

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: REGULAR CALENDAR

Application No.: 5-20-0072

Applicants: Huntington Beach Wetlands Conservancy
John Villa, Executive Director
Plains All American Pipeline
Connie Cunningham, Environmental Engineer

Agents: Moffatt & Nichol
Tonia McMahon

Location: Upper Magnolia Marsh, Southeast of the Intersection
of Newland Street and Pacific Coast Highway
North of Magnolia Marsh, Between Huntington Beach
Flood Control Channel and the AES Power Plant
Huntington Beach, Orange County
APN: 114-152-12

Project Description: Restoration within Upper Magnolia Marsh including
removal of remnant 16-inch and 24-inch diameter
petroleum product pipelines and associated
infrastructure; 360 cubic yards of grading to create a
small tidal channel to improve tidal flushing; and
coastal salt marsh planting and removal of non-native
plants.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The co-applicants propose wetland restoration in Upper Magnolia Marsh by removing oil operation pipelines within the marsh, grading to create a small tidal channel to improve tidal flushing; and coastal salt marsh planting and removal of non-native plants. Upper Magnolia Marsh is one of the wetlands that make up the Huntington Beach Wetlands Complex ([Exhibit 1](#)). Once grading is complete, hydroseed will be applied to all bare areas between elevations 4 to 7 feet NAVD 88. Hydroseed will be applied during low tide. Hydroseeding will be followed by container planting. A total of 2,000 coastal salt marsh container plants are to be installed. Cordgrass planting is proposed between elevations 4 and 4.5 feet along the newly graded areas in patches of 20-30 plugs spaced 2-3 feet apart. Non-native plant removal is also proposed. All cord grass and most other plantings will be derived from the Huntington Beach Wetland Complex. In all, approximately 0.59 acres of coastal salt marsh habitat is proposed to be enhanced. The proposed project is intended to improve tidal flushing within Upper Magnolia Marsh, increase salt marsh biodiversity, and convert a portion of the adjacent uplands within the footprint of the removed pipelines to coastal salt marsh habitat. The proposed project would result in a net increase of wetlands habitat.

The project applicants are the Huntington Beach Wetlands Conservancy and Plains All American Pipeline. Upper Magnolia Marsh is located on land owned by the Huntington Beach Wetlands Conservancy (HBWC). The HBWC is a 501(c)3 non-profit organization founded in 1985 with the goal to acquire, restore, and protect the coastal wetlands of Huntington Beach. Since its formation, HBWC has successfully restored Talbert, Brookhurst and Magnolia marshes. The pipeline system was operated by Plains All American Pipeline (PAAP) on an existing easement. Plains All American Pipeline (PAAP) is the former owner of the power plant and related former tank farm across the flood control channel from the site.

A Habitat Restoration Plan is proposed that outlines the proposed wetland restoration, including grading and revegetation plans once the oil pipelines and infrastructure are removed. The Habitat Restoration Plan is acceptable with a few relatively minor revisions. **Special Condition No. 1** requires the applicants to submit a revised Habitat Restoration Plan, in substantial conformance to the proposed plan, and describes the necessary minor revisions. In addition, to protect bird breeding, **Special Condition No. 2** requires that if work is to occur during the breeding season (Feb. 15 – Jul. 15), surveys be conducted prior to any work and, if nesting is detected, work will halt until nesting is complete or the habitat is no longer being utilized, as proposed by the applicants.

Due to the history of oil operations at the site, grading of contaminated materials could potentially result in harmful release of toxins. To address this, the applicants have

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proposed a Soil Sampling and Disposal Contingency Plan to address the potential for hydrocarbon-contaminated soils. The Plan includes monitoring the site to identify potential soils contamination, testing to be implemented should indicators of contamination be identified, and measures to remove contaminated soils from the site if hydrocarbon contamination is present. To ensure that the site is protected from hydrocarbon contamination, **Special Condition No. 3** requires that the Soils Sampling and Disposal Contingency Plan be carried out as proposed. In addition, it is also important that the parties responsible for carrying out the testing, and removal if necessary, are held accountable for any wetland and/or soils cleanup that may be required in conjunction with the proposed project. **Special Condition No. 5** requires that both permittees agree to joint and several liability. Due to the history of oil operations at the site, the possibility of oil spill from the pipelines during removal must be addressed. **Special Condition No. 9** requires the applicant to prepare and submit an Oil Spill Prevention and Response Plan prior to commencement of construction, and that the OSPRP be implemented during construction.

Historically, the site has been developed with mostly above-ground pipelines, which suggests the possibility that much of the underlying ground may be relatively undisturbed. Because buried cultural resources may be discovered during the project's proposed grading, **Special Condition No. 8** requires archaeological and Native American monitoring on-site during all grading/earth disturbing activities and also describes the procedures to be implemented should resources be discovered.

Staff is recommending **approval as conditioned** of the proposed development to assure consistency with the Coastal Act policies regarding protection of wetlands habitat, water quality, and cultural resources. Staff is recommending **eight special conditions**: 1) revised Habitat Restoration Plan; 2) surveys be conducted during the bird breeding season and, if nesting activities are identified, work shall halt until nesting is complete or the habitat no longer utilized; 3) implementation of the Soils Sampling and Disposal Contingency Plan as proposed; 4) approval for construction access along the flood control channel levees from the Orange County Department of Public Works; 5) agreement to liability among co-applicants for responsibility for soil contamination clean-up if necessary; 6) water quality Best Management Practices to be implemented during construction; 7) approval from the relevant Resource Agencies of the proposed project; 8) protection of any cultural resources that may be present on site; and 9) preparation and implementation of an OSPRP to address the potential for oil spill at the site.

The motion to approve the project consistent with the staff recommendation is on page 5. The standard of review is Chapter 3 of the Coastal Act.

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Exhibits:

1. Vicinity Map
2. Project Impact Areas
3. Proposed Grading Plan
4. Revegetation Plan
5. Wetland Delineation Map
6. Vegetation Alliances Map
7. Project Staging
8. Estuary Seablite Locations
9. Cordgrass Source Locations
10. Pipeline Photos

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit 5-20-0072 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 Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit for the proposed project 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

- 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 applicant 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 or 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 applicant to bind

all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Revised Restoration Plan.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the review and approval of the Executive Director, a revised Habitat Restoration Plan in substantial conformance with the Habitat Restoration Plan (Tidal Influence, September 2020). The final Habitat Restoration Plan shall be prepared by a qualified professional with expertise in coastal salt marsh habitats (Project Restoration Ecologist). At a minimum, the proposed Habitat Restoration Plan must be revised to include:

- 1) a requirement to perform a pre-project, base line vegetation survey;
- 2) a detailed description of the methods used to determine the base line quantitative surveys and periodic subsequent surveys;
- 3) that maintenance and monitoring of the restoration site must be conducted for five years from the date of installation or until success criteria are met, whichever is longer;
- 4) recognition that adaptive measures will be developed and implemented in the event success is not achieved within the monitoring timeframe;
- 5) if any straw waddle is used at the site, it shall be seed-free; and
- 6) the differences and responsibilities of each of the terms "project biologist," "project ecologist," and "project restoration ecologist," shall be defined or a single term shall be applied consistently throughout the plan.

B. The applicants shall undertake development in accordance with the approved final Habitat Restoration Plan unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.

2. Bird Breeding Season

As proposed, and by acceptance of this permit, the applicants agree that nesting bird surveys will be conducted within 72 hours of any construction activities scheduled to take place during breeding season (February 15 to July 15). If nesting birds or presence of special status birds are identified, then work will be halted until nesting has been completed or the habitat is no longer being utilized. In addition, a qualified biologist shall be on site during all construction activities to ensure protection of bird species.

3. Soil Sampling and Disposal Contingency Plan

A. By acceptance of this permit, the applicants agree to carry out the Soils Sampling and Disposal Contingency Plan (prepared by Moffatt & Nichol, and dated 12/22/2020) as proposed.

B. The permittee shall undertake development in accordance with the approved Soil Sampling and Disposal Contingency Plan unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.

4. Construction Access Approvals.

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicants shall submit, for the review and approval of the executive Director, written evidence of approval from:

- 1) Orange County Public Works Department for use of the flood control channel access roads/levees for construction access and staging.
- 2) Shopoff Realty for access through their property to the project site; or, if access through the Shopoff Realty property adjacent to the Huntington Beach flood control channel is not required, then a written statement from the applicants to that effect.

