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# F13a

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 9-19-0029

**Applicant:** Chevron, USA

**Location:** Casitas Pier, 5661 Carpinteria Ave., City of Carpinteria, Santa Barbara County ([Exhibit 1](#)).

**Project Description:** Follow-on authorization from an emergency permit to replace two piles at Casitas Pier.

**Staff Recommendation:** Approval.

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### SUMMARY OF STAFF RECOMMENDATION

Chevron, USA seeks follow-on approval from an emergency permit (G-9-19-0029) to replace two piles under Casitas Pier (1 on the west side, 1 on the east side), located along the Santa Barbara Channel on state tidelands granted to the City of Carpinteria and operated by Beacon

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<sup>1</sup> On April 16, 2020, Governor Newsom signed Executive Order N-52-20, which suspended certain Coastal Act and Permit Streamlining Act deadlines for a period of 60 calendar days. Accordingly, the Permit Streamlining Act deadline for Commission action on this permit is actually September 21, 2020, rather than July 23, 2020.

9-19-0029 (Chevron, USA)

West Energy Group, Inc. (Beacon West, [Exhibits 1 and 2](#)). New piles are of the same construction and shape as the existing piles and were installed through vibratory pile driving.

The project had the potential to adversely affect marine mammals and other marine organisms from elevated levels of underwater sound associated with pile driving, and adverse water quality effects from project-related activities. Of particular concern were harbor seals that inhabit a rookery and haul-out area located approximately 100 to 300 feet east of the base of the Casitas Pier ([Exhibit 3](#)). To ensure that impacts to harbor seals and other marine mammals were avoided, Beacon West and its subcontractors employed several mitigation measures including: (1) conducting work in the fall prior to December 1 to avoid the harbor seal pupping season, (2) using a vibratory hammer instead of an impact hammer, and (3) implementing a marine mammal monitoring program during all construction activities. These and other mitigation measures were included in a Marine Wildlife Protection and Training Plan developed under previous CDPs (e.g., 9-17-0531) and implemented during emergency work. According to the report from a third-party contractor responsible for carrying out marine mammal monitoring, no significant adverse impacts occurred to marine mammals as a result of project activities. Additional concerns regarding potential water quality degradation from increased turbidity or contamination were avoided by timing activities in the water to avoid rain events, implementing an Oil Spill Contingency Plan, and avoiding the bluff, beach, and pier/bluff transition zones during construction.

The emergency repairs were completed on October 25, 2019.

Commission staff recommends **approval** of coastal development permit application 9-19-0029. The standard of review for proposed project is the Chapter 3 policies of the Coastal Act. The **motion** to implement this recommendation is on **Page 4**.

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**EXHIBITS**

- [Exhibit 1 – Project Location](#)
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- [Exhibit 3 – City of Carpinteria Designated Harbor Seal Restricted Access Area](#)
- [Exhibit 4 – Casitas Pier Emergency Work Locations](#)
- [Exhibit 5 – Emergency Permit G-9-19-0029](#)

## I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit 9-19-0029 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit as conditioned 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 9-19-0029 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### III. FINDINGS AND DECLARATIONS

#### A. PROJECT DESCRIPTION

Chevron USA seeks a follow-up permit to permanently authorize emergency repair work to two pilings on Casitas Pier. The emergency work, conducted in fall of 2019 under Emergency Permit G-9-19-0029 ([Exhibit 5](#)), included repair of failed structural piles 11B on the upcoast side and 8A on the downcoast side of the Casitas Pier causeway, approximately 300 feet offshore of landfall. The pier is located along the Santa Barbara Channel on state tidelands granted to the City of Carpinteria and leased by Chevron, USA ([Exhibit 1](#)). The piles required replacement to address corrosion and physical damage from many years of use that lead to their structural failure. The Commission previously approved repairs in 2003 to 19 pilings (CDP E-02-019), in 2016 to four pilings (CDP 9-16-0990), and in 2017 to 13 pilings (CDP 9-17-0531) to address corrosion.

The pier was built in the mid- to late-1960s and extends approximately 1250 feet from shore ([Exhibit 2](#)). The pier is used by the Applicant to service offshore oil and gas operations. Approximately 50 to 75 feet east of the pier are an oil pipeline, gas pipeline, and electrical cable that come ashore from various offshore platforms. The pier is also within approximately 100 to 300 feet of a rocky shoreline area used by Pacific harbor seals (*Phoca vitulina richardsi*) as a pupping, rookery, and haul-out area ([Exhibit 3](#)).

