



March 19, 2021

Kate Huckelbridge
California Coastal Commission
455 Market Street, Suite 200
San Francisco, CA 94105

Re: Request for a One Year Extension; CDP No. 9-18-0395

Dear Dr. Huckelbridge:

Pursuant to Section 13169 of the Coastal Commission regulations (14 CCR §13169), Beach Oil Minerals (“BOM”) on behalf of itself and its co-permittee, Los Cerritos Wetlands Authority (“LCWA”) (collectively, the “permittees”), request an extension of time to commence development under Coastal Development Permit No. 9-18-0395 (the “CDP”) which was approved by the Coastal Commission on December 13, 2018.

Standard Condition 2 of the CDP provides as follows:

“If development has not commenced, then permit will expire three 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.”

Section 13169 (a) Application Submittal Package

As required by Section 13169(a), the following is submitted in support of BOM’s request for an extension:

- 1) Evidence of an approved, unexpired permit
 - Enclosed is an executed copy of the Notice of Intent to Issue Permit confirming that the date of permit approval was December 13, 2018, and the date of expiration is December 13, 2021.
- 2) Evidence of the applicant’s legal interest in the property involved in the permit
 - Ownership of the four sites remains unchanged since the original application has been filed.
- 3) The fee specified in Section 13055 of these regulations

- The filing fee of \$1270.00 is submitted concurrently with this application. Stamped envelopes addressed to each person specified in Section 13054 of these regulations and each person who testified, orally or in writing at prior permit hearing(s).
- 4) Stamped envelopes addressed to each person specified in Section 13054 of these regulations and each person who testified, orally or in writing at prior permit hearing(s).
- The mailing list including interested parties is included. Addressed envelopes with stamps are ready to be filled with noticing forms once provided by Commission Staff and will be mailed directly from our offices.

Finding of No Changed Circumstances

Section 13169(b) provides that “the executive director shall determine whether there are changed circumstances that may affect the consistency of the development with the policies of Chapter 3 of the Coastal Act or with a certified local coastal program, if applicable.” The scope of the project authorized under the CDP, and the work required to implement the CDP have not changed since the CDP was approved that would affect its consistency with the Chapter 3 policies of the Coastal Act.

No Physical Changes to the Project Sites

The CDP will be implemented on four separate sites: the Synergy Oil Field, the LCWA Site, the Pumpkin Patch Site, and the 33-acres owned by the City of Long Beach. Since approval of the CDP, the physical condition of each of these parcels has remained unchanged, and no new or different activities on the site have been implemented.

Oil operations continue on the southern portion of the Synergy Oil Field with the remainder currently undeveloped and not used for oil operations. In November, 2020, the Coastal Commission approved a coastal development permit (No. 9-20-0500) to conduct soil remediation work in furtherance of the Upper Los Cerritos Wetlands Mitigation Bank project. These two areas have been remediated with the contaminated soil removed and the site restored to its prior contours.

Oil operations conducted by Synergy Oil and Gas on the City-owned, 33-acre site continue unchanged from 2018 when the CDP was approved. The Pumpkin Patch Site has remained vacant and unchanged. The LCWA Site continues to be leased for short periods of time for storage of materials but is otherwise in the same physical condition as it was in December, 2018.

Certification of the SEASP

When the CDP was approved, its land uses were governed by the City of Long Beach’s Southeast Development and Improvement Plan (“SEADIP”). The City had initiated an update of the SEADIP called Southeast Area Specific Plan or SEASP, but when the CDP was approved, the SEASP had not been approved by the Coastal Commission. In October, 2020, the California Coastal

Commission approved the SEASP and amended the City's Local Coastal Program. Although this is a change as a result of a new land use plan applicable to the four sites that comprise the Project site under the CDP, the land uses adopted for these sites under SEASP are consistent with the uses approved under the CDP.

Under SEASP, the Synergy Oil Field and the City 33-acre Site are both designated Coastal Habitat/Wetlands/Recreation in recognition of the intent that both sites be ultimately restored as wetlands habitat once oil operations are removed – which is a requirement under the CDP. The Pumpkin Patch and LCWA Sites are designated for Industrial Use, again in recognition of and consistent with the CDP's authorization for new, consolidated oil production facilities to be constructed and operated on these two sites.

Legal Challenge to the CDP Rejected; Legality of the CDP Upheld

In February, 2019, the Puvugna Wetlands Protectors (later joined by Anna Christensen) filed a writ of mandate lawsuit against the Coastal Commission challenging the approval of the CDP. Initially, the writ hearing was scheduled for June, 2020, but with the COVID-19 pandemic, it needed to be postponed until March of 2021. On March 11, 2021, the Los Angeles Superior Court (Judge Strobel) rejected the claims of the Puvugna Wetlands Protectors and Ms. Christensen and denied their petition for writ of mandate and upheld the Coastal Commission's approval of the CDP. The court specifically addressed the adequacy of the Coastal Commission's findings under Coastal Act Section 30260, and the conditions adopted to address potential impacts to cultural resources. Specifically, the Court ruled:

There was substantial evidence before the Commission to support its decision that denying the permit would be against the public welfare. Commission found that the principal public benefits from the Project would be: (1) "immediate restoration of 29.66 acres of salt marsh and mudflat habitat and about 6 acres of wetlands buffer areas"; (2) "preservation of 32 acres of relatively pristine salt marsh, mudflat and subtidal habitat in Steamshovel Slough"; (3) "the construction of a Visitor's Center and a trail on the adjacent upland which would allow the public to access a valuable biological resource that has been locked away on private land for almost 100 years"; (4) the opportunity for tribal communities "to educate the public on their culture and connection to the wetlands and to experience a small part of their cultural landscape returned to a natural state"; (5) "the possibility of restoring up to 106 additional acres after the 20 year decommissioning period is completed"; and (6) "the decommissioning of existing aging oil infrastructure which would eliminate a potential oil spill risk and a visual blight from the Los Cerritos Wetlands area.