B. Any change in the approved project that may be required by the Orange County Public Works Department or Shopoff Realty shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations

C. The permittee shall undertake development in accordance with the approved final plan unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.

5. Liability Among Co-Applicants.

By acceptance of this permit, in the event of potential impacts onsite, including but not limited to impacts to threatened and/or endangered species and their habitat, the release of pollutants into the site including hydrocarbon-contamination, and released during pipeline and infrastructure removal and project grading, the co-applicants Huntington Beach Wetlands Conservancy and Plains All American Pipeline and any successors in interest agree to joint and several liability.

6. Construction Responsibilities.

The Permittees shall comply with the best management practices that include, but shall not be limited to, the following:

- A. Construction activities will avoid work in the tidal zone to the maximum extent practical. Construction shall avoid rainy days.
- B. During times of tidal influence, an absorbent boom shall be placed at the culvert/outfall to prevent accidental uncontained spills from migrating into the larger Magnolia Marsh.
- C. If rainfall is forecast during the time construction activities are being performed, all on-site stockpiles of soil and construction debris shall be covered and secured before the onset of precipitation. All work shall cease upon the onset of precipitation at the project site.
- D. Construction equipment and materials shall be staged away from coastal waters. Stormwater runoff and erosion control measures and devices shall be installed between the designated staging area and surface waters.
- E. No excavated soil or construction debris shall be temporarily placed or stored where it may be subject to entering surface waters. All on-site stockpiles of soil and construction debris shall be contained at all times to minimize discharge of sediment and other pollutants.
- F. All non-contaminated excavated soils shall remain onsite and be incorporated as fill or disposed of at an authorized disposal site capable of receiving such fill materials.
- G. Any contaminated soils must be stockpiled on a liner, and shall be covered and contained at all times to minimize discharge of sediment and other pollutants prior to offsite disposal at an appropriately licensed facility.
- H. During construction, all trash shall be removed from the work site and disposed of on a regular basis to avoid contamination of habitat. Any and all debris resulting from construction activities shall be removed from the project site and disposed of at an authorized disposal location within 30 days of project completion.
- I. Fuels, lubricants, and solvents shall not be allowed to enter soils or surface waters. All equipment used during construction shall be free of oil and fuel leaks at all times. Any fueling, maintenance, concrete washout, and washing of construction equipment shall occur more than 100 feet away from the mean high tide line, where any runoff would be directed to the existing containment basins.
- J. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site. Any accidental spill shall be rapidly contained and cleaned up.
- K. Prior to the commencement of work within wetlands, the work area shall be delineated, limiting the potential area affected by construction. Workers shall be educated about the limitations placed on construction by this permit. All vehicles and equipment shall be restricted to pre-established work areas and established or designated access routes.
- L. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting shall be prohibited, to minimize wildlife entanglement

and plastic debris pollution. Only products with 100% biodegradable (not photodegradable) natural fiber netting shall be allowed.

M. All BMPs shall be maintained in a functional condition throughout the duration of the construction and demolition activities, and shall be promptly removed when no longer required.

7. Resource Agencies

A. The permittees shall comply with all requirements, requests, and mitigation measures from the Regional Water Quality Control Board and United States Army Corps of Engineers, with respect to preservation and protection of water quality and the marine and terrestrial environment. Any change in the approved project that may be required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

B. The permittees shall undertake development in accordance with the approved final plans unless the Commission amends this permit or the Executive Director provides written determination that no amendment is legally required for any proposed minor deviations.

8. Cultural Resources.

A. By acceptance of this permit, the permittees agree to comply with the following monitoring and testing requirements:

- 1) Archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and a minimum of one Native American monitor from each tribal entity with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD, shall monitor all project grading activities associated with the approved development. Prior to the commencement and/or re-commencement of any monitoring, the permittees shall notify each archeological and Native American monitor of the requirements and procedures established by this special condition, including all subsections.

Furthermore, prior to the commencement and/or re-commencement of any monitoring, the permittees shall provide a copy of this special condition, any archaeological monitoring or research plans, and any other plans required pursuant to this condition and which have been approved by the Executive Director, to each monitor;

- 2) The permittees shall provide sufficient archeological and Native American monitors to assure that all project grading and any other subsurface activity that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times.

B. If an area of cultural deposits is discovered during the course of the project:

- 1) All construction and subsurface activities that have the potential to uncover or otherwise disturb cultural deposits in the area of the discovery or may foreclose mitigation options shall cease within 50 feet of the deposit immediately and shall not recommence except as provided in subsection C hereof; and the project archaeologist shall prepare and submit a Significance Testing Plan, for review and approval of the Executive Director, identifying measures to be undertaken to determine the significance of the find. The Plan shall be prepared in consultation with the Native American monitors, and the MLD when State Law mandates the identification of a MLD. The Executive Director shall, in writing, determine the adequacy of the Plan and, if it can be implemented without further Commission action, provide written authorization to proceed. The Significance Testing Plan results, along with the project archaeologist's recommendation as to whether the discovery should be considered significant, and the comments of the Native American monitors and MLD when State Law mandates the identification of a MLD, shall be submitted to the Executive Director for a determination of the significance of the discovery. If the Executive Director determines that the discovery is significant, development shall not recommence and the permittees shall submit to the Executive Director a Supplementary Archaeological Plan in accordance with subsection C, below.

C. A permittee seeking to recommence construction following discovery of cultural deposits determined to be significant pursuant to the process established in the Significance Testing Plan in subsection B(i) shall submit a Supplementary Archaeological Plan for the review and written approval of the Executive Director, prepared by the project archaeologist in consultation with the Native American monitor(s), and the Native American most likely descendent (MLD) when State Law mandates identification of a MLD. The Supplementary Archaeology Plan shall identify proposed investigation and mitigation measures; in-situ preservation is the preferred mitigation and can be achieved through methods such as, but not limited to, project redesign or capping the site. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the approved Supplementary Archaeological Plan.

- 1) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made in writing by the Executive Director.

- 2) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission to authorize a new archaeological approach.
- 3) A report verifying compliance with this condition shall be submitted to the Executive Director for review and written approval, upon completion of the mitigation measures detailed in the approved archaeological monitoring plan and/or Supplementary Archaeological Plan required to protect significant archaeological finds.

9. Oil Spill Prevention and Response Plan.

PRIOR TO CONSTRUCTION, the co-applicants shall submit for Executive Director review and approval, a project-specific Oil Spill Prevention and Response Plan (OSPRP) that will be used during construction and operational activities. The co-applicants and personnel shall be trained in, and adhere to, the emergency procedures and spill prevention and response measures specified in the OSPRP during all project activities and operations. The OSPRP shall provide for emergency response and spill control procedures to be taken to stop or control the source of the spill and to contain and clean up the spill. The OSPRP shall include, at a minimum: (a) identification of all prevention and response personnel, equipment, and measures/procedures that will be taken to prevent potential spills and to protect coastal resources in the event of a spill; (b) spill prevention and response equipment shall be kept onsite at all times; (c) emergency response and notification procedures, including a list of contacts to call in the event of a spill.

IV. FINDINGS AND DECLARATIONS

A. Project Description and Location

The proposed Upper Magnolia Marsh Pipeline Removal and Restoration Project would remove abandoned pipelines from a small tidal wetland known as Upper Magnolia Marsh. The proposed wetland restoration also includes wetland habitat enhancements including grading and coastal salt marsh planting. The proposed project will leave the marsh free of any remanent oil production facilities, equipment, or materials, excepting only a water line, which is proposed to remain. A restoration plan has been developed in order to offset the temporary impacts caused by the removal of the pipeline system infrastructure. The proposed project is described in greater detail below.

The Upper Magnolia Marsh is part of the larger Huntington Beach Wetlands Complex which includes Talbert Marsh, Brookhurst Marsh, and Magnolia Marsh ([Exhibit 1](#)). Upper Magnolia Marsh is located just north of the larger Magnolia Marsh. The two are connected via a 48-inch diameter culvert within the berm that separates them. The

proposed project received Approval in Concept from the City of Huntington Beach on 12/5/2019.

Location

Upper Magnolia Marsh is an approximately 2.26-acre, moderately disturbed wetland ([Exhibit 1](#)). The project site within Upper Magnolia Marsh includes the eastern and southern areas of Upper Magnolia Marsh, an existing utility bridge that spans the Huntington Beach flood control channel, and temporary access and staging areas along the flood control levee access roads and staging area along the gravel road atop the berm separating Upper Magnolia Marsh from Magnolia Marsh ([Exhibit 2](#)).

