allowed use, and in light of the coastal hazard policies that constrain development at this site (see Hazard findings below), is the opportunity cost associated with recommitting the site to significant industrial use when the Coastal Act and LCP encourage higher priority use and development (including public access, and recreation, and visitor-serving uses and development) in this prime shoreline location….*

And indeed, the City is currently in the process of updating its LCP, and the City currently envisions transitioning this area to public recreational access uses.[36]

[36] The City is currently updating its LCP, paid for in part by two Coastal Commission LCP-update grants. The update currently envisions public access and recreational uses at this location, as well as other potential low-intensity uses that respond to the area's site constraints, including in terms of coastal hazards, and would require any development proposal to be part of a Master Plan reviewed and approved by the City and the Coastal Commission as an LCP amendment. Thus, as opposed to this CDP application being the vehicle to define the site's specific future

Thus, broadly, the proposed project's relocation and decommissioning parameters are consistent with the Coastal Act's public access and recreation policies. Similarly, the proposed pump stations and pipelines will also not adversely impact public access because they are located underground or, in the case of the pump stations, one will be located in an existing City corporation yard and the other will be located along Main Street near its intersection with Highway 1 (i.e., in locations that do not provide public coastal access.) In order to ensure that the decommissioning, demolition, and restoration of the existing WWTP site maximizes coastal resource protection, **Special Condition 7** requires a Wastewater Treatment Plant Site Restoration Plan, which specifies performance standards for the Plant's decommissioning and site restoration.

As conditioned, the project will result in a substantial improvement to this portion of the Morro Bay shoreline by eliminating an old wastewater treatment plant and its related industrial vestiges, and offering this prime piece of coastal real estate to more appropriate Coastal Act public uses in the future. As proposed and as conditioned, the project is consistent with the Coastal Act's public access and recreation policies.

I. CONFLICT RESOLUTION

Applicable Policies

> ***Section 30007.5:*** *Legislative findings and declarations; resolution of policy conflicts. The Legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner which on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.*
>
> ***Section 30200(b)***: *Where the commission or any local government in implementing the provisions of this division identifies a conflict between the policies of this chapter, Section 30007.5 shall be utilized to resolve the conflict and the resolution of such conflicts shall be supported by appropriate findings setting forth the basis for the resolution of identified policy conflicts.*

Proposed Project and Analysis

As discussed previously in this report, the proposed project is inconsistent with the Coastal Act's agricultural protection policies, which strictly limit conversion of agricultural soils and uses to non-agricultural uses to criteria that are not applicable for this project. Such inconsistencies would normally require the project's denial. However, its denial would mean that other Coastal Act objectives related to coastal hazards avoidance, water quality improvement, and water supply resiliency, public views, and public coastal access and recreation enhancements would

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uses (which are not entirely known yet), the City proposes to use the community visioning process as part of the LCP update to address future use parameters. The Commission concurs with this planning approach.

not be realized. In other words, denial would cause a conflict between Coastal Act Sections 30241, 30242, and 30250 (agricultural protection) and Sections 30210 through 30224 (public access and recreation), 30230 and 30231 (water quality), 30251 (public views), and 30235 and 30253 (coastal hazards). In this case, denial would preclude the development and operation of a new tertiary-treated wastewater treatment plant, and thus would endanger Pacific Ocean and Morro Bay Estuary health by facilitating continued placement of a WWTP subject to significant coastal hazards. Stated another way, denial would preclude development of a recycled water facility at a safer inland location, and would also inhibit associated decommissioning of the existing oceanfront plant that does not at all times treat wastewater to full secondary treatment standards, and which is located in a low-lying area that is subject to coastal hazard threats. Furthermore, denial would inhibit decommissioning and relocation of the existing WWTP, which is located on prime oceanfront lands that should otherwise be used for higher priority public access and recreational uses. In fact, *not* proposing a project akin to this one (i.e., redeveloping the wastewater treatment plant at its current low-lying risky site and not including a recycled water component) led to the Commission's 2013 CDP denial. Since then, and as described earlier, the City heeded the Commission's direction and developed the current proposal. As discussed above, denial of the proposed project on the basis of inconsistency with Coastal Act agricultural protection policies would result in significant impacts to other coastal resources due to continued placement of the existing WWTP in a hazardous location that is most suitable for public access and recreational uses, and on balance such a denial would not further the State's coastal zone management objectives specified in the Coastal Act.

In situations such as these where there may be conflicts between Coastal Act policies, where a proposed project is inconsistent with a Chapter 3 policy and denial or modification of the project would be inconsistent with other Chapter 3 policies, Section 30007.5 of the Coastal Act provides for resolution of such a policy conflict in a manner that on balance is most protective of coastal resources.

In past resolution of conflicts through application of Section 30007.5 the Commission has implemented the following seven analytic steps:

1) The project, as proposed, is inconsistent with at least one Chapter 3 policy;
2) The project, if denied or modified to eliminate the inconsistency, would affect coastal resources in a manner inconsistent with at least one other Chapter 3 policy that affirmatively requires protection or enhancement of those resources;
3) The project, if approved, would be fully consistent with the policy that affirmatively mandates resource protection or enhancement;
4) The project, if approved, would result in tangible resource enhancement over existing conditions;
5) The benefits of the project are not independently required by some other body of law;
6) The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to "create a conflict"; and,
7) There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies.