(March 11, 2021 Minute Order, p. 11 of 26, attached. See also p. 13 of 26 ["The court determines that substantial evidence supports the Commission's decision the Project would promote important policies of the Coastal Act, including wetlands preservation and restoration"]; p. 16 of 26 ["Substantial evidence supports Commission's finding that the Project complies with section 30244 because reasonable mitigation measures were included for any adverse impacts on cultural resources."].)

The court's decision underscores the fact that the CDP is consistent with these specific Chapter 3 policies of the Coastal Act – a finding that continues to remain valid.

The Granting of an Extension is Warranted

The CDP was approved by the Coastal Commission in December, 2018, a little over 2 years ago. During that time, and until the Los Angeles Superior Court's decision on March 11, 2021, the CDP has been subject to legal challenge, and the outcome of the litigation was not known. Although approved, the CDP will not be issued and work cannot commence until the permittees have complied with the numerous conditions of approval that must be satisfied "Prior to Issuance" of the CDP. BOM estimates that the cost of satisfying the conditions could be as much as \$15 million. While BOM has continued to work diligently to make progress on satisfying these conditions, as a practical matter financing to complete all the work cannot be secured as lenders are not willing to finance a project while the entitlements are in question and subject to litigation. Because the outcome of the litigation was not known, the permittee was unable to begin work in earnest on satisfying the special conditions. The permittees have effectively lost two years of time in which it could have been working on fulfilling the special conditions to the CDP.

Despite the risks imposed by the litigation, BOM has continued work to implement its proposal to restore the wetlands on the northern portion of the Synergy Oil Field and obtain resource agency authorization for the creation of a wetlands mitigation bank. Over the last two years, the BOM has been working with the U.S. Army Corps of Engineers and the Interagency Review Team ("IRT") to obtain approval of a mitigation bank. LCWA has also been involved in this effort. The Coastal Commission is a member of the IRT and has seen the considerable effort being made by all parties to develop a wetlands restoration plan, a long term management plan, and provide secure long-term funding for the bank. In February, 2021, the Coastal Commission authorized the Executive Director to sign the Bank Enabling Instrument ("BEI"). This was a significant step in creating the wetlands mitigation bank and assuring its feasibility as a source of wetlands credits for future projects. Extension of the CDP is needed to allow the permittees the time to satisfy the special conditions and begin work in reliance on the CDP, including commencement of wetlands restoration.

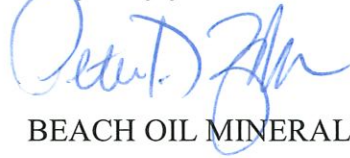
Conclusion

In conclusion, as a result of the very lengthy litigation against the Coastal Commission challenging the approval of the CDP, the permittees have effectively lost 2 years of its initial 3 year term. Given the delay that the permittees have faced due to litigation, we are requesting that the executive director grant an extension of the term of the CDP pursuant to the authority of Section 13169 of the Coastal Commission regulations.

As the Coastal Commission staff is aware, despite the challenges presented by the litigation, the permittees have continued to work with the U.S. Army Corps of Engineers, the California Coastal Commission and the IRT to finalize the wetlands mitigation bank and its implementing documents. Absent the CDP, the permittees cannot conduct the wetlands restoration work to implement the wetlands mitigation bank. The permittees' request for an extension is further supported by the need for additional time to obtain the permit so that it can begin the wetlands restoration work to implement the mitigation bank.

For all of these reasons, we request an extension of the term of the CDP.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Beach Oil Minerals".

BEACH OIL MINERALS

Attachments:

Notice of Intent to Issue Permit No. 9-18-0395

Evidence of applicant's legal interest in the property

Minute Order, Puvunga Wetlands Protectors, A California Non-Profit Public Benefit Corporation
v. California Coastal Commission, A California Public Agency, et al. (Los Angeles Superior
Court No. 19STCP00435 (March 11, 2021).

