CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV

W15a

CDP Filed:	7/24/19
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Staff:	K.Huckelbridge-SF
	B.O'Neill - SC
Staff Report:	8/30/19
Hearing Date:	9/11/19

STAFF REPORT: REGULAR CALENDAR

Application No.:	**3-19-0617**
Applicant:	**Cayucos Sanitary District** **Chevron Environmental Management Company**
Location:	Chevron Estero Marine Terminal, 4000 Highway 1, and in state waters offshore of Toro Creek Beach, Morro Bay, San Luis Obispo County.
Project Description:	Connect a new wastewater effluent pipeline into an existing vault within the Chevron Estero Marine Terminal (EMT), inspect and clean two existing offshore pipelines, repurpose one of the pipelines for use as a treated wastewater effluent outfall, and adjust lot lines to create four new public lots near the EMT (Exhibits 1 and 2).
Staff Recommendation:	Approval with conditions (CDP)

SUMMARY OF STAFF RECOMMENDATION

The Cayucos Sanitary District (CSD) proposes to install new conveyance infrastructure, including the repurposing of the existing Chevron Estero Marine Terminal (EMT) Load Line 2 (LL2) offshore pipeline, for use as a treated wastewater effluent outfall (Exhibits 1 and 2). This repurposing would be in support of a new tertiary Water Resource Recovery Facility (WRRF) that the CSD is constructing further inland. The proposed work is part of a larger project called the Cayucos Sustainable Water Project (CSWP) that ultimately seeks to achieve 100% reuse of the treated effluent produced by the CSWP.

The key Coastal Act issue raised by this project is the potential for adverse impacts to marine resources. The proposed project has the potential to harm marine mammals, fish, hard bottom habitat, soft bottom habitat and marine water quality. To minimize impacts, Commission staff recommends several conditions designed to protect marine habitats and sensitive species. These include **Special Condition 3** requiring the CSD to submit a revised Marine Wildlife Contingency Plan (MWCP), **Special Condition 4** requiring installation of the proposed diffuser avoid hard bottom habitat, and **Special Condition 5** requiring the CSD to submit an Anchoring Plan also to avoid impacts to hard bottom habitat. **Special Conditions 6, 7 and 8** require the CSD to submit a Spill Prevention and Response Plan, a Critical Operations and Curtailment Plan and a Stormwater Management Plan to minimize impacts to water quality from construction-related discharges. S**pecial Condition 10** requires the CSD to conduct a Diffuser Turbidity Study demonstrating that the diffuser will be operated in a manner that minimizes scour and impacts associated with increased turbidity. Finally, **Special Condition 11** requires the CSD to submit a Recycled Water Management Plan that describes the actions the CSD will take over the next five and ten years to achieve the ultimate goal of 100% reuse of treated effluent from the CSWP. The CSD will be required to submit subsequent updates every five years that include progress to date and revised actions and timelines for the next five and ten-year period. Once the outfall is no longer needed, **Special Condition 11** also requires that the CSD remove it in its entirety. As conditioned, the staff recommends the Commission find the proposed project would be consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

The proposed project also has the potential to result in conflicts with and impacts to commercial and recreational fishing activities, ESHA, public access, and cultural and tribal resources. In addition to the Special Conditions described above, several mitigation measures addressing avoidance of ESHA, water quality protections, noise minimization, and archeological and tribal monitoring required by the CSD's Mitigated Negative Declaration (MND) have been incorporated into this CDP. Further, **Special Condition 12** requires the CSD to submit information on the location of the outfall and diffuser to NOAA so that navigation charts can be updated and fisherman can avoid potential snags and loss of fishing gear. Additionally, the project includes the creation of four lots to facilitate transfer of that land from Chevron to the CSD. The proposed lot creation will enhance public access and recreational opportunities, as the Applicant's propose to create the lots for such purposes. **Special Condition 13** requires the proposed lots to be permanently protected and limited to the identified uses. As conditioned, the staff recommends the Commission find the project would protect commercial and recreational fishing interests, ESHA, public access, and cultural and tribal resources, and is therefore

consistent with Coastal Act Sections 30234.5, 30240(b), 30210 and 30220, and 30244, respectively.

The staff recommends that the Commission **approve** coastal development permit application 3-19-0617, as conditioned. The standard of review is the Coastal Act. The motion and resolution can be found on p. 5.

TABLE OF CONTENTS

MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 3-19-0617 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves Coastal Development Permit 3-19-0617 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.

I. STANDARD CONDITIONS

The Coastal Development Permit (CDP) No. 3-19-0617 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.

II. SPECIAL CONDITIONS

CDP No. 3-19-0617 is granted subject to the following special conditions:

1. **Other Permits and Approvals:** PRIOR TO THE START OF CONSTRUCTION, the applicant shall provide to the Executive Director copies of all other local, state, and federal permits required to perform project-related work. These permits and approvals include:
   a. State Lands Commission: final approved lease reassignment and amendment
   b. California Department of Transportation: encroachment permit

2. **Environmental Impact Report Mitigation Measures.** This permit incorporates those mitigation measures identified in the January 2019, *Subsequent Mitigated Negative Declaration for the Estero Marine Terminal Ocean Outfall Project Component of the Cayucos Sustainable Water Project* concerning marine habitats, biological resources, cultural resources, and public access, that are attached to this report as Exhibit 9**.** The Permittee shall provide the Executive Director copies of plans and reports prepared pursuant to mitigation measures BIO-1 and BIO-2.

3. **Revised Marine Wildlife Contingency Plan (MWCP**). PRIOR TO THE START OF OFFSHORE CONSTRUCTION ACIVITIES, the Permittee shall prepare a revised MWCP for review and approval by the Executive Director. The Permittee shall implement the MWCP during all marine operations (e.g., cleaning of the LL2 pipeline, installation of the HDPE outfall, installation of the diffuser). In addition to the requirements outlines in Mitigation Measure BIO-5 of the MND (incorporated under **Special Condition 2**), the MWCP shall include the following elements, and shall be implemented consistent with vessel and worker safety:
   - 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 or similar training material, on 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 the animals.
   - A minimum of one qualified marine mammal observer shall conduct observations from one of the Project vessels, with one observer on duty during all offshore construction activities. The MWCP shall identify any scenarios that require an additional observer and, in these cases, make recommendations as to where they should be placed to ensure complete coverage of the surrounding marine environment. If 24 hour construction activities are planned, multiple observers shall work in a rotation to ensure adequate coverage.
   - Shipboard observers shall maintain a daily sighting report that shall be of sufficient detail to determine whether observable effects to marine mammals are occurring.

- The observers shall have the appropriate safety and monitoring equipment adequate to conduct their activities (including night-vision equipment).
- The observers shall have the authority to stop any activity that could result in harm to a marine mammal or sea turtle. For monitoring purposes, the observers shall establish a 500 foot radius avoidance zone around the project vessels for the protection of large marine mammals (i.e., whales) and a 100-foot radius avoidance zone around the project vessels for the protection of smaller marine mammals (i.e., dolphins, sea lions, seals, etc.) or sea turtles.
- In the event that a whale becomes entangled in any cables or 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"[1] involving harassment or harm to a marine mammal occurs, the observer shall immediately notify the Executive Director, NMFS and any other required regulatory agency.
- Propeller noise and other noises associated with offshore construction activities shall be reduced or minimized to the extent feasible.
- 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 offshore construction 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.

4. **Hard Bottom Habitat Avoidance.** PRIOR TO ANY IN-WATER CONSTRUCTION, the Permittee shall submit to the Executive Director for review and written approval a map of the LL2 outfall and proposed diffuser location demonstrating that existing hard bottom substrate areas would be avoided.

5. **Anchoring Plan**. PRIOR TO THE COMMENCEMENT OF OFFSHORE ACTIVITIES, the Permittee shall prepare and submit an Anchoring Plan to the Executive Director for review and approval that describes how the Permittee will avoid placing anchors on sensitive ocean floor habitats. The Plan shall include at least the following information:
   - A list of all vessels that will anchor during the Project and the number and size of anchors to be set;
   - Detailed maps showing proposed anchoring sites that are located at least 40 feet (12 meters) from rocky habitat identified during geophysical surveys;
   - A description of the navigation equipment that would be used to ensure anchors are accurately set; and
   - Anchor handling procedures that would be followed to prevent or minimize anchor dragging, such as placing and removing all anchors vertically.

[1] As defined under the Marine Mammal Protection Act.

6. **Spill Prevention and Response Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Project-specific Spill Prevention and Response Plan to the Executive Director for review and approval. The Plan shall identify the worst-case spill scenario and demonstrate that adequate spill response equipment will be available. The Plan also shall include preventative measures the Permittee will implement to avoid spills and clearly identify responsibilities of onshore and offshore contractors and the Permittee personnel and shall list and identify the location of oil spill response equipment (including booms), appropriate protocols and response times for deployment. Petroleum-fueled equipment on the main deck of all vessels shall have drip pans or other means of collecting dripped petroleum, which shall be collected and treated with onboard equipment. Response drills shall be in accordance with Federal and State requirements. Contracts with off-site spill response companies shall be in-place and shall provide additional containment and clean-up resources as needed.