The proposed development meets all of the above criteria for applying conflict resolution, as follows:

Step 1
First, for the Commission to apply Section 30007.5, a proposed project must be inconsistent with an applicable Chapter 3 policy. Here, approval of the proposed development would be inconsistent with Sections 30241, 30242, and 30250 because the proposed WRF development would be located on and convert agricultural lands located outside of the existing urban limits.

Step 2
Second, the project, if denied or modified to eliminate the inconsistency, would affect coastal resources in a manner inconsistent with at least one other Chapter 3 policy that affirmatively requires protection or enhancement of those resources. A true conflict between Chapter 3 policies results from a proposed project that is inconsistent with one or more policies, and for which denial or modification of the project would be inconsistent with at least one other Chapter 3 policy. Further, the policy inconsistency that would be caused by denial or modification of a project must be with a policy that affirmatively mandates protection or enhancement of certain coastal resources.

Without the new WRF, the status quo (i.e., an outdated wastewater treatment plant that does not meet applicable water quality standards, that is located in a low-lying area at risk of coastal hazards threat, that does not include water recycling or a new sustainable water supply, and that precludes other higher priority public access and recreational uses at this oceanfront site) would remain. In short, denial of the project would result in the perpetuation of a status quo that implicates significant consistency concerns with respect to numerous coastal resource policies under the Coastal Act.

More specifically, not approving the project would be inconsistent with: Sections 30230 and 30231, which affirmatively require the protection of water quality, including the biological productivity of coastal waters and groundwater resources because, due to the coastal hazards facing the current WWTP site (see discussion immediately following), the existing WWTP is at risk of breach or critical failure, which would impair the ability of the WWTP to serve its intended function and instead may impair water quality through such failure; Sections 30235 and 30253, which require development, particularly critical public infrastructure, to be sited, designed, and located in a manner that minimizes coastal hazards risk without needed shoreline protective devices because, as discussed above, the low-lying location of the existing WWTP, as exacerbated by climate change-driven sea level rise, subjects the WWTP to significant coastal hazards; with Sections 30250 and 30254 regarding the availability and adequacy of public infrastructure such as water supply, including because the proposed project will produce recycled water for potable consumption and provide water security and reliability as compared with the City's existing water supply portfolio; with Section 30251 that protects public views because new development should, where feasible, restore and enhance the visual quality of degraded areas, and given that this development proposal is an important opportunity to facilitate decommissioning and removal of the existing WWTP from the prime beachfront location, failure to approve this project will result in degraded visual quality through retention of the existing

WWTP in place, inconsistent with Section 30251; and Sections 30210 through 30224, which require maximum public access and recreational opportunities to and along the coast, and which state that such uses are among the highest priorities for oceanfront locations because, as with visual resources, this development proposal is an important opportunity to facilitate decommissioning and removal of the existing WWTP from the prime beachfront location, so failure to approve this project will not result in maximization of public access or recreational opportunities along the coast due to retention of the existing WWTP in place but would rather perpetuate inconsistency of use of this prime beachfront area with the public access and recreation policies of the Coastal Act. In most cases, denying a proposed project (i.e., the no project alternative) will not cause adverse effects on coastal resources for which the Coastal Act mandates protection or enhancement, but will simply maintain the status quo. In this case, however, maintaining the status quo would result in significant impacts to water quality and water supply, coastal hazards, public views, and public access and recreation for which the Coastal Act mandates protection due to the impacts associated with retention of the existing WWTP in place.

Step 3
The project, if approved, would be fully consistent with the policy that affirmatively mandates resource protection or enhancement. For denial of a project to be inconsistent with a Chapter 3 policy, the proposed project would have to protect or enhance the resource values for which the applicable Coastal Act policy includes an affirmative mandate. That is, if denial of a project would conflict with an affirmatively mandated Coastal Act policy, approval of the project would have to conform to that policy. If the Commission were to interpret this conflict resolution provision otherwise, then any proposal, no matter how inconsistent with Chapter 3 that offered a slight incremental improvement over existing conditions could result in a conflict that would allow the use of Section 30007.5. The conflict resolution provisions were not intended to apply to such minor incremental improvements.

In this case, numerous Coastal Act policies mandate protection of various coastal resources, including with respect to coastal hazards avoidance, water quality protection, provision of water supply, public views, and public access and recreation maximization. For example, with respect to coastal hazards Section 30253 states that "new development ***shall***…minimize risks to life and property in areas of high geologic, flood, and fire hazard;" with respect to water quality Section 30231 states "the biological productivity and the quality of coastal waters…***shall*** be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and…encouraging waste water reclamation;" and with respect to public access and recreation Section 30221 states that "Oceanfront land suitable for recreational use ***shall be*** protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area" (emphasis added). Thus, these policies affirmatively require protection and enhancement of coastal resources, and denial would not meet, but rather would be inconsistent with these Coastal Act requirements due to retention in place of the existing WWTP, which is inconsistent with the aforementioned policies. In summary, the project will provide needed coastal hazards risk avoidance for critical public infrastructure, improve water quality through tertiary water treatment, provide a secure water supply, and remove an existing industrial use away from the public's beaches, all in conformance with the Coastal Act.