The proposed wetland restoration project is located approximately 0.3 miles southeast of the intersection of Newland Street and Pacific Coast Highway in the City of Huntington Beach, Orange County ([Exhibit 1](#)). The triangular shaped project area is bounded by the AES Huntington Beach Power Plant to the west, the Huntington Beach Flood Control Channel to the east, and Magnolia Marsh to the south ([Exhibit 1](#)). The project site is currently inaccessible via paved public roadway; however, it can be accessed by vehicle via the flood control levees that run along the Huntington Beach Flood Control Channel or via a gravel road that runs along the berm that separates the larger Magnolia Marsh from the subject Upper Magnolia Marsh.

Applicants

The project co-applicants are the Huntington Beach Wetlands Conservancy (HBWC) and Plains All American Pipeline (PAAP). Upper Magnolia Marsh is located on land owned by the HBWC. The pipeline system was operated by PAAP on an existing easement. The HBWC owns and maintains the Huntington Beach Wetlands Complex including (from downcoast to upcoast) Talbert Marsh, Brookhurst Marsh, Magnolia Marsh, Upper Magnolia Marsh and Newland Marsh (128 acres). The HBWC is a 501(c)3 non-profit organization founded in 1985 with the goal to acquire, restore, and protect the coastal wetlands of Huntington Beach. Since its formation, HBWC has successfully restored Talbert, Brookhurst and Magnolia marshes. Plains All American Pipeline is the former owner of the power plant and related former tank farm across the flood control channel from the site.

Pipeline Removal

The pipeline removal portion of the project involves the complete demolition and removal of the oil pipelines and related facilities associated with the pipelines within the marsh and on the utility bridge ([Exhibit 10](#)). More specifically, the pipeline removal portion of the project includes removal of 800 linear feet of remnant oil and other abandoned utility pipelines and related infrastructure including air line, electrical line, electrical vaults, valve boxes, conduits, metal pipeline racks, and concrete supports from the project site. One 16-inch and one 24-inch diameter remnant oil pipeline are to be removed. Pipelines and infrastructure will be removed from the utility bridge that crosses Huntington Beach flood control channel. ([Exhibit 2](#)). The existing water line is

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proposed to remain in place and for use within the restored areas. The water line is partially above-ground and undergrounds within the project site near the utility bridge. All existing utilities to be removed are located on above-ground pipe supports.

Of the 800 feet of pipeline to be removed, approximately 620 linear feet will be removed from within the marsh, and approximately 180 linear feet will be removed from the flood control channel levees and utility bridge outside the marsh. The pipeline and related infrastructure removal is to be jointly undertaken by the applicants. The proposed pipeline and related infrastructure removal will leave the entire Huntington Beach Wetlands Complex free of any former oil production related facilities, equipment or materials, except for the water line, which will remain.

Grading

The wetland habitat enhancements portion of the project includes removal of approximately 360 cubic yards of soil from two areas within the former pipeline footprint. Most of this area will be excavated to elevation +4 feet NAVD 88, with increasing elevation along the banks of the excavated area. The grading is proposed to improve drainage by creating elevations and inundation rates that support low and mid marsh vegetation. The grading will also create a small tidal channel connecting one of the newly graded areas to the existing, nearby tidal basin within Upper Magnolia Marsh ([Exhibit 2](#)).

The 360 cubic yards of graded materials will be used to fill voids in the ground where the concrete supports will be removed and will be placed in upland areas (levee and/or berm between Upper Magnolia and Magnolia Marshes). No excavated material will be placed within any wetland area. As proposed, of the 360 cubic yards of material, approximately 75 cubic yards is planned to be placed at the end of the Orange County flood control levee of the Huntington Beach Flood Control Channel. If Orange County Public Works does not authorize that placement, it will be hauled off-site. The remainder of the excavated soil is expected to be balanced onsite and placed along the upland berm ([Exhibit 3](#)). The area of proposed excavation covers approximately 0.21 acre. The grading will occur mostly within areas of the footprint of the pipelines to be removed ([Exhibits 2 & 3](#)).

Revegetation

Once grading is complete, hydroseed will be applied to all bare areas between elevations 4 to 7 feet NAVD 88. Hydroseed will be applied during low tide. Hydroseeding will be followed by container planting. A total of 2,000 container plants are to be installed. (The proposed plant list is provided later in this report.) Cordgrass planting is proposed between elevations 4 and 4.5 feet along the newly graded areas in patches of 20-30 plugs spaced 2-3 feet apart. Non-native plant removal is also proposed. In all, approximately 0.59 acre of coastal salt marsh habitat is proposed to be enhanced. The proposed project is intended to improve tidal flushing within Upper Magnolia Marsh, increase salt marsh biodiversity, and convert a portion of the adjacent

uplands within the footprint of the removed pipelines to coastal salt marsh habitat. The proposed project would result in a net increase of wetlands habitat.

Soil Contingency

Due to the historic presence on-site of oil production pipelines and related infrastructure, the applicants have proposed a Soil Sampling and Disposal Contingency Plan (Moffatt & Nichol, 12/22/2020). The power plant adjacent to the subject site was originally constructed by Southern California Edison between 1957 and 1967. The SCE power plant was powered by fuel oil. A tank farm located across the flood control channel from the subject site stored the fuel oil that fired the power plant. The pipelines and related infrastructure proposed to be removed connected the fuel oil storage tanks to the power plant. In 1998, AES purchased the power plant. AES converted the power plant to natural gas. Consequently, the fuel oil storage tanks and related pipelines and infrastructure that had transported the fuel oil from the storage tanks to the power plant became obsolete. The storage tanks were demolished in 2013 pursuant to a local CDP. All other connecting facilities, except the water line, were previously disconnected, sealed, and are also no longer in use.

The proposed Soil Sampling and Contingency Plan (Plan) outlines actions to be taken to characterize soil chemistry in the event evidence of potential hydrocarbon-contamination of soil is encountered during removal of the proposed pipelines and related infrastructure, and during grading activities. The Plan requires evaluation of the site prior to commencement of earthwork/grading and, if any signs associated with the presence of hydrocarbons are detected, soil samples will be taken and sent for testing. Soil samples will be tested for total petroleum hydrocarbon (TPH) residual fuels. The soil samples will be screened to a residential land use regional screening level of 410 mg/kg. If the laboratory results indicate that samples contain unacceptable levels of hydrocarbon materials, the contaminated material will be stockpiled on a liner for removal offsite, to an appropriate destination either for beneficial reuse (cover) or burial depending upon the testing results. Any excavated material that returns a TPH level below 410 mg/kg will be used on site in the upland, maintenance road fill areas.

Construction Methods, Access & Staging:

Construction access to the site will be primarily from Newland Street, at the Orange County Flood Control District's Newland Gate South, and along the southern flood control levee. However, for work on the southeast portion of the project (primarily work on the utility bridge that crosses the channel and in the area near the bridge), construction access will be from Magnolia Street, at the Magnolia Gate to and along the northern flood control channel levee. Construction access paths parallel to the pipelines will be created within the wetland as necessary to remove the pipelines and related infrastructure. The access paths will impact approximately 0.24 acre of pickleweed and alkali heath wetland habitat.

Construction equipment and methods proposed include the following:

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- A liquid vacuum truck for removal of any residual liquids from the pipelines and for cleaning up any potential spilled liquid. This truck will be staged on the levee access roads. This truck uses long suction hoses enabling it to be staged at a distance from the material to be removed.
- A track excavator for the demolition and removal of pipes, removal of concrete pedestals, supports and foundations, and moving/placing soil during the restoration grading process. The excavator will be outfitted with rubber tracks or tracks with rubber pads, so as not to damage roadway surfaces. The excavator may be outfitted with various attachments, including a bucket, a bucket with thumb (for grabbing), and a shear (for cold-cutting pipe). The excavator will work from both the levee roadway and from the construction access path within the wetlands. The amount of work performed within the wetlands will be kept to the minimum necessary to successfully accomplish removal of the pipelines and related infrastructure from within the wetlands.
- A tele-handler forklift and/or carry deck crane for moving material and/or debris. Both have reach capabilities that allow them to act as small cranes while occupying a small footprint. These machines will access the site from just west of the pipelines. One of these machines may also be used to assist with the movement and load-out of debris, including demolished pipeline sections.
- The construction access paths will be lined with crane mats suitable for use in wetlands. These mats will disperse the weight of construction equipment and limit impacts to trampled vegetation and eliminate rutting of wetland soils.
- The pipelines will be cut by a cold-cutter. This is a tool that wraps around the pipe and slowly cuts the pipe under manual power. No hot work (i.e. torches, cutting gases, sparks, etc.) is proposed as part of the pipeline and related infrastructure removal process. The applicants indicate that this is the most controlled process by which pipe can be cut. Some of the pipe may be cut using an excavator outfitted with a hydraulic shear. This is also a cold-cutting method and may be employed in areas where it is physically and environmentally safe to do so. In order to avoid generating sparks, no hot work or saw-cutting will be performed.