Beacon West replaced the failed piles with new piles of the same construction and shape. For piling 8A, two 30-inch diameter, 12 foot long steel sleeves were installed around the pile and welded together to form a single 24 foot encasement structure. For collapsed piling 11B, the existing damaged pile was severed near the seafloor and excavated; a new pile was installed and cemented to the existing pile stub. Once the replacement pile and repaired pile were installed, welders connected the top of the piles to the main horizontal pier beams. All project-related debris was removed from the seafloor and from the Pier and disposed of at an appropriate facility.

Equipment was staged at a designated onshore staging area and on the pier at two work locations: an area on the offshore side of the damaged pier causeway and an area on the nearshore side of the damaged pier causeway ([Exhibit 4](#)). Divers, riggers, and project specific equipment performed pier support operations from the causeway during pile inspection and repairs.

All routine operations on the pier were suspended in March 2019. Limited routine operations resumed on August 19, 2019, once the pier had been stabilized over Piling 11, for single-file foot traffic and for hand-carry items only; no vehicles were allowed until the project was finished. Work took place over approximately two months, ending October 25, 2019 and occurred primarily during daylight hours, with limited cases when work hours extended into nighttime hours to take advantage of low tide conditions and to complete a critical operation.

## **B. OTHER AGENCY APPROVALS**

### **U.S. Army Corps of Engineers (USACE)**

Issued an Authorization under Regional General Permit (RGP) 63 for Repair and Protection Activities in Emergency Situations on June 19, 2019.

### **Central Coast Regional Water Quality Control Board**

Issued a Notice of Applicability for RGP 63 for Repair and Protection Activities in Emergency Situations on June 17, 2019.

### **City of Carpinteria**

Issued a Building Permit on June 27, 2019 and required compliance with City requirements regarding harbor seal protection.

### **Tribal Outreach and Consultations**

During the process of reviewing Chevron USA's CDP application for this project and developing this recommendation, Commission staff contacted representatives from Native American Tribes understood to have current and/or historic connections to the project area. These Tribes include the Barbareno/Ventureno Band of Mission Indians, Chumash Council of Bakersfield, Coastal Band of the Chumash Nation, Northern Chumash Tribal Council, the yak tityu tityu yak tilhini – Northern Chumash Tribe, Santa Ynez Band of Chumash Indians, and the San Luis Obispo County Chumash Council. Contact information for these Tribal Representatives was gathered from the Native American Heritage Commission's Native American Contact Lists. At the time of publication of this staff report and recommendation, no additional questions or concerns had been brought to the attention of Commission staff by representatives of these Tribes.

## **C. COMMISSION'S PERMIT AUTHORITY FOR REPAIR AND MAINTENANCE ACTIVITIES**

This proposal consists of repair and maintenance activities. Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that does not result in an addition to, or enlargement or expansion of, the structure being repaired or maintained. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact as described in Section 13252 of the Commission's regulations.

Section 30610 of the Coastal Act provides, in relevant part:

*Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: . . .*

*(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and*

*maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.*

Section 13252 of the Commission administrative regulations (14 CCR 13000 *et seq.*) provides, in relevant part (emphasis added):

*For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:...*

*(3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:*

*(A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;*

*(B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.*

*All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code section 30700 unless so provided elsewhere in these regulations. The provisions of this section shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean....* (emphasis added)

The completed project qualifies as a repair and maintenance under Section 30610(d) of the Coastal Act and Section 13252 of the Commission's regulations because the project: (a) does not involve an addition to or enlargement or expansion of the Pier and (b) does not involve replacement of 50% or more of the Pier. Although the repair and maintenance activities did not add to or enlarge the Pier, the work involved placing construction materials, removing and placing solid materials, and the temporary use of mechanized equipment, in and within 20 feet of coastal waters. The repair project therefore requires a coastal development permit under CCR Section 13252.

In considering a permit application for a repair or maintenance project pursuant to the above-cited authorities, the Commission reviews whether the proposed method of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity with the Coastal Act of the underlying existing development.