7. **Critical Operations and Curtailment Plan (COCP).** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit a Final COCP to the Executive Director for approval. The COCP shall define the limiting conditions of sea state, wind, or any other weather conditions that exceed the safe operation of offshore vessels, equipment, or divers in the water; that hinder potential spill cleanup; or in any way pose a threat to personnel or the safety of the environment. The COCP shall provide for a minimum ongoing five-day advance favorable weather forecast during offshore operations. The plan shall also identify the onsite person with authority to determine critical conditions and suspend work operations when needed.

8. **Marine Discharge**. There shall be no marine discharge of sewage or bilge/ballast water from vessels either installing or repairing the cable. A zero-discharge policy shall be adopted for all project vessels.

9. **Stormwater Management Plan:** PRIOR TO ANY PROJECT-RELATED GRADING OR FILLING, the Permittee shall provide for the Executive Director's review and approval a Stormwater Management Plan that describes all structural and non-structural measures the Permittee will implement to avoid and minimize stormwater-related impacts during construction activities. The Plan shall identify measures the Permittee will implement to store and/or contain materials, soils, and debris originating from the project in a manner that precludes their uncontrolled entry and dispersion into nearby waters or habitat areas. Any debris that inadvertently enters coastal or riparian waters shall be removed immediately. The Plan will identify Best Management Practices (BMPs) that will be implemented during project activities to prevent erosion and excessive sedimentation and to protect wetlands, coastal waters and upland habitats from stormwater runoff associated with project activities.

10. **Diffuser Turbidity Study**. PRIOR TO OPERATION OF THE DIFFUSER, the Permittee shall submit a study design for a Diffuser Turbidity Study to the Executive Director for review and written approval to verify that operation of the diffuser does not

induce scour or significantly increase turbidity levels under the full range of operational and environmental conditions. The Study shall include the following components:

a. A description of ambient conditions including background turbidity levels and sediment grain size.
b. A data collection timeframe that captures the full range of operational flows for the diffuser, and a full range of weather and ocean current conditions.
c. A description of data to be collected including sampling location, methods and frequency.

The Permittee shall implement the approved Study within the specified timeframe. Results of the study, including a comparison of pre- and post-diffuser turbidity and scour data, shall be submitted to the Executive Director for review and written approval. If results of the Study indicate that operation of the diffuser results in a significant increase in turbidity or seabed scour as compared to ambient conditions, the Permittee shall submit an amendment to this CDP to address this impact, unless the Executive Director determines that an amendment is not necessary.

11. **Recycled Water Management Plan.** WITHIN ONE YEAR OF COMMENCING OPERATION OF THE CSWP OUTFALL, the Permittee shall submit to the Executive Director for review and written approval a Recycled Water Management Plan. 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, with the ultimate goal of achieving 100% reuse. The Plan shall identify actions the CSD will take within a five and ten-year period to implement beneficial reuse, as well as specific projected timelines to implement the proposed actions. These actions may include developing programs and infrastructure for urban and agricultural reuse, groundwater replenishment, or other beneficial reuse that serves the community's water needs and protects coastal resources. The Plan shall take into account potential effects of sea level rise and potential aquifer seawater intrusion, and specifically address replacing existing potable water use with recycled water use where feasible and appropriate. Every five years, the CSD shall submit to the Executive Director an updated RWMP that describes progress made towards the goal of 100% reuse of CSWP treated effluent in the subsequent five-year period and updated actions and timelines for the upcoming five and ten year horizons. The CSD shall submit updated RWMPs until such time as the outfall is removed.

Once the outfall is no longer needed for the discharge of treated effluent from the CSD, the CSD shall be responsible for removing it from the marine environment. Specifically, WITHIN 90 DAYS OF EITHER TAKING THE OUTFALL OUT OF SERVICE or after the expiration or sooner termination of the Permittee's California State Lands lease(s) or permit(s), the Permittee shall apply for an amendment to this permit to remove the outfall pipe and diffuser in its entirety from the territorial waters of the State of California. Upon approval by the Commission of the permit amendment, the applicant shall implement the

outfall removal project authorized by the amendment in accordance with the time schedule specified therein.

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. The deadlines included in this Special Condition can be extended by the Executive Director for good cause.

12. **Changes to Nautical Charts.** WITHIN 30 DAYS OF COMPLETING INWATER CONSTRUCTION, the Permittee shall provide written verification to the Executive Director that the Permittee has submitted project-related information to NOAA to be included on area nautical charts. Information submitted shall include as-built drawings, blueprints, or other engineering documents which depict the completed development; geographic coordinates of the location, using a Differential Geographic Positioning System (DGPS) unit or comparable navigational equipment; and the Permittee's point of contact and telephone number.

13. **Approved Public Lots.** This CDP authorizes four lots (i.e., lots 6N, 6NE, 6SW, and 7N as described and shown on pages **Exhibit 7**) provided they are transferred to the Cayucos Sanitary District (or another public entity authorized by the Executive Director). Immediately upon Commission approval of this CDP, no development, as defined in Coastal Act Section 30106, shall occur within such lots except for authorized development related to: (1) public recreational access; (2) habitat restoration/enhancement; (3) public service purposes (including but not limited to public utility infrastructure; inspection, maintenance, and removal of existing outfall lines; etc.); (4) archeological recovery and preservation; (5) ceremonial and other passive use for tribal members; and (6) within lot 7N only, agricultural and agriculturally related uses.

WITHIN ONE YEAR OF THE DATE OF THE APPROVAL OF THIS CDP (i.e., no later than September 11, 2020) the Permittees shall execute and record a document or documents, in a form and content acceptable to the Executive Director, restricting the use and enjoyment in perpetuity of the four lots as described above and as shown on **Exhibit 7**. No development, as defined in Coastal Act Section 30106, shall occur within any of the lots except as described above. The recorded document(s) shall include a legal description and corresponding graphic depiction of the legal lots subject to this CDP that are prepared by a licensed surveyor. The document(s) shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed. The document(s) shall run with the land in favor of the People of the State of California, binding successors and assigns of the Permittees and/or landowners in perpetuity.

III. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND BACKGROUND

The Cayucos Sanitary District (CSD) proposes to install new conveyance infrastructure, including the repurposing of the existing Chevron Estero Marine Terminal (EMT) Load Line 2 (LL2) offshore pipeline, for use as a treated wastewater effluent outfall (Exhibits 1 and 2). The proposal would support a new tertiary Water Resource Recovery Facility (WRRF) that the CSD is constructing further inland. The proposed work is part of a larger project called the Cayucos Sustainable Water Project (CSWP). Construction and operation of the proposed WRRF and construction of inland effluent and influent pipelines along Toro Creek Road were evaluated in an Environmental Impact Report (EIR) certified by the CSD in April 2017, and on June 22, 2017, San Luis Obispo County issued of a CDP for these inland components of the CSWP, finding them consistent with the County's certified LCP. The development proposed under this CDP includes work within the Commission's original jurisdiction needed to convey the treated effluent from the new effluent pipeline (approved under the County's CDP) along Highway 1 to a vertical riser within the Chevron Estero Marine Terminal property, and then out to the ocean via LL2. More specifically, the proposed project includes the following components:

1. Modifications to Lift Station 5

The existing Lift Station 5 conveys sewage from the southern terminus of the CSD to the shared Monterey Bay Cayucos Sanitary District Wastewater Treatment Plant (MBCSD WWTP) (Exhibit 2). As a component of the CSWP, the lift station will be reconfigured to convey sewage to the CSWP WRRF site. Treated effluent will be conveyed from the WRRF back to Lift Station 5 for conveyance to the MBCSD WWTP during testing and startup. Once the WRRFs operational testing is complete, the Lift Station will only convey wastewater to the WRRF, and the pumps and facilities for pumping to Morro Bay will be decommissioned.

2. Conveyance of Treated Effluent to Outfall

From Lift Station 5, treated wastewater will be conveyed by existing force mains in the Caltrans right of way, including on the Highway1 bridge over Toro Creek. Once across Toro Creek, a new 14-inch effluent pipeline segment will be constructed to tie-in to an existing vertical riser for LL2 on the EMT property (Exhibit 4). The 100 ft. tie-in would be located in an existing paved area and would involve excavation within a 3600 square foot footprint (Exhibit 10).

3. Conversion of LL2 into an outfall for use by the CSWP

Conversion of LL2 into an outfall will require 3 steps: a) Pigging and flushing of LL2 and LL1, b) Installation of a 12-inch high density polyethylene (HDPE) pipeline inside of LL2, and c) Installation of a diffuser on the seaward end of the HDPE line (Exhibit 3). All offshore construction work is expected to take approximately 4 weeks.

Pigging and Flushing of LL2 and LL1

Although the LL2 and LL1 pipelines were flushed in 1999 to reduce total petroleum hydrocarbon (TPH) concentrations to less than 15 parts per million (PPM), both pipelines will be pigged and flushed again as part of this Project to verify current conditions. The pigging and flushing will ensure that any residual TPH in the water inside LL2 is lowered to levels less than 15 PPM.

