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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 9-22-0131

**Applicant:** California State Lands Commission

**Location:** State Lease PRC-421 at Haskell's Beach, City of Goleta, Santa Barbara County

**Project Description:** Demolition and removal of two caisson and pier structures from beach and marine waters, including removal of both well casings and capping the wells down to the bedrock and flushing and isolating the existing 2-inch and 6-inch-diameter pipelines leading from the piers to the Ellwood Onshore Facility.

**Staff Recommendation:** Approval with Conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The California State Lands Commission (CSLC) requests approval of a Coastal Development Permit (CDP) to remove two of the remaining oil production structures at the former State Oil and Gas Lease PRC (Public Resource Code)-421, associated with the Ellwood Oil Field development that occurred along the Northern Santa Barbara Channel Coast from the late 1920s to 1990s. The structures proposed for removal include two caisson and pier structures referred to as Pier 421-1 and Pier 421-2, located

on State tide and submerged lands below the bluffs of the Sandpiper Golf Course in the Haskell's Beach area of the City of Goleta, California (**Exhibit 1**). The structures extend offshore approximately 120 feet (**Exhibit 2**). The project also involves decommissioning the remaining portions of the oil wells housed in the piers and flushing and isolating the 2-inch-diameter and 6-inch-diameter pipelines leading from the 421-1 pier area back to tie-in points just outside of the Ellwood Onshore Facility (EOF). Finally, the project also includes minor access road maintenance consisting of trimming overgrown vegetation along the EOF access and beach access road (approximately 2,500 linear feet) to clear the 12-foot-wide right-of-way, minor blading of road and sloughed material along the bluff side to level the access road, and addition of gravel to fill in low spots, potholes and cover clay soils.

The primary staging site for construction equipment and materials would be within an existing easement area adjacent to the western fence line of the EOF. A temporary construction ramp would be placed over a gently sloped section of the rock revetment in order to allow heavy equipment access to the beach, thus eliminating the need to cross the Bell Canyon Creek outfall or the Platform Holly production lines. An existing access road near the Bacara Resort to the west would serve as an alternative staging site that would only be used as necessary, such as to facilitate installation of the temporary construction ramp and for overflow storage of debris bins and construction equipment while continuing to maintain emergency vehicle access. Use of the alternate staging area would only take place when the mouth of the Bell Canyon Creek outfall is closed. Equipment would be removed from the beach and returned to the EOF staging area or pier access roadway at the end of each workday as well as during high tides.

Decommissioning work is anticipated to begin in late summer of this year to take advantage of higher sand deposition levels and lower tide heights that will allow safer access to and removal of the caissons and caisson fill. As proposed, daily construction activities would be timed within low tide windows throughout the approximately five-month construction period to minimize risk of impacts to personnel, the public, and the environment.

Primary Coastal Act concerns raised by the proposal include potential adverse effects to wetlands, marine and terrestrial biological resources, coastal water quality, cultural resources, and public access and recreation.

Currently there is a 130 square foot wetland area within one of the piers being decommissioned as part of this project, and removal of the pier would entirely eliminate this wetland, although would help restore other habitat under the pier. There is also an approximately 1,611 square foot wetland area within the access roadway that would be temporarily disturbed as a result of heavy-duty equipment and personnel moving along the access road to get to the pier and also from maintenance of the access road. Inclusion of the Mitigation and Monitoring Program (MMP) in the adopted EIR per **Special Condition One** would minimize potential adverse environmental impacts associated with the wetlands. Also, to confirm recovery of the wetlands within the access road, **Special Condition Eight** requires that the applicant monitor the recovery

of the temporarily impacted areas one year after completion of the project. If recovery has been unsuccessful, the applicant shall propose specific restoration or mitigation for the identified impacts.

With the implementation of CSLC's proposed mitigation measures and those included in the project CEQA document (**Exhibit 3**), as well as **Special Conditions One** through **Eight**, adverse impacts to other coastal resources including coastal access and recreation would be avoided and the proposed project would be consistent with the applicable policies of the Coastal Act.

The Commission staff therefore recommends **APPROVAL** of coastal development permit application 9-22-0131, as conditioned. The motion for this is on page 4 of this document. The standard of review for the proposed project is the Chapter 3 policies of the Coastal Act because the City of Goleta does not have a certified Local Coastal Program and because much of the work will occur on state tidelands within the Commission's original permitting jurisdiction.

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## I. MOTION AND RESOLUTION

### Motion:

*I move that the Commission **approve** Coastal Development Permit 9-22-0131 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 of interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

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

### **III. SPECIAL CONDITIONS**

- 1. Mitigation Monitoring Program.** The Permittee shall implement and adhere to all mitigation measures included in the Mitigation Monitoring Program (MMP) as adopted with the Environmental Impact Report (EIR) prepared for the project and certified by the California State Lands Commission. A full list of these mitigation measures is provided in **Exhibit 3**.
- 2. Bat Preclusion Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit, for the review and approval of the Executive Director, the Bat Preclusion Plan described in EIR mitigation measure MM BIO-2. This plan shall be developed in coordination with the California Department of Fish and Wildlife or other qualified biologists with expertise on the species of bats at the project site and include confirmation surveys of either seasonal or ongoing bat use of the structure and recommendations regarding the timing for installation of preclusion netting at the caisson roost as well as contingency measures to be implemented if installation of preclusion netting does not successfully direct bats to relocate to alternative roosting sites.
- 3. Revised Oil Spill Contingency Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit, for the review and written approval of the Executive Director, a revised Oil Spill Contingency Plan. The plan shall be revised to require, rather than consider, deploying booms around the work area prior to final removal of caisson walls during low tide events unless it is determined to be unsafe, infeasible, or ineffective at containing an oil spill. The plan shall also include a requirement to immediately notify the California Coastal Commission in the event of any oil spill. The Permittee shall implement the revised Plan as approved by the Executive Director.
- 4. Final Public Access, Safety and Security Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit, for the review and written approval of the Executive Director, a Final Public Access, Safety and Security Plan. At a minimum, the plan shall describe all measures the Permittee will implement to ensure public safety and provide public access through or around the work area, including but not limited to temporary fencing, signage in both English and Spanish notifying the public of any temporary beach closures and alternative access points, and project personnel trained to oversee and maintain public safety throughout the project. The Permittee shall implement the Plan as approved by the Executive Director.
- 5. Other Agency Review and Approval.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall submit to the Executive Director written

evidence that all necessary permits, permissions, approvals, and/or authorizations for the project have been granted, including those from the California Geologic Energy Management Division and the Santa Barbara County Air Pollution Control District. Any changes to the approved project required by these agencies shall be reported to the Executive Director. No changes to the approved project shall occur without an amendment to this permit unless the Executive Director determines that no amendment is legally necessary.

- 6. Site Cleanup and Restoration.** The Permittee shall implement site cleanup and restoration measures during and after construction as follows:
  - a) During construction, the Permittee shall ensure that all construction equipment is cleared from the beach at the end of each workday; waste bins are covered or emptied at the end of each workday, and spill prevention BMPs are implemented throughout the project in accordance with the MMP to minimize the potential for impacts to public access and safety, coastal water quality, and marine resources.
  - b) Following completion of the activities approved by this coastal development permit, the Permittee shall completely remove any remaining construction equipment and debris from the beach and ensure that the sand is backfilled and/or leveled such that it is safe for public access. Site restoration shall include removal of the temporary construction ramp unless a Coastal Development Permit application has been received for implementation of Component 2 that includes a request to maintain the temporary ramp and remove the ramp as part of project completion. If, after project activities are completed and the site is restored, any demolition material or debris remains or becomes exposed on the beach such that it poses a public safety risk at the project site, the Permittee shall, within 45 days, completely remove the remaining or exposed material from the beach.
  
- 7. Assumption of Risk.** By acceptance of this coastal development permit, the Permittee acknowledges and agrees to the following:
  - a) The applicant acknowledges and agrees that the site may be subject to hazards from liquefaction, seismic activities, storm waves, surges, erosion, landslide, flooding, and sea level rise.
  - b) The applicant acknowledges and agrees to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.
  - c) The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.

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

**8. Temporary Wetland Impacts Monitoring Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit for review and written approval of the Executive Director, a Temporary Wetland Impacts Monitoring Plan for impacts to wetlands that is not limited to but shall include the following:

- a) A site plan delineating all wetlands expected to be temporarily impacted including the wetland boundaries and acreages. The existing September 2021 (updated March 2022) Padre wetland delineation report may be used to document the pre-project aforementioned wetland parameters<sup>1</sup>;
- b) A description of the existing, pre-project, wetland conditions including percent cover of the dominant plants and a list of the associated species. This information can be extracted from the existing Padre 2021 (updated March 2022) wetland delineation report;
- c) Plans for conducting a post-project wetland delineation to assess recovery of the temporarily impacted wetlands at one year from the initiation of the project's wetland impacts. The criterion for determining if project impacts have been temporary is that, at one year after the impacts occur, the percent cover of the dominant plants and the number of associated species must be within +/- 10% of the existing baseline values; and
- d) Submission of a final report within 30 days after the post-project wetland delineation, that evaluates whether recovery of the site conforms to the goals and success criteria set forth in the approved Temporary Wetland Impacts Monitoring Plan. If the final report indicates that temporarily impacted areas have recovered as expected, no further action is necessary. If the final report identifies that recovery has been unsuccessful, in part or in whole, based on the required success criteria and observed permanent impacts to one or more wetlands, the applicant shall propose specific restoration or mitigation for the identified impacts. The mitigation program shall be processed as an amendment to this coastal development permit or a new coastal development permit unless the Executive Director determines that no permit amendment or new permit is legally required.