Step 4
The project, if approved, would result in tangible coastal resource enhancements over existing conditions for a number of reasons, including all as described above. The project is a direct response to meet Coastal Commission direction given in its 2013 CDP denial, and will materially improve numerous coastal resources, including by relocating critical infrastructure out of harm's way, improving water quality and supply, and by opening up a stretch of Morro Bay's coast to higher priority uses.

Step 5
The benefits of the project are not independently required by some other body of law. The benefits of approval cannot be those that a project proponent is already being required to provide pursuant to another agency's directive under another body of law. In other words, if the benefits would be provided regardless of the Commission's action on the proposed project, the project proponent cannot seek approval of an otherwise un-approvable project on the basis that the project would produce those benefits (i.e., the project proponent does not get credit for resource enhancements that it is already being compelled to provide). For this project, while the Regional Board has given a TSO for a new wastewater treatment plant to meet effluent water quality requirements, the City cannot undertake the necessary construction and improvements without a CDP from the Commission. The benefits of the project are therefore not independently required by some other body of law.

Step 6
The benefits of the project must result from the main purpose of the project, rather than from an ancillary component appended to the project to "create a conflict." A project's benefits to coastal resources must be integral to the project purpose. If a project is inconsistent with a Chapter 3 policy, and the main elements of the project do not result in the cessation of ongoing degradation of a resource the Commission is charged with enhancing, the project proponent cannot "create a conflict" by adding to the project an independent component to remedy the resource degradation. The benefits of a project must be inherent in the purpose of the project. If this provision were otherwise, project proponents could regularly "create conflicts" and then request that the Commission use Section 30007.5 to approve otherwise un-approvable projects. The conflict resolution provisions of the Coastal Act were not intended to foster such an artificial and easily manipulated process, and were not designed to barter amenities in exchange for project approval. In this case, the coastal hazards, water quality and supply, public view, and public access benefits of the project result from its primary purpose of identifying a project that better ensures consistency with the relevant coastal resource policies as compared to the prior iteration of this project proposal, which would have resulted in clear ongoing coastal resource policy inconsistencies by retaining the existing WWTP in place.

Step 7
There are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies. As discussed previously in the Agricultural Resources section of this report, the City undertook an extensive multi-year analysis evaluating 17 potential locations to find an appropriate site for the proposed WRF. Due to the unique geography of the City of Morro Bay (i.e., surrounded by the Pacific Ocean, Morro Bay Estuary, Morro Bay State

Park, and agricultural lands), any location outside of City limits would necessitate some type of coastal resource impact. And finding a suitable alternative location within City limits was infeasible due to coastal hazards constraints (including on City-owned locations near the existing WWTP) and due to potential adverse community impacts from placing an industrial wastewater facility within existing neighborhoods. Thus, there are no feasible alternatives that would achieve the objectives of the project without violating any Chapter 3 policies.

Based on the above, the Commission finds that the proposed project presents a conflict between Sections 30241, 30242, and 30250 on the one hand, and Sections 30210 through 30224, 30230 and 30231, 30235 and 30253, and 30250 on the other hand, and that this conflict must be resolved through application of Section 30007.5.

Conflict Resolution Conclusion

With the conflict among several Coastal Act policies established, the Commission must resolve the conflict in a manner that on balance is the most protective of significant coastal resources. In reaching this decision, the Commission evaluates the project's tangible, necessary resource enhancements over the current state and whether they are consistent with resource enhancements mandated in the Coastal Act. In the end, the Commission must determine whether its decision to either deny or approve a project is the decision that is most protective of significant coastal resources.

Overall, the approved project is more protective of coastal resources than denial would be because it allows for new critical public infrastructure away from a hazardous shoreline location, and one that provides and protects for needed water quality and supply improvements, as well as future public access and recreational opportunities to and along the coast at a prime coastal access and recreational location. Agricultural protection, and the protection of rural open space lands more broadly, is also an important resource that will be impacted by the proposed project in a manner not consistent with Sections 30241, 30242, and 30250. However, as conditioned to implement an agricultural mitigation program (as described in the Agricultural Resources section of this report), the project will minimize conflicts with the agricultural protection provisions of the Coastal Act. In resolving the identified Coastal Act conflicts, the Commission finds that the impacts from coastal hazards, water quality and supply, and public access and recreation from not constructing the project (i.e., perpetuation of the status quo) will be more significant than the project's agricultural impacts if these impacts are minimized and mitigated as conditioned. Therefore, the Commission finds that approving the project, as conditioned, is, on balance, most protective of coastal resources.