Proposed water quality protection measures include: a spill containment boom in the flood control channel will be in place for the duration of construction; personnel and a liquid vacuum truck will remain on standby in the immediate vicinity in case there is a spill; and use of plastic sheeting, sandbags, and, if necessary, straw waddle during demolition activities to protect the immediate work area at all times and prevent any liquids or other materials from touching the native ground; and biodegradable hydraulic oil or fish oil, rather than petroleum based hydraulic oil will be used. The demolished and removed pipelines and associated construction debris will be hauled offsite and disposed of at a proper offsite location.

Proposed staging areas would be within portions of the project site that are existing developed/disturbed land: flood control channel maintenance roads and the gravel road

atop the berm that separates the larger Magnolia Marsh from Upper Magnolia Marsh ([Exhibit 7](#)).

B. Site History

The Huntington Beach Wetlands Complex is a relatively large area of relic salt marsh habitat associated with the Santa Ana River in southeastern Huntington Beach, Orange County. The Huntington Beach Wetland Complex is located in an area of the City that was formerly an area of deferred certification known as the Pacific Coast Highway Area of Deferred Certification (PCH ADC). The area was deferred certification due to then-unresolved issues regarding the protection of wetlands. The deferral was based in part on a study prepared by the California Department of Fish and Game (Determination of the Status of the Huntington Beach Wetlands, February 4, 1983), which found that functioning as well as degraded but easily restorable wetlands were present in the subject area. In addition, the 1983 CDFG study found environmentally sensitive upland habitat to be present in the area as well.

In 1986, the Commission approved a Land Use Plan for the PCH ADC. In 1995, the Commission approved an Implementation Plan for the area. The site is land use designated Public and zoned Coastal Conservation and General Industrial in the certified LCP. The proposed restoration project is consistent with the certified land use designation and zoning. Although the area is now fully certified, because the area includes areas of tidal influence, those portions of the site are retained as the Commission's original permit jurisdiction. As described elsewhere in this staff report, the Commission is processing a single, consolidated coastal development permit for the entire project.

In 1986, the Commission approved Consistency Certification No. CC-23-86 (Caltrans) for the widening of Pacific Coast Highway from Newport Boulevard in Newport Beach to Goldenwest Street in Huntington Beach. The highway widening project included impacts to Least tern open water foraging area and to coastal dune habitat. In order to mitigate loss of open water foraging area, Caltrans included as part of the highway widening project, provisions to replace equivalent foraging habitat in the area between Brookhurst Avenue and the Santa Ana River (within the Talbert Marsh area). To mitigate the loss of coastal dune habitat, Caltrans included 8.7 acres of dune restoration along the inland side of Pacific Coast Highway within the Huntington Beach wetlands.

In 1987, the Commission issued CDP 5-87-432 to the Huntington Beach Wetlands Conservancy for the restoration of Talbert Marsh. That restoration project established the Talbert Ocean Channel that allowed seawater to propagate through Talbert Marsh and the lower (downstream) mile of the Talbert and Huntington Beach flood control channels. That restoration effort succeeded in improving tidal flushing and circulation within Talbert Marsh, establishing sensitive salt marsh habitat, as well as improving flood control in the area.

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The HBWC conducted a second restoration project in Talbert Marsh pursuant to CDP 5-08-061. That restoration project cleared accumulated sediment from within Talbert Marsh and created contour elevations more conducive to maintaining the tidal prism. More specifically, the second Talbert Marsh restoration project: 1) created a sediment disposal area and trap just inside of the marsh; 2) removed sand shoals within the marsh; 3) constructed an access ramp to facilitate the restoration work and ensuing maintenance; and dredging to restore the ocean inlet channel to its original design capacity. In addition, CDP 5-08-061 also resulted in restoration of the Magnolia and Brookhurst Marshes, which are also part of the Huntington Beach Wetland Complex, also owned and managed by the HBWC. These 2009 restorations allow Talbert Ocean Inlet tidal flow to propagate through Talbert, Magnolia, and Brookhurst Marshes, as well as upstream in the Talbert and Huntington Beach flood control channels. The flood control channels are adjacent to and intermingle with the marshes. CDP 5-08-061 did not include Upper Magnolia Marsh or Newland Marsh.

In February 2021, the Commission approved an additional restoration project in Talbert Marsh (5-20-0348, HBWC), which will address erosion issues in the southeast area of that marsh, as needed to retain coastal salt marsh habitat. That project also included coastal salt marsh revegetation, and restoration of upland dune and scrub habitat impacted by construction of a temporary access path needed to implement the coastal salt marsh restoration project.

Upper Magnolia Marsh was subject to an earlier restoration project as part of a mitigation project by the City of Huntington Beach pursuant to local CDP 2008-005 for the widening of Magnolia Street. That project created the tidal basin and installed the culvert between Upper Magnolia and Magnolia Marshes. The culvert restored tidal connection to Upper Magnolia Marsh.

The Huntington Beach Wetland Complex is bounded by Pacific Coast Highway and the Huntington Beach and Talbert Flood control channels and the AES generating station. Talbert Marsh and Brookhurst Marsh are separated by Brookhurst Street. Brookhurst Marsh and Magnolia Marsh are separated by Magnolia Street ([Exhibit 1](#)). The total area of the Huntington Beach Wetland is approximately 188 acres. Of that, 130 acres were restored as part of the project approved under CDP 5-08-061. The proposed project will provide further restoration of Upper Magnolia Marsh. Restoration of Newland Marsh is currently in the planning stage.

C. Standard of Review

The subject site is located within the coastal zone in the City of Huntington Beach. The City of Huntington Beach has a certified Local Coastal Program. Portions of the subject site are tidally influenced and thus, pursuant to Coastal Act Section 30519(b) of the Coastal Act, are in the Commission's retained permit jurisdiction. However, other portions of the site (uplands) are not tidally influenced and thus may fall under the City's jurisdiction. However, in such situations, Section 30601.3 of the Coastal Act allows the

Commission to process and act upon a consolidated coastal development permit when the applicants, local government, and Commission agree to the permit consolidation. The applicants requested the project be processed as a consolidated CDP in the application submittal, received 2/3/2020. In an email dated 12/5/2019 the City of Huntington Beach agreed to the processing of this CDP application as a consolidated permit by the Coastal Commission. When the Commission acts on such a consolidated permit, the standard of review, pursuant to Section 30601.3(b), is the Chapter 3 policies of the Coastal Act, with the certified LCP as guidance. Therefore, the standard of review for the subject coastal development permit application is the Chapter 3 policies of the Coastal Act, with the City's LCP as guidance.

D. Wetlands

Section 30233 of the Coastal Act states, in pertinent part:

(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:

...

(6) Restoration purposes.

...

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. ...

Section 30121 of the Coastal Act defines "wetland" as:

"lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens."

Section 30233(a) of the Coastal Act limits diking, filling or dredging in wetlands to certain allowable uses, requires the least environmentally damaging alternative, and only when feasible mitigation measures to minimize adverse environmental effects are included.

The proposed project includes removal of material (pipeline and related infrastructure) from a wetland ([Exhibit 10](#)). In addition, the project includes removing soils from within the wetland to the adjacent upland areas (grading). Thus, the proposed project constitutes wetland dredging, and so evaluation of the proposed project for consistency with Section 30233 must be considered.

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Upper Magnolia Marsh is a tidally influenced coastal salt marsh wetland. It receives tidal water through its connection with the larger Magnolia Marsh. Magnolia Marsh is connected to the ocean via the flood control channel and culverts that connect Magnolia, Brookhurst, and Talbert Marshes. The Talbert ocean channel provides an ocean connection to all of the marshes and flood control channels. In addition, the flood control channels provide freshwater from upstream/inland to the system of marshes.