Prior to the start of the pigging and flushing, the 16-inch by 20-inch reducer on the offshore terminus of LL2 will be removed and replaced with a temporary 20-inch diameter repair flange to facilitate passage of 20-inch diameter pigs. To accomplish this, the LL2 pipeline will first be vacuum-sealed at the terminus inside EMT to prevent the water and oil inside the pipeline from escaping from the offshore end when the reducer is removed, and the repair flange and pig launcher are attached. To further ensure that residual hydrocarbons are not released into the marine environment, a metal seep tent will be installed over the offshore terminus (Exhibit 5). Divers will then pump 7500 gallons of seawater into the pipeline to push back any contaminated water approximately 500 feet. Any water captured at the onshore end of the pipeline will be placed in frac tanks inside the EMT. Once seawater has been pumped into the pipeline, the vacuum will be re-established. Next, divers will cut off the blind flange at the offshore terminus and install a 20-inch mechanical repair flange and a 20-inch pig launcher. A pig receiver will be installed at the onshore terminus and connected to the frac tanks within the EMT.

Once the pigging and flushing system is in place, a pig train consisting of three pigs and an approximately 150-foot long 90/10 seawater/biodegradable surfactant pill will be pressed through the pipeline from the offshore terminus to the onshore terminus. This pigging/flushing process will be repeated at least once to ensure that total petroleum hydrocarbon (TPH) levels inside the pipeline are less than 15 PPM. All wastewater will be collected in the frac tanks staged within the EMT, treated, and discharged through Chevron's existing outfall in accordance with an existing NPDES permit. Pigging and flushing is expected to produce approximately 128,000 gallons of wastewater and is anticipated to take approximately 2 weeks to complete.

A similar procedure will be used to pig and flush LL1.

Installation of HDPE pipeline inside of LL2

A 12-inch High Density Polyethylene (HDPE) pipeline will then be pulled through the existing LL2 pipeline. The HDPE pipeline will be assembled into strings and staged inside the EMT and then placed on portable pipe rollers aligned with the LL2 onshore terminus. To facilitate back-pulling the HDPE pipeline through LL2, the termination riser will be excavated to horizontal pipe and then the vertical riser will be cut and removed to expose the horizontal pipe. Offshore, a messenger line will be installed using a pig, and then used in conjunction with a winch installed on a dive support vessel anchored near the LL2 offshore terminus, to install a 1 inch synthetic hawser wire to assist with the pulling. Once these preparations are completed, the hawser wire will be attached to the first string of HDPE pipeline, and then this and subsequent string will be pulled through the LL2 casing. Once it is pulled through, a flange will then be fitted to the offshore end of the HDPE pipeline. All work will take place within designated laydown areas consisting of paved areas or ruderal/annual grassland areas within the EMT. Assembly of the HDPE pipeline string is anticipated to require 24-hour operations for approximately 2 days.

Installation of a diffuser on the seaward end of the HDPE line

A 200-foot long diffuser will be assembled in Morro Bay and transported to the project area via tugboat (Exhibit 6). Using a dive support vessel and two tugboats, the diffuser will be installed on cradles placed on the seafloor and connected to the offshore end of the HDPE pipeline.

4. Creation of public lots

The Applicants propose a lot line adjustment and subdivision to create four new public lots (i.e., upon transfer to the CSD they will be publicly owned lots) that would be transferred from Chevron to the CSD. The lots would be formed from portions of two existing lots owned by Chevron, Lot 6 (85.1 acres) and Lot 7 (33.6 acres) (see **Exhibit 7**). These two existing lots include all of the Chevron land west of Highway 1, as well as the portion of Chevron land nearest Highway 1 at the entrance to the former Chevron facility. The new public lots would be Lot 6N (6.27 acres), Lot 6NE (7.02 acres), Lot 6SW (8.96 acres), and Lot 7N (17.36 acres) as shown in **Exhibit 7**. Existing Lots 6 and 7 would remain in a reduced configuration (i.e., Lot 6 would be reduced to 62.86 acres and Lot 7 to 16.18 acres). A future potential fifth public lot (i.e., Lot 6W, 4.28 acres) is shown on **Exhibit 7**, but it is not part of the current proposal. This future potential public lot is envisioned to be transferred from Chevron to the City of Morro Bay, but must first be approved by the City, and its creation would require a CDP. Until such time as Lot 6W may be created, this area will remain part of existing Lot 6.

B. Coastal Commission Jurisdiction and Standard of Review

The project site is located within three different jurisdictions. Lift Station 5 is located within the Coastal Zone and within the City of Morro Bay's certified Local Coastal Program (LCP) boundary. All of the remaining onshore work (shoreward of the mean high tide line) is located within the Coastal Zone and within the San Luis Obispo County's certified Local Coastal Program (LCP) boundary. The offshore work is within the Commission's original jurisdiction.

Section 30601.3 of the Coastal Act provides that when a project requires a coastal development permit from a local government with a certified Local Coastal Program and the Coastal Commission, a single, consolidated coastal development permit for the entire project may be considered by the Coastal Commission if the applicant and local government agree to that process. That section provides that the Coastal Act Chapter 3 policies serve as the legal standard of review, with certified LCPs serving as guidance. On June 25, 2019, the City of Morro Bay requested a consolidated permit under Section 30601.3 of the Coastal Act. On August 5, 2019, San Luis Obispo County requested a consolidated permit under Section 30601.3 of the Coastal Act. The applicant also agreed to a consolidated permit for the portions of the project within the City and County's jurisdiction.

C. Other Agency Approvals and Tribal Consultations

San Luis Obispo County and City of Morro Bay

The proposed project is partially located within the unincorporated area of the County of San Luis Obispo within the Estero Planning Area and within the City of Morro Bay boundary. The portion of the Project within the City of Morro Bay is the Lift Station 5 area, and the portion of the project within the County of San Luis Obispo is the pipe tie-in site and pipeline trench in the Caltrans right-of-way. In June of 2017, San Luis Obispo County issued a Conditional Use Permit and a Development Plan/CDP for the overall CSWP project. However, this approval did not include the repurposing and use of the Chevron outfall. As described in the previous section,

both the County and the City have requested that the Commission consider a consolidated CDP for the proposed project.

Regional Water Quality Control Board – Central Coast Region (RWQCB)

The RWQCB regulates waste discharges into receiving waters in the project area. On August 9, 2016, the RWQCB issued a Section 401 water quality certification for construction of the proposed project. The RWQCB will also issue a National Pollutant Discharge Elimination System (NPDES) permit for operation of the proposed outfall and diffuser. The NPDES permit is pending.

California State Lands Commission (CSLC)

The CSLC manages the State's sovereign and public trust lands, including tide and submerged lands and the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits. The LL2 pipeline is located on submerged and tidal lands leased to Chevron by the CSLC. The CSD applied to the CSLC for approval of a proposed lease reassignment for the LL2 pipeline to the CSD and lease amendment for the pipeline use and outfall diffuser installation. The CSLC approved the lease reassignment and amendment on August 22, 2019.

California Department of Transportation (Caltrans)

A portion of the Project site is located within a Caltrans right-of-way along Highway 1, south of Toto Creek Road. The CSD has applied to Caltrans for an encroachment permit. This permit is pending.

U.S. Army Corps of Engineers (Corps)

The Corps has regulatory authority over the proposed project under Section 10 of the Rivers and Harbors Act of 1899 (*33 U.S.C. 1344*) and Section 404 of the Clean Water Act (CWA) (*33 U.S.C. 1344*). The Applicant requested federal authorization from the Corps, which processed the request under Nationwide Permit #7 (Outfall Structures and Associated Intake Structures) and issued a permit on June 18, 2019 (contingent upon Commission authorization).

Tribal Outreach and Consultations

During the process of reviewing CSD and Chevron's application for this project and developing this recommendation, Commission staff reached out to representatives from Native American Tribes understood to have current and/or historic connections to the project area. Contact information for these Representatives was gathered from the Native American Heritage Commission's Native American Contact List dated August 12, 2019. The Northern Chumash Tribal Council requested consultation and expressed general support for the proposed project. The Northern Chumash Tribal Council representative also expressed interest in seeing the CSD's proposed outfall removed completely as quickly as feasible in the future, especially given its location within the proposed Chumash Heritage National Marine Sanctuary. A representative from the yak tityu tityu yak tiłhini – Northern Chumash Tribe requested that their tribe be included in any required tribal monitoring.

D. DREDGING AND PLACEMENT OF FILL IN COASTAL WATERS

Coastal Act Section 30233(a) states:

> *The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*
>
> *(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
>
> *(2) Maintaining existing, or restoring previously dredged depths on existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
>
> *(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
>
> *(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
>
> *(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
>
> *(6) Restoration purposes.*
>
> *(7) Nature study, aquaculture, or similar resource dependent activities.*

The proposed project includes placement of a small length of HDPE pipeline and a 200-foot diffuser on the seafloor. This activity constitutes fill of open coastal waters that is subject to Coastal Act Section 30233(a), which imposes three tests on such an activity. The first test requires that the proposed activity must fit into one of the seven categories of uses enumerated above. The second test requires that there be no feasible less environmentally damaging alternative. The third test requires that feasible mitigation measures be provided to minimize the project's adverse environmental effects.

Allowable Use Test

One of the seven allowable uses of fill under 30233(a) is a coastal-dependent industrial facility. The proposed outfall, the purpose of which is provide a means to discharge treated effluent from a water treatment facility is "coastal-dependent" since it requires "a site on, or adjacent to, the sea to be able to function at all" as defined in Coastal Act Section 30101. The Commission thus finds that the proposed cable meets the allowable use test of Coastal Act Section 30233(a).