## **D. MARINE RESOURCES**

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.*

The primary potential impacts associated with replacement and repair of the two pilings were disturbance to marine mammals from elevated levels of underwater sound associated with concrete demolition and vibratory hammer use, and adverse water quality effects from project-related activities.

### Marine Mammals

For the previous repair activities, information was submitted to National Marine Fisheries Service (NMFS) regarding the status and trends, distribution and habitat preferences, and behavior and life history of potentially affected species. This information is still relevant to assess the 2019 project. Out of a total of 30 species of marine mammals that could occur in the project area, only four species, harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), bottlenose dolphins (*Tursiops truncatus*), and long-beaked common dolphin (*Delphinus capensis c.*), were observed in the immediate vicinity of the Pier during construction.

Harbor seals can be found in the project area year-round. The Casitas Pier is immediately adjacent to a rookery and haul-out area located just east of the Pier ([Exhibit 3](#)). The seals use the area for hauling out year-round, but the area is especially important during pupping season from approximately December 1 to May 31 each year and during molting season during June and July each year. Seals are more sensitive to disturbance during these periods. During pupping season, the seal pups may be abandoned if the adults are disturbed, and pups may not have gained enough skills to survive in the water. During molting season, the seals have less protection from the cold and may need longer periods outside of the water to warm themselves. Estimates of the seal population in the project vicinity, taken over the last 20 years during the pupping and molting seasons, have ranged from 400 to 700 animals. However, during the period of June 1



through November 30, when the beach surrounding the haul-out area is open to the public, the numbers of harbor seals present is dramatically reduced.<sup>2</sup>

The City of Carpinteria has adopted several ordinances meant to protect the harbor seal colony, including designating the beach and the adjacent bluffs in the City's General Plan as Environmentally Sensitive Habitat Area, and closing the beach to public access during the December 1 to May 31 pupping season each year to prevent disturbance to the seals (e.g., disruption of pregnant or nursing seals, abandonment of newborn pups, etc.). The closure applies to the beach 750 feet on either side of the seal haul-out area, which includes the beach below Casitas Pier ([Exhibit 3](#)). Waters out to 1000 feet offshore are closed to personal watercraft during the same period. The area at the top of the bluff above the pier and rookery area is used for public access and for observing the seals. The seal rookery is actively monitored by Seal Watch, a local volunteer organization that has kept records of seal use at the rookery for over ten years. For prior repair projects on the pier, NMFS estimated that a range of zero to 50 harbor seals may be present on the beach and in the ocean within the project vicinity during work periods using available observational data, similar past experience in the project vicinity, and project timing (fall season, during daytime hours).

California sea lions and bottlenose dolphins also frequent the project area and may have been present during project activities. California sea lions are regularly observed hauled out on mooring buoys southeast of the Pier, and occasionally an individual has been observed stranded on the harbor seal haul-out area. NMFS has previously estimated that a range of zero to 15 California sea lions may be present in the project vicinity during the time period when pile repairs took place. Bottlenose dolphins range from San Francisco to Baja California and are generally found within 0.6 miles of the shoreline. Previous projects have reported a range of 2 to 32 animals within site of the Pier, with an average pod size of 8. Based on this information, NMFS previously estimated that 2 to 32 animals may be present within the project area during the time period when repair work was conducted.

In addition to Coastal Act marine resource protection policies, marine mammals are protected under the Marine Mammal Protection Act. During previous Pier construction projects in 2017 and 2018, an extensive marine mammal monitoring protocol, including identification of Level A and Level B harassment zones, was employed during pile driving activities. For the project completed under the Emergency Permit in 2019, no pile driving occurred, thus avoiding loud or persistent underwater sound impacts. Therefore, no application was submitted to NMFS for an incidental harassment authorization for marine mammals during the specified activities.

However, there were potential impacts from the repair work in 2019. The harbor seals are acclimated to long standing, year-round pier operations which include frequent boat and truck travel, crane and forklift activity, loading and unloading operations, general maintenance and random noise generating activities. The construction activities were comparable to ongoing pier activities except for the temporary use of construction equipment in the nearshore portion of the

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<sup>2</sup> NMFS. 2017. Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Casitas Pier Fender Pile Replacement. Notice of Proposed Action. Published in the Federal Register on September 7, 2017.

pier that was needed to install the new piles. The increased activities underwater from demolition and machinery as well as above water with vehicles on the pier all constituted potential visual and audible disturbances. As noted in the Applicant’s Marine Wildlife Mitigation Report, sounds from concrete demolition could be heard traveling through the air. Because of the location of the pilings within the surf zone, underwater transmission of sound would have likely been negligible compared to breaking waves and cobble movement.