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<sup>1</sup> The applicant may perform an updated wetland delineation prior to the initiation of work if they so choose; however, the updated March 2022 report is sufficient.

All plans, reports, and other documentation of project impacts, monitoring, and mitigation shall be submitted to the Energy, Ocean Resources, and Federal Consistency office of the Coastal Commission.

## **IV. FINDINGS AND DECLARATIONS**

### **A. Background and Project Description**

The California State Lands Commission (CSLC) requests approval of a Coastal Development Permit (CDP) to remove two of the remaining oil production structures at the former State Oil and Gas Lease PRC-421, associated with the Ellwood Oil Field development that occurred along the Northern Santa Barbara Channel Coast from the late 1920s to 1990s. The structures proposed for removal include two caissons and piers referred to as Pier 421-1 and Pier 421-2, located on State tide and submerged lands below the bluffs of the Sandpiper Golf Course in the City of Goleta, California, and extending offshore to a water depth of approximately 50 feet (**Exhibit 2**). The project also involves decommissioning the remaining portions of the oil wells housed in the piers, flushing and isolating the 2-inch-diameter and 6-inch-diameter pipelines leading from the 421-1 pier area back to tie-in points just outside of the Ellwood Onshore Facility (EOF), and site restoration after project completion. Finally, the project also includes minor access road maintenance consisting of trimming overgrown vegetation along the EOF access and beach access road (approximately 2,500 linear feet) to clear the 12-foot-wide right-of-way, minor blading of road and sloughed material along the bluff side to level the access road, and addition of gravel to fill in low spots, potholes and cover clay soils.

#### **Site History**

The original oil and gas lease (Lease No. 89) at the project site was issued in 1929 and construction of Pier 421-1 and Pier 421-2 was completed by 1930. Subsequently, the original lease was terminated and renewed as PRC 421 in 1949. Oil production at the well associated with Pier 421-1 was discontinued in 1972 and it was subsequently converted to an injection well for produced water. Oil production at the well associated with Pier 421-2 was terminated in 1994 following a leak in the pipeline that transported the produced oil from the pier to the EOF. In 1997, Lease PRC 421 was sold by Chevron to Venoco, Inc. (Venoco). Following Venoco's filing for bankruptcy in 2017, Lease PRC 421 and the associated two wells and pier structures were relinquished back to the State of California. As the statutory owner of the lands that comprise State Lease PRC 421, CSLC took on the responsibility of decommissioning the facilities proposed for removal as part of this project. CSLC has entered into an agreement with the former operator of PRC 421, Chevron, to fund the proposed project. In 2019, the two wells housed by Piers 421-1 and 421-2 were plugged to the surface in compliance with regulatory specifications provided by the California Geologic and Energy Management Division (CalGEM). With the plugging of the wells, the two piers have no further use and pose a potential public safety and environmental hazard in their deteriorating condition. The intent of the proposed project is to remove this unnecessary

infrastructure, restore the shoreline area for public use and benefit, and eliminate the existing environmental and public safety hazard.

### **Component 1 Project Description**

The proposed scope of work is “Component 1” of the two-part project analyzed in the Environmental Impact Report (EIR) certified by CSLC on April 26, 2022 pursuant to the California Environmental Quality Act (CEQA). As described further below, Component 2 includes removal of the elevated access road on Haskell’s Beach, the pipelines located within the roadbed, the pier abutment structures, and the shoreline protective devices along the access roadway and between the piers.

As described by the EIR, Component 1 specifically entails<sup>2</sup>:

- Removal of soil and fill inside both caissons down to the existing bedrock, including all interior debris (buried timber, steel, and concrete support structures) in sequence with the eastern, northern, and western concrete and sheet pile walls;
- Cutting and removal of well casings down to existing bedrock elevation and installation of a final welded well cap;
- Removal of both caissons’ southern (ocean side) external sheet pile, H-piles, and concrete walls including concrete footings;
- Full removal of both pier structures and supports to the bedrock interface;
- Flushing and isolating the 2-inch-diameter and 6-inch-diameter pipelines beneath the golf course pipeline corridor back to the EOF up to the tie-in points just outside of the EOF; and
- Site restoration after project completion, including removal of all construction equipment and any remaining debris.

As further described in the EIR, all structures and debris to be removed would be or already have been evaluated for the presence of hazardous materials (including polychlorinated biphenyls, metals, polycyclic aromatic hydrocarbons, benzene, toluene, ethylbenzene, xylene, asbestos, and other oil-related byproducts) prior to demolition and all internal concrete caisson walls would be cleaned to the extent feasible during the removal process to minimize hydrocarbon residue in preparation for the demolition.

For waste disposal following demolition, all concrete would be recycled within a 50-mile radius from the proposed project site and soil material would be disposed of at an EPA-approved Treatment, Storage, and Disposal Facility. The project EIR estimates that the removal of fill and structural material from the project site for Component 1 work would require approximately 500 truck trips from the EOF staging area to various disposal facilities.

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<sup>2</sup> The Final EIR contains a detailed technical description of the proposed well, caisson, and pier removal procedures as well as the pipeline flushing and isolating procedures on pages 2-26 through 2-30. [https://slcprdwordpressstorage.blob.core.windows.net/wordpressdata/2022/03/421\\_FinalEIR032322\\_AD A.pdf](https://slcprdwordpressstorage.blob.core.windows.net/wordpressdata/2022/03/421_FinalEIR032322_AD A.pdf)

In addition to the project elements described above, the applicant also proposes to implement the plans and procedures detailed by the following documents as part of Component 1:

- Mitigation Monitoring Program (MMP), as adopted in Section 7 of the EIR **(Exhibit 3)**
- Addendum to the Ellwood Facilities Oil Spill Contingency Plan **(Exhibit 5)**
- PRC 421 Piers Soil Removal Remedial Action Plan (MM HAZ-1a of the MMP, **(Exhibit 3)**)

Relevant details of these documents are discussed further in the findings of this staff report. The full EIR and appendices are included in the substantive file documents for this permit application.

### **Component 2 Project Description**

As described by the EIR, the scope of work for Component 2 would include:

- Excavation and removal of the pipelines from the 421-1 pier location west to the 12th tee location at the Sandpiper golf course;
- Complete removal of both pier abutment structures;
- Removal of the rock revetment from the beach (between the 12th tee and 421-2 pier area);
- Removal of the wooden seawall and its structural components (from the 421-2 pier area and extending approximately 75 feet to the southeast);
- Removal of any unrecorded historical debris;
- Removal of any petroleum hydrocarbon-containing soil identified within the access roadway;
- Sloping and restoration of the access roadway area to a natural grade; and
- Final site restoration and clean-up, including removal of all construction materials and equipment and native hydroseeding for slope stability along the coastal bluffs.

As described in the EIR and in a letter from CSLC staff to Commission staff dated May 24, 2022 **(Exhibit 4)**, implementation of Component 2 is complicated by funding availability and site ownership. The decommissioning activities associated with Component 1 are all located below the mean high tide line within the jurisdictional area of CSLC, while Component 2 includes removal and restoration activities within an area above the mean high tide line and outside of the PRC 421 lease area. As explained in further detail in its letter, it is CSLC's stated intent to work with the City of Goleta (City), the private property owners of the EOF and the Sandpiper Golf Course, and other stakeholders to identify funding sources and facilitate approaches for completing Component 2. Inclusion of Component 2 in the scope of the EIR significantly enables this process.

Commission staff has been coordinating with CSLC leading up to this CDP application for some time, including by participating in a Joint Review Panel with CSLC and City

staff on development of the draft EIR and by commenting on the draft EIR itself. Throughout this review, Commission staff has emphasized their support for implementation of Component 2 as the removal of the elevated access road from the beach, including the existing shoreline protective devices and contaminated soils within the access road, would provide long-term enhancement of public access and recreation opportunities by restoring approximately 1.5 acres of beach area. Removal of the access road and its associated deteriorating seawall would also provide for improved environmental and public safety in the project area and restore important beach habitat that has been buried beneath the fill material of the elevated access road for many decades. While coastal resource impacts would need to be analyzed through a separate CDP or an amendment to this CDP for Component 2, the adopted EIR provides a basis for analyzing the environmental impacts and mitigation measures associated with it.

### **Construction Staging and Access**

The primary staging site for construction equipment and materials is proposed to be an existing easement area adjacent to the western fence line of the EOF (**Exhibit 2**). A helipad landing within the EOF may also be used for additional staging of vehicles, materials, and emergency equipment. This primary staging site would provide the most direct connection to the existing access road leading to the 421 piers, which has historically been used for construction staging and access for work at the EOF and PRC 421. Along the access road approximately 1,200 feet west (up shore) of Pier 421-1, a temporary construction ramp is proposed to be placed over a gently sloped section of the rock revetment in order to allow heavy equipment access to the beach while eliminating the need to cross the Bell Canyon Creek outfall or the Platform Holly production lines. The temporary ramp would consist of imported boulders, gravel and mats to enable movement of heavy equipment.

The Bacara Resort fire road access to the west of the EOF has been identified as an alternative staging site that would only be used as necessary, such as to facilitate installation of the temporary construction ramp and for overflow storage of debris bins and construction equipment while continuing to maintain emergency vehicle access (**Exhibit 2**). Movement between the alternate staging area and the project site would require passing in front of the mouth of the estuary; however, use of the alternate staging would only take place when the estuary mouth is closed. Existing and proposed temporary construction fencing would delineate known wetland areas, the Bell Canyon Creek riparian habitat corridor and other sensitive habitat areas prior to construction to protect these habitats during construction activities.