Alternatives

The Commission must further find that there is no feasible less environmentally damaging alternative to the proposed project, especially with respect to the impacts of the proposed outfall on marine organisms and habitat. As part of the environmental review for the overall CSWP and specifically related to the proposed outfall, the CSD considered one alternative to the proposed repurposing of the Chevron LL2 pipeline: use of the existing Morro Bay WWTP outfall. This alternative was evaluated and approved under the overall CSWP, so it also corresponds to the No Project Alternative for this proposed project.

Use of the existing Morro Bay WWTP

The proposed project considered in the EIR for the CSWP included use of the existing Morro Bay WWTP outfall for discharge of treated effluent from the CSWP. The EIR evaluated effluent discharge via the Chevron LL2 pipeline as an alternative and generally found that the Chevron LL2 outfall would have similar or less environmental impacts when compared to the Morro Bay WWTP outfall. For example, the Chevron LL2 outfall is longer than the Morro Bay outfall and discharges into deeper water. This translates into less water quality impacts on the sea surface and closer to shore. And although the outfall pipe itself is longer, the total distance from the CSWP to the discharge point is shorter, thus decreasing the likelihood of impacts associated with an effluent pipe break, and decreasing costs and disturbance associated with maintenance of the effluent pipeline. Furthermore, use of the Chevron LL2 pipeline eliminates the need to pump treated effluent, thus decreasing greenhouse gas and other air emissions associated with use of the pumps.

In the future, the CSD intends to use its treated effluent as agricultural irrigation water and eventually, as potable water for the City of Cayucos. However, these ultimate uses have not yet been developed and approved by the relevant regulatory agencies. Thus, until such time as 100% of the treated effluent can be reused, an outfall is a necessary component of the project.

Accordingly, for the reasons described above, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and therefore meets the second test of Coastal Act Section 30233(a).

Mitigation

The final requirement of Coastal Act Section 30233(a) is that dredging and filling of coastal waters may be permitted if feasible mitigation measures have been provided to minimize any adverse environmental effects. In Sections E and F of this report, the Commission has identified feasible mitigation measures that will minimize the adverse environmental effects of the outfall and diffuser. These mitigation measures include: avoiding hard substrate areas; submitting plans to minimize impacts from anchoring, spills of hazardous material and stormwater runoff; conducting a turbidity study to demonstrate that impacts from use of the diffuser are avoided and minimized; and submittal of a Recycled Water Management Plan demonstrating how the CSD will achieve 100% reuse of treated effluent from the CSWP and eliminate the need for the outfall.

With the imposition of the afore-mentioned conditions of this permit, the Commission finds that the third test of Coastal Act Section 30233(a) has been met, and the proposed project is consistent with Section 30233(a) of the Coastal Act.

E. MARINE RESOURCES AND WATER QUALITY

Section 30230 of the Coastal Act states:

> *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 of the Coastal Act states:

> *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.*

Section 30232 of the Coastal Act states:

> *Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

The offshore portion of the project is located within Estero Bay, approximately 2.8 miles north of Morro Rock, and encompassing an approximately 400 square foot area located approximately 3,950 feet offshore of the Chevron EMT at a depth of approximately 51 feet (Exhibit 2). Estero Bay is a natural, open embayment stretching across approximately 18 mi of open coastline from Point Estero in the north to Point Buchon in the south. According to the MND:

> *The nearshore subtidal habitat in Estero Bay is predominantly sedimentary, and interspersed with isolated rocky features, such as Morro Rock. The epifauna of the shallower sedimentary habitats, including the Project site, typically includes several species of macro-invertebrates including sand stars (Astropecten armatus), sand dollars (Dendraster excentricus), and slender crabs (Metacarcinus [formerly Cancer] gracilis), as well as polychaete worms and mollusks. The rocky substrata tend to support a generally more diverse epibiota*

comprised of macrophytic algae, urchins, sea stars, and cnidarians (anemones and solitary corals).

This area is known for its biological diversity and contains several valuable marine habitats characterized by both soft and hard substrate, and supports several special-status species. Although not located within a State or federal Marine Protected Area, the project area is located approximately 2.5 miles north of the Morro Bay State Marine Recreational Management Area. The project area is also located within Critical Habitat for federally endangered leatherback turtle (*Dermochelys coriacea*). The larger Morro Bay area also serves as an important commercial fishery for a variety of fish and invertebrate species.

The proposed project involves the cleaning and repurposing of the Chevron LL2 pipeline for use as an outfall for the CSWP, including the installation and use of a diffuser at the offshore terminus of the outfall. This project has the potential to result in impacts to marine mammals and sea turtles, fish, hard bottom habitat, soft bottom habitat, and marine water quality. Each of these potential impacts is discussed in detail below. Impacts to marine species and habitat associated with the use of the diffuser are addressed in the marine water quality section.

1. Marine Mammal and Sea Turtle Impacts

Whale species observed in the project area include gray whales (*Eschrichtius robustus*), humpback whales (*Megaptera novaeangliae*), blue whales (*Balaenoptera musculus*), fin whales (*B. physalus*), minke whales (*B. acutorostrata*), sperm whales (*Physeter microcephalus*), and killer whales (*Orincus orca*), several of which are listed as endangered under the federal Endangered Species Act. In addition, several types of dolphins and porpoises, including bottlenose dolphins (*Tursiops truncates*), Pacific white-sided dolphins (*Lagenorhynchus obliquidens*) and Risso's dolphins (*Gampus griseus*) are also common in the area. Other types of marine mammals such as pinnipeds (*e.g.,* sea lions, harbor seals) and fissipeds (*e.g.,* sea otters) and sea turtles have also been observed.

There are two potential types of impacts to whales and other marine wildlife due to the proposed project: collision with project vessels and exclusion or avoidance of habitat areas. Ship strikes of whales or sea turtles, especially during transit, present the most serious concern. However, during offshore construction activities, project support vessels will be anchored, thus minimizing the potential for collisions. In addition, impacts from noise and vessel movement have the potential to result in behavioral changes or disruptions in migration routes. These impacts, however, would be temporary and geographically isolated and would not cause disruptions substantially different than normal ship traffic through the area.

The MND includes one mitigation measure, Mitigation Measure BIO-5, intended to reduce the impact to marine mammals and sea turtles to a less than significant level. This measure includes monitoring by a marine biologist, designation of a 100-meter protection zone around the project site, and development of a Final Marine Wildlife Contingency Plan. **Special Condition 2** requires the CSD to implement these mitigation measures. Although these measures are likely to decrease collision risk, additional measures are necessary to enable the proposed project to be found consistent with the requirement to protect marine species as required by Section 30230 of

the Coastal Act. For offshore construction projects of similar scope, the Commission generally has required a larger avoidance zone, vessel crew awareness training, and post-project reporting to the Executive Director. Thus, consistent with similar offshore construction project approvals, the Commission has included an additional measure to ensure that impacts to marine mammals and sea turtles are minimized and healthy populations of marine organisms are maintained. **Special Condition 3** requires the CSD to submit a revised Final Marine Wildlife Contingency Plan to the Executive Director for review and approval. This plan includes provisions for the establishment of a 100-500 foot avoidance zone, training for project personnel and post-project reporting, minimization of propeller noise, and submittal of a post-project report to the Executive Director. With these conditions in place, potential adverse impacts to marine mammals and sea turtles from collisions with project vessels or harassment from noise associated with project activities will be minimized.

2. Fish

The distribution of fishes in Estero Bay, like the rest of the California coast, is influenced by depth, substrate type, temperature, and ocean currents. According to the MND:

> *In Estero Bay, and at the Project site in particular, many of the species are demersal types, such as sanddabs (Citharichthys spp.), California halibut (Paralichthys californicus), or Pacific staghorn sculpin (Leptocottus armatus) that are associated with soft substrates. Other species such as white croaker (Genyonemus lineatus) or barred surfperch (Amphisticus argenteus) inhabit the water column but feed on invertebrates living in the substrate. Still others are restricted mainly to the water column such as northern anchovy, Pacific sardine (Sardinops sagax), topsmelt (Atherinidae), or white seabass (Atractoscion nobilis) where they feed on midwater plankton or other midwater fishes (Tenera, 2002).*

In contrast to benthic species that are immobile or severely restricted in their mobility, fish species are not likely to experience direct impacts from project activities. Offshore construction activities will result in a temporary increase in turbidity and noise that will likely cause mobile species such as fish and marine mammals to avoid the project area. However, sediment is likely to settle relatively quickly (i.e., within a matter of hours), and the relatively small project footprint and timeframe will not substantially limit available habitat. Thus, these impacts would be insignificant.

3. Benthic Species: Hard Substrate Impacts

Construction of the offshore outfall and diffuser could adversely impact hard substrate habitat and associated biota. Hard substrate is exposed rocky seafloor area that provides habitat for a diverse group of plants and animals. Common epifaunal invertebrates occurring in the hard substrate areas vary based on depth and substrate relief height. Along much of the California coast, there is a strong positive association between the types of communities and the depths and substrate types in which they occur. Hard substrates, including rocky bottoms, rock outcrops, and rock crevices, provide habitat and shelter for numerous sessile organisms, demersal fishes, and

mobile invertebrates such as lobsters and crabs. In shallow waters less than 200 meters (656 feet) deep, algae, including giant kelp, eelgrass and anemones such as *Corynactis californica* are present. At these depths (and deeper), depending on the presence of favorable high relief substrate, current speeds and sedimentation rates, branching hard and soft corals have also been reported.