Cc: Mark Stanley, Los Cerritos Wetlands Authority
Christopher Koontz, City of Long Beach

Beach Oil Minerals Partners, LLC

CAL108

California Coastal Commission

| DATE | INVOICE NO | DESCRIPTION | INVOICE AMOUNT | DEDUCTION | BALANCE | |
|------------|------------|----------------|----------------|-----------|---------|---------|
| 3-18-21 | 031821 | 380Draw17CCExt | 1270.00 | | 1270.00 | |
| CHECK DATE | 3-18-21 | CHECK NUMBER | 999 | TOTAL > | 1270.00 | 1270.00 |

PLEASE DETACH AND RETAIN FOR YOUR RECORDS

THIS CHECK IS VOID WITHOUT A GREEN & BLUE BORDER AND BACKGROUND PLUS A KNIGHT & FINGERPRINT WATERMARK ON THE BACK - HOLD AT ANGLE TO VIEW

Beach Oil Minerals Partners, LLC
 4901 Birch Street
 Newport Beach, CA 92660

First Bank & Trust
 4301 MacArthur Blvd.
 Newport Beach, CA 92660

90-3913/1222

999

DATE 03/18/2021

Pay:*****One thousand two hundred seventy dollars and no cents

\$ ****1,270.00

TO THE ORDER OF
 California Coastal Commission
 455 Market Street, Ste 228
 San Francisco, CA 94105

TWO SIGNATURES REQUIRED OVER \$5,000

AUTHORIZED SIGNATURE

⑈000000999⑈ ⑆122239131⑆ 9406981135⑈

Beach Oil Minerals Partners, LLC

CAL108

California Coastal Commission

| DATE | INVOICE NO | DESCRIPTION | INVOICE AMOUNT | DEDUCTION | BALANCE | |
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PLEASE DETACH AND RETAIN FOR YOUR RECORDS

CALIFORNIA COASTAL COMMISSION

ENERGY, OCEAN RESOURCES AND FEDERAL CONSISTENCY DIVISION
45 FREMONT STREET
SUITE 2000
PH (415) 904-5200 FAX (415) 904-5400
WWW.COASTAL.CA.GOV

RECEIVED

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LOS CERRITOS
WETLANDS AUTHORITY

Page 1

January 2, 2019

Permit Application No.: 9-18-0395

NOTICE OF INTENT TO ISSUE PERMIT

(Upon satisfaction of special conditions)

THE SOLE PURPOSE OF THIS NOTICE IS TO INFORM THE APPLICANT OF THE STEPS NECESSARY TO OBTAIN A VALID AND EFFECTIVE COASTAL DEVELOPMENT PERMIT ("CDP"). A Coastal Development Permit for the development described below has been approved but is not yet effective. Development on the site cannot commence until the CDP is effective. In order for the CDP to be effective, Commission staff must issue the CDP to the applicant, and the applicant must sign and return the CDP. **Commission staff cannot issue the CDP until the applicant has fulfilled each of the "prior to issuance" Special Conditions.** A list of all the Special Conditions for this permit is attached.

The Commission's approval of the CDP is valid for two years from the date of approval. To prevent expiration of the CDP, you must fulfill the "prior to issuance" Special Conditions, obtain and sign the CDP, and commence development within two years of the approval date specified below. You may apply for an extension of the permit pursuant to the Commission's regulations at Cal. Code Regs. title 14, section 13169.

On December 13, 2018, the California Coastal Commission approved Coastal Development Permit No. 9-18-0395 requested by Michael Barmettler, Beach Oil Minerals, and Mark Stanley, Los Cerritos Wetlands Authority, subject to the attached conditions, for development consisting of: New oil production and wetlands restoration project that includes: (1) construction and operation of two oil production facilities, including drilling and operation of up to 120 new wells, (2) construction and operation of 2,200 ft. above-ground oil pipeline, (3) decommissioning of existing oil facilities on two sites, (4) conversion of existing building to Visitor's Center for Los Cerritos Wetlands, (5) implementation of wetlands restoration project as part of mitigation bank on northern portion of existing oil field, more specifically described in the application filed in the Commission offices. **Commission staff will not issue the CDP until the "prior to issuance" special conditions have been satisfied.**

The development is within the coastal zone at four locations within the City of Long Beach, Los Angeles County: (1). Synergy Oil Site, 6433 E. 2nd St.; (2). City site, southeast corner of 2nd St. and Shopkeeper Rd.; (3). LCWA site, Northeast corner of 2nd St. and Studebaker Rd.; (4). Pumpkin Patch site, 6701 Pacific Coast Highway.

January 2, 2019

Permit Application No.: 9-18-0395

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If you have any questions regarding how to fulfill the "prior to issuance" Special Conditions for CDP No. 9-18-0395, please contact the staff person identified below.

Sincerely,

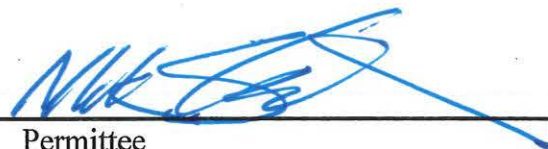

John Ainsworth
Executive Director



Kate Huckelbridge
Senior Environmental Scientist

ACKNOWLEDGMENT

The undersigned permittee acknowledges receipt of this Notice and fully understands its contents, including all conditions imposed.

| | |
|--------------------|--|
| <u>Feb 5, 2019</u> |  |
| Date | Permittee |
| <u>2/13/19</u> |  |
| Date | Permittee |

Please sign and return one copy of this form to the Commission office at the above address.

STANDARD CONDITIONS

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

2. **Expiration.** If development has not commenced, then permit will expire three 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.