As noted in the EIR, equipment would be removed from the beach and returned to the EOF staging area or pier access roadway at the end of each workday as well as during high tides. As proposed, refueling of equipment would take place only in designated areas of the staging site, and would be prohibited to occur on the beach.

### **Construction Timing**

Component 1 work is anticipated to begin in late summer or early fall of this year to minimize biological impacts and construction hazards. According to the applicant, field surveys show that the project site experiences higher sand deposition levels and lower tide heights during the summer that would allow safer access to and removal of the caissons and caisson fill. The necessity of this timing is explained further in the letter dated May 24, 2022 from CSLC (**Exhibit 4**), as well as discussed further in the relevant sections of this staff report. Once work begins, it is estimated to take approximately five months to complete.

As proposed and described in the project EIR, removal of structures would be timed within low tide windows throughout the five-month construction period to minimize risk of impacts to personnel, the public, and the environment. Decommissioning work is anticipated to occur between the hours of 7AM and 7PM five to six days per week, but certain construction activities may need to occur in both daylight and nighttime hours that best accommodate the low tide events and consider other logistical, environmental, and safety concerns. According to the project EIR, field surveys were conducted to determine that the piers and caissons can be accessed with heavy equipment at tidal heights of 1 foot and below during the later winter/early springtime and tidal heights under 2 feet during the late summer/early fall.

### **Permitting Background**

Most of the development in the project area, including the EOF, 421 piers, wells and the access road were constructed prior to adoption of the Coastal Act. Since the Coastal Act was enacted, the Commission has authorized repair work on the road and on the piers. In 2001, the Commission issued Emergency Permit No. E-01-027-G, which included emergency repairs on the access road. The follow-up CDP was approved under CDP No. E-01-030 in 2001, and a subsequent approval in 2015 authorized after-the-fact road access repair work that had occurred since 2001 as well as additional road repair work over a five-year period (CDP No. 9-15-0027). In 2004, the Commission issued Emergency Permit No. E-04-013-G for repair of the seaward-facing wall of Pier 421-1 following severe storm damage. The follow-up CDP for this emergency work was approved under CDP No. E-05-002 in 2007. In 2018, the Commission issued waiver 9-18-1168-W for plugging and abandonment of the oil well and water injection well that are located within the 421 piers.

## **B. Other Agency Approvals**

### **U.S. Army Corps of Engineers**

The U.S. Army Corps of Engineers (Corps) has permitting authority under Section 404 of the Clean Water Act. The Corps has issued the applicant a notice to proceed for the proposed work on March 24, 2022 under an amendment to existing Permit No. SPL-2008-00769-JWM for the Santa Barbara Channel Coastal Hazards Removal Program. This authorization expires June 29, 2024. According to the applicant, the Corps' review included consultation with both the U.S. Fish and Wildlife Service (Endangered Species Act review) and the National Marine Fisheries Service (Essential Fish Habitat review).

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

Projects involving discharges of dredged or fill material to waters of the United States that require permits from the U.S. Army Corps of Engineers under Clean Water Act Section 404 may also be required to obtain authorization from the Regional Water Quality Control Board (RWQCB) under Clean Water Act Section 401. In this case, the RWQCB issued a Technically Conditioned Section 401 Water Quality Certification to CSLC on May 19, 2022. The conditions of the certification require CSLC to implement construction BMPs and spill prevention measures consistent with those in the adopted Mitigation Monitoring Program (MMP) to ensure that all work performed within waters of the State is completed in a manner that minimizes impacts to beneficial uses and habitat. Monitoring and reporting requirements are also included to identify and correct any water quality concerns following completion of the project.

### **California Department of Fish and Wildlife**

The California Department of Fish and Wildlife (CDFW) is a resource agency with trustee responsibility over many of the biological resources throughout the state of California, including in the proposed project area. CDFW is also a responsible agency under CEQA, charged with providing biological expertise on projects with potential to affect fish and wildlife resources during the public environmental review process. As such, CDFW staff were engaged throughout the project's CEQA review in evaluating the project's potential to adversely affect these resources and they provided the lead agency (CSLC) with extensive technical comments, input, and suggestions regarding the project design, evaluation, and mitigation measures. Commission staff drew on this technical input during the review of CSLC's permit application.

### **Santa Barbara County Air Pollution Control District**

The Santa Barbara County Air Pollution Control District (APCD) is responsible for regulating air pollution from all sources except for motor vehicles in Santa Barbara County. The APCD also reviews environmental documents for compliance with CEQA. As such, APCD staff provided comments on the draft EIR for the proposed project. As described by the final EIR, the proposed project and associated mitigation measures are designed to ensure conformance with applicable APCD rules including those related to visible emissions, dust and odor nuisances, and control of fugitive dust from construction and demolition activities. An application to the APCD was deemed complete on 5/25/22 and a permit exemption confirmation from the APCD is anticipated prior to initiation of decommissioning activities.

### **California Geologic Energy Management Division**

The California Geologic Energy Management Division (CalGEM) regulates the drilling, operation, and permanent closure of energy resource wells on both public and private lands in California, including up to three miles offshore of the coastline. According to the applicant, CalGEM is anticipated to issue a Notice of Intention to Rework Well for Final Casing Cutting and Well Capping, as well as a Pipeline Abandonment approval for the proposed scope of work prior to commencement of decommissioning activities. Commission staff reached out to CalGEM for interagency project coordination in May

2022, at which time CalGEM staff indicated the Notice of Intent was approved for issuance.

### **CDFW Office of Spill Prevention and Response**

CDFW's Office of Spill Prevention and Response (OSPR) is the state's lead for prevention and response to oil spills in its inland and marine waters and provides oversight for any project that poses a risk of oil spill from any source, including pipelines, production facilities, and the increasing shipments of oil transported by railroads. For this proposed decommissioning project, OSPR reviewed and approved an addendum to the existing approved Ellwood Facilities Oil Spill Contingency Plan that was prepared specifically for this scope of work (**Exhibit 5**). These findings reflect the Commission's review of this plan, as discussed further in Section F of this report.

### **State Office of Historic Preservation**

The State's Office of Historic Preservation (OHP) is responsible for ensuring that projects and programs carried out or sponsored by federal and state agencies comply with federal and state historic preservation laws and that projects are planned in ways that avoid or minimize adverse effects to heritage resources via Section 106 consultation. Commission staff reached out to the Corps, who handles any necessary consultations with OHP as part of their review process, for interagency coordination in May 2022. Corps staff indicated that Section 106 consultation was determined not to be necessary for the proposed scope of work, as the scope of work was included in CSLC's Santa Barbara Channel Hazards Removal Program that received a No Adverse Effect determination in 2009.

### **County of Santa Barbara Environmental Health Services**

The County Environmental Health Services is responsible for reviewing and approving any projects involving contaminated or hazardous materials to ensure proper remediation methods are employed. A Remedial Action Plan (RAP) was filed with the County in June 2021, and a final conditional approval was issued by the County in November 2021. This approval is valid for one year. In addition, the County is expected to require a Closure Report detailing the removal and disposal verification of these materials.

### **City of Goleta**

According to the applicant, the City of Goleta and CSLC have a 2018 Memorandum of Understanding (MOU) regarding the management and oversight of the legacy Ellwood facilities, including the PRC 421 piers and caissons, for the eventual decommissioning of these facilities in the interest of public health, safety, and the environment. Guided by the MOU, the City coordinated with CSLC and CCC staff as part of a Joint Review Panel during the preparation of the EIR. The City determined that no separate local permit is required for the proposed decommissioning.

### **Tribal Outreach and Consultations**

During the CEQA process, the following tribes were contacted by CSLC pursuant to AB 52 and CSLC's 2016 Tribal Consultation Policy: Barbareño/Ventureño Band of Mission

Indians, Coastal Band of the Chumash Nation, San Luis Obispo County Chumash Council, Northern Chumash Tribal Council, Chumash Council of Bakersfield, and Santa Ynez Band of Chumash Indians. Contact information for these tribes was provided by the Native American Heritage Commission, and a negative sacred lands file search was also returned.

A request for formal consultation was received from the Santa Ynez Band of Chumash Indians in August 2021, which was subsequently conducted in October 2021. The outcome of this consultation is discussed further in Section H of this staff report.

Commission staff also conducted outreach via both mail and email to the Tribes noted above. Staff received a request for additional formal consultation from the Santa Ynez Band of Chumash Indians on June 27, 2022, just before publication of the staff report. The Tribe noted the importance of nearby cultural resources and requested that the Commission ensure monitoring and consultation occur throughout the project and allow for adequate input on restoration and access issues. Commission staff responded to the Tribe by offering a consultation meeting with the Tribe and with staff of the CSLC, if the Tribe preferred a joint meeting. As of the staff report publication date, Commission staff and the Tribe have not yet met; however, any issues and concerns identified subsequent to the publication of this report will be brought to the attention of the Commission through the development of an addendum to this staff report and recommendation.