Offshore of central California, hard substrate (especially higher-relief substrate) and its associated biota are relatively rare, and therefore any effect to them is potentially significant. Impacts to hard substrate habitats are additionally significant because: (a) they support a diverse assemblage of invertebrates that colonize substrate surfaces; (b) they attract fish as a nursery ground, food source, and as shelter; and (c) organisms residing on rocky substrates are sensitive to mechanical disturbance and increased sediment loads. Adverse impacts (*e.g.,* crushing, scraping, and/or displacement) to hard substrate could occur during installation of the diffuser. Placement of the diffuser or associated ballasted weights on rocky substrates would disrupt associated bottom communities, likely crushing and/or dislodging small, sessile or relatively sedentary invertebrates along a narrow strip.

Diver and side scan surveys of the project area conducted by Chevron in 2005 and 2012 indicate that benthic habitat is comprised of fine and medium grained sands and scattered one- to four-foot high rock ridges and outcroppings. No kelp or eelgrass beds were present within the project area at the time the surveys were conducted, and species assemblages and benthic conditions suggest periods with high levels of wave and/or current exposure and sand movement may be possible. These results were confirmed by more recent diver surveys performed in support of the environmental review of the proposed project that included substrate mapping (Exhibit 11). Based on the scarcity of rocky substrate in the project vicinity, it is unlikely that the proposed outfall work will result in adverse impacts to hard bottom habitat. However, given the biological importance of this habitat, it is critical to ensure that hard bottom habitat is avoided when feasible. Thus, S**pecial Condition 4** requires the CSD to submit for Executive Director review and approval a map of the proposed HDPE outfall and diffuser location demonstrating that hard bottom substrate areas would be avoided.

In addition, potentially significant impacts to hard substrate and biota could also occur if anchors are placed directly on hard bottom. Impacts to hard bottom habitat from anchors would be temporary, and would be removed as soon as the vessel has completed its work**.** However, studies have shown that hard bottom ecosystems are relatively slow to recover from direct impacts (e.g., as compared to soft bottom ecosystems). Thus, it is likely that areas impacted by project anchors could take many years to recover, even though the direct impact itself is short-lived. Thus, to further reduce the potential for impacts to hard substrate from project anchors, **Special Condition 5** requires the CSD to submit for Executive Director review and approval an anchoring plan demonstrating that hard bottom substrate areas would be avoided and listing equipment and procedures to be used to ensure anchors would be placed accurately.

With the above special condition incorporated, impacts to hard bottom habitat and the associated benthic species will be avoided, consistent with the requirement in Section 30230 of the Coastal Act that marine resources be maintained, enhanced, and where feasible, restored.

4. Benthic Species: Soft Bottom Habitat Impacts

Soft-bottom areas are unconsolidated sediments (e.g., gravel, coarse-grained and mixed sediments, sand, and mud) that provide habitat to epifauna (surface living) and infaunal (below-surface living) organisms. Impacts to epifauna and infauna due to the proposed project are of concern because: (1) the proposed diffuser placement will disturb their seafloor habitat; (2) many infaunal organisms have limited mobility and cannot easily escape habitat disturbance or rapidly repopulate regions of disturbance; and (3) they are a source of food for more mobile epifaunal and pelagic marine organisms such as crabs, fin fish, and marine mammals.

Soft-bottom benthic communities in the nearshore areas of the proposed cable routes are comprised of species associated with the sand and gravel substrate typical of the high-energy and dynamic environments of the California coast. As depth increases from the shore to 200 meters (656 feet), the density of infaunal species increases, most likely because of the greater stability of the sediments. Examples of dominant species present at shallow water depths (subtidal to 30 meters or 98.4 feet) include several species of red algae and epibenthic biota such as the ornate tube worm (*Diopatra ornata*), cancer crabs (*Cancer* sp.), the slender crab (*Cancer gracilis*), the masking crab (*Loxorhynchus crispatus*), octopus (*Octopus rubescens* and *O. bimaculatus/ bimaculoides*), the white sea pen (*Stylatula elongata*), the sea cucumber (*Parastichopus californicus*), and the sunflower star (*Pycnopodia helianthoides*). In the coarser sand habitats, the invertebrate community was typically dominated by ornate tubeworms and sand dollars when they were present in colonies occupying fairly narrow bands. Demersal fish present include the California halibut and other flat fish species. According to the MND, no threatened or endangered soft-bottom benthic species were identified during surveys or are known to exist in the project area.

Potential impacts to marine habitats and associated biota could occur during offshore construction activities from placement of temporary or permanent structures in the benthic environment. The temporary placement of anchoring devices and project equipment on the seafloor may adversely affect benthic habitat and associated organisms by disturbing, displacing, and/or crushing habitat and organisms within their footprint. These impacts would be temporary and short-lived. Furthermore, **Special Condition 5** requires the CSD to submit an anchoring plan demonstrating that anchors will be placed in a manner that minimizes the impact footprint. In addition to temporary impacts, the proposed project would result in permanent impacts to soft-substrate benthic habitat. Placement of the diffuser on the seafloor would result in long-term impacts within an approximately 400 square foot footprint. The diffuser will be installed approximately 6 inches above the seafloor, resting on 20 ballasted concrete weights. Thus, within the 400 sq ft. impact footprint, 250 sq feet of the ocean floor will be directly affected by the ballasted weights. Non-mobile marine organisms in this footprint would most likely be crushed and future populations would be permanently displaced from these areas. However, the impact area is very small relative to the abundance of similar habitat in the surrounding areas. In addition, the species that would be affected are relatively common and would be expected to repopulate quickly. Thus, long-term impacts to soft-substrate habitats and organisms would be minor and insignificant at a population level.

With **Special Condition 5** incorporated, impacts to soft substrate species and habitats will be avoided, consistent with the requirement in Section 30230 of the Coastal Act that marine resources be maintained, enhanced, and where feasible, restored.

5. Marine Water Quality Impacts

The principal potential impacts on marine water quality due to the proposed project are: (1) impacts to filter-feeding benthic organisms due to increased turbidity during offshore construction activities; (2) the release of hydrocarbons, fuel, hazardous material, sewage or bilge/ballast water from project vessels or other construction activities; (3) increased erosion, sedimentation, and other potential water quality impacts related to terrestrial construction activities, and (4) impacts to marine species from discharge of treated effluent.

Construction-Related Turbidity

The size of a turbidity plume caused by proposed offshore construction activities that could disturb the seafloor (*i.e.*, anchoring, installation of the diffuser) depends on the grain size of the bottom sediments, rates at which the suspended particles settle to the bottom or are dispersed by bottom currents, and the energy produced by the offshore construction equipment. Increases in turbidity can degrade water quality by reducing light penetration, discoloring the ocean surface, or interfering with filter-feeding benthic organisms sensitive to increased turbidity. Installation of the diffuser and ballasted weights as well as anchoring of the project vessels are likely to result in localized and temporary increases in turbidity. However, as stated in the MND, the majority of nearshore sediments consist largely of medium-grained sand, which is expected to settle rapidly within the immediate project area, resulting in only minor impacts to marine water quality. Thus, due to the minor and short-term nature of the increase in turbidity, impacts to filter-feeding and other benthic organisms will not be significant.

Hazardous Material Releases

The proposed project requires the use of several different marine vessels and equipment to support the construction of the new CSWP outfall. It is possible that marine vessels could discharge fuel or other hazardous fluids, sewage water, bilge water, debris, or ballast water into the marine environment. Depending on the size and contents of the release, impacts to marine organisms could be significant. Although the likelihood of a spill occurring is low, the potential consequences can be devastating. Thus, to ensure that the potential for a spill to occur is minimized and in the event of a spill, impacts to marine resources are minimized, **Special Condition 6** requires the CSD to submit a project-specific Spill Prevention and Response Plan to the Executive Director for review and approval. The Plan shall identify the worst-case spill scenario and demonstrate that adequate spill response equipment is available. In addition, this Plan is required to clearly identify responsibilities, list and identify the location of oil spill response equipment, and include a plan for conducting training and response drills. Further, **Special Condition 7** requires the CSD to implement an Executive Director-approved Critical Operations and Curtailment Plan (COCP). The COCP defines the limiting conditions of sea state, wind, or any other weather conditions that would hinder safe operation of vessels and equipment or a potential spill cleanup. Finally, consistent with previous fiber optic cable projects, **Special Condition 8** requires implementation of a zero discharge policy for all project vessels.

In addition to project vessels, proposed activities associated with cleaning and retrofitting the existing LL2 pipeline could result in inadvertent releases of residual hydrocarbons to the marine environment. The offshore LL2 pipeline was constructed in 1983 and was taken out of operation in 1999. At the time it was idled, the pipeline was pigged, flushed and capped. Although it is unlikely that substantial amounts of hydrocarbons remain in the pipeline, it is possible that some residual hydrocarbons have adhered to the wall of the pipeline and could be accidentally released during proposed activities. To minimize the potential for an inadvertent release, the CSD has included several measures in the project description to ensure any residual hydrocarbons are captured. These include flushing the pipeline with seawater from the offshore end and pigging the pipeline in the same fashion. All flush water, including any hazardous or non-hazardous materials that were in the pipeline will be collected at the onshore terminus within the EMT and disposed of appropriately. The CSD will also install a seep tent over the offshore terminus of the LL2 pipeline to ensure that any residual hydrocarbon material that happens to escape from the offshore end will be collected and properly disposed of (Exhibit 5). The Spill Prevention and Response Plan required under **Special Condition 6** will document these project features in detail, thus ensuring that all feasible steps are taken to minimize the potential for unexpected releases.