J. ENVIRONMENTAL JUSTICE

While not part of the coastal resources planning and management policies of Chapter 3 and thus not an applicable regulatory standard of review, the Coastal Act provides for the Commission to evaluate environmental justice considerations when making CDP decisions:

> ***30107.3.*** *"Environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.*

> ***30604(h).*** *When acting on a coastal development permit, the issuing agency, or the Commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.*

These concepts have been further articulated in the Commission's Environmental Justice Policy, unanimously approved by the Commission in March 2019. The Policy states:

> *The term 'environmental justice' is currently understood to include both substantive and procedural rights, meaning that in addition to the equitable distribution of environmental benefits, underserved communities also deserve equitable access to the process where significant environmental and land use decisions are made.*

Thus, the Policy underscores the importance of both substance (i.e., evaluating whether projects do or do not disproportionately distribute environmental benefits) and process (i.e., ensuring that those potentially affected by proposed development have an equal and equitable opportunity to voice concerns in an open and transparent public process).

Some members of the Morro Bay community who oppose the proposed project contend that it raises environmental justice concerns on both substantive and procedural grounds. On substantive grounds, they have argued that the proposed project is too expensive for a small community of roughly 10,000 residents to afford, and that there are other less expensive viable alternatives. Due to the increase of costs to pay for the proposed project, they argue this will result in a disproportionate burden on low-income ratepayers, including those who are elderly and on fixed income, renters, and other individuals in low-income communities, including due to the flat-rate, across-the-board adjustment of payer rates regardless of socioeconomic status. On procedural grounds, some have argued that the public participation and engagement process during project development and permitting has been compromised, voicing concerns that the City's process has lacked public transparency and that the CDP consolidation process, whereby the Commission is hearing and acting on one CDP (rather than one each from the City, County, and the Commission due to the project being within all three jurisdictions) has significantly impaired public participation by bypassing public hearings at the local level. In essence, they argue the Coastal Act's consolidation process is not appropriate for a project of this magnitude, particularly since it has opposition, and that local venues for public participation have been thwarted. See the attached "Correspondence" for the specific concerns.

To better understand whether there is "fair treatment" or, conversely, a disproportionate burden on a targeted population by race, income, cultures, and/or other identifiers, it is first important to evaluate Morro Bay's socioeconomic. According to the U.S. Census American Community Survey Five-Year Estimates for years 2013-2017, Morro Bay has a federal poverty rate of 10.1%, a median household income of $61,690, and a population that is 80.8% non-Hispanic white. For relative reference, California's overall poverty rate is 13.3%, the state's median household income is $67,169, and California's population is 37.2% non-Hispanic white. Pismo Beach, another beachfront city in San Luis Obispo County, has a federal poverty rate of 8.4%, a median household income of $77,316, and a population that is 84% non-Hispanic white. Adjacent Los Osos has a federal poverty rate of 10.5%, a median household income of $73,082,

and is 77.3% non-Hispanic white. And finally, Oceano, an unincorporated community in southern San Luis Obispo County, has a federal poverty rate of 18.8%, a median household income of $55,421, and a population that is 41.2% non-Hispanic white (and 49.8% Hispanic/Latino). Thus, when compared with the statistics for California as a whole, Morro Bay is on average wealthier, whiter, and has lower rates of poverty. And when compared with peer jurisdictions in the County, Morro Bay fits somewhere in the middle in terms of median income and poverty rate, with some communities being more wealthy and others less. In terms of population ethnicity, Morro Bay is predominantly non-Hispanic white.

The above federal statistics are used to compare entire jurisdictions by median household income and ethnicity, but do not capture neighborhood-scale variations with respect to these statistics. The State has tools that do so, including designations for "Disadvantaged Communities" and "Low-Income Communities" at the census tract level pursuant to Senate Bill (SB) 535 and Assembly Bill (AB) 1550, respectively. Specifically, in 2012, the Legislature passed SB 535, directing that 25 percent of the proceeds from the Greenhouse Gas Reduction Fund (from the State's greenhouse gas cap-and-trade program) go to projects that provide a benefit to Disadvantaged Communities. The legislation gave the California Environmental Protection Agency (CalEPA) responsibility for identifying Disadvantaged Communities, which CalEPA defined as census tracts in the top 25 percent CalEnviroScreen 3.0 index.[37] And pursuant to AB 1550, which was passed in 2016, at least five percent of the proceeds from the Greenhouse Gas Reduction Fund are to be spent on projects located in (and benefiting) Low-Income Communities. Low-Income Communities are defined as the census tracts that are either at or below 80 percent of the statewide median income, or at or below the threshold designated as low-income by the California Department of Housing and Community Development. Based on both SB 535 and AB 1550 and their definitions/designations, no census tract in Morro Bay meets the criteria for a Disadvantaged Community by CalEnviroScreen 3.0; however, one census tract (Tract 6079010503) on the northern end of Morro Bay is designated as a Low-Income Community, namely the area on the northern, upcoast part of town.

In sum, while Morro Bay as whole is wealthier than the State as a whole, there are pockets of town that are less wealthy, including one area being officially defined as a Low-Income Community pursuant to State law. Thus, issues of environmental equity and the benefits and burdens of environmental decisions are still important factors for the Commission to recognize in this community.