### **C. Fill of Open Coastal Waters**

Section 30233(a) of the Coastal Act states, in part:

*The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

- (1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
- (2) Maintaining existing, or restoring previously dredged depths on existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
- (3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*

- (4) *Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
- (5) *Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
- (6) *Restoration purposes.*
- (7) *Nature study, aquaculture, or similar resource dependent activities.*

Section 30108.2 of the Coastal Act states:

*“Fill” means earth or any other substance or material, including pilings placed for the purpose of erecting structures thereon, placed in a submerged area.*

Coastal Act Section 30233(a) permits dredging and fill in wetland and coastal waters if three tests are met: (1) the fill constitutes an allowable use under 30233(a); (2) there is no feasible less environmentally damaging alternative; and (3) feasible mitigation measures have been provided to minimize any adverse effects. In this case there are two areas of wetlands. First, the seaward-most portion of Piers 421-1 and 421-2 extend into coastal waters, and an approximately 130 square foot area of wetland habitat is present within a depression on the artificial fill material of the Pier 421-2 caisson. The applicant proposes to remove the piers and caissons in their entirety down to the existing bedrock, which would result in a limited amount of dredging in coastal waters and the loss of the wetland habitat on Pier 421-2. Second, there is an approximately 1,611 square foot area of wetland habitat within the access roadway near Pier 421-2. This wetland is completely within the access road that has existed since the 1920's and this wetland has been continuously impacted as a result of the permitted repair and maintenance of the access road and also from the movement of trucks and personnel as part of the well plugging and abandonment operations. In order to remove the piers and caissons heavy-duty equipment will need to traverse back and forth along the accessway and thus through the wetland. This movement of equipment and personnel could result in direct adverse impacts to this wetland. Additionally, the project includes maintenance of the access road which could result in direct adverse impacts to the wetland.

#### **Allowable use**

The intent of the proposed project is to remove the deteriorating infrastructure associated with Piers 421-1 and 421-2 and to restore the beach to its natural condition. As such, the removal of the deteriorating infrastructure, including any dredging or temporary fill necessary to carry out that removal, is for restoration purposes and qualifies as an “allowable use” under Coastal Act Section 30233(a)(6). Incidental public services, such as equipment and personnel within roadways and road maintenance, are allowed pursuant to Section 30233(a)(4) when they are limited to temporary disruptions that do not result in permanent expansion of the roadway. Here, the movement of equipment and personnel would be temporary, lasting approximately five months, and maintenance activities would not include any expansion of the roadway. Thus,

placement of material in the wetland on the access roadway qualifies as an “allowable use” under Coastal Act Section 30233(a)(4). The project is therefore consistent with the first test of Section 30233(a).

### **Least Environmentally Damaging Feasible Alternatives**

The Commission must further find that there is no feasible less environmentally damaging alternative to the proposed dredging and fill in wetlands and coastal waters. Coastal Act Section 30108 defines “feasible” as “...capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.”

In this case there is no less environmentally damaging alternative, as abandonment of the structures in place would result in ongoing deterioration of the piers and caissons, which would lead to harmful discharge of hydrocarbons to the ocean, increased risk to public safety and environmental health, and enduring impacts to scenic quality and public access and recreation opportunities from the occupation of public trust lands. While the decommissioning process would result in temporary impacts to public access and recreation and permanent loss of approximately 131 square feet of wetland habitat and temporary adverse impacts to approximately 1,611 square feet of wetland habitat (as discussed further below), the ultimate result of site restoration is environmentally superior to abandoning these structures in place. The project also includes a suite of avoidance and mitigation measures to minimize potential environmental impacts during decommissioning activities.

In further support of the finding that there is no feasible less environmentally damaging alternative to the proposed dredging in open coastal waters, the EIR contains an alternatives analysis that compares the proposed scope of work to the “no project alternative.” As stated in this analysis, ongoing environmental impacts would occur if the proposed project was not implemented, thus the “no project alternative” is not considered to be an environmentally superior alternative. In addition, Commission staff investigated potential alternative removal methods that would not involve placement of fill or dredging but determined no such feasible alternatives were available. Further, there is no feasible less environmentally damaging method to access the site without driving heavy equipment across the existing access road—including the wetland area. Solely using of the alternate staging area as opposed to using the access road would require driving heavy equipment along a significantly longer portion of the beach, and would also require crossing over the Bell Canyon Creek estuary mouth when it is open. This would result in greater adverse impacts to beach macroinvertebrates and potential mortality of Tidewater gobies (*Eucyclogobius newberryi*), as discussed in more detail in Section D below.

Table ES-2 of the EIR summarizes and compares the anticipated environmental impacts of the proposed project and the “no project alternative.” As described in this table, the proposed scope of work would have numerous beneficial impacts including visual improvements due to removal of deteriorating infrastructure and an increase in beach area available for public access and recreation. Conversely, the “no project

alternative” would have numerous significant and unavoidable impacts including on aesthetics, public access, biological integrity of the project site and surrounding area and water quality due to potential hydrocarbon discharges, and permanent obstruction of beach area on public trust land that should be available for public use and benefit.

For the reasons described above, the Commission therefore finds that there is no feasible less environmentally damaging alternative to the proposed dredging and fill in wetlands and therefore the second test of Coastal Act Section 30233(a) is satisfied.

### **Mitigation Measures**

The final test of Coastal Act Section 30233(a) requires that feasible mitigation measures have been provided to minimize any adverse effects of the proposed dredging and fill of wetlands and coastal waters. Mitigation measures have been established through the Mitigation Monitoring Program (MMP) in the adopted EIR, providing the applicant with requirements for avoiding or minimizing potential environmental impacts (**Exhibit 3**). These mitigation measures are discussed in greater detail in the relevant sections of this staff report along with additional measures specifically focused on coastal resources. In general, the mitigation measures address impacts to aesthetics, air quality, biological resources, cultural and tribal cultural resources, hydrology and water quality, land use, recreation, and transportation and traffic. Further, the nature of the project is such that it would result in the restoration to natural beach, intertidal and nearshore subtidal habitat of approximately 16,000 square feet currently occupied by the deteriorating sheet pile walls, contaminated fill and other artificial materials of the two pier and caisson structures. Through removal of these materials and restoration to natural conditions of their current footprint, the proposed project would provide significant and long-term offset for the adverse impacts associated with the proposed dredging of wetlands and coastal waters.

Finally, adverse temporary impacts would occur with implementation of the project due to movement of heavy-duty equipment and personnel along the access road and maintenance of the access road. It is anticipated that any temporary impacts would be minimal in nature. All precautions would be taken to assure that even temporary impacts are minimized to the maximum extent feasible. However, to confirm recovery, **Special Condition Eight** requires that the applicant document baseline conditions using the quantitative vegetation sampling methods, develop a plan for assessing the recovery of temporarily impacted areas one year after initiation of the project, and submit a final monitoring report. If the final report indicates that temporarily impacted areas have recovered as expected, no further restoration or mitigation will be necessary. If the final report identifies that recovery has been unsuccessful, in part or in whole, based on the required success criteria and observed permanent impacts to wetlands, the applicant shall propose specific restoration or mitigation for the identified impacts. Therefore, this condition ensures that all impacts will be mitigated.

The Commission finds that with the project’s overall objectives, the mitigation measures established by the EIR and the addition of **Special Conditions One** through **Eight**,

feasible mitigation has been provided to minimize any adverse effects of fill. Therefore, the third and final test of Coastal Act Section 30233(a) has been met.

### **Conclusion**

Because the three tests have been met, the Commission finds the proposed project, as conditioned, is consistent with Section 30233(a) of the Coastal Act.

## **D. Biological Resources and Water Quality**

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Project activities have the potential to affect marine resources, environmentally sensitive habitat areas (ESHA), special status species, and coastal water quality at and near the proposed project site. The site is located on the shoreline fronting the Sandpiper Golf Course in the City of Goleta in an area that is predominantly defined by sandy beach, a mixed sandy and rocky intertidal zone, coastal bluff armored by an existing rock revetment and wooden seawall, and open ocean. The two piers and caissons proposed for removal are located on the beach itself, each extending from the access road along the bluff edge approximately 120 feet seaward (**Exhibit 2**). The marine environment in

this area supports a variety of invertebrates, fish, shorebirds, bats, and marine mammals.

Upland of the shoreline armoring, the coastal bluff is dominated by sagebrush scrub and southern coastal bluff scrub, identified as Sage Scrub/Dune/Bluff Scrub ESHA in past Commission actions and the City of Goleta's LUP/General Plan. Directly to the west and south of the access road adjacent to the EOF (where equipment will be staged) is riparian habitat associated with Bell Canyon Creek and designated as riparian/marsh ESHA in past Commission actions and the City's LUP/General Plan. The mouth of Bell Canyon Creek forms an estuary where it lets out onto the beach, characterized by southern coastal salt marsh and coastal brackish marsh that are designated as ESHA in the City's LUP/General Plan. To the west of the creek outlet, southern foredunes make up the back of the beach and are also designated as ESHA in the City's LUP/General Plan. In addition, there are areas of obligate and facultative wetlands found along the edges of the access road, north of the access road adjacent to Pier 421-2, and in the caisson fill of Pier 421-2 itself. These wetland, riparian, and terrestrial ESHA areas also support a variety of special-status plant and wildlife species and provide valuable ecosystem functions.

The intent of the proposed project is to remove deteriorating oil production infrastructure that is no longer in use and restore the beach area to its natural conditions. However, the temporary presence of mechanized equipment and construction materials on any sandy beach area or within close proximity of ESHA and coastal waters involves an inherent risk of environmental impacts. In this case, the proposed excavation and demolition activities have the potential to adversely impact coastal water quality and the biological integrity of the surrounding environment due to the potential for equipment fuel spills; the potential for release of debris and other hazardous material into the marine environment; the disturbance, alteration, or removal of areas used by wildlife species as habitat; and the potential for injury to wildlife.