Based on prior construction projects and the Emergency Permit, Beacon West implemented a series of mitigation measures to minimize potential impacts to marine mammals, including:

- Conducting proposed work in the fall, prior to December 1, to avoid the harbor seal pupping season
- Implementing a previously approved Marine Wildlife Protection and Training Plan (CDP 9-17-0531) which includes the following protection measures:
  - Worker training prior to start of work
  - Monitoring of the work by NOAA-approved monitor(s)
  - Actions to be taken if project-related activities result in disturbance to marine mammals as determined by the designated marine mammal monitor, including:
    - Stop construction work and take reasonable measures to avoid further disturbance
    - Recordation of the disturbance and actions taken
    - Communication and coordination with City of Carpinteria, Coastal Commission, and other agencies as appropriate (e.g., California Department of Fish and Wildlife, National Marine Fisheries Service)

The Applicant’s Marine Wildlife Mitigation Report contained logs from the marine mammal monitors. When seals entered the water as a result of an action, this was noted as a “disturbance”. The table below summarizes the impacts on seals from various causes during emergency repair activities.

	Disturbance Type			
	Project-related	Routine pier operations	Public	Unknown
Seals took notice	95	11	41	0
Seals disturbed	683	2	2,351	1,086
Bird-caused*	-	-	-	280
Total	778	13	2,392	1,366

\* - for “Unknown” only

Project-related actions that prompted either notice or a disturbance included machinery or vehicle sounds, divers entering or exiting the water, hammering or grinding on the pier, crane activities, and concrete demolition or removal. These activities differed from routine pier operations that caused rare disturbances – primarily boat engine noise. However, disturbances caused by the public were noted to be three times more than project-related disturbances, including people walking, jogging, or fishing, intentional harassment of seals or birds by rock-throwing children, low-flying helicopters, dogs (both on and off-leashes), and use of watercraft

(e.g., boats, kayaks, paddleboards). Given the seals are acclimated to disturbances and those associated with the project ones were substantially fewer compared to those from the public, the project did not result in significant impacts to the marine mammals.

Two project shutdowns were noted in the Marine Wildlife Mitigation Report. The first was due to excessive noise from the unloading of steel pipes for scaffolding and the second due to a seal swimming near the pier while machinery was being lowered to the water by crane. During the first shutdown, the monitors requested that scaffolding be stacked on rubber mats instead of on the concrete deck, to which Beacon West complied. In both cases, work was suspended and no adverse impacts were observed.

The monitors' report concluded that the mitigation measures were effective in protecting the marine mammal species in the area.

#### Water Quality and Benthic Habitat

Project activities could have resulted in water quality impacts due to increased turbidity and contamination from in-water construction materials. During removal of damaged piles and installation of new piles, bottom sediment near the base of the piles was suspended in the water column. Based on pre-construction surveys in May 2019, the seafloor substrate under the pier is predominantly coarse sand and cobble. The larger grain size of this type of substrate settles more quickly than finer sediments, and thus any project-related turbidity would have been temporary and short-lived. In addition, a cofferdam was installed around the base of each damaged pile during construction to minimize sediment movement into and out of the immediate construction zone. Furthermore, the project is in a high-energy environment subject to high levels of sand movement. Based on these conditions, any project-related turbidity would have been similar to normal conditions at the site. Thus, turbidity-related impacts were minor.

Marine construction materials, including coatings applied to reduce corrosion, can degrade and enter the water column, resulting in contamination of ocean waters surrounding the Pier. To reduce the potential for water quality impacts, all in-water construction materials, including steel piles and untreated lumber were designed for use in a marine environment in keeping with the existing Pier materials. Beacon West also removed all project-related debris from the seafloor and Pier and disposed of it appropriately. Finally, the project was subject to conditions of a Section 401 standard water quality certification issued by the Regional Water Quality Control Board, which included additional conditions meant to avoid and minimize adverse impacts to water quality.