A Wetland Delineation was prepared for the subject site (Jurisdictional Delineation Report: Upper Magnolia Marsh Pipeline Removal & Restoration Project, Tidal Influence, 12/2019). The Delineation determined that 1.59 acres of the site meet the definition of wetland ([Exhibit 5](#)). The Wetland Delineation mapped the entire Upper Magnolia Marsh site. The proposed project will occur only in the eastern half of Upper Magnolia Marsh ([Exhibit 2](#) and [Exhibit 4](#)). Of the 2.26 acres (rounded from 2.264 acres) Upper Magnolia Marsh site, 0.676 acres is upland area comprised of 0.016 acres of coyote brush, and the remaining 0.660 acre area is non-native, ruderal, developed, and unvegetated area. The rest of the 1.59 acre (rounded from 1.588 acres) project area is wetland, comprised of pickleweed mats, alkali heath marsh, alkali weed-salt grass playas and sinks, salt grass flats, eelgrass beds, subtidal marine, mudflats, and rocky shoreline ([Exhibit 6](#)).

A Biological Resources Report (Biological Resources Report, Upper Magnolia Marsh Pipeline Removal & Restoration Project, Tidal Influence, 12/2019 (Report)) was also prepared for the proposed project. In preparing the Report, several flora and fauna surveys were completed by the consultant from July through November 2019 to document the biological resources present at the project site. In addition to the vegetation alliances mentioned above, the Report found the following individual special status species were present or had a high likelihood to be present within Upper Magnolia Marsh:

Floral Species:

Estuary seablite (*Suaeda esteroa*) CRPR: 1B.1¹ Present:

This species is found extensively within the mid-marsh zone throughout the site.

Salt Marsh Bird's Beak (*Chloropyron maritimum* ssp. *Maritimum*) CRPR: 1B.2 High:

This species has high potential to occur due to the presence of suitable habitats and outplanting efforts being conducted at the adjacent Magnolia Marsh.

Southern tarplant (*Centromadia parryi* ssp. *Australis*) CRPR: 1B.1 High:

¹ **California Native Plant Society Rankings of Rare California Plants.** Potential rare plant species were determined through a review of the CNPS Electronic Inventory of Rare and Endangered Vascular Plants of California to expand upon the list generated by CNDDDB (CNPS, 2019). CNPS has compiled an inventory comprised of information focusing on geographic distribution and qualitative characterization of Rare, Threatened, or Endangered vascular plant species of California (Tibor 2001). This provides a list of candidate species for threatened and endangered listing by CDFW. CNPS and CDFW have collaborated to assign five California Rare Plant Ranks (CRPR). A 1B ranking means the plant is Rare or Endangered in California and Elsewhere. A 1B.1 ranking means the plant is seriously endangered in California. A 1B.2 ranking means the plant is Fairly endangered in California

This species has a high potential to occur as the site contains ideal habitat and this is known to be relatively common in the local area.

Faunal Species:

Belding's savannah sparrow (*Passerculus sandwichensis beldingi*)

California Endangered Species High:

This species has a high potential to occur due to presence of habitat but is unlikely to breed on site due to predator perches.

California least tern (*Sternula antillarum browni*)

State and Federal endangered species High:

This species has a high potential to occur for foraging during the summer but will not use the site for breeding. It has been previously observed in the HB Wetlands.

Western snowy plover (*Charadrius alexandrinus nivosus*)

Federally Threatened and California Species of Concern High:

This species has a high potential to occur for foraging or loafing due to nesting grounds at the mouth of the HB Wetlands. It has been previously observed in the HB Wetlands.

Estuary seablite (*Suaeda esteroa*) was the only special status plant species identified as present within the project area at the time of the surveys ([Exhibit 8](#)). However, according to the Report, it is expected that a number of additional species have a high likelihood to be present as well. Regarding the one special status species observed on site during the surveys, the Report states:

Estuary Seablite

The construction project will be designed to avoid all impacts to estuary seablite (*Suaeda esteroa*), which is the only special status plant species present on site. All estuary seablite individuals will be flagged by qualified wetland biologists and trampling of these individuals will be avoided. This species will be actively seeded in the wetland areas that are enhanced or created by this project.

Regarding potential impacts to some of the species with a high likelihood of being present on site, the Report provides the following discussion:

Belding's Savannah Sparrow (*Passerculus sandwichensis beldingi*):

Potential impacts to this species can be avoided through implementation of grading and associated construction activities outside of the breeding season which is generally accepted to be February 15th – July 15th. A qualified wetland biologist will be on site during all construction activities to ensure avoidance of this species during all construction activities.

California least tern (*Sternula antillarum browni*):

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This bird species is found throughout the HB Wetlands and is listed as endangered on both federal and state levels as well as being included as fully protected by CDFW. While this species may potentially use the site for foraging, it nests on sparsely vegetated sandy beaches and dunes which are not found with the project area. There is ample foraging habitat for this species to use in the surrounding areas; therefore, the project activities will not have a significant impact on this species.

Western snowy plover (*Charadrius alexandrinus nivosus*):

This bird species has been observed in the HB Wetlands and is listed as federally threatened and is a CDFW Species of Special Concern. It is found foraging and loafing on sandy beaches, salt pond levees, salt marshes, and along shores of large alkali lakes and alkali playas. It requires sandy or gravelly substrate for nesting. Its presence was not observed within the project area, but a limited amount of its breeding habitat does exist. The existence of predator perches throughout the project area likely eliminate the potential for this species to breed in Upper Magnolia Marsh. Regardless, all construction activities will take place outside of this species' breeding season to avoid potential impacts.

Regarding possible impacts to nesting birds due to the proposed project, the Report states:

Habitat within the project site has the potential to support a variety of nesting birds. Impacts to migratory and resident nesting avian species are prohibited under the MBTA [Migratory Bird Treaty Act] as well as provisions of the California Fish and Wildlife Code. A qualified wetland biologist will be on site during all construction activities to ensure avoidance of nesting birds during all construction activities.

Regarding project impacts to wetlands, the Report states:

“Temporary impacts to state and federal jurisdictional wetlands and waters will also arise through disturbance to wetland vegetation when construction equipment accesses the site. Much of the work can be done from adjacent developed areas, however, light-weight equipment may be needed to enter the wetland portions of the site in order to demolish certain infrastructure. In these instances, ingress/egress paths totaling 0.23 acres have been identified. A 0.1366 acre (5,952 sq ft) access path to the west of the pipeline and a 0.0935 acre (4,074 sq ft) access path east of the pipeline. The access paths will be lined with crane mats suitable for use in wetlands. These mats will disperse the weight of construction equipment and limit impacts to trampled vegetation and eliminate rutting of wetland soils.”

Regarding wetland impacts, the Report also states:

“The removal of the pipeline system has potential to impact existing biological resources but will result in an overall improvement to the coastal habitats and

vegetation communities. A restoration plan has been developed in order to offset the temporary impacts caused by the removal of the pipeline system infrastructure.”

and

“Overall, the removal of the pipeline system from Upper Magnolia Marsh will result in improvements to existing biological resources. Not only will this project remove the pipeline footprint that overshadows portions of tidal wetland habitat, but it also will remove a predator perch that makes the site unlikely breeding habitat for species like the Belding’s savannah sparrow that nest in coastal salt marshes. However, the demolition of the pipeline will result in temporary impacts to biological resources.”

Use

Restoration is one of the specifically enumerated uses for which dredge of wetlands is allowed by Section 30233(a)(6). In addition, Section 30233(c) requires that dredge in existing wetlands shall maintain or enhance the functional capacity of the wetland. The proposed project is a restoration project. The project will remove now obsolete oil operations infrastructure from the wetland. The removal will create wetland habitat in the area of the pipeline structures currently displacing wetland, it will eliminate wetland shading impacts, and will remove predator perches that may improve the likelihood of bird breeding within the wetland. Further, the proposed restoration grading will enhance the functional capacity of the wetland by improving drainage within the wetland and creating elevations and inundation rates that support low and mid marsh vegetation. The grading will create a small tidal channel connecting one of the newly graded areas to the existing, nearby tidal basin within Upper Magnolia Marsh, expanding tidal range within the wetland ([Exhibit 2](#)). Finally, the restoration area will be revegetated with coastal salt marsh plants. Based upon the habitat improvements expected from the proposed project, the restoration project is an allowable use under Coastal Act Section 30233(a)(6).