As part of the environmental review process, CSLC conducted a literature review, site surveys, and a wetland delineation to identify the range of habitat types present at the project site and the array of special-status wildlife, avian, and plant species with potential to occur at or near the project site. The results of the literature review and surveys were used to identify potential impacts from the proposed project and to develop associated avoidance and mitigation measures, as detailed in the EIR and summarized below. Vegetation maps of the area are included in **Exhibit 7** and the results of the wetland delineation are included in **Exhibit 6**.

## **Marine Environment**

### *Marine Mammals*

The following marine mammals are identified as likely to occur within or near the proposed project area:

- Short-beaked common dolphin (*Delphinus delphis*): Federally protected under the Marine Mammal Protection Act (MMPA).

- Bottle-nose dolphin (*Tursiops truncatus*): Federally protected under MMPA.
- Pacific harbor seal (*Phoca vitulina richardsi*): Federally protected under MMPA.
- California sea lion (*Zalophus californianus*): Federally protected under MMPA.

These marine mammals have been observed near the project site in the past and some have the potential to occur in intertidal areas during the proposed decommissioning activities. The pupping season for California sea lions and Pacific harbor seals generally extends between February and June, thus the proposed construction period is timed to minimize the potential for impacts to hauled-out marine mammals. However, noise, light, and vibrations associated with excavation in the intertidal zone could potentially disturb the normal activities of these species if they came in proximity to the project site. To this point, the EIR states:

*[...] these species are not anticipated to approach the beach or haul-out on the beach in proximity to Project-related activities. Marine mammal monitoring conducted as part of PRC 421-1 caisson wall repair in 2004 noted that marine mammals did not come within 500 feet of these activities (City of Goleta 2006). Since the Project is not anticipated to substantially affect their behavior or foraging opportunities, impacts to marine mammals are considered less than significant.*

In the event that marine mammals do happen to come within 500 feet of project activities MM BIO-3d of the MMP (**Exhibit 3**) requires a biological monitor to observe any wildlife species in the project area. Should work have the potential to impact a marine mammal the biological monitor has the authority to stop work or redirect work to another area of the project site until the mammal clears the work area.

#### *Fish and Invertebrates*

Onshore and underwater surveys conducted for the EIR identified a wide variety of fish and invertebrate species occurring or having the potential to occur within or near the intertidal zone of the project site. Of these, the California grunion (*Leuresthes tenuis*) was identified as a special-status species likely to occur as the beaches in the vicinity are known spawning grounds. As grunion spawning occurs on the sandy beach area, typically at night between March and August, movement of equipment and other project activities on the beach has the potential to adversely impact grunion spawning. The proposed construction period is also timed to minimize these impacts, particularly with peak spawning occurring in late March to early June as noted in the EIR. To further minimize potential impacts, the MMP requires a grunion protection plan that provides for biological surveys and monitoring in the event that it is infeasible to avoid construction activities on the beach during spawning season. The EIR requirement for development of a grunion protection plan that includes monitoring and prohibits construction on the beach if grunion are observed spawning on the beach is similar to measures the Commission has historically required for similar projects. Thus, Special Condition 1, which requires SLC to implement the mitigation measures in the EIR, is sufficient to minimize impacts and ensure that healthy populations of grunion are maintained.

Another special-status species likely to occur is the Tidewater goby (*Eucyclogobius newberryi*) which is assumed present within Bell Canyon Creek and the estuary. Use of the alternate staging area would require movement of heavy-duty equipment and personnel in front of the estuary. In instances when the estuary mouth is open any crossing of the estuary mouth by equipment may result in mortality of gobies that are traversing between the mouth and the open ocean. In order to avoid potential goby mortality State Lands has committed to only use the alternate staging area when the estuary mouth is closed thereby avoiding any need to cross the estuary mouth when it is open. As such, the project will avoid adversely impacting any Tidewater goby. Other than special status species, sand compaction caused by heavy equipment moving along the beach and intertidal area will likely cause some mortality of beach macroinvertebrates. The EIR does not propose any mitigation measures for this impact, noting that the area of impact will be limited in magnitude (up to about one acre of impacted area) and that natural reproduction in the spring would replace any macroinvertebrate losses. Thus, impacts to macroinvertebrates are expected to be temporary and minor. Further, the proposed removal of the two pier structures would result in the permanent restoration of approximately 16,000 square feet of beach, intertidal and nearshore subtidal marine habitat. This area has been occupied by the pier structures and their associated sheet pile walls and fill material for many decades and has thus been unavailable as marine habitat. The proposed removal of these structures would therefore restore and open this habitat area for occupation and use by marine species, providing a direct benefit to marine productivity and wildlife.

#### *Avian Species*

As described in the EIR, Haskell's Beach just west of the project site is a hotspot for local birdwatchers, and approximately 800 feet offshore of Pier 421-1 is Bird Island, where four bird nesting/roosting structures were installed to replace habitat removed as part of decommissioning of the remnant PRC 421 pierhead structure in 2005. As such, numerous avian species were found to have the potential to occur within or near the proposed project area. Many of these species are protected under the federal Migratory Bird Treaty Act and Section 3513 of the California Fish and Game Code, or through special status listing by the USFWS or CDFW.

Avian species with a higher potential to occur at or near the project site include:

- Brown pelican (*Pelecanus occidentalis*): Observed resting on beach and flying overhead during field surveys
- Western snowy plover (*Charadrius alexandrinus nivosus*): Observed wintering on Haskell's Beach north of the PRC 421 access roadway, potential for presence at PRC 421 beach during non-breeding season
- Cliff swallow (*Petrochelidon pyrrhonota*): Found nesting at Pier 421-1
- Double-crested cormorant (*Phalacrocorax auritus*): Observed offshore Pier 421-1
- Brandt's cormorant (*Phalacrocorax penicillatus*): Approximately 150 observed on Bird Island
- Rock pigeon (*Columba livia*): Likely nesting at Pier 421-2

The removal of Piers 421-1 would directly impact the observed cliff swallow nests if occupied at the time of the proposed demolition and removal activities, potentially resulting in a take of these migratory birds protected under the Federal Migratory Bird Act and Section 3513 of the California Fish and Game Code. In addition, the noise, vibration, and movement of heavy equipment on the beach and around the piers and caissons have the potential to disturb the normal activities of these avian species. The EIR also notes that heavy equipment activity on the beach has the potential to result in mortality of the threatened snowy plover, which is a considered a potentially significant impact.

To minimize these potential impacts, the MMP includes mitigation measures that require environmental awareness training for all project personnel, pre-construction surveys and daily monitoring performed by an approved biologist and stop work requirements if any individuals of the target species are observed in the work area. The MMP also requires a specific cliff swallow protection plan which would provide for removal of non-active nests during non-breeding season (August 16<sup>th</sup> to February 14<sup>th</sup>) and installation of bird exclusion netting under Pier 421-1. With implementation of these proposed measures, as additionally required through **Special Condition 1**, potential adverse impacts would be avoided and minimized.

#### *Bat Species*

Field surveys identified a bat roost located within crevices of the caisson at Pier 421-2. As the proposed project would result in the removal of this caisson, the bat roost habitat would also be removed. As described in the EIR, three bat species were identified as likely to use the discovered roost (big brown bat, Mexican free-tailed, and California bat) with the most likely species being the big brown bat (*Eptesicus fuscus*). The EIR states:

*Although bats roosting within the 421-2 caisson are anticipated to have other alternative roosting sites within the vicinity and will move to these alternative natural roost sites when vibration and noise associated with caisson removal begins, the removal of this roosting site will result in short term impacts to these animals. Implementation of **MM BIO-2** will avoid daytime disturbance to the roosting site during caisson operations. Therefore, a less than significant impact will occur following implementation of this mitigation measure.*

More specifically, mitigation measure MM BIO-2 requires a bat preclusion plan to be prepared and implemented prior to and during caisson removal that includes confirmation surveys of either seasonal or ongoing bat use of the structure and recommendations regarding the timing for installation of preclusion netting at the caisson roost. This measure is included in the project's MMP and memorialized through **Special Conditions One** and **Two**, which requires the applicant to implement the MMP in conformance with the adopted EIR and to provide the Bat Preclusion Plan to the Executive Director for review and approval prior to the start of project construction. Through installation of preclusion netting when bats are away from their roost, they would be encouraged to seek and occupy other alternative roost sites prior to the initiation of demolition activities, thus helping to ensure direct adverse impact, including

loss or disturbance of roosting bats, does not occur. **Special Condition Two** would additionally require the Bat Preclusion Plan referenced in EIR mitigation measures MM BIO-2 to be expanded to include contingency measures in case the use of preclusion netting does not effectively relocate bats to alternative roosting sites.

## Terrestrial Habitat

### *Bell Canyon Creek*

Bell Canyon Creek is located immediately west of the EOF and supports a willow riparian canopy plant community. The creek forms an estuary at its seaward reach, which is dominated by coastal salt marsh and brackish marsh plant communities. The creek and estuary are used as breeding and foraging habitat by a number of avian, fish, and other wildlife species, including several with a protected status. The noise, light, vibration, and movement of equipment associated with the proposed decommissioning activities has the potential to impact or disrupt this riparian corridor and estuary habitat and the species that they support.