Erosion from Terrestrial Activities

Tie-in of the existing effluent pipeline into the LL2 pipeline has the potential to result in water quality impacts due to storm water discharges, accelerated soil erosion, and sedimentation. As part of its CDP application, the CSD submitted a copy of the 401 Certification granted by the Central Coast RWQCB for construction of the proposed project. To further ensure that impacts associated with stormwater runoff and erosion are minimized, **Special Condition 9** requires the CSD to submit a Stormwater Management Plan to the Executive Director for review and approval that identifies Best Management Practices to control erosion and stormwater runoff from the project site. Furthermore, MND mitigation measures BIO-2 and BIO-3 (incorporated into this permit through Special Condition 2) require the CSD to develop a sedimentation and erosion control plan to minimize sediment from entering nearby water bodies or prominent drainage courses.

In addition, inadvertent releases of oil or other hazardous material from construction-related vehicles or equipment has the potential to degrade water quality of nearby ground or surface waters. To minimize the likelihood of a spill, the MND includes mitigation measures BIO-2 and BIO-3 (incorporated into this permit through **Special Condition 2**) that require the CSD to implement BMPs to maintain equipment to avoid leaks, and practice good refueling practices. Implementation of these measures will minimize the potential for an inadvertent release of hazardous materials during terrestrial construction activities.

Discharge of Treated Effluent

Implementation of the proposed project, in conjunction with the overall CSWP, would result in significant environmental and water quality improvements. Currently, the CSD sends its raw sewage through aging pipelines that run along the southern edge of Highway 1, through areas subject to current and future tidal flooding and hazards, to the existing Morro Bay Cayucos

Sanitary District Wastewater Treatment Plant, where it is treated and discharged through an outfall into Morro Bay. Effluent discharges from the existing Plant have long been in violation of Clean Water Act standards. To address the discharge water quality problems, the CSWP and the recently approved Morro Bay Water Reclamation Facility (CDP 3-19-0463, approved by the Commission on 7/11/19) were developed to upgrade treatment processes and improve discharged water quality from the two localities. In addition, use of the Chevron LL2 pipeline as an outfall for the CSWP would allow the elimination of existing pipelines subject to tidal hazards, thus decreasing the likelihood of an unintended release of untreated sewage into the marine environment.

Furthermore, as described in the CDP application materials, the CSWP EIR and the outfall-specific MND, the intent of the CSD is to eventually re-use the treated effluent and eliminate the need for an outfall. The treatment design and technology approved for the CSWP (and currently under construction) include reverse osmosis membranes that produce effluent suitable for use as agricultural irrigation water. The CSD has also considered future reuse of the treated effluent as a potable water source for the City of Cayucos, although this type of reuse would likely require implementation of additional treatment processes at the CSWP. However, the infrastructure needed to implement reuse of the treated effluent is not yet in place.

Until such time as the CSD is able to implement complete reuse of the treated effluent, discharges from the proposed outfall will be necessary. As proposed, the CSD would discharge a maximum average dry weather flow of 370,000 gallons per day of tertiary-treated effluent into the marine environment. This is not an insignificant marine discharge and could result in adverse effects to marine water quality and biological productivity due to increased concentrations of solids, metals, and other wastewater constituents and increased turbidity associated with use of the diffuser. Fortunately, this outfall will be subject to strict water quality standards designed to protect biological communities and productivity of marine waters.

The principal state agencies responsible for setting chemical and biological standards for water quality treatment, discharge and use are the State and Regional Water Boards.[2] As such, the Central Coast Regional Water Quality Control Board will be responsible for issuing permits addressing water quality standards for both the effluent discharge and any ultimate re-use of the treated effluent. Consistent with Section 30412 of the Coastal Act and past Commission practice when reviewing proposed wastewater treatment projects,[3] 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 (and ocean) use elements to ensure consistency with the Coastal Act's coastal resource protection requirements.

[2] Pursuant to 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.

[3] Including for the Morro Bay Wastewater Treatment Plant and the Los Osos Wastewater Project.

Operation of the diffuser and discharge of treated effluent into the ocean could result in adverse impacts to marine species, including marine mammals, sea turtles, fish and invertebrates, associated with the discharge plume or increased turbidity caused by the diffuser. According to the MND, discharge from the diffuser would create a buoyant plume of treated effluent. The plume, as modeled using the EPA certified mixing model CORMIX v11, is not expected to breach the sea surface and will be contained within a relatively small zone of initial dilution (ZID) of approximately 1.4 acres centered on the diffuser. It is likely that any midwater fish, marine mammals or other marine species would avoid the plume as it mixes into the ocean and instead move into neighboring waters. Benthic fish and invertebrate species would be excluded from the relatively small diffuser footprint but would likely be unaffected by the discharge plume due to its buoyant nature. In both cases, impacts to marine species are expected to be minimal due to the small volume affected by the discharge plume and the abundance of similar habitat in the surrounding waters.

Operation of the diffuser could also result in impacts to the surrounding soft-substrate habitat and marine species from increased turbidity and localized scour associated with flow from the diffuser ports. As described above, increases in turbidity can degrade water and benthic habitat quality by reducing light penetration, and interfering with filter-feeding benthic organisms. Scour can result in direct impacts and habitat displacement for benthic organisms. To determine whether the diffuser was likely to induce scour and resuspension of the seafloor sediments, the CSD hired a consultant to conduct a hydrodynamic scour analysis of the diffuser. The results of the analysis indicate that when the diffuser discharge is modeled in isolation from the ambient ocean currents, the flow induced by the diffuser discharge is significantly below the threshold scour velocity of the seafloor sediments. Thus, the discharge is not sufficient by itself to mobilize the seafloor. The analysis also cites evidence of observations of buried pipelines in the project vicinity that have remained buried over time to show that ambient currents are also insufficient to result in significant scour of the seafloor. These study results indicate that scour of the seabed and increased turbidity associated with resuspension of seafloor sediments is unlikely. However, it is unclear from the modeling results whether scour could result when the diffuser flow is combined with ocean currents under various oceanic conditions. Thus, to ensure that the diffuser is installed and operated in a manner that minimizes turbidity and maintains marine resources, **Special Condition 10** requires the CSD to conduct a turbidity study to verify that operation of the diffuser is not significantly increasing turbidity or inducing seafloor scour under the full range of operational flows and environmental conditions. If the Turbidity Study does show significant increases in turbidity and/or scour under certain flows and conditions, the CSD would be required to submit an amendment to this CDP to address the impact. Turbidity is also likely to be addressed in the NPDES permit that will be issued by the Central Coast RWQCB, through both turbidity limits in effluent receiving waters and monitoring requirements. **Special Condition 10** is intended to complement any requirements imposed by the RWQCB. It is possible that turbidity monitoring requirements imposed by the RWQCB as part of the NPDES permit will fulfill the requirements of **Special Condition 10**.

As described above, the ultimate goal of the CSD is to achieve 100% reuse of the treated effluent from the CSWP, thus eliminating the need for an outfall all together. In addition to providing the Cayucos community with a much-needed urban and agricultural water source, removal of the

outfall and the associated point source discharge will improve and restore marine water quality and habitat in Estero Bay, thus ensuring that future populations of marine organisms are maintained and protected. To ensure progress towards the ultimate goal of 100% reuse, **Special Condition 11** requires the CSD to submit to the Executive Director for review and approval a Recycled Water Management Plan. The purpose of the Plan is to describe the steps and timeline the CSD is taking over the near and long term to achieve the ultimate goal of 100% reuse of treated effluent from the CSWP. The CSD will be required to submit an initial Plan before it begins operation of the outfall, and subsequent updates every five years that include progress to date and revised actions and timelines for the next five year period. Once the outfall is no longer needed, **Special Condition 11** requires that the CSD remove it in its entirety. Implementation of this Special Condition will ensure that the CSD shows steady progress and ultimately fulfills its commitment to achieve 100% reuse of the treated effluent.

To summarize, with the inclusion of the special conditions described above, the Commission finds the proposed project will minimize the potential for adverse construction-related water quality impacts associated with increased turbidity, inadvertent release of hazardous substances, discharges from project vessels and runoff from terrestrial activities. In addition, as conditioned, the proposed project will minimize water quality impacts associated with the discharge of treated effluent into marine waters. The project will therefore maintain the biological productivity and quality of coastal waters and ensure that the project does not adversely impact existing populations of marine organisms.

6. Conclusion

For the reasons discussed above, the Commission finds that the proposed project, as conditioned by **Special Conditions 1 through 11**, will be carried out in a manner that maintains marine resources and sustains the biological productivity and quality of coastal waters and protects against the spillage of hazardous substances into the marine environment, and is therefore consistent with Coastal Act Sections 30230, 30231 and 30232.