With respect to the substantive environmental justice concerns raised by certain project opponents, the proposed project is intended to provide numerous public health and coastal resource benefits, including in terms of relocating critical wastewater infrastructure out of a coastal hazardous area, of improving water quality through tertiary treatment, and ensuring water security and reliability through water recycling and indirect potable reuse. All of these components are significant public benefits that provide security, resiliency, and adaptation for the Morro Bay community in an era of uncertainty due to climate change. Thus, at this broad

[37] CalEnviroScreen 3.0.is a screening tool used to help identify communities disproportionally burdened by multiple sources of pollution and with population characteristics that make them more sensitive to pollution. Thus, the top 25% most impacted census tracts are those with high pollution burden and populations with higher sensitivity to pollution.

level, the proposed project will benefit all Morro Bay residents and visitors with essential public benefits, and thus the project will further environmental justice principles in this regard.

That being said, it is true that the proposed project will be expensive, as is typical of all critical major public infrastructure projects, and the subsequent costs could have a disproportionate burden on low-income rate payers. The City indicates that the project represents an investment in the entire collective community, and thus should be paid for by the entire community. The project's estimated cost is roughly $125 million, which will be paid for through a ratepayer surcharge of $41 per month. The rate surcharge was subject to two Proposition 218 votes of all ratepayers in the City, and both passed. This $41 per month surcharge will be decreased should the City receive State and Federal grants and/or low-interest loans, which the City is actively seeking currently, and the City estimates that such efforts, if successful, should decrease the costs to the community and reduce the $41 monthly surcharge. In addition, most of the City's current water supply is imported via the State Water Project, for which the City currently pays $2,100 per acre-foot of water. This source has proven to be a volatile supply and most likely will increase in cost in the future due to needed upgrades. Meanwhile, use of the City's existing groundwater supply only costs $1,000 per acre-foot. The WRF will provide a stable, reliable, and clean groundwater supply source that is projected to satisfy up to roughly 80% of the City's water supply needs, thus leading to a less expensive water source. While that is not to suggest that the project is without costs, it is to suggest that they are being constrained as much as is possible. In addition, *not* pursuing the project also has its own costs, not the least of which are environmental costs (including in terms of hazards risks, impaired water quality, lack of sufficient water supply, economic loss of oceanfront recreational land use, etc.), but also in terms of regulatory costs (e.g., Clean Water Act violations). Although the Regional Board has provided time for the City to pursue project alternatives, and has extended the time frame for Clean Water Act compliance without fines and penalties multiple times, the City is under the Regional Board's TSO order where such fines and penalties will commence starting in 2023 if the current issues are not rectified.

In addition it should be noted that through the City's public engagement efforts in recent years, the City has taken these cost concerns seriously and responded accordingly. For example, in 2017, in response to public concerns regarding affordability, the City Council directed the WRF project team to undertake an evaluation of project alternatives and perform an audit for potential cost reductions. First, the WRF team evaluated the cost estimates of a series of other locations, including rebuilding the Plant at its current location, to understand the proposed project's costs relative to other potential locations. The evaluation identified a range of potential costs, including $150 million for the new WRF at the South Bay Boulevard site, some $125 million for rebuilding the WWTP at its current site, and some $138 million for other inland locations. See this analysis in **Exhibit 5**.

The City's analysis also highlighted a few points. First, it found that all such alternatives would be over $100 million, and thus it was not accurate to suggest that there are significantly less expensive alternatives as some members of the public had argued. And second, the cost analysis only estimated short-term construction costs *today*, as opposed to potential long-term maintenance costs overall. Specifically, the City's goal for this project is to build a facility that will provide certainty for the community, including in terms of siting it outside of an area subject

to coastal hazards risks that will potentially be exacerbated by climate change and thus also implicates concerns regarding adequate protection of water quality in case of WWTP breach or failure. While the analysis did find that rebuilding in place was the least expensive project *today*, the analysis did not include the potential unknowns that will factor into the costs applicable to the existing WWTP site in the future, including potential damage from coastal hazards over time and expensive repairs or possible future relocation to address those hazards. Thus, rebuilding in place, while potentially less expensive today than the proposed project, did not meet the City's stated project goals and objectives because doing so does not provide the certainty with respect to coastal hazards avoidance and future financial obligations that the currently proposed project does (see also Commission staff comments about such considerations to the City Council in **Exhibit 6**).[38] As such, the City Council decided (in a noticed public hearing in September 2017) that it was not appropriate for the City to abandon the proposed South Bay Boulevard site and restart the planning/permitting process at a new site based upon potential cost savings, and affirmed the South Bay Boulevard site as the most fiscally prudent. With the South Bay Boulevard site affirmed, the Council directed an audit performed by a task force of area wastewater professionals to understand project components and identify potential redundancies, efficiencies, and other changes to reduce cost. The audit resulted in identified cost reductions of some $25 million (i.e., from a previously estimated cost of $150 million down to $125 million), which reductions have been accounted for and will be realized through design modifications as reflected in the current project proposal. Discussion of the relative cost of the various alternatives considered is relevant here because under any of the scenarios evaluated (for which the City determined there was no option significantly less expensive than the current proposal), financing for the project would require the City to recoup costs by passing along the costs to ratepayers as rate increases.