According to the EIR, special-status species with a potential to occur within Bell Canyon Creek based on previous sightings and habitat suitability include:

- Tidewater goby (*Eucyclogobius newberryi*): Assumed to be present in Bell Canyon Creek and estuary
- California red-legged frog (*Rana draytoni*): Assumed to be present in Bell Canyon Creek upstream of the estuary
- Western pond turtle (*Emys marmorata*): Potential to occur in Bell Canyon Creek upstream of the estuary
- Monarch butterfly (*Danaus plexippus*): Potential to occur in the eucalyptus stands west of Bell Canyon Creek, but has not been observed since 2016
- Snowy egret (*Egretta thula*): Observed foraging along the beach and in the Bell Canyon Creek estuary during the biological survey
- Yellow warbler (*Setophaga petechia brewsteri*): Potential to breed and forage in riparian woodland along Bell Canyon Creek
- Cooper's hawk (*Accipiter cooperi*): Potential to breed and forage in riparian woodland along Bell Canyon Creek
- Ferruginous hawk (*Buteo regalis*): Potential to forage in riparian woodland along Bell Canyon Creek

The access roadway from the EOF (primary staging site) to the project site is located on the eastern side of Bell Canyon Creek (**Exhibit 2**). The applicant has indicated that the access road is approximately 75 to 120 feet from the top of the creek bank, and that maintenance of the roadway would include minor trimming of overgrown vegetation such that the movement of construction equipment along the access roadway would not impact the riparian corridor.

To further minimize potential adverse impacts to the riparian corridor, estuary, and the species they support, the MMP requires that temporary construction fencing would be installed along the perimeter of the staging area and access roadway; California red-

legged frog exclusion fencing would be installed along the entire western border of the EOF; an approved biological monitor would conduct environmental awareness training for all project personnel as well as pre-construction surveys and daily monitoring for any wildlife; and that construction activities would halt should any wildlife species be found near such activities, only to resume once the wildlife clears the work area on its own volition.

#### *Coastal Bluffs, Dunes, and Scrub*

In the vicinity of the project site, the back of the beach is comprised of areas of southern foredunes (primarily west of the Bell Canyon Creek outlet), coastal bluffs supporting southern coastal bluff scrub (primarily along the inland and seaward edges of the access roadway), and communities of coyote brush scrub and sagebrush scrub habitat (primarily west of the Bell Canyon Creek outlet) (**Exhibit 7**). The coastal bluffs are also armored with a mixture of rock revetment and wooden seawall for the full length of the Sandpiper Golf Course, including along the access road and above Piers 421-1 and 421-2.

According to the EIR, special-status plant and wildlife species with a potential to occur within the bluff, dune, and scrub habitat based on previous sightings and habitat suitability include:

- Red sand-verbena (*Abronia maritima*): Suitable foredune habitat present west of Bell Canyon Creek, but not observed during botanical survey
- Mesa horkelia (*Horkelia cuneata var. puberula*): Coastal scrub habitat is present west of Bell Canyon Creek, but not observed during botanical survey
- Cliff malacothrix (*Malacothrix saxatilis var. saxatilis*): Observed along the PRC 421 access roadway and adjacent bluff during botanical survey
- Globose dune beetle (*Coelus globosus*): Potential to occur in small patch of suitable foredune habitat west of Bell Canyon Creek

The EIR notes that there is potential for construction equipment to temporarily trample and disturb areas with southern foredune habitat, particularly if the Bacara fire road is used for alternative site access, and areas with coastal bluff scrub, particularly during implementation of Component 2 (to be reviewed under a separate CDP). As with the mitigation measures employed by the MMP to avoid or minimize impacts to riparian, estuary, and wetland habitats as described above, the potential for impacts to bluff, dune, and scrub habitats and the species they support will be minimized with installation of temporary construction fencing, pre-construction surveys and daily on-site biological monitoring, environmental awareness training for all project personnel, and stop work orders should any wildlife be observed in an active work area. To further minimize the potential for impacts to foredune habitat, the MMP requires that a biological monitor would be present when heavy equipment or vehicles transit the alternative beach access route to monitor and communicate with equipment operators to ensure the foredunes are avoided.

#### **Water Quality**

Overall, the proposed decommissioning of the two piers and caissons is expected to benefit coastal water quality as it would remove the contaminated soils contained within the existing caissons that are currently posing an environmental and public health risk. However, the decommissioning process does not come without potential for impacts to coastal water quality.

As detailed in the EIR, the decommissioning process would involve heavy equipment on the sandy beach and removal of potentially hazardous materials associated with the subject piers, caissons, and plugged oil wells. As further described in the EIR, contaminated sediments and numerous oil leaks have been encountered during previous repair and maintenance activities at the project site, including a minor crude oil spill that occurred during well plugging operations on Pier 421-2 in 2019. The EIR notes that soil investigations conducted in 2019 showed hydrocarbon contamination (primarily crude oil) at various concentrations within the caisson soils at both piers from about six feet to 19 feet below surface grade. Additionally, the wood decking on the piers may contain hydrocarbon wood preservatives and the pipelines proposed to be flushed and abandoned may contain residual petroleum hydrocarbons, gas condensate, and scale deposits. As such, the typical risks associated with construction equipment and demolition activities on the shoreline are amplified by the potential for inadvertent release of hazardous materials into the marine environment during the five-month construction window.

In addition to contaminated soils and other hazardous materials, the caissons proposed to be removed also contain fill debris (anticipated to be a combination of concrete, wood, and steel). This fill debris, or any other debris generated during demolition activities, has the potential to be released into the surrounding marine environment. Such marine debris can pose a threat to a wide range of marine organisms if it is ingested, causes entanglement, or otherwise causes injury or mortality. To address this, the applicant proposes to stage large bins on the beach next to both piers for debris and waste to be sorted for appropriate recycling or disposal. As proposed, the bins would be cleared out regularly; covered when not in active use; and all debris would be removed from the beach at the end of decommissioning activities as part of restoring the site to its natural conditions.

Due to the sensitivity of the project site and the potential hazards associated with the decommissioning process, the applicant also proposes to implement construction best management practices (BMPs), an Oil Spill Contingency Plan (OSCP), a Remedial Action Plan, a Hazardous Materials Management and Contingency Plan (HMMCP), and a Stormwater Pollution Prevention Plan (SWPPP) to avoid or minimize potential impacts to coastal water quality and the biological integrity of the surrounding marine environment. Of particular note, these plans would require all vehicle/equipment fueling and maintenance to occur at least 50 feet from any waterways; structural removal to be timed to low tide windows when the caissons are fully exposed; removal of all equipment from the beach during high tides and storm events and at the end of each workday; designated waste collection and spill response equipment areas at the staging

and/or project site; and implementation of the OSCP that has been reviewed and approved by OSPR.

Impacts to water quality could also occur due to the generation of suspended sediment by project activities, particularly during excavation of the caissons and associated structures. This increase in sediment would cause an associated increase in turbidity. However, these impacts would be temporary and are not expected to reach levels of suspended sediment concentration or turbidity that are significantly above normal or baseline conditions at the project site. The EIR states that implementation of the required SWPPP would reduce short-term sedimentation impacts to a less than significant level.

These project elements are all incorporated into the MMP adopted with the final EIR for this project, which finds that the proposed project would cause less than significant impacts to water quality and marine resources with implementation of the MMP. **Special Condition One** reinforces these mitigation measures by requiring implementation of the MMP. As described in the letter from CSLC dated May 24, 2022, commencing the decommissioning activities in summer as proposed would also be crucial for taking advantage of a wider beach profile and lower tide heights, further minimizing the potential for contaminated soils or equipment fuels to come into contact with coastal waters.

### **Conclusion**

With implementation of **Special Conditions One** through **Eight**, the proposed project would be carried out in a manner in which marine resources would be maintained, ESHA—including species of special biological significance—would be protected from significant disruption, and the quality and biological productivity of coastal waters is sustained so that healthy populations of all species of marine organisms will be maintained. The Commission therefore finds that the proposed project, as conditioned, is consistent with Sections 30230, 30231, and 30240 of the Coastal Act.

## **E. Public Access and Recreation**

Section 30210 of the Coastal Act states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211 of the Coastal Act states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the*

*use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212(a) of the Coastal Act states:

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

The proposed project involves removal of two piers formerly used for oil production that are located below the mean high tide line on a sandy beach area in the City of Goleta, extending out into nearshore coastal waters approximately 120 feet from their inland edge. The subject site is situated between Haskell's Beach to the west and Ellwood Mesa Open Space to the east, both of which provide public coastal access and recreation opportunities such as hiking, jogging, biking, sunbathing, and wildlife viewing. Directly above the coastal bluffs backing the subject site is the Sandpiper Golf Course, which is open to the public. Offshore, the coastal waters provide recreational opportunities for kayaking, boating, swimming, surfing, and recreational fishing. Although the access road leading from the EOF to Piers 421-1 and 421-2 is not open to the public, the project site is accessible from beach access points at both Haskell's Beach and Ellwood Mesa Open Space (**Exhibit 8**). In general, the project area is heavily used by both residents and visitors for its ample coastal access and recreation opportunities.

The intent of the project is to remove the existing pier structures and return the beach to its natural condition, which would ultimately enhance public use of the project site and restore access to the public trust lands that these structures have been occupying. However, temporary impacts to public access and recreation would occur during the five-month decommissioning process. As proposed, construction staging and site access would not affect any public beach accessways since both the primary and alternative staging and access sites (EOF and the Bacara Resort fire road, respectively) are not open to the public. The beach areas to the east and west of the project footprint would remain accessible via the access points at Ellwood Mesa Open Space and Haskell's Beach, but lateral access along the beach between these two points may be temporarily obstructed during the five-month construction period. Decommissioning activities may impede public access and recreation along approximately 1,600 linear feet of the shoreline due to the movement of construction equipment from the proposed temporary construction ramp to the subject piers. Use of the Bacara Resort fire road as an alternative site access point, which would be as-needed only prior to installation of the temporary construction ramp, would approximately double this affected area.