#### Conclusion:

By implementing the above measures included in the Emergency Permit and developed for prior construction projects on the Pier, the project was carried out in a manner that protected marine mammals and other marine organisms, minimized turbidity and avoided discharges of contaminants into marine waters. Thus, for the reasons stated above, the Commission finds that the project maintained marine resources, sustained the biological productivity and quality of coastal waters and maintained healthy populations of all species of marine organisms and was consistent with Coastal Act Sections 30230 and 30231.

## **E. SPILL PREVENTION AND RESPONSE**

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.*

This Coastal Act policy includes two primary requirements – that projects include: (1) measures to protect against spills, and (2) measures for effective containment and cleanup.

Protection against spills: The project activities occurred in and immediately above a sensitive coastal area subject to strong wave action. The project could have resulted in spills from equipment or vehicles on the pier or the nearby parking area.

The Casitas Pier is part of the Applicant's Carpinteria Facility, and as such, was subject to conditions of Chevron USA's "Santa Clara Unit Oil Spill and Contingency Plan" (approved by the California Office of Spill Prevention and Response and the U.S. Bureau of Safety and Environmental Enforcement in 2013 and 2014, respectively), which includes detailed spill prevention and response measures. In addition to these measures, Chevron USA implemented the following specific measures specified in the Emergency Permit as part of the project:

- The Applicant conducted daily inspections of the equipment and vehicles for leaks.
- Drip pans were placed under all fuel-containing equipment and vehicles, and sorbent materials were kept on hand. Vehicles parked on the pier were parked over areas with a concrete surface.
- The Applicant maintained an emergency response trailer with spill cleanup equipment at the parking area adjacent to the pier.
- The project site was approximately one-quarter mile from the equipment yard of its primary spill response contractor, Clean Seas, Inc. The Applicant kept Clean Seas on stand-by during the project to ensure a quick response, if needed.
- All project-related equipment was refueled offsite, with the exception of the pier crane and forklift, which were fueled according to the procedures described in the Casitas Pier Fueling Procedure (included in the Application) that includes measures to minimize the risk of fuel entering coastal waters.

These measures were adequate to protect coastal waters and no spills occurred during emergency repair activities. Therefore, the Commission finds that the proposed development included necessary measures to prevent and contain spills and is consistent with Section 30232 of the Coastal Act.

## **F. EXCAVATION AND FILL IN COASTAL WATERS**

Section 30233 of the Coastal Act states:

*(a) 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 in 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 completed project involved the fill of coastal waters with approximately 1.2 cubic yards of concrete and is therefore subject to the policies of Coastal Act Section 30233.

Projects that include excavation or fill of coastal waters must meet the three tests of Coastal Act Section 30233(a). The first test requires that the proposed activity fit into one of seven categories of uses enumerated in Coastal Act Section 30233(a)(1-7). However, in this case, because the Commission is solely reviewing the method by which the applicant executed the repair and maintenance activities, the first test under Section 30233(a) is not applicable. The second test requires that there be no feasible less environmentally damaging alternative. The third and final test mandates that feasible mitigation measures be provided to minimize the project's adverse environmental effects.

The second test of Section 30233 requires an assessment of whether there are feasible less environmentally damaging alternatives. As discussed above, the purpose of the project was to

repair or replace failing support pilings necessary for the safe operation of Casitas Pier. Allowing the existing pilings to remain in place undermined the stability of the Pier and created unsafe conditions for boat crews and Pier workers. Therefore, avoiding the work, or the “no project” alternative, was not an environmentally preferable option. Secondly, the pilings are subject to a high degree of scour due to their location in a high-energy surf zone. Thus, alternative materials, such as plastic or wood pilings, are not likely to be as durable as steel and could result in plastic residue entering the water, causing adverse water quality and biological effects. If plastic or a similar material was used, it would likely need to be replaced more quickly than steel, thus causing more frequent adverse effects to coastal resources. Based on the above considerations, the Commission therefore finds that there are no feasible less environmentally damaging alternatives to the proposed excavation and fill, and that the project therefore met the second test of Coastal Act Section 30233.

The third test under section 30233 requires that the project include feasible mitigation measures to minimize adverse environmental effects. Chevron USA implemented several mitigation measures related to marine mammal monitoring, water quality and spill prevention and response, as described in other sections of this report. With these conditions in place, the Commission finds that the third test of Coastal Act Section 30233(a) was met.