Mitigation

Section 30233(a) of the Coastal Act, in addition to requiring that the project be an allowable use, also requires that that project provide adequate mitigation to minimize any adverse environmental effects the project will have on the wetlands habitat. As described above, the project will have some temporary construction impacts as necessary to remove the obsolete oil production infrastructure from within the wetlands ([Exhibit 2](#)). In order to address these impacts, the applicants have proposed a Habitat Restoration Plan (Tidal Influence, September 2020).

Project impacts to the wetland habitat would occur due to the construction access paths on either side of the pipeline and due to grading in the area roughly beneath the removed pipeline. The 0.59 acre restoration area is currently comprised of the following five unique vegetation alliances: Alkali Heath Marsh (0.049802 acres); Alkali Weed-Salt

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Grass Playas and Sinks (0.000623 acres); Coyote Brush Scrub (0.009839 acres); Pickleweed Mats (0.378301 acres); and Salt Grass Flats (0.001312 acres) ([Exhibit 2](#) and [Exhibit 4](#)). Project impacts are described in the proposed Restoration Plan as follows:

Overall, the existing plant community within the revegetation area is degraded due to suboptimal inundation rates, poor drainage, and shading. The project is designed to alleviate these issues, but in doing so there will be temporary impacts. There are two potential temporary impacts to the existing vegetation communities that could occur as a result of the project. First, to remove the pipeline a total of 10,027.13 square feet (0.23 acres) will be needed to allow for the ingress and egress of equipment. Second, in order to improve the tidal flushing of the revegetation area, 9,151.37 square feet (0.21 acres) will be graded. The footprint of these temporary impact areas totals 19,178.50 square feet (0.44 acres). In total, 13,519.79 square feet (0.31 acres) of coastal salt marsh vegetation will be temporarily impacted².

The goal of the proposed restoration is described in the Restoration Plan as:

The goal of this restoration project is to enhance 0.59 acres of southern coastal salt marsh habitat to offset the temporary impacts to 0.31 acres of coastal salt marsh vegetation caused by the demolition of the existing pipeline system and associated intertidal grading (Appendix A). This goal will be achieved through limited grading, vegetation installation, and subsequent monitoring and management. The increased functions and services of the enhanced habitat will offset the temporary impacts caused by the pipeline removal project by increasing vegetative cover and plant species richness, while ultimately leading to increases in habitat functions and ecological services within the project area.

Additionally, the removal of the pipeline system and associated structures will result in the creation of 332.45 sq feet ([0.007] acres) of new jurisdictional wetland habitat.

All propagules (cuttings, seed, or plugs) used in the restoration revegetation will be collected from within the Huntington Beach Wetlands Complex whenever feasible. Container plants for this project will be grown in the HBWC nursery located near the entrance to Magnolia Marsh. Seed not readily available in the Huntington Beach wetlands will be sourced from other salt marshes within San Pedro Bay or from S&S Seeds (a native plant seed supplier). Cordgrass plugs will be sourced from the large patches found in Magnolia Marsh, Brookhurst Marsh, or Talbert Marsh and transplanted directly into the project area ([Exhibit 9](#)).

² There is some overlap of impacted area ([Exhibit 2](#)).

Proposed grading within the 0.21 acre area will follow removal of the pipeline and related infrastructure. The final contours created by the grading activity are intended to allow for the revegetation area to fully drain during low tides. This will eliminate the constant pooling of salt water that currently prevents the establishment of intertidal vegetation under the pipeline. Proposed grading will also include widening a gap in the maintenance berm that runs parallel to the pipeline, allowing connection with the existing tidal basin. This gap is intended to allow for a higher volume of water to enter the revegetation area during high tides. It is expected that the improved inundation rates resulting from the proposed grading will allow for a greater diversity of salt marsh plant species to become established at higher rates of percent cover. After the grading is complete, the soil surface is proposed to be tilled, aerated, or ripped to at most 18 inches in depth in order to avoid compaction of surface soils that may interfere with vegetation establishment, growth, spread and recruitment.

Non-native plant removal is also proposed. Because most of the site is intertidal, not many non-native plants are expected within the restoration area, and so it is expected that the non-native plant removal can be accomplished by hand. Any non-native plants that are present are proposed to be removed prior to grading in order to avoid seed dispersal.

The only special status plant found on site during the site surveys was Estuary seablite (*Suaeda esteroa*) ([Exhibit 8](#)). The Estuary seablite and any special status plant species that may be discovered on site will be staked and flagged by the Project Restoration Ecologist so that they can be avoided and not impacted by the pipeline removal activities, weed control, grading, and planting efforts. Any special status plant species identified within the temporary impact areas will be salvaged prior to commencement of construction, and either planted in suitable locations elsewhere in Upper Magnolia Marsh or kept in a container in the HBWC plant nursery and installed in the restoration area during the re-vegetation effort.

The revegetation is proposed to be a combination of container planting and hydroseeding. Below is a list of proposed plants, installation methods, quantities and sizes proposed to be installed.

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Scientific Name	Common Name	Zone	Propagule	Size	Quantity
<i>Spartina foliosa</i>	Pacific Cordgrass	low	Plugs	n/a	100
<i>Batis maritima</i>	Salt Wort	mid	Container	4 in	200
<i>Jaumea carnosa</i>	Fleshy Jaumea	mid	Container	4 in	200
<i>Limonium californicum</i>	Marsh Rosemary	mid	Container	4 in	100
<i>Salicornia bigelovii</i>	Annual Pickleweed	mid	Seed	n/a	--
<i>Salicornia pacifica</i>	Common Pickleweed	mid	Container	2.5 in	150
<i>Suaeda esteroa</i>	Estuary Sea-blite	mid	Seed	n/a	--
<i>Triglochin concinna</i>	Arrowgrass	mid	Container	4 in	100
<i>Arthrocnemum subterminale</i>	Parish's Glasswort	upper	Container	4 in	125
<i>Atriplex watsonii</i>	Matscale	upper	Container	4 in	100
<i>Cressa truxillensis</i>	Alkali Weed	upper	Seed	n/a	--
<i>Distichlis littoralis</i>	Shoregrass	upper	Container	4 in	250
<i>Distichlis spicata</i>	Salt Grass	upper	Container	4 in	500
<i>Frankenia salina</i>	Alkali Heath	upper	Container	4 in	250
<i>Juncus acutus</i>	Spiny Rush	upper	Container	1 gal	25

The focus of the proposed revegetation will be on coastal salt marsh plant species; however, certain upland-transition species may be considered at the discretion of the Project Restoration Ecologist after the grading has been completed. Upland-transition species may include *Isocoma menziesii* (Menzie's Goldenbush), *Suaeda taxifolia* (Woolly Seablite), and *Baccharis pilularis* (Coyote Brush).

Once grading is complete, hydroseed will be applied to all bare areas between an elevation of 4-7 feet NAVD. Hydroseed will be applied during a low tide event and all equipment will be staged on the perimeter access roads. The hydroseed slurry will be composed of a combination of native salt marsh seed and native salt marsh plant stem fragments collected before the grading, hydroseed wood fiber mulch (1000 LB/AC), and botanical glue (100 LB/AC). Container plants will be installed following hydroseeding. A total of 2,000 container plants are to be installed at the outset of revegetation. The container plant layout will be randomly patterned (as opposed to rows) within the appropriate elevation zones, to create a natural mixing of species that is typical within the salt marsh plant community. The cordgrass plugs will be installed at an elevation between 4.0 - 4.5 feet NAVD 88 in patches of 20-30 plugs spaced 2-3 feet apart.

Maintenance is proposed to occur regularly throughout the 5-year maintenance and monitoring period. Monthly maintenance at a minimum will occur throughout the initial year, while maintenance in years two through five will be performed on an as-needed

basis that is determined by the Project Ecologist. Maintenance actions may include non-native plant control, trash removal, watering, and erosion control.

Monitoring is proposed for five years or until performance standards are met, whichever is longer. Proposed monitoring will include monthly site visits by the Project Ecologist for the first year and quarterly (February, May, August, and November) each year after for five years, or longer if performance standards are not met within that time frame. The monitoring schedule may shift slightly dependent on environmental conditions. The Project Ecologist will prepare an annual Monitoring Report each year. The proposed monitoring data collection methods include evaluation of: photo points, percent vegetative coverage, percent non-native vegetative coverage, and species richness, and presence of Estuary seablite (*Suaeda esteroa*).

The quantitative data collected from monitoring is to be analyzed to track the project's progress in meeting the performance standards. At the completion of each monitoring year, the Project Restoration Ecologist will make recommendations for adapting management techniques or the installation of additional vegetation.