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3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission and affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

1. **Other Permits and Approvals: PRIOR TO THE START OF CONSTRUCTION,** the Permittee shall provide to the Executive Director copies of all other local, state, and federal permits required to perform project-related work. Any modifications to the project or its design, configuration, or implementation that occur as a result of these agencies' review and authorization processes shall be provided to the Executive Director for review to determine if an amendment to this coastal development permit is legally required. These permits and approvals include:
 - a. Regional Water Quality Control Board – Los Angeles Region: final approved 401 water quality certification.
 - b. U.S. Army Corps of Engineers: Authorization under Nationwide Permit #27, pursuant to Rivers and Harbors Act Section 10 and Clean Water Act Section 404.
 - c. California Department of Fish and Wildlife: final approved Lake and Streambed Alteration Agreement.
2. **Revised Site, Grading and Design Plans for the Synergy Site. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the Applicant shall submit to the Executive Director for review and written approval one set of revised site and grading plans for the Synergy site including restoration activities on the northern portion of the site and work associated with construction of new facilities on the southern portion of the site. These Plans shall include the following:
 - a. Specific location, dimensions and elevations of all proposed project elements on the Synergy site, including but not limited to, proposed tidal wetland restoration area (including the sheetpile wall, berm, tidal channels, and breaches to the existing berm), Visitor's Center, trails, outdoor education area, and any other new development.
 - b. Elimination of the proposed transitional wetland grading and the overlook terrace fill north and east of Steamshovel Slough.
 - c. Any revisions required by other state and federal agencies including the U.S. Army Corps and California Department of Fish and Wildlife. If implementation of the other agency requirements results in impacts to coastal resources that are not analyzed and mitigated in this permit, an amendment to the permit may be required.
 - d. Plans for the renovated building (i.e., Visitor's Center) demonstrating that:
 - i. It has been relocated outside of the mapped fault hazard zone.
 - ii. The final ground surface elevation for the site is above anticipated terrestrial and marine flooding levels including up to 6.7 feet of sea level rise and

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assuming the restoration of the southern portion of the Synergy site to tidal wetlands as a baseline condition.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

3. **Perimeter Pipeline Alignment Implementation Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit a Perimeter Pipeline Alignment Implementation Plan to the Executive Director for review and written approval. The purpose of the Plan shall be to incorporate into the project the perimeter pipeline corridor alternative for the pipeline connecting the Pumpkin Patch site to the LCWA site that substantially conforms to the perimeter alignment alternative described in the City of Long Beach's Response to Comments on the Draft EIR, Section 9.2.1.4, pp 9-76 – 9-81 and submitted to the Commission as part of the Response to a Notice of Incompleteness, dated 8/27/18. The Plan shall include the following elements:
- a. Final site plans
 - b. Final design plans, including the following:
 - i. Location and details for shutoff valves, expansion loops and any other oil spill prevention measures. The pipeline shall include a minimum of three automatic shutoff valves, one at each end of the pipeline and one at a feasible location in the middle of the pipeline.
 - ii. Representative cross-sections and detail drawings of key components, such as bends and expansion loops needed for seismic safety.
 - iii. Final design for the crossing underneath 2nd St. and Studebaker St.
 - iv. Safety measures to ensure the pipeline is protected from hazards associated with vehicle traffic on 2nd St. and Shopkeeper Rd.
 - v. Final Design plans shall reflect any revisions required based on the results of supplemental analyses required in parts (c) and (d).
 - c. Supplemental Geotechnical Analysis and Safety Plan that incorporates the following elements:
 - i. A site-specific geotechnical analysis evaluating fault rupture hazards along the final pipeline route, at a minimum evaluating the maximum horizontal and vertical fault displacement that could occur during an earthquake event on the Newport-Inglewood fault with a 1% in 50 year chance of occurrence (1/4,975 annual probability), as determined based on a review of the most current available science.
 - ii. An engineering analysis, using the final route, configuration and dimensions of the pipeline system, demonstrating that the pipelines have been designed to withstand the maximum horizontal and vertical fault displacements derived from the geotechnical analysis required in subsection (c)(i) of this condition, and describing the specific design elements that would be used to accommodate the expected displacements.

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- iii. An engineering analysis of the proposed secondary containment berms describing their capacity to withstand fault rupture and any feasible design measures that would be incorporated to maximize their structural integrity.
 - iv. A Repair and Maintenance Plan describing the measures that would be taken to maintain the pipelines and containment berms in an optimal condition.
- d. Supplemental Hydrologic and Flooding Analysis that incorporates the following elements:
- i. Assessment of the vulnerability of the perimeter pipeline design and alignment to terrestrial and marine flooding and up to 6.7 feet of sea level rise.
 - ii. The study shall incorporate restoration of the remainder of the City site to tidal wetlands and consider a restoration scenario that results in the worst-case flooding of the pipeline corridor and is consistent with restoration planning efforts by the LCWA to the maximum extent feasible.
 - iii. If modeling results show that the pipeline is vulnerable to inundation from flooding and/or sea level rise over its design life, the Plan shall recommend design features for the pipeline that could be implemented over the life of the pipeline to ensure the pipeline is constructed at a safe and appropriate elevation in coordination with future restoration efforts to ensure that hazards associated with flooding are minimized.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