For the reasons above, and as conditioned, the Commission has determined that the project represented the least environmentally damaging feasible alternative and included feasible mitigation measures and is therefore consistent with Section 30233 of the Coastal Act.

## **G. CULTURAL RESOURCES**

Coastal Act Section 30244 states:

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

The project site, located along the resource-rich shoreline of Santa Barbara County, has the potential to contain cultural and archeological resources. For Pier repair work completed in 2017, the previous owner (Venoco), conducted a cultural review of the project area to assess the potential for project-related impacts to known and unknown cultural resources. This analysis included record searches that identified one previously identified, highly disturbed archeological site that a portion of that project could have affected. For the 2017 project, Venoco relocated the staging area to a site on the other side of the train tracks to avoid the disturbed area. Relocation of the staging area moved it outside of the Area of Potential Effect (APE) and thus avoided potential impacts to the known archeological site. Venoco also conducted a sacred land file search with the Native American Heritage Commission and reached out to Native American contacts for information on known cultural resources. No known cultural resources in the APE were identified.

For the 2019 project, Beacon West used the same staging area as 2017. In addition, the repair work on the two pilings occurred in the highly energetic intertidal zone where any potential artifacts would have been disturbed by natural processes long ago, and thus, unlikely to be

present today. As noted in Section IV.B., Commission staff conducted outreach out to local Tribal governments regarding the 2019 project and did not receive any responses.

Thus, the Commission finds that the proposed project would protect cultural and archeological resources and be consistent with Coastal Act Section 30244

## **H. PUBLIC ACCESS AND SCENIC QUALITIES**

Section 30210 of the Coastal Act 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.*

Section 30212 of the Coastal Act states:

*(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or, (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

Section 30251 of the Coastal Act states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded area.*

Casitas Pier is leased by the Applicant and used for oil and gas-related work. The public does not have access to the Pier, although the beach underneath the Pier is open to beachgoers.

Access to the pier is via a service road that leads to a parking area on the coastal bluff overlooking the pier ([Exhibit 2](#)). Chevron USA is the primary user of the road and the parking area, although members of the public use it for coastal access, primarily to the bluffs overlooking the seal rookery. The Seal Watch group and the general public use the area immediately to the east of the parking area to observe and document seal use at the rookery.

Project activities occurred largely on and below the pier and in a staging area across the railroad from existing Pier parking areas. These activities did not significantly affect public access, since the public was still able to access the beach in the project vicinity and the project activities did

not take up any of the parking area, leaving adequate space for members of the public to access the coastal bluff area. Coastal access via Dump Road and the Carpinteria Bluffs coastal trail were unaffected by the project.

The project had minor and temporary visual effects during construction due to the presence of heavy equipment and construction-related activities on the pier. In addition, construction activities resulted in elevated noise levels at the Pier. These project elements were visible and audible from the beach and nearby coastal bluffs; however, because the construction was temporary and relatively minor, and because the pier was generally subject to similar equipment, activity and elevated noise levels from normal Pier operations, the project did not result in significant adverse impacts to coastal views and the public's ability to enjoy the coast.

Therefore, for the reasons described above, the Commission finds that the development did not adversely affect public access to coastal areas or affect scenic coastal views and is thus consistent with Sections 30210, 30212 and 30251 of the Coastal Act.

## **I. 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 amendment, 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 emergency repair work was conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures protecting marine resources were implemented to minimize all adverse environmental impacts. As conditioned, there were 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 project was 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**

Chevron, USA, Coastal Development Permit Application and accompanying documents. Originally submitted December 26, 2019.

California Coastal Commission, Emergency Permit G-9-19-0029, issued June 21, 2019.

California Coastal Commission, Staff Recommendation for CDP 9-17-0531 (October 11, 2017)

Electronic communications from Keith Wenal, Beacon West and Tim Murphy, AECOM (Applicant's agent), to Kate Huckelbridge, California Coastal Commission, dated 6/27/19, 7/19/19, 9/10/19, 10/9/19, 10/10/19, and 10/18/19.

Electronic communication from Keith Wenal, Beacon West to Doug George, California Coastal Commission, dated 5/20/20.

NMFS. 2017. Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Casitas Pier Fender Pile Replacement. Notice of Proposed Action. Published in the Federal Register on September 7, 2017.