Thus, and finally with respect to cost, the City listened to public concerns, evaluated options, and made project changes to help address those concerns. In addition to reexamining potentially less expensive alternatives and cost audits as described above, the City is also still actively looking to mitigate project costs by seeking State and Federal loans and grants, including the State Water Board's State Revolving Fund grants and the United States Environmental Protection Agency's Water Infrastructure Finance and Innovation Act loans. As of the time of the publishing of this report, the State Water Board is recommending the City receive $105 million in grants and low-interest loans through the State Revolving Fund, and the City has been given a favorable rating to receive federal funding as well. The estimated average increased monthly utility bill of $41 does *not* include these funding sources, and will be reduced should the City receive such additional funding. And, importantly in terms of opportunities to mitigate the *disproportionate* impact which the maximum rate increase of $41 will have on lower-income rate payers relative to higher-income rate payers, the City also has a tiered water/wastewater rate structure, with discounted rates (up to 10%) for lower-income residents to further help such residents afford their utility bills, and intends a public outreach program to ensure that residents are notified of and enrolled in the program.

[38] While the City was undertaking the cost comparative analysis in 2017, Commission staff met in person with both City staff as well as interested members of the public (including those opposed to the project based on cost considerations) to understand their concerns and discuss the benefits and costs of each of the potential project location alternatives.

In short, it is clear that the City has taken the cost considerations raised by members of the public seriously, including seeking relief for direct WRF costs today that will reduce costs for all ratepayers and will continue its low-income rate payer assistance program to mitigate disproportionate burdens of the rate increase on its low-income households. And the City also indicates that the project is a long-term investment in critical public infrastructure that will be fiscally prudent into the future. For example, less reliance on water from the State Water Project and desalination, both of which are expensive supply options, with reliance instead on local groundwater sources via recycling and replenishment, will reduce costs and provide financial security for utility ratepayers in the longer run. What the City has indicated is that the "no project" alternative is simply not an option, financially and in terms of protection of coastal resources as required by the Coastal Act, and that the proposed project is the best course of action to address Morro Bay's critical infrastructure needs taking into account all of these considerations. The City indicates that it has deferred maintenance on the overall water and sewer supply system over the years, and that the increased utility rates levied as part of the WRF project are also meant to pay for needed upgrades to the entire system and create a consistent revenue stream so it remains in a state of good repair. On this point, the City recently adopted the "OneWater Morro Bay" plan, which serves as a master plan for needed infrastructure upgrades and repairs. This plan, along with the proposed WRF project, will help to upgrade the City's critical water and sewer infrastructure for all of its residents and visitors.

And with respect to process, specifically the CDP consolidation process, as a preliminary matter, CDP consolidation is a process identified and allowed for under the Coastal Act. Specifically, Section 30601.3 allows for projects that span multiple permitting jurisdictions to be heard directly by the Commission in one CDP with the Coastal Act as the standard of review if the Executive Director, the applicant, and the local government all agree to consolidate, and if public participation is not "substantially impaired" by doing so. Neither the Coastal Act nor its implementing regulations explicitly define a threshold for when public participation might be "substantially impaired," but rather such determinations are made on a case-by-case analysis depending on the particular facts regarding the proposed project at hand. Factors that may be relevant to make this determination include: an evaluation of the opportunities provided by the local government for public participation during project development/refinement and as provided for through any local, non-CDP permitting requirements, including CEQA review; the level of community and other parties' interest and involvement in the project; the degree to which consolidation would allow for a comprehensive review of an entire project as a whole as opposed to bifurcation into different CDP applications with different standards of review (and potentially separate appeals to the Commission), which could result in fragmentation of public participation; and the potential for scheduling a Commission hearing as close to the proposed project's location as possible to further public participation objectives. In general, consolidation can serve as a beneficial permitting tool, including by streamlining the process, avoiding bifurcation of project review, and ensuring clarity in the public process by having one CDP and one standard of review governing a project, including with respect to future condition compliance and potential CDP amendments over time.

Commission staff has had discussions with City and County staff at various times in the past few years regarding the fact that consolidation was an option for processing the proposed WRF if they so desired. Commission staff felt that consolidation was appropriate in this case because the

project includes components that span multiple jurisdictions (i.e., the proposed WRF is in the unincorporated County, the pipelines, the proposed pump stations, and the existing Plant are in the City, and the outfall is in the Commission's retained jurisdiction in coastal waters). Thus, the project could benefit from consolidation to avoid the need for separate County and City CDPs (each of which could appealed to the Commission under a different LCP standard of review) and a separate CDP from the Commission (with the Coastal Act as the standard of review) for the outfall work. As such, consolidation avoids a disjointed public process where integral project elements would not be evaluated holistically under one standard of review, or even at one time, which may also increase public confusion and fragmentation of public participation regarding the various project elements. Commission staff also made clear to City staff that consolidation was contingent on a robust public engagement process at the local level to be done before the consolidated CDP application was submitted to the Commission for review.