F. Environmentally Sensitive Habitat

Coastal Act Section 30240(b) states:

> *(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.*

The terrestrial components of the proposed project are located within the Caltrans right-of-way for Highway 1 and within a paved area between the Highway 1 right-of-way and the tie-in point within the Chevron EMT. Although project work will not occur within ESHA, some of the work will be conducted within 100 feet of riparian habitat associated with Toro Creek that is designated as ESHA in San Luis Obispo County's LCP (Exhibit 8). According to the Project Mitigated Negative Determination (MND), this habitat may also support several sensitive species

including red-legged frog, western pond turtle, foothill yellow-legged frog, coast range newt, and two-striped garter snake. Aquatic habitat within Toro Creek is also known to support sensitive species, including Steelhead and tidewater goby. In addition, terrestrial work will occur within 100 feet of central foredune habitat west of Highway 1, although work will occur on the other side of Highway 1. This habitat, which is located with the City of Morro Bay's LCP jurisdiction, is not specifically designated as ESHA in the LCP. However, in past actions, the Commission has found that foredune habitat meets the Coastal Act definition of Environmentally Sensitive Habitat and warrants protection in accordance with Section 30240.

The project component with the greatest potential to impact these special status species is the excavation and tie-in work within the Chevron EMT. Construction equipment and vehicle traffic, sedimentation due to earthmoving, or spills during construction could result in indirect adverse impacts to sensitive riparian species and habitat as well as foredune habitat. To minimize the potential for any impacts to these species, the MND included mitigation measures BIO-1, BIO-2 and BIO-3 requiring pre-construction surveys, training for project workers, construction monitoring by a biologist, implementation and monitoring of best management practices for erosion and hazardous spill control, and post-project reports. These mitigation measures have been incorporated into this CDP under **Special Condition 2** with the additional requirement that all required plans and reports be submitted to the Executive Director for review and approval. Thus, with the above measure in place, special status species will be protected against disturbance-related impacts associated with the proposed project in the event that the ocean ground bed is installed at the beach location.

With the incorporation of mitigation measures BIO-1, BIO-2 and BIO-3 under **Special Condition 2,** the Commission finds that habitat supporting special-status species and riparian and foredune habitat would be protected against any disruption of habitat values, and thus, that the proposed project would be consistent with Section 30240 of the Coastal Act.

G. COMMERCIAL AND RECREATIONAL FISHING

Coastal Act Section 30234.5 states:

> *The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.*

Commercial fishing is an important component of the regional economy in central California. The major fishing ports near the Estero Bay project area are Morro Bay and Port San Luis, located approximately 5 and 20 miles south of Estero Bay, respectively. Estero Bay is designated as Essential Fish habitat for Coastal Pelagic species including finfish, market squid and krill, and Groundfish. The most common fishing gear types used in the project area include nets, trawls, pots and traps, trolling, and hand lines.

The proposed project could result in adverse impacts to local fisheries due to degradation in water quality associated with the discharge of treated effluent. However, according to the MND:

> *Use of a new outfall location for CSD effluent, has the potential to impact water quality and benthic communities and aquatic species in the new location that has not had historic effluent disposal. However, past monitoring results at the MBCSD WWTP outfall have indicated that effluent discharges have had a less than significant impact on benthic invertebrate communities and aquatic species and the CSWP effluent water quality will be primarily tertiary treated and not secondary treatment as at Morro Bay. In addition the Project would result in no further transmission of raw sewage for several miles to the Morro Bay Wastewater Plant, eliminating the risk of a sewage spill in the ocean. Therefore, long-term discharges from the new outfall location are not anticipated to result in an adverse, long-term impact on water quality and impacts on the benthic community and aquatic species at the proposed new discharge location.*

Furthermore, the Central Coast RWQCB will be issuing an NPDES permit for the discharge of treated effluent that includes strict limits on water quality that are protective of marine species, including important fishery species. The Central Coast RWQCB will also require the CSD to implement an ongoing monitoring program to ensure that the water quality requirements in the NPDES permit are met. In addition, the CSD will seek to recycle 100% of the effluent in time, thus eliminating the need for the outfall. **Special Condition 11** requires the CSD to submit a report to the Executive Director describing the steps the CSD will take to achieve maximum recycling capability in the shortest amount of time feasible and also requires that once the outfall is no longer needed, the CSD will remove it. Finally, to ensure that fisherman are aware of the location of the diffuser and can avoid snagging gear, **Special Condition 12** requires that the CSD submit project-related information to NOAA to be included on area nautical charts.

With implementation of these measures, the Commission finds that project-related impacts to commercial and recreational fishing will be minimized, and that the proposed project is consistent with Section 30234.5 of the Coastal Act.

H. PUBLIC ACCESS AND RECREATION

Coastal Act Section 30210 states:

> *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.*

Coastal Act Section 30220 states:

> *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

The proposed project site is adjacent to a beach area and Highway 1 and near the cities of Cayucos and Morro Bay. This beach and its adjacent waters are frequently used by the public

for beach and water oriented recreation, and two informal parking areas serving this area have been established on dirt pullouts adjacent to the southbound lanes of Highway 1 and to the north and south of the gated entrance to the Estero Marine Terminal bulkhead. Several informal beach access trails have also been established in this area.

The proposed project involves construction activities, including staging and storage of materials and project vehicles, within the EMT fenced area and at Lift Station 5. No work or staging will occur on the beach, the EMT bulkhead area or any of the turnouts along Highway 1 used for public beach parking. Deliveries of equipment and supplies would be made along Highway 1 to and from the fenced-in areas of the EMT where construction would take place, as well as along Toro Creek Road for modifications to Lift Station 5. To minimize impacts to beach users from construction-related noise, MND Mitigation Measure N-1, incorporated into this CDP under **Special Condition 2**, requires the CSD to implement noise attenuation requirements including limits on construction hours and implementation of noise-reduction features.

Offshore, proposed project activities may result in short-term disruption to recreational boaters, fisherman and other recreational ocean users. During the approximately 4 week offshore construction period, project vessels and offshore work would preclude recreational boaters from an area centered on the offshore terminus of the outfall and encompassing a 100-yard radius. However, given the short duration of the impact and the small size of the affected area in comparison to surrounding areas available for boating, the overall impact to public access and recreation is expected to be minimal. Furthermore, the CSD will file a Local Notice to Mariners with the United States Coast Guard no less than 15 days prior to initiating offshore activities and will conduct all marine operations in accordance with the required Marine Safety and Anchoring Plan.

Additionally, the Applicants propose a lot line adjustment and subdivision to create four new public lots (i.e., upon transfer to the CSD they will be publicly owned lots) that would be transferred from Chevron to the CSD. The lots would be formed from portions of two existing lots owned by Chevron, Lot 6 (85.1 acres) and Lot 7 (33.6 acres)[4] (see **Exhibit 7**). These two existing lots include all of the Chevron land west of Highway 1, as well as the portion of Chevron land nearest Highway 1 at the entrance to the former Chevron facility. The new public lots would be Lot 6N (6.27 acres), Lot 6NE (7.02 acres), Lot 6SW (8.96 acres), and Lot 7N (17.36 acres) as shown in **Exhibit 7**.[5] Existing Lots 6 and 7 would remain in a reduced configuration (i.e., Lot 6 would be reduced to 62.86 acres and Lot 7 to 16.18 acres). A future potential fifth public lot (i.e., Lot 6W, 4.28 acres) is shown on **Exhibit 7**, but it is not part of the current proposal. This future potential public lot is envisioned to be transferred from Chevron to the City of Morro Bay, but must first be approved by the City, and its creation would require a CDP. Until such time as Lot 6W may be created, this area will remain part of existing Lot 6.

[4] As shown on the map entitled "Map of the Subdivision of the Rancho Moro Y Cayucos" and filed in the Office of the San Luis Obispo County Recorder in Map Book "A" at Page 160

[5] Lot 6 would be subdivided to create Lots 6N and 6SW; Lot 7 would be subdivided and then subject to a lot line adjustment to create Lots 6NE and 7N.

The two proposed lots west of Highway 1 (i.e., Lots 6N and 6SW) are currently used for public recreational access purposes, and existing development in these two areas is limited to some existing pre-Coastal Act riprap and some informal trails. On proposed Lot 6NE, just inland of Highway 1, existing development includes a dirt road and a sewer lift station. On proposed Lot 7N, just inland of proposed Lot 6NE, existing development consists of agricultural and agriculturally related uses, including an existing barn and a residence.

The Applicants propose to create the lots for use as public recreational access and open space, and for public infrastructure purposes. Specifically, the proposed lots west of Highway 1 would continue to provide public recreational shoreline and beach access, and are also envisioned for the long planned "Morro Bay to Cayucos Trail Connector" project, currently in the planning phase, which is intended to provide a pedestrian and bicycle pathway between the two communities that is separated from Highway 1. On the inland lots, the current uses (public sewer infrastructure on proposed Lot 6NE and agricultural uses on proposed Lot 7N) would remain and would be allowed to continue, but future public access and recreational uses may also be proposed in the future. Additionally, all of the proposed lots are within archeologically sensitive areas and may contain important archeological resources. Thus the Applicants propose to allow archeological related activities, including recovery and preservation efforts, as well as tribal ceremonial and other passive uses. Although the lots are intended to facilitate future public access improvements, the current project only includes the creation of the lots and no other development is proposed nor authorized.