To minimize these temporary adverse impacts and meet Coastal Act requirements for maximizing coastal access and recreation opportunities where consistent with public safety, the MMP adopted with the project EIR requires construction equipment to be removed from the beach and stored at the EOF staging site at the end of every workday. In addition, the pier and caisson work areas would be cleared of debris and made safe for public passage at the end of every workday. If storm or tide conditions rendered this infeasible, temporary fencing and signage in both English and Spanish would be installed to notify the public of the temporary closure and alternative access points. **Special Condition 1** reinforces these mitigation measures by requiring the applicant to implement and adhere to the adopted MMP.

To further minimize coastal access and recreation impacts, CSLC has indicated that a site-specific Safety and Security Plan, which will provide for signage, delineators, temporary fencing, and trained personnel to ensure public safety is maintained throughout the project, would be required of the contractor selected to perform the proposed work. **Special Condition Four** requires submittal of this plan prior to start of project construction for the review and written approval of the Executive Director.

Following completion of Component 1 work, proposed site cleanup and restoration would include removal of all remaining equipment and debris from the beach. Additionally, the area on the beach that would be excavated to remove the caissons would be backfilled only using native sand. Considering tides, wave action and beach dynamics, the backfilled area is expected to return to a natural state in a relatively short time. **Special Condition Six** is recommended to ensure that site restoration provides for maximized and safe public access and recreation at the project site following completion of decommissioning activities. This entails removal of the temporary construction ramp unless a CDP application is received for Component 2 that requests retention of the ramp, and timely response to any reports of debris or other material that becomes exposed and creates a public safety risk. Any subsequent cleanup of exposed or hazardous materials would be covered under CSLC's CDP for removal of hazardous and derelict structures from beach areas in Santa Barbara County (CDP No. E-02-024 and subsequent amendments) and would not require an amendment to this permit.

Therefore, with implementation of the relevant mitigation measures included in the EIR and **Special Conditions One, Four, and Six**, the Commission finds the proposed project consistent with Sections 30210, 30211, and 30212 of the Coastal Act.

## F. Oil Spills

Section 30232 of the Coastal Act states:

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

The proposed project includes the removal of two caissons and piers, which would involve the operation of heavy machinery (e.g. excavator, wheeled loader, crane, and heavy-duty disposal trucks) 5-6 days/week over the course of five months that could potentially increase the chance of equipment failure, breach or leak leading to a release of fuel oil into marine waters during project demolition activities. Removal of the caissons would also involve removal of the well cellars and wellhead risers that are housed in each caisson down to the underlying bedrock surface. While there are no large volume spill sources associated with this project that are capable of a large uncontrolled oil release (both oil wells were plugged and abandoned in 2019), there is a possibility of a hydrocarbon release during the decommissioning process. According to the 2021 Oil Spill Contingency Plan (OSCP) Addendum prepared for this project (Appendix A), the worst-case discharge of oil is anticipated to be less than 1 barrel (42 gallons).

Sources of oil or other hazardous materials could include the following:

- Natural seep near and on the western side of the 421-2 caisson and associated sheen on the water in this general area.
- Accidental dropping of oil-contaminated soil onto the beach or into the water during the removal process from the caissons.
- Breaching of caisson walls by sea water and subsequent run-off as the caisson walls are removed.
- Oil release from roll off bins along the access road while hauling the contaminated caisson soil off site.
- Leakage or spillage of fuel, hydraulic oils or lubricants from the equipment used during decommissioning activities.

The first test of Coastal Act Section 30232 requires the inclusion of oil spill prevention techniques, technologies, programs, and procedures to protect against the spillage of crude oil, gas, or hazardous materials. In this case, the project proposes prevention measures including daily inspection of equipment, refueling at designated stations (not on the beach), and secondary containment for equipment to prevent spills. Additionally, the onshore work sites shall maintain onsite response equipment to clean up minor spills. To further reduce the chance of a release of oil or hazardous materials into the ocean, project work would be conducted during low tides and calm seas so that equipment will not come into direct contact with the ocean.

In addition to the above measures, the proposed project would be operated under a comprehensive approved OSCP (Beacon West 2020) that covers operations for the PRC 421, Platform Holly, and EOF facilities. The comprehensive OSCP is approved by the California Department of Fish and Wildlife Office of Spill Prevention and Response (CDFW-OSPR) and Santa Barbara County Office of Emergency Management (OEM). The comprehensive OSCP details response procedures, training and drills for the covered facilities, spill response capabilities, and the Incident Command Structure that would be implemented in the event of a major spill.

Notwithstanding implementation of the above-described prevention measures, accidental spills may still occur. The second test of Section 30232 therefore requires that effective containment and cleanup facilities and procedures be provided for accidental spills that do occur.

According to the OSCP Addendum (2021), “considering the small volume of the worst-case discharge, the limited, finite source of hydrocarbons, (impacted soil within the caissons, hydraulic oil and diesel from equipment) and the dynamic site conditions, the best course of action will be to have continuous onsite monitoring and onsite equipment staging for primary response”. According to the EIR, initial response oil spill containment equipment would be located onsite at the EOF staging area and along the access roadway. The EOF staging area would include a fully equipped spill response trailer including items such as bales of sorbent pads, boom, sweep, and oil snares; a skimmer with power pack and hoses; 55-gallon drums for waste; drum liners and plastic bags; plastic sheeting; decontamination pools with brushes; assortment of hand tools and personal protective equipment (PPE); traffic cones and delineators; and light plants. Spill response equipment along the access roadway would include smaller spill kits including containment boom and absorbent materials. The spill response trailer would be manned by spill response trained personnel during all phases of soil removal from the caissons, the removal of both well risers, and for any operations requiring heavy equipment on the beach such as the removal of the caisson walls and the removal of any pier piles. All other decommissioning activities would require contractors to provide spill kits on-site for smaller spills associated with equipment use such as fuel or hydraulic fluid releases of limited quantity.

The onshore Oil Spill Response Organization (OSRO) for PRC 421 and the EOF is Patriot Environmental. If needed, Patriot would be capable of mobilizing and responding to an onshore and surf zone spill. In the event of a major spill (greater than five barrels), the OSCP requires utilization of an independent oil spill response contractor (i.e., Marine Spill Response Corporation) to provide secondary cleanup. Contractual agreements with these OSRO’s are found in Section G of the comprehensive Ellwood OSCP.

One deficiency identified by Commission staff in the 2021 OSCP Addendum is the lack of a requirement to pre-boom the work area prior to final removal of the caisson walls. Given the project location in the tidal zone adjacent to sensitive marine habitat, the prior spills that occurred during the plugging and abandonment of the oil well on Pier 421-1, the dynamic and rapidly changing nature of the work area, and the possibility of an accidental oil spill to occur directly onto the beach or near the ocean, boom that is staged nearby in a trailer may not be able to be deployed fast enough to effectively contain a spill and prevent it from reaching the water. As such, a more proactive and precautionary approach to containment is warranted. The 2021 Addendum states that: “During the caisson removal at low tide events, consideration should be given to deploying boom around the work area”. To be more protective and ensure effective containment for spills, the Commission requires the permittee to deploy a boom around the work area proactively before final caisson wall removal unless determined to be

unsafe, infeasible, or ineffective. Thus, **Special Condition 3** requires the following change to the language in the 2021 OSCP Addendum (pg. 4 Section 3.1 Containment paragraph 2):

During the final removal of caisson walls at low tide events, ~~consideration should be given to~~ deploying boom around the work area is required unless it is determined to be unsafe, infeasible, or ineffective in containing an oil spill."

With the change to the language of the 2021 OSCP Addendum shown above, as required by **Special Condition Three**, and the implementation of construction BMPs and OSCP in accordance with the EIR, as required by **Special Condition One**, the Commission finds that CSLC has incorporated appropriate measures to prevent a spill from occurring and to effectively contain and respond to accidental spills that may occur. Therefore, the project is consistent with Coastal Act Section 30232.

## G. Hazards

Section 30253 of the Coastal Act states, in relevant part:

*New development shall do all of the following:*

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. [...]*

The proposed project involves removal of two former oil production piers on the shoreline of the City of Goleta, on the sandy beach below the coastal bluffs of the Sandpiper Golf Course. The two piers are situated below the mean high tide line, extending out into state waters approximately 120 feet from their connection point with the existing wooden seawall that, together with the existing rock revetment, armors much of this shoreline area to provide protection for the access road. The intent of the project is to remove the deteriorating pier infrastructure that poses an environmental and public health and safety risk, and would not result in the construction of any new structures or the expansion of the existing shoreline protective devices.

The project site is an inherently hazardous location below coastal bluffs in a subtidal area subject to wave action. The project EIR also identifies this area as seismically active with moderate liquefaction potential in a designated tsunami inundation zone. Potential hazards-related impacts from the proposed project include undermining the stability of the adjacent seawall during or after decommissioning activities and exacerbating natural beach erosion processes. In addition, the proposed demolition activities and equipment could pose a public safety risk or cause degradation of the site

through exposure to environmental hazards and the potential to release marine debris or hazardous materials into the surrounding marine environment.