To foster public participation and shape WRF project parameters, over the past few years the City has held over 50 noticed public meetings (see **Exhibit 7** for a list of these 50 public meetings, including with links to their associated staff reports), including through the WRF Citizens Advisory Committee, the City's Planning Commission, and the City Council. These public meetings included the aforementioned hearings in which project costs and alternatives were deliberated, two public hearings on the project's EIR certification, an affirmative City Council vote to authorize CDP consolidation, and two City Council meetings (after authorizing consolidation) to further solicit public comment and provide the public and the City Council opportunities to make project changes prior to submittal of the CDP application to the Coastal Commission.[39] In addition, the San Luis Obispo County Board of Supervisors held a noticed public hearing in April 2019 and voted to support a consolidated CDP application to the Commission. Finally, the project is being heard at the July 2019 Coastal Commission meeting in San Luis Obispo to ensure the hearing is as close to Morro Bay as possible to facilitate participation for interested Morro Bay residents (i.e., San Luis Obispo is about a 20-minute drive from Morro Bay). Thus, it is inaccurate to characterize the consolidation process as limiting public participation, including as the history of the project shows that the City has made a significant effort to maximize public participation when shaping project parameters.

The Commission recognizes that a core component of its Environmental Justice Policy, and of the Coastal Act more broadly, is to maximize public participation, and claims that such participation is inadequate or being hampered are not taken lightly and are given careful consideration. Indeed, public participation is a cornerstone of California's coastal management program. However, as described above, based on the actions the City has taken to foster participation and outreach, including making project changes based on public input (including in response to project costs as discussed above), and based on the benefits consolidation would accrue in terms of comprehensively evaluating the entire project's coastal resource benefits and impacts under a single standard of review, the Commission finds that the project's procedural aspects are not in conflict with the Coastal Act's environmental justice objectives and that consolidation in this case is appropriate.

[39] Commission staff also attended one of these City Council meetings.

In summary, as affirmed by the Commission's Environmental Justice Policy, these issues are at the fore in guiding the Commission's implementation of the Coastal Act, including ensuring that CDP decisions benefit all and do not unduly burden a select group. This project, both substantively and procedurally, aligns with the goals of the Environmental Justice Policy and the Coastal Commission's environmental justice authority.

K. OTHER

Traffic

Some members of the public have voiced concern regarding construction-related traffic impacts, including in terms of public safety and commercial activity as roads would need to be closed off to traffic for pipeline construction. Such closures may adversely impact egress in emergency situations. To address such concerns, **Special Condition 2(d)** is included to require the City to prepare a traffic management plan to ensure that construction activities have the least impact on road closures and emergency access as possible.

Public Rights

The area associated with this CDP application includes areas that are clearly public, as well as other areas historically used by the public, including the existing WWTP site. Although the Commission has identified areas of public land and public use herein, the Commission here does not intend its action waive any public rights that may exist on the affected properties, including at the WWTP site. Thus, this approval is conditioned to make that clear, and to require the Applicant to agree and acknowledge same, including that the Applicant shall not use this CDP as evidence of a waiver of any public rights that may exist on these properties now or in the future (see **Special Condition 12**).

Other Authorizations

The project requires authorizations from the Regional Water Quality Control Board, the California State Lands Commission, the U.S. Army Corps of Engineers, and potentially other agencies, and this approval is conditioned for evidence of same. The City is also required to inform the Executive Director of any changes to the project required by any other such authorizations, and any such changes must be incorporated through a CDP amendment, unless the Executive Director determines that no amendment is legally required. See **Special Condition 13**.

Minor Changes

This CDP authorizes the project as proposed by the City except as modified by the special conditions. Any project changes, including with respect to any Executive Director-approved plans required pursuant to the special conditions, shall require an amendment to this CDP, unless the Executive Director determines that no amendment is legally necessary (**Special Condition 14**).[40]

[40] Note that **Special Condition 14** can be justified in Commission CDP approvals to account for the needed minor refinements and changes that commonly occur as projects are being built out. This operational flexibility is important, particularly for large and complicated public works projects like this one.

Future Permitting
The Commission herein fully expects to review any future proposed development at and/or directly related to this project and/or project area, including to ensure continued compliance with the terms and conditions of this CDP through such future proposals. Thus, any and all future proposed development at and/or directly related to this project, this project area, and/or this CDP shall require a new CDP or a CDP amendment that is processed through the Coastal Commission, unless the Executive Director determines a CDP or CDP amendment is not legally required (see **Special Condition 15**).

Indemnification
Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its actions on the pending CDP applications in the event that the Commission's action is challenged by a party other than the applicant. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition 16** requiring reimbursement for any costs and attorneys' fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this CDP, or challenging any other aspect of its implementation, including with respect to condition compliance efforts.

L. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with CDP applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment.