To carry out the proposed lot creation and to ensure that use and development of the proposed lots are limited to that identified by the Applicants and consistent with the Coastal Act, **Special Condition 13** approves the creation of the lots as shown in **Exhibit 7** and limits future development and uses on the lots to uses related to public recreational access, limited public services and infrastructure, archeological preservation, tribal cultural uses, habitat restoration/enhancement, and, on proposed lot 7N only, existing agricultural uses. Further, the special condition requires the Applicants to record a document(s) (deed restriction) to ensure that the lots are permanently protected and limited to the identified uses and development. As proposed and conditioned, the creation of the lots will enhance and maximize public recreational access as required by the Coastal Act and ensure that ocean front land is utilized for these priority uses.

It is important to note that the remainder of existing Lots 6 and 7 that are not part of the four new proposed lots would be retained by Chevron. However, as explained above, the purpose of the proposed lot creation is solely to facilitate public infrastructure needs and public recreational access uses of the new lots and is not intended to facilitate any development of the remainder of existing Lots 6 and 7. Thus, this approval ascribes no particular prescriptions for these remainder areas as no development is proposed on these parcels other than the subdivisions to create the publicly-dedicated subdivided parcels discussed above, and future development therein would independently be required to be LCP and/or Coastal Act consistent. Although use of these lots for public recreational access purposes may be appropriate, that would be the subject of a future decision, including as no use of these sites can occur until environmental remediation of the site can be completed.

Thus, as conditioned, the Commission finds that any project-related impacts to public access and beach users will be minimal and temporary and therefore concludes that the project is consistent with Sections 30210 and 30220 of the Coastal Act.

I. CULTURAL RESOURCES

Coastal Act Section 30244 states:

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

Historic and cultural resources are places or objects that possess historical, cultural, archaeological or paleontological significance and include sites, structures, or objects significantly associated with, or representative of earlier people, cultures and human activities and events. Project-related activities have the potential to disturb or damage Native American artifacts and shipwrecks of potential cultural resources value. Disturbance of surface and subsurface soils both in the onshore and offshore environment could directly destroy a previously unrecorded historic or archaeological resource, including human remains, or disrupt the site such that the historic or archaeological context of the resource is altered adversely.

San Luis Obispo County has a rich cultural and Native American history, dating back over 9000 years. According to the MND:

> *The Project site lies near the boundary between the Chumash and Salinan language families. The Obispeno Chumash, the northernmost of the Chumash speakers (Gibson 1991; Greenwood 1978; Kroeber 1976), occupied land from the Pacific coast east to the crest of the Coast Range and from the Santa Maria River north to approximately Point Estero. The Salinan people held the territory as far north as Lopez Point and King City (Applied Earthworks, 2004).*

More specifically, as documented by previous cultural resource studies and the MND, the project site is located within a large prehistoric village complex that extends along the banks of Toro Creek near the intersection of Highway 1. Although the site has been extensively disturbed by development including the construction of Highway 1 and the EMT, portions of the site remain intact. Human remains have been discovered in the project vicinity during prior archeological investigations and development-related excavations. The MND states that, consistent with previous findings, the prehistoric village site, identified as archeological site CA-SLO-879/H, and its associated features and deposits are eligible for listing in the California Register. The site contains valuable resources that provide insight into the area's tribal history and culture. The site is also culturally important to the local Chumash and Salinan people.

The proposed project could result in damage to or destruction of important cultural and tribal resources associated with the prehistoric village site. The pipeline segment into the EMT would pass through the recorded boundaries of the village site. The tie-in would occur in an area of

known archeological deposits on Chevron and Caltrans land. However, this deposit has been studied previously and determined to be highly disturbed and lacking the characteristics of a significant archeological resource. According to the MND, a previous CEQA document for the Toro Creek Bridge Replacement project evaluated a larger area that includes the proposed project excavation footprint. The 2018 Initial Study for that project found that although excavation would occur within the boundaries of the archeological site, the affected area "does not contribute to the qualities for which the site is considered eligible for the National Register/California Register." The portion of the archeological site that contributes to the qualities for which the site is considered eligible are located closer to Toro Creek and were not affected by the Toro Creek Bridge Project. Similar to the Toro Creek Bridge Replacement Project, the proposed project footprint is limited to the more disturbed areas within the EMT and avoids impacts to the known, archeologically significant areas closer to Toro Creek.

Although the proposed project will avoid impacts to areas of known sensitive tribal resources, it is possible that project-related excavation could result in the discovery of previously unknown archeological or paleontological resources. To minimize the potential for damage to these resources, the MND included mitigation measure CUL-1, incorporated into this CDP as **Special Condition 2**, that requires the CSD to: (1) provide training to project personnel in recognizing cultural resources and the procedures for stopping work and reporting a discovery, (2) include monitoring by a professional archaeologist and Chumash and Salinan Tribal representatives for all ground disturbing work within the boundaries of archeological site CA-SLO-879/H, (3) follow appropriate procedures in the event of an unanticipated discovery, including the discovery of human remains.

During the CDP review process, staff reached out to several tribal members for the purpose of consultation and coordination on the proposed CDP. Staff contacted 9 individuals included on the Tribal Consultation List provided by the NAHC in a letter dated August 12, 2019. Staff received one email from a tribal member with the yak tityu tityu yak tiłhini – Northern Chumash Tribe acknowledging important cultural resources in the area and requesting that their tribe be included in any required tribal monitoring. To address this concern, Mitigation Measure CUL-1, incorporated into this CDP under **Special Condition 2** requires that the CSD facilitate tribal and archeological monitoring. Mitigation measure CUL-1 states, in part, "A professional archaeologist and Chumash and Salinan Tribal representatives shall monitor all earth disturbances within CA-SLO-879's boundaries." With this mitigation measure included, the CSD will implement tribal monitoring of all ground disturbance areas, including members of the Chumash tribe. Additionally, because the proposed new lots include areas that may contain archeologically sensitive resources, **Special Condition 13** specifically allows for uses related to archeological preservation and passive use by tribal members.

Staff also informally conducted one tribal consultation over the phone with a member of the Northern Chumash Tribal Council. During the consultation, the tribal member expressed support for the proposed project as well as for the larger CSWP project, and described how the CSD had reached out to tribal members and worked with them throughout the environmental review process to modify the project description and include appropriate mitigation measures that avoid and minimize impacts to tribal resources. Specifically, the tribal member described how as part of the larger CSWP project (but not part of the proposed project), the CSD incorporated

directional drilling under the known known tribal archeological site along Toto Creek to avoid impacts to valuable tribal resources. This tribal member supported the findings in MND, included the tribal monitoring requirement.

The one concern that was raised during the tribal consultation related to the introduction of a new outfall into the marine environment within the tribal territory. The Northern Chumash Tribal Council has proposed the establishment of a Chumash Heritage National Marine Sanctuary offshore of the Central Coast of California. The proposed outfall would be located within the boundaries of the proposed Marine Sanctuary. The tribal member acknowledged that the proposed project would result in significant water quality improvements as compared to the current Morro Bay outfall. However, in the long run, the tribal member expressed a desire to see all outfalls, especially those within the proposed Sanctuary, eliminated. To address this concern and to ensure the long-term protection of tribal resources as well as marine resources, **Special Condition 11** requires the CSD to submit to the Executive Director for review and approval a Recycled Water Management Plan. The purpose of the Plan is to describe the steps and timeline the CSD is taking over the near and long term to achieve the ultimate goal of 100% reuse of treated effluent from the CSWP. The CSD will be required to submit an initial Plan before it begins operation of the outfall, and subsequent updates every five years that include progress to date and revised actions and timelines for the next five year period. Once the outfall is no longer needed, **Special Condition 11** requires that the CSD remove it in its entirety. Implementation of this Special Condition will ensure that the CSD shows steady progress and ultimately fulfills its commitment to achieve 100% reuse of the treated effluent.

The Commission finds that with the above-referenced measures in place, the project would not adversely impact cultural resources and is therefore consistent with Section 30244 of the Coastal Act.

J. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (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 which the activity may have on the environment.

The Cayucos Sanitary District acting as lead CEQA agency, certified a Mitigated Negative Determination for the proposed project in January 2019.

The proposed development has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing marine resources, dredge and fill of coastal waters, water quality, ESHA, commercial and recreational fishing, and cultural resources will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would

substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

Application for Coastal Development Permit 3-19-0617, initially received June 24, 2019.

Personal communication from Michelle Gibbs, consultant for Cayucos Sanitary District to Kate Huckelbridge, California Coastal Commission, dated August 4, August 8, August 26 and August 28, 2019.

Personal Communication from Mona Tucker, yak tityu tityu yak tilhini - Northern Chumash Tribe to Kate Huckelbridge, California Coastal Commission, dated August 12, 2019.

Staff report for Coastal Development Permit 9-16-0160, dated June 24, 2016.

Cayucos Sanitary District, *Final EIR for the Cayucos Sustainable Water Project*, April 2017.

Cayucos Sanitary District, *Subsequent Mitigated Negative Declaration for the Estero Marine Terminal Ocean Outfall Project Component of the Cayucos Sustainable Water Project*, January 2019.