The proposed annual Monitoring Reports will be distributed, within 45 days of completion of each year of monitoring, to the Huntington Beach Wetlands Conservancy and to California Coastal Commission staff for review. The reports are proposed to be prepared and distributed for a minimum of five years after planting and until performance standards have been achieved. The annual Monitoring Reports will include an analysis of the performance standards and will describe in detail all of the project activities performed during the previous year including all restoration and maintenance efforts. All work is proposed to be conducted under the supervision of the Project Restoration Ecologist.

The proposed Habitat Restoration Plan recognizes the need for: qualitative field monitoring, determining percent cover of native plant species versus non-native vegetation and bare ground within the restoration area, preparation of an annual Monitoring Report each year each year for five years or longer if performance standards are not met within that time frame, use of regular periodic photos from specific photo points to visually track the progress of vegetative coverage, and vegetative surveys to determine percent coverage of native and non-native species present. The Habitat Restoration Plan also outlines the following Performance Standards:

1. At least 65% vegetative cover by native salt marsh plant species
2. 10 of the 15 species in the plant palette present in the restoration area
3. Less than 25% vegetative cover of non-native plant species with less than 15% being invasive perennial species
4. No more than 1% vegetative cover of invasive non-native plant species rated as

high on the Cal-IPC list³

5. Presence of Estuary seablite (*Suaeda esteroa*) within the restoration area.

Although the proposed Habitat Restoration Plan recognizes that the project must be monitored “each year for five years or longer if performance standards are not met within that time frame,” it does not consistently reference this requirement. In some cases, the Plan refers to five years of monitoring only. It should be clear throughout the Plan that monitoring is required for five years **and** until performance standards are met. In addition, although the Plan recognizes that the annual monitoring reports will suggest adaptive management measures, it not consistently clear that if the performance criteria are not met, that adaptive management measures will actually be implemented to address the lack of achieving success criteria/performance standards. This should be reflected in the Habitat Restoration Plan. Although a vegetation alliances map is included in the proposed Habitat Restoration Plan, the Plan does not identify a requirement to perform a new base line vegetation survey closer to commencement of construction. A more recent survey will provide a better “snapshot in time” of the conditions on the ground closer to the actual commencement of construction.

At a minimum, the proposed Habitat Restoration Plan must be revised to include: a requirement to perform a pre-project, base line vegetation survey; a detailed description of the methods used to determine the base line quantitative surveys and periodic subsequent surveys; that maintenance and monitoring of the restoration site must be conducted for five years from the date of installation or until success criteria are met, whichever is longer; and recognition that adaptive measures will be developed and implemented in the event success is not achieved within the monitoring timeframe. In addition, the Plan also uses the terms “project biologist,” “project ecologist,” and “project restoration ecologist.” The revised Plan must either define the differences and responsibilities of each, or choose one term to apply consistently throughout the plan. The revised Habitat Restoration Plan must be prepared by a qualified professional with expertise in coastal salt marsh habitats. **Special Condition No. 1** requires the applicants to submit a revised Habitat Restoration Plan, in substantial conformance to the proposed plan, that also includes the elements described above.

Overall, the proposed project is expected to have significant positive effects on the wetland habitat. Removing the pipelines and related obsolete oil infrastructure from the wetlands will help to return the site to a more natural state. The proposed grading to improve drainage and circulation and to create elevations and inundation rates that will support low and mid marsh vegetation within the wetland will be positive steps toward a more fully functioning wetland. The proposed revegetation of the area will allow a greater diversity of salt marsh plant species to become established at higher rates of percent cover. Thus, as conditioned, the proposed restoration will enhance the

³ <https://www.cal-ipc.org/plants/inventory/>

functional capacity of the wetland, consistent with Section 30233(c). With the required revisions to the proposed Habitat Restoration Plan, the likelihood of success will be increased. As conditioned, the proposed project will provide adequate mitigation to minimize adverse environmental effects the project may have, consistent with Section 30233(a) of the Coastal Act.

Least Environmentally Damaging Alternative

Section 30233(a) of the Coastal Act allows dredge within wetlands only where there is no feasible less environmentally damaging alternative. A number of measures are proposed to assure the proposed restoration is the least environmentally damaging alternative. Included among these measures are: construction best management practices will be implemented such as use of a liquid vacuum truck to remove residual liquids from the pipelines and to clean up any potential spills, use of crane mats along construction access paths to disperse the weight of construction equipment, placement of a spill containment boom in the flood control channel, construction equipment will use biodegradable hydraulic oil or fish oil rather than petroleum products, and staging will be limited to existing developed/disturbed areas, among other measures.

In addition, wetlands provide opportunities for a variety of plant and animal species to flourish, including special status species. This is one of the bases for the protection of wetlands under the Coastal Act. As noted previously, a number of special status avian species have a high likelihood to be present in Upper Magnolia Marsh, primarily for foraging. As proposed, the project will include a requirement that nesting bird surveys will be conducted within 72 hours of any construction activities scheduled to take place during breeding season (February 15 to July 15). If nesting birds or the presence of special status birds are identified, then work will be halted until nesting has been completed or the habitat is no longer being utilized. In addition, a biologist will oversee all restoration activities, to assist in minimizing impacts. These are important aspects of the project for purposes of minimizing adverse impacts to special status species and thus assuring the project is the least environmentally damaging alternative. **Special Condition No. 2** requires surveys be conducted during the bird breeding season as proposed. The Revised Habitat Restoration Plan outlined in **Special Condition No. 1** requires the presence of a biologist to oversee restoration activities as proposed.

In addition, the history of oil pipelines and infrastructure at the site raises the question of whether removal could disturb hydrocarbon contaminated soils. Excavation or grading of contaminated materials could potentially result in harmful releases. Addressing the potential presence of contaminated soils at the site is important in terms of the long-term success of the restoration. Potentially contaminated material must be identified and handled or disposed of properly. To address this, the applicants have proposed a Soils Sampling and Disposal Contingency Plan (Moffatt & Nichol, 12/22/2020).

The Soil Sampling and Contingency Plan (Plan) outlines actions which will be taken to characterize soil chemistry in the event that evidence of potential hydrocarbon

contamination of soil is encountered during construction activities. The Plan requires that, prior to the commencement of work, the hydrocarbon monitoring team will walk the site with the contractor to look for surficial evidence of hydrocarbon presence. During earthwork excavation and removal of pipeline footings, a member of the construction contractor's team and a member of the engineering team will be tasked with monitoring activities. The designated contractor monitor will visually inspect exposed soil for signs of discoloration, sheen and odor associated with the presence of hydrocarbons. If the monitor identifies the potential presence of hydrocarbon-contaminated soil, excavation activity will stop at the location where the stained soil was observed, a sample of the material will be taken, and the soil sample will be submitted for testing for the presence of total petroleum hydrocarbon (TPH) residuals fuels at an appropriate facility. The plan includes a description of the testing methods.

In testing for TPH residuals, the material will be screened to a residential land use regional screening level (RSL) of 410 mg/kg. If TPH levels in the sample exceed this conservative RSL criteria, then ecological evaluation of the entire group of petroleum hydrocarbons (aliphatic and aromatic hydrocarbons, PAHs) will be conducted to marine ecological sediment screening values to determine potential for ecological effects. Soil will be compared to the effects range low (ERL) values for total high molecular weight PAHs (HPAHs) of 552 µg/kg and total low molecular weight PAHs (LPAHs) of 1,700 µg/kg. If soil testing shows less than the ERL value, then ecological impacts are not expected. This is a conservative approach, as aromatic hydrocarbons are generally more toxic than aliphatic hydrocarbons. If RSL and ERL values are exceeded, then the sample will be tested for Volatile Organic Compounds (VOC) and Title 22⁴ metals to meet the screening level testing requirements of Waste Management in Simi Valley.

In the event laboratory results indicate that samples contain a level of TPH in excess of 410 mg/kg and relevant PAH ERL values, the contaminated material will be stockpiled on a liner for removal offsite by an appropriately qualified contractor to an acceptable disposal site. Any excavated material that returns a TPH level below 410 mg/kg will be used on site in the proposed upland fill areas.

To ensure that the site is protected from hydrocarbon contamination, **Special Condition No. 3** requires that the Soils Sampling and Disposal Contingency Plan be carried out as proposed. With implementation of the Soils Sampling and Disposal Contingency Plan and the other protection measures, the project as proposed and conditioned will be the least environmentally damaging alternative, consistent with Section 30233(a) of the Coastal Act.