4. **Wetland Restoration and Mitigation Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit for review and written approval of the Executive Director a Wetland Restoration and Mitigation Plan to restore the northern portion of the Synergy site, including mitigation for all wetland impacts associated with the proposed project. The Plan shall be developed in consultation with the California Department of Fish & Wildlife, Regional Water Quality Control Board and U.S. Army Corps of Engineers, and other appropriate state and federal agencies as applicable, and at a minimum shall include:
- a. A detailed site plan of the wetland impact area that substantially conforms to the plan submitted to the Commission as part of the CDP application as shown generally on **Exhibits 22, 24 and 28**. The site plan shall delineate all impact areas (on a map that shows elevations, surrounding landforms, etc.), the types of impact and the exact acreage of each impact so identified. The site plan shall be consistent with the Plan submitted under **Special Condition 3**.
 - b. Applicable wetland mitigation ratios. Wetland impacts shall be mitigated at the following ratios:
 - i. Permanent impacts to wetlands from sheetpile wall installation, sidewalk grading, and installation of the pipeline corridor shall be mitigated at a 4:1 ratio (restored/created area: impacted area) for mitigation involving creation or substantial restoration of wetland habitat and/or 6:1 ratio (enhanced area:

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- impacted area) for mitigation involving enhancement of existing wetland habitat.
- ii. Permanent impacts to wetlands from construction of the portions of the berm that will result in uplands (i.e., above 4.3 feet NGVD) shall be mitigated at a 2:1 ratio (restored/created area: impacted area) for mitigation involving creation of substantial restoration of wetland habitat and/or 3:1 ratio (enhanced area: impacted area) for mitigation involving enhancement of existing wetland habitat.
 - c. A detailed site plan of the restoration and mitigation sites. The site plan shall include both the restoration area and the buffer surrounding the restoration area. If wetland creation or substantial restoration is proposed, the site plan shall include: existing and proposed hydrologic, soil and vegetative conditions of the mitigation site(s); engineering/grading and erosion control plans and schedule – if applicable; weeding plans and schedule; planting plans and schedule; short- and long-term irrigation needs; on-going maintenance and management plans; and a monitoring plan consistent with **Special Condition 5**.
 - d. A baseline assessment, including photographs, of the current physical and ecological condition of the proposed restoration site and any areas outside of the restoration site that are tidally connected to the restoration site, including as appropriate, a wetland delineation conducted according to the definitions in the Coastal Act and the Commission's Regulations and the methods laid out in the U.S. Army Corps of Engineers "Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region," a detailed site description and map showing the area and distribution of vegetation types and site topography, and a map showing the distribution and abundance of sensitive species that includes the footprint of the proposed restoration.
 - e. A description of the goals of the restoration plan and the applicable mitigation ratio from (b) above. The goals should also include, as appropriate, any changes to site topography, hydrology, vegetation types, presence or abundance of sensitive species, and wildlife usage, and any anticipated measures for adaptive management in response to sea level rise or other climatic changes. In addition, the goals shall describe how the wetlands mitigation requirement will be met within the larger restoration site.
 - f. A description of planned site preparation and invasive plant removal.
 - g. A restoration plan including the planting palette (seed mix and container plants), planting design, source of plant material, methods and timing of plant installation, erosion control measures, duration and use of irrigation, and measures for remediation if success criteria (performance standards) are not met. The planting palette shall be made up exclusively of native plants that are appropriate to the habitat and region and that are grown from seeds or vegetative materials obtained from local natural habitats to protect the genetic makeup of natural populations. Horticultural varieties shall not be used. The planting palette shall be developed in consultation with representatives of Native American groups with documented ancestral ties to the area, as determined by the NAHC.
 - h. A plan for documenting and reporting the physical and biological "as built" condition of the restoration or mitigation site prior to operation of new oil production facilities and within 30 days of completion of the initial restoration activities. This report shall describe the field implementation of the approved Wetland Restoration and Mitigation

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Plan in narrative and photographs, and report any problems in the implementation and their resolution, and any recommendations for future adaptive management. The "as built" assessment and report shall be completed by a qualified biologist, who is not employed by and independent of the installation contractor.

- i. Provisions for submittal of a wetland delineation of the restoration site at the end of 5 years to confirm that the total acreage mitigated is consistent with the applicable mitigation ratio established in (b) above. The final delineation should also demonstrate that the restoration work did not adversely affect wetland areas outside the restoration site boundary.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

5. **Wetland Restoration and Mitigation Monitoring.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit for review and written approval of the Executive Director a detailed Wetland Restoration and Monitoring Plan designed by a qualified wetland or restoration ecologist for monitoring of the wetland restoration site. The Wetland Monitoring Plan shall at a minimum include the following:
 - a. A plan for interim monitoring and maintenance of any restoration or mitigation site(s) and pre-approved reference site(s), including:
 - i. Schedule;
 - ii. Interim performance standards;
 - iii. A description of field activities that includes sampling design, number of samples and sampling methods. The number of samples should rely on a statistical power analysis to document that the planned sample size will provide adequate statistical power to detect the maximum allowable difference between the restored site and a reference site(s).
 - iv. The monitoring period (generally not less than 5 years, depending on case details or longer if performance standards are not met in the initial time frame).
 - v. Changes in sea level rise, sediment dynamics, and the overall health of the wetland to allow for adaptive management, as needed. Include triggers for implementing adaptive management options.
 - vi. Provision for submission of annual reports of monitoring results to the Executive Director for the duration of the required monitoring period, beginning the first year after submission of the "as-built" report. Each report shall be cumulative and shall summarize all previous results. Each report shall document the condition of the restoration with photographs taken from the same fixed points in the same directions. Each report shall also include a "Performance Evaluation" section where information and results from the monitoring plan are used to evaluate the status of the restoration project in relation to the interim performance standards and final success criteria.
 - vii. Provisions for the submittal of a revised or supplemental restoration plan to be submitted if an annual monitoring report shows that the restoration effort is