The applicant prepared a Coastal Impact Assessment (Appendix I of the EIR) to clarify potential impacts for the environmental review process and to inform methods for avoiding or minimizing hazard risks. The assessment found that the existing caissons have had a sheltering effect on the beach and seawall by blocking some of the wave energy that would typically hit the shoreline directly, and that removal of the caissons may consequently result in increased wave energy and associated erosion. These impacts would be concentrated on the sandy beach area behind the caissons, and on the portions of the seawall that will be newly exposed due to removal of the caissons. However, the assessment concludes that the sheltering effect of the caissons is limited due to their 30- to 40-foot widths such that their removal would have a negligible impact on coastal processes. In addition, as noted in the EIR, these are natural processes that would return to their former unobstructed state with the implementation of Component 1.

The Coastal Impact Assessment does state the existing seawall is already in a deteriorating condition due to decades of wave and storm activities, and that removal of the caissons may exacerbate this condition with the increased exposure to wave energy. The assessment recommends replacing the seawall with riprap to protect the existing access road and adjacent bluffs if the road is to remain in place. However, as noted above, the sheltering effect of the caissons is limited, and their removal is not expected to significantly undermine the stability of the existing seawall or coastal bluffs. Furthermore, the only purpose of the access road and its associated shoreline protection is to service the wells on Piers 421-1 and 421-2. With this purpose no longer necessary with the plugging and abandonment of the wells and proposed removal of the caissons, Component 2 is anticipated to complete the restoration of the project site to its natural state with removal of the existing seawall, rock revetment, and access road. In the long term, implementation of Component 1 and Component 2 would allow the shoreline and coastal bluffs to naturally erode and replenish with the removal of all manmade structures.

During decommissioning activities, hazard risks include exposure to wave and tidal action, storm surges, seismic activities, and liquefaction. Proposed construction timing and BMPs have taken these risks into consideration to minimize potential impacts to life and property. As stated in the EIR and further explained in the letter from CSLC to Commission staff dated May 24, 2022, commencing construction activities in late summer is crucial to take advantage of the wider beach profile, calmer waves, and lowest tide heights. The caissons become fully exposed at tide heights under two feet in summer and fall and under one foot in winter and spring, and summer high tides do not reach up to seawall at the inland extent of the beach. Thus, the heavy equipment necessary to implement the proposed decommissioning would be able to traverse the sandy beach and access the caissons without tidal inundation during the lower tides of summer and fall. The increased likelihood of king tides and storm surges during winter months would also be avoided during this time.

To further minimize potential hazards during construction, the EIR states that decommissioning activities will be timed with daily low tide windows and that construction equipment and debris will be removed from the beach at the end of each workday and during high tides and storm events as necessary. These measures are reinforced in the adopted MMP. The applicant has also indicated that the selected contractor will also have a Safety and Security Plan in place to ensure public safety throughout the project.

Nevertheless, environmental hazard risks cannot be fully avoided due to the inherently hazardous project location and potential for unanticipated storm, seismic, or landslide events. The Commission is therefore requiring in **Special Condition Seven** that by accepting this permit the applicant (a) acknowledges and agrees that the site may be subject to hazards from seismic activity, liquefaction, storm waves, surges, erosion, landslide, flooding, and sea level rise; (b) acknowledges and agrees to assume the risks to the applicant and the property of injury and damage from such hazards in connection with this permitted development; (c) unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (d) agrees to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

Finally, the Commission also imposes **Special Condition 1**, which requires the applicant to adhere to the construction BMPs included in the adopted MMP, and **Special Condition Four**, which requires submittal of a final Public Access, Safety and Security Plan for review and approval by the Executive Director.

As designed and conditioned, the Commission finds that the project minimizes risks to life and property; does not contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area; and will not require the construction of protective devices that alter natural shoreline processes; and is therefore consistent with Coastal Act Section 30253.

## H. Cultural Resources

Section 30244 of the Coastal Act protects cultural resources in the coastal zone and states:

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

Coastal Act Section 30244 states that reasonable mitigation measures shall be required where development would adversely impact identified archaeological resources. These resources may be sacred lands, traditional cultural places and resources, and

archaeological sites. As stated in the EIR, there are no such known resources within the project footprint and the potential for impacts to any unknown resources is limited as the scope of work involves removal of abandoned oil production structures in a previously disturbed area. However, the project site is near Goleta Slough, which is known to have important cultural values. Outside of the project footprint, a records search from the California Historical Resources Information System (CHRIS) indicates the presence of fifteen prehistoric-aged cultural resources within a 0.25-mile radius, including one site ("CA-SBA-71") that is located adjacent to the Bacara Resort fire road, which is identified as the alternative staging area/construction access point for the proposed project.

As mentioned above in Section B. Other Agency Approvals, the applicant contacted the following tribes to notify them of the project during the CEQA process: Barbareño/Ventureño Band of Mission Indians, Coastal Band of the Chumash Nation, San Luis Obispo County Chumash Council, Northern Chumash Tribal Council, Chumash Council of Bakersfield, and Santa Ynez Band of Chumash Indians. Contact information for these tribes was provided by the Native American Heritage Commission, and a negative sacred lands file search was also returned.

A request for formal consultation was received from the Santa Ynez Band of Chumash Indians in August 2021, which was subsequently conducted in October 2021. In its assessment of potential impacts to tribal cultural resources, the final EIR for this project states:

*Based on the consultation, the representatives agreed that a monitor be on-site during ground disturbing activities as required under **MM CUL-1/TCR-1** and requested that site CA-SBA-71 be protected from looting or inadvertent damage via avoidance fencing or flagging (**MM CUL-5/TCR-5**). In addition, the representatives requested that the CSLC acknowledge Chumash cultural use in the four Marine Protected Areas (MPAs) offshore the Project area, the significance of the marine environment between the Northern Channel Islands and the shore as a Traditional Cultural Landscape, and the cultural sensitivity of Goleta Slough. The representatives requested the CSLC ensure Project-related activities do not restrict Chumash use of the MPAs or further degrade the Goleta Slough village site.*

The proposed scope of work may cause direct or indirect impacts to cultural resources as a result of ground disturbing activities or increased access to culturally sensitive sites, specifically to site CA-SBA-71 or to any unknown resources that were not identified during the CEQA process. To address these potential impacts and the concerns raised by the Santa Ynez Band of Chumash Indians, the MMP includes mitigation measures requiring cultural resources sensitivity training for construction personnel; procedures for halting work and notifying appropriate authorities and/or tribes in the event that cultural resource or human remains are discovered during construction activities; and installation of protective fencing or flagging around site CA-SBA-71 prior to project initiation. Per the MMP, a cultural resources monitor is also required to be on-site during ground disturbing activities for Component 2 of this project only, which is not the subject of this CDP application but will involve substantial earth

moving to remove the existing access road and shoreline protective devices. According to CSLC, tribal monitoring was determined not to be necessary for Component 1 as ground disturbing activities will be limited to excavating the fill material inside the caissons, and excavating the beach material immediately surrounding the pier pilings if they cannot be vibrated out.

With incorporation of these mitigation measures, the proposed project is expected to avoid or mitigate potential impacts to known and unknown cultural resources. As further stated in the EIR, the proposed scope of work is not expected to affect or impact the integrity or use of the MPAs, the marine Traditional Cultural Landscape, or the Goleta Slough with incorporation of pre-construction training, delineation fencing, and other plans and measures to avoid or minimize environmental impacts as required by the MMP.

Commission staff also conducted outreach via both mail and email to the Tribes noted above. Staff received a request for additional formal consultation from the Santa Ynez Band of Chumash Indians on June 27, 2022, just before publication of the staff report. The Tribe noted the importance of nearby cultural resources and requested that the Commission ensure monitoring and consultation occur throughout the project and allow for adequate input on restoration and access issues. Commission staff responded to the Tribe by offering a consultation meeting with the Tribe and with staff of the CSLC, if the Tribe preferred a joint meeting. As of the staff report publication date, Commission staff and the Tribe have not yet met; however, any issues and concerns identified subsequent to the publication of this report will be brought to the attention of the Commission through the development of an addendum to this staff report and recommendation.

With implementation of **Special Condition 1**, which requires the applicant to carry out the MMP pursuant to the adopted EIR, the proposed project would avoid known archeological resource areas and include reasonable mitigation measures to address potential adverse impacts to archaeological or paleontological resources. The Commission therefore finds the proposed project, as conditioned, consistent with Section 30244 of the Coastal Act.

## **I. California Environmental Quality Act**

On April 26, 2022, CSLC certified an Environmental Impact Report (EIR) for the project. The Commission has reviewed and considered the information contained in the EIR on the project and has relied on some of this information in the findings above.

Section 13096 of the California Code of Regulations requires Commission approval of a coastal development permit application 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 which would

substantially lessen any significant adverse effect which the activity may have on the environment. The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the development 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, has no remaining significant environmental effects, and complies with the applicable requirements of CEQA.

9-22-0131 (California State Lands Commission)

## **Appendix A: Substantive File Documents**

PRC 421 Decommissioning Project Final Environmental Impact Report and appendices (CSLC EIR Number: 807). Lead agency: California State Lands Commission. Dated April 26, 2022.

California State Lands Commission CDP application 9-22-0131. Dated February 11, 2022.

2021 Oil Spill Contingency Plan (OSCP) Addendum. Dated April 2021.

PRC 421 Piers Soil Removal Remedial Action Plan. Dated August 2020.

Emergency CDP E-01-027-G (Venoco, Santa Barbara County)

CDP E-01-030 (Venoco, Santa Barbara County)

Emergency CDP E-04-013-G (Venoco, Santa Barbara County)

CDP E-05-002 (Venoco, Santa Barbara County)

CDP 9-15-0027 (Venoco, Santa Barbara County)

Waiver 9-18-1168-W (California State Lands Commission, Santa Barbara County)