Likewise, the history of oil pipelines and infrastructure at the site raises the question of whether activities necessary to effectuate pipeline removal could result in oil spilling from the pipelines into the wetlands during the removal process. Although the pipelines

⁴ Title 22 State Hazardous Waste Criteria

have been out of service for approximately seven years, this possibility cannot be overlooked. Preventing oil from spilling into the marsh is important for the long-term restoration success. Those carrying out the pipeline removal be trained in, and adhere to, emergency oil spill prevention, response, and spill control procedures to avoid spills and that may become necessary to control oil spills and to clean up any spill in the event that such occurs. To address the potential for oil spills from the pipeline during their removal, an Oil Spill Prevention and Response Plan (OSPRP) must be prepared by the applicant prior to commencement of construction so that it is ready to be implemented if needed. At a minimum the OSPRP, prepared by an appropriate professional, must include: (a) identification of all prevention and response personnel, equipment, and measures/procedures that will be taken to prevent potential spills and to protect coastal resources in the event of a spill; (b) spill prevention and response equipment shall be kept onsite at all times; and (c) emergency response and notification procedures, including a list of contacts to call in the event of a spill.

To ensure that the site is protected from oil spill(s), **Special Condition No. 9** requires the applicant to prepare and submit an OSPRP prior to commencement of construction, and that the OSPRP be implemented during construction. With implementation of the OSPRP and the other protection measures, the project as proposed and conditioned will be the least environmentally damaging alternative, consistent with Section 30233(a) of the Coastal Act.

E. 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 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 waterflow, 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, Oil and hazardous substance spills, states:

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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 proposed project will occur within tidally influenced coastal salt marsh wetlands. Work in such a location has the potential to negatively impact water quality. As described previously, the history of oil operations at the site raises the question of whether removal of the infrastructure could disturb hydrocarbon-contaminated soils. If hydrocarbon contamination is present and the proposed project disturbs those soils and releases the contaminants into the wetland, water quality would not be protected as required by the above cited sections of the Coastal Act. As also described above, the applicants have proposed a Soils Sampling and Disposal Contingency Plan adequate to address this concern. To assure the protection of water quality at the site, it is important that the Soils Sampling and Disposal Contingency Plan be carried out as proposed.

Special Condition No. 3 requires the Soils Sampling and Disposal Contingency Plan to be carried out as proposed. Likewise, the history of oil operations at the site raises the question of the potential for oil spills to occur. To avoid oil spills and/or to address such should it occur, it is important that the required Oil Spill Prevention and Response Plan (OSPRP) be carried out as conditioned to assure protection of water quality at the site.

Special Condition No. 9 requires the applicant to prepare and submit an OSPRP prior to commencement of construction and implement the OSPRP during construction. It is also important that the parties responsible for carrying it out are both held accountable for any wetland and/or soils cleanup that may be required in conjunction with the proposed project. **Special Condition No. 5** requires that both applicants agree to joint and several liability. As conditioned, responsibility for any necessary wetlands and/or soils cleanup is clear.

In addition, the proposed development has the potential for construction and post-construction discharge of polluted runoff from the project site into wetlands and coastal waters. The storage or placement of construction material, debris, or waste in a location where it could be discharged into coastal waters could result in an adverse effect on the marine environment. The applicants are proposing measures to address water quality concerns, including: a spill containment boom in the flood control channel will be in place for the duration of construction; personnel and a liquid vacuum truck will remain on standby in the immediate vicinity in case there is a spill; use of plastic sheeting, sandbags, and, if necessary, straw waddle during demolition activities to protect the immediate work area at all times and prevent any liquids or other materials from touching the native ground; and biodegradable hydraulic oil or fish oil, rather than petroleum based hydraulic oil, will be used in construction equipment.

To further protect water quality, the Commission imposes **Special Condition No. 6**, which identifies additional construction related water quality Best Management Practices (BMPs) to be incorporated into the project during construction including, but not limited to, appropriate storage and handling of construction equipment and materials

to minimize the potential of pollutants to enter coastal waters. By incorporating these water quality protection measures into the proposed development, as conditioned, the project minimizes the effect of construction and post-construction activities on the wetlands and the marine environment. Therefore, the Commission finds that the proposed development, as conditioned, conforms to Sections 30230, 30231, and 30232 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters, to protect human health, and to protect against spillage of petroleum products or hazardous waste.

F. Cultural Resources

Section 30244 of the Coastal Act states:

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

As described above, the project involves 360 cubic yards of grading to create contours to improve drainage by creating elevations and inundation rates that support low and mid marsh vegetation. It is unclear whether the subject site has undergone prior grading; the site has supported oil operations for many decades. Historically, the site has been developed only with mostly above-ground pipelines, which suggests the possibility that much of the underlying ground is relatively undisturbed. If prehistoric archaeological or paleontological or Native American uses occurred on the project site, buried cultural resources may be discovered during the project's proposed grading and if proper measures are not taken, there could be negative impacts to cultural resources.

In past permit actions on projects with relatively undisturbed site history,⁵ the Commission has required applicants to monitor all earth-disturbing activities and, in the event resources are discovered, required appropriate mitigation measures to assure protection of the resource. To ensure that any cultural resources that may be discovered on the project site are protected, the Commission imposes **Special Condition No. 8** which requires archaeological and Native American monitoring on-site during all grading/earth disturbing activities; that the required monitors include a minimum of one Native American monitor from each tribal entity with documented ancestral ties to the area appointed consistent with the standards of the Native American Heritage Commission (NAHC), and the Native American Most Likely descendent (MLD) when State Law mandates identification of a MLD; if cultural deposits are discovered, that all work within fifty (50) feet of the discovery cease; and describes the procedures to be implemented to determine significance as well as subsequent procedures should resources be discovered. As conditioned, the proposed

⁵ i.e. 5-19-1155 (Wojtaszek); 5-19-1167 (Harley, GCS LLC).

project is consistent with Section 30244 of the Coastal Act, which requires reasonable mitigation measures be provided to offset impacts to archaeological resources.

G. Local Coastal Program (LCP)

An LCP for the City of Huntington Beach was effectively certified in March 1985, and although the subject area was originally excluded from that LCP as an area of deferred certification, the LCP was expanded to cover this area in 1995. However, the proposed development is within the Commission's original permit jurisdiction.

Section 30601.3 of the Coastal Act provides for the issuance of coastal development permits directly by the Commission when the applicants, the local government and the Commission, through its executive director, consent to consolidate the permit action, provided that public participation is not substantially impaired by that review consolidation. In this case because the project site crosses jurisdictional boundaries, the applicants HBWC and PAAP, and the local government, the City of Huntington Beach, have requested that a single consolidated permit be processed by the Coastal Commission. Thus, the coastal development permit application was submitted directly to the Commission. Consequently, the standard of review for the consolidated coastal development permit is Chapter 3 of the Coastal Act and the City's LCP may be used as guidance. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified LCP for the area.

H. California Environmental Quality Act (CEQA)

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, 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 that would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Huntington Beach is the lead agency responsible for certifying that the proposed project is in conformance with CEQA. The City determined that in accordance with CEQA, the project is Categorical Exempt from Provisions of CEQA, citing CEQA Guidelines section 15268 (Ministerial Projects). However, Section 13096(a) of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, is consistent with any applicable requirements of CEQA.

The proposed project has been conditioned to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, in the form of special conditions, require: 1) a revised Habitat Restoration Plan; 2) surveys be conducted during the bird

breeding season; 3) implementation of the Soils Sampling and Disposal Contingency Plan as proposed; 4) approval for construction access along the flood control channel levees from the Orange County Department of Public Works; 5) agreement to liability among co-applicants for responsibility for soil contamination clean-up if necessary; 6) water quality Best Management Practices to be implemented during construction; 7) approval from the relevant Resource Agencies of the proposed project; and 8) protection of any cultural resources that may be present on site.

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

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APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application No. 5-20-0072 and associated file documents.

City of Huntington Beach Certified Local Coastal Program.

Biological Resources Report, Upper Magnolia Marsh Pipeline Removal & Restoration Project, Tidal Influence, 12/2019.

Soil Sampling and Disposal Contingency Plan, Upper Magnolia Marsh Restoration Project, Moffatt & Nichol, 12/22/2020.

Habitat Restoration Plan – Upper Magnolia Marsh, Tidal Influence, 9/2020.