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- falling significantly below the interim performance standards. Triggers shall be included in the plan to define the level of nonperformance at which the submittal of a revised or supplemental restoration plan will be required. The applicant shall submit a revised or supplemental restoration program within 90 days to address those portions of the original program which did not meet the approved success criteria.
- viii. Following the restoration, reports shall be submitted every ten years to ensure that the restoration is maintained over the time period of the development.
 - b. Final success criteria for each habitat type, including, as appropriate: total ground cover of all vegetation and of native vegetation; vegetative cover of dominant species; and hydrology, including timing, duration and location of water movement.
 - c. The method by which "success" will be judged, including:
 - i. Type of comparison.
 - ii. Identification and description, including photographs, of any high functioning, relatively undisturbed reference sites that will be used.
 - iii. Test of similarity with a reference site. This could simply be determining whether the result of a census was above a predetermined threshold. Generally, it will entail a one- or two-sample t-test that determines if differences between the restoration site and the reference site are within the maximum allowable difference for each success criteria (performance standard).
 - iv. A statement that final monitoring for success will occur after at least 5 years with no irrigation or significant remediation or maintenance activities other than weeding in the last year.
 - d. Provisions for submission of a final monitoring report to the Executive Director at the end of the final monitoring period. The final report must be prepared by a qualified restoration ecologist. The report must evaluate whether the restoration site conforms to the goals, objectives, and success criteria set forth in the approved final restoration program. The report must address all of the monitoring data collected over the monitoring period. Following the restoration, reports shall be submitted every ten years to ensure that the restoration is maintained over the time period of the development.
 - e. If the final report indicates that the restoration project has been unsuccessful, in part, or in whole, based on the approved success criteria (performance standards), the Permittee shall submit within 90 days a revised or supplemental restoration program to compensate for those portions of the original plan that did not meet the approved success criteria. The Permittee shall undertake restoration and monitoring in accordance with the approved final, revised Wetland Restoration and Mitigation Plan following all procedures and reporting requirements as outlined for the initial plan until all performance standards (success criteria) are met. The revised restoration program shall be processed as an amendment to this coastal development permit unless the Executive Director determines that no permit amendment is legally required.
 - f. A long term maintenance plan.

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The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

6. Open Space and Conservation Deed Restriction.

- a. No development, as defined in Section 30106 of the Coastal Act, shall occur within Steamshovel Slough and the areas of the northern portion of the Synergy site that are approved for tidal wetlands restoration under this permit, as depicted on Exhibit 5, except for:
 - i. Restoration construction work, including construction of channels, breaching of the existing berm, installation of the sheet pile wall and berm, and implementation of pollution prevention measures, approved under Special Conditions 10 and 11.
 - ii. Wetland and habitat monitoring and other activities approved under Special Conditions 5 and 8.
 - iii. Interim and long term habitat management activities approved under Special Condition 5.
 - iv. Invasive plant removal and other restoration maintenance activities as approved under Special Conditions 5 and 15.
 - v. Fence maintenance and repair activities.
 - vi. Removal of the sheet pile wall.
 - vii. Erection and maintenance of public access signage
 - viii. Maintenance of the public access trail
 - ix. Any remedial action required by the Commission or another state or federal agency to ensure the restored area meets mitigation requirements.
- b. **PRIOR TO OPERATION OF OIL PRODUCTION FACILITIES**, the landowner shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the designated open space area. The recorded document(s) shall include a legal description and corresponding graphic depiction of the legal parcel(s) subject to this permit and a metes and bounds legal description and a corresponding graphic depiction, drawn to scale, of the designated open space area prepared by a licensed surveyor based on an on-site inspection of the open space area.
- c. The deed restriction shall be recorded free of prior liens and any other encumbrances that the Executive Director determines may affect the interest being conveyed.
- d. The deed restriction shall run with the land in favor of the People of the State of California, binding successors and assigns of the Permittee or landowner in perpetuity.

7. **Deed Restriction.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the Applicant shall submit to the Executive Director for review and written approval documentation demonstrating that the landowners of the Synergy, City, LCWA, and Pumpkin Patch sites have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1)

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indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject properties, subject to terms and conditions that restrict the use and enjoyment of those properties; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the properties. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject properties so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject properties.