The Applicant, i.e. the City of Morro Bay, acting as the CEQA lead agency, prepared and certified an Environmental Impact Report (EIR) for the proposed project in August 2018 (State Clearinghouse Number 2016081027). The City certified the EIR with a "Statement of Overriding Consideration" based on potentially significant and unavoidable impacts to historic and archaeological resources from construction-related ground disturbance in areas where there are known archaeological resources. Despite inclusion of mitigation measures to reduce potential impacts, including by requiring onsite archaeological and Native American monitors during construction and preparation of a Cultural Resources Mitigation and Monitoring Program to further identify best management practices, the EIR concluded that the potential impacts would remain significant and unavoidable. The City ultimately certified the EIR by finding that the project's benefits overall outweighed such impacts. The six specific benefits cited were: 1) removing wastewater treatment facilities out of a 100-year flood zone and improving flood zone capacity/flow; 2) enhancement and reliability of water supply through water recycling; 3) accommodation of the City's wastewater treatment needs; 4) relocation of the existing WWTP out of a coastal hazard area and improving reliability through reduced risk; 5) opening up the existing wastewater treatment plant's coastal site to higher priority uses under the Coastal Act; and 6) replacing and building a new wastewater treatment plant is required and there are no other options but to do so for the protection of public health and the environment.

The City also actively worked with the Northern Chumash tribal representatives to shape the project, including with respect to the alignment of new pipelines to avoid known cultural sites as much as possible and to include appropriate mitigation measures to further mitigate potential adverse impacts. Namely, the proposed project includes a suite of archaeological protection measures, including retaining a qualified archaeologist that meets the Secretary of the Interior's standards to carry out all required monitoring activities, having the archaeologist and qualified Native American monitor be on site during construction, and preparation of a cultural resources mitigation and monitoring program to further identify best management practices, including in terms of avoidance measures and procedures for potential recovery of human/archaeological remains. The Northern Chumash representative indicates agreement and support for the proposed project (see attached correspondence).

Despite the EIR's conclusion that impacts to archaeological resources would be significant and unavoidable, as discussed in this report, the project, with proposed mitigation measures for archaeological resource impacts, can be found consistent with the archaeological resource policy of the Coastal Act (Section 30244). The Coastal Commission's review and analysis of CDP applications has been certified by the Secretary of the Natural Resources Agency as being the functional equivalent of environmental review under CEQA (see 14 CCR Section 15251(c)). The preceding CDP findings discuss the relevant coastal resource issues with the proposal, and the CDP conditions identify appropriate modifications to avoid and/or lessen any potential for adverse impacts to said resources. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA. Thus, if so conditioned, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

- *City of Morro Bay Water Reclamation Project Final Water Reclamation Facility Plan.* Prepared by Carollo Engineers, April 2019.
- *Technical Memorandum Re: Morro Bay Water Reclamation Facility Groundwater Modeling.* Prepared by GSI Water Solutions, Inc. (Dave O'Rourke and Tim Thompson) to Eric Casares and Rob Livick (City of Morro Bay Water Reclamation Facility Team), dated April 19, 2019.
- *Morro Bay Water Reclamation Facility Final Environmental Impact Report*, State Clearinghouse #2016081027, Prepared by Environmental Science Associates (ESA) for the City of Morro Bay, dated June 2018.
- *City of Morro Bay Water Reclamation Facility Project Updated Site Comparison Report September 2017.* Prepared by Michael K. Nunley & Associates, Inc. for the City of Morro Bay, dated September 21, 2017.
- *Lower Morro Valley Basin Screening-Level Groundwater Modeling for Injection Feasibility*, Prepared by GSI Water Solutions, Inc. for Michael K. Nunley & Associates and the City of Morro Bay, dated May 16, 2017.
- *City of Morro Bay Master Water Reclamation Plan Draft March 2017.* Prepared by Michael K. Nunley & Associates, Inc. for the City of Morro Bay, dated March 2017.
- *City of Morro Bay Water Reclamation Facility Master Plan.* Prepared by Black and Veatch for the City of Morro Bay, dated November 9, 2016.
- *Second Public Draft Options Report for the City of Morro Bay New Water Reclamation Facility Project.* Prepared by John F. Rickenbach Consulting for the City of Morro Bay, dated December 5, 2013.
- *First Public Draft Options Report for the City of Morro Bay New Water Reclamation Facility Project.* Prepared by John F. Rickenbach Consulting for the City of Morro Bay, dated October 29, 2013.

APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

- City of Morro Bay (Scott Collins, City Manager; Eric Casares, WRF Program Manager; Rob Livick, City of Morro Bay Public Works Director/City Engineer)
- San Luis Obispo County Department of Planning and Building
- Office of San Luis Obispo County Supervisor Bruce Gibson
- California State Water Resources Control Board
- Central Coast Regional Water Quality Control Board
- Citizens for Affordable Living (Betty Winholtz, Cynthia Hawley)
- Home Front Environmental Justice Morro Bay (Richard Sadowski, Marla Jo Bruton Sadowski, Cynthia Hawley)
- LandWatch San Luis Obispo County (Cynthia Hawley)
- Environmental Justice Coalition for Water
- Northern Chumash Tribal Council (Fred Collins, Tribal Administrator)