8. **Biological Resource Protection Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director a Biological Resource Protection Plan. The purpose of the Plan is to document biological resources on each site, including wetlands, sensitive habitat areas and special-status species, provide for biological monitoring during construction and oil facility removal and document wetland resources before and after oil facilities are removed to verify that any impacts to these resources are temporary. The Plan shall address all project activities and all project sites.
- a. **Pre-Construction Surveys.** NO MORE THAN 60 DAYS PRIOR TO THE COMMENCEMENT OF PROJECT ACTIVITIES AT A GIVEN SITE, pre-construction surveys shall be conducted by a qualified biologist approved by the Executive Director for special-status plant and wildlife species and nesting birds protected under the Migratory Bird Treaty Act and California Fish and Wildlife Code section 3503 and to document the boundaries of existing wetlands and other sensitive habitat areas identified by the biologist. Surveys shall incorporate the following:
- i. Appropriate survey methods and timeframes shall be established by the consulting qualified biologist and described in the Plan.
 - ii. If work on a project site ceases for a period of 30 days or more, a new pre-construction survey shall be conducted prior to continuing with construction or decommissioning activities.
 - iii. Pre-construction surveys for special-status species shall target estuary seablite, Southern tarplant, wooly seablite, Belding's savannah sparrows, Ridgeway's rails, California least terns, western snowy plovers, mudflat tiger beetles, and white-tailed kites. If these or any other listed species are encountered, the Permittee shall consult with the U.S. Fish and Wildlife Service (USFWS), the California Department of Fish and Wildlife (CDFW) and the Executive Director before continuing with work.
 - iv. In oil infrastructure removal areas, surveys shall include detailed vegetation mapping to document the present site conditions of all areas within three (3) feet to either side of the pipeline and three (3) feet around oil infrastructure proposed to be removed from the Synergy, Pumpkin Patch, and City sites. The mapping shall document the percent cover of native and non-native species including any rare native species (e.g. Southern tarplant) as well as bare ground adjacent to and within the pipeline and around and within the oil

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infrastructure and oil wells. Mapping shall also distinguish wetland from non-wetland areas. For identification and location purposes, the pipelines slated for removal should be divided into 10 or 20 meter segments that are individually mapped and labeled. Likewise, each oil infrastructure and oil well area slated for removal should be described, mapped, and labeled. Every section of pipeline and each oil infrastructure and oil well area shall be photo documented before work is undertaken.

- v. A site plan shall be prepared that depicts wetlands, vegetation, special-status species and any nests detected. A Site Plan shall be prepared for each site and should include larger scale depictions for each respective pipeline segment and oil infrastructure and oil well area. The Plan shall include staging areas, ingress and egress routes at both a site scale and on a smaller scale for each pipeline segment and oil infrastructure removal areas.
 - vi. **NO MORE THAN 15 DAYS AFTER COMPLETION OF THE SURVEY**, a pre-construction survey report shall be submitted to the Executive Director for review and written approval. The report shall include the site plan, a narrative description of each site and work area, results of the survey including species richness and percent cover and acreage of wetlands and/or rare species, including Southern tarplant. The report shall also include a description of the potential impacts that will occur from the proposed work including impacts caused by ingress and egress, excavation, and/or re-contouring and whether the impacts will likely be temporary or permanent. Any area of wetland or ESHA excavated or re-contoured will be considered to be a permanent impact. The report shall also describe avoidance measures that will be implemented for wetlands or rare species and a list of any additional recommended mitigation measures or monitoring protocols.
- b. Nesting Birds. All construction shall be avoided, to the greatest extent possible, during the southern California bird nesting season which is January 15 through September 15. If construction must occur during this time, **NO MORE THAN 14 DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITIES**, a qualified biologist, approved by the Executive Director, shall conduct a pre-construction survey for the presence of nesting birds. If an active nest of any bird including a Federal or State-listed threatened or endangered bird species, bird species of special concern, or any species of raptor is identified during such preconstruction surveys, or is otherwise identified during construction, the Permittee shall notify all appropriate State and Federal agencies within 24 hours, and shall develop an appropriate action plan specific to each incident that shall be consistent with any recommendations of those agencies. The Permittee shall notify the Executive Director in writing within 24 hours of identifying such a nest and consult with the Executive Director regarding the determinations of the State and Federal agencies. At a minimum, if the active nest is located within 300 feet of construction activities (within 500 feet for raptors), the Permittee must ensure that noise levels do not exceed 65 dB at the nest and that nesting birds are not disturbed by construction-related activities, and shall submit a plan to the Executive Director, for review and written approval, demonstrating how construction activities will be modified to avoid, minimize and mitigate impacts to nesting birds, including, but not limited to, such measures as buffer

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zones around nests, sound blocking BMPs, limits on duration of construction activities, and limits on the location of construction-related machinery and activity. If construction activity noise levels exceed a peak of 65 dB at the nest site(s), sound mitigation measures such as sound shields, blankets around smaller equipment, use of mufflers, and minimizing the use of back-up alarms shall be employed. If these sound mitigation measures do not reduce noise levels, construction within 300 ft. (500 ft. for raptors) of the nesting areas shall cease and shall not commence again until either new sound mitigation can be employed or until the nest(s) is vacated, juveniles have fledged and there is no second attempt at nesting

- c. **Biological Monitoring.** The Permittee shall employ or have under contract a biologist(s) approved by the Executive Director, during the duration of approved construction and oil facility decommissioning activities. The Permittee shall ensure that the biologist(s) conducts monitoring during any project activities involving mobilization, ground disturbance, grading, soil movement, or any other activities that could affect biological resources including special-status species, wetlands, coastal waters and marine species in accordance with the following:
- i. Based on results of the pre-construction survey required in part (a) above, the biologist shall clearly mark all sensitive biological resources located within 25 feet of any project-related activity. The biologist shall maintain a 10-foot buffer around any individual special-status plant unless otherwise approved in this permit or by the Executive Director under part (a).
 - ii. Conduct worker training with all project-related personnel to identify the location and types of sensitive biological resources on and near the project site and the measures to be taken to avoid impacts to these resources
 - iii. Implement all approved Plans required in Special Conditions 10, 11, and 12 to ensure impacts to special-status species, wetlands, and coastal waters are minimized.
 - iv. The biologist(s) shall require a halt to any project activities when he or she determines that continuing the activities would result in an unauthorized adverse impact to coastal waters, wetlands, and other biological resources. The biologist(s) shall inform the Permittee what measures are needed to address the impact and may allow activities to resume after necessary measures are implemented.
 - v. An annual summary report, including monitoring results and avoidance measures implemented shall be submitted to the Executive Director before December 31 of each year that construction and decommissioning activities are ongoing.
 - vi. If biological monitoring results indicate fill or dredging or any other adverse impacts to any wetland areas or sensitive biological resources that are not approved under this permit, the Permittee shall submit an application to amend this permit to address these impacts and fully restore any disturbed wetlands or sensitive biological resources to its pre-project condition, unless the Executive Director determines that no such permit amendment is legally required.

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- d. **Revegetation of Areas Disturbed During Oil Facility Removal.** The Permittee shall implement the 2018 Ecological Restoration Plan, submitted in October 2018, except where the 2018 Ecological Restoration Plan is not in conformance with this Special Condition 8 as outlined below:
- i. The Permittee shall implement the "As-Built" Plan identified in section 7 per the vegetation mapping results obtained via the pre-condition survey (part a above).
 - ii. The Permittee shall follow Special Condition 13 for addressing impacts to and mitigation for Southern tarplant.
 - iii. The source of all propagules and seed used to revegetate areas shall be from the site or immediately adjacent coastal areas. If propagules or seed are obtained from a nursery they must be from local genetic stock.
 - iv. Site recovery and revegetation success shall be determined based on the success criteria outlined in section (e) v. below.
 - v. Reporting shall be based on the criteria outlined in the following sections of this Special Condition 8: (a) vii; (c) v; and (e) iv.
- e. **Post-Construction Surveys to verify Temporary Wetland Impacts. NO MORE THAN ONE YEAR AFTER THE COMPLETION OF OIL FACILITY REMOVAL ACTIVITIES AT A GIVEN SITE,** post-construction surveys shall be conducted to verify that impacts to wetlands associated with oil facility removal are temporary. Surveys shall include the following:
- i. **Vegetation Mapping.** Vegetation mapping, conducted per the same methods employed for the pre-construction vegetation mapping, shall be conducted.
 - ii. **Site Plan.** A site plan shall be prepared that depicts the vegetation (based on vegetation mapping results) one (1) year following the completion of pipeline, oil infrastructure and oil well removal within each respective pipeline segment and oil infrastructure and oil well area, the ingress and egress location for each pipeline segment and oil infrastructure and oil well removal area, and excavation and re-contouring locations.
 - iv. **Post-Construction Survey Report.** The post-construction survey results shall be submitted to the Executive Director within fifteen (15) business days of completion of the survey. The data from the pre- and post-construction surveys shall be compared to determine the temporary or permanent impact status of all the areas based on the success of habitat recovery in meeting the approved success criteria (see v. below) as well as the nature of the impacts themselves (e.g. as defined in the findings, some impacts will automatically be considered permanent.) If the post-construction survey results show that the area where the pipeline was removed or the access and egress locations have not recovered per the success criteria, the applicant shall apply for an amendment to this coastal development permit within 90 days to address the additional impacts unless the Executive Director determines an amendment is not legally necessary.
 - v. **Success Criteria.** A wetland area that has been temporarily impacted shall be considered fully recovered, if, after one year, the vegetation has recovered to 85% of the value of the adjacent native habitat cover and has at least 90% of

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the species found in the respective pipeline segment or oil infrastructure area. The area shall also not contain more than 5% cover of non-native invasive species.

- f. Construction and decommissioning activities shall occur during daylight hours only.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

9. **Revised Decommissioning Plan for Existing Facilities.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit a Revised Decommissioning Plan that is in substantial conformance with the Decommissioning Plan dated September 2018 and submitted as part of the application for this CDP, but shall be revised to incorporate the following:
- a. Provisions for removal of all surface infrastructure associated with a well within 60 days following successful abandonment of that well. Surface infrastructure may include, but is not limited to the wellhead, pumping equipment and controls, concrete pads and any associated debris. The Executive Director may extend the 60 day time period for removal of surface infrastructure for good cause.
 - b. Within 60 days of completion of decommissioning activities at the last remaining well on each site, the Permittee shall submit to the Executive Director an application for an amendment to this permit, or a new application to address characterization and cleanup of any contaminated soils or materials on the site.
 - c. Provisions for removal of all remaining equipment, infrastructure and debris associated with the oil production facilities and completion of cleanup activities within 20 years of the occupancy date for the new office building. This provision does not apply to new facilities approved under this permit, but does apply to existing wells on the Synergy, City and Pumpkin Patch sites.
 - d. Provision for removal of the sheetpile wall separating the Synergy oil field from the western portion of the restored area after all remaining equipment, infrastructure and debris associated with the oil production facilities are removed and cleanup activities have been completed.
 - e. Prior to the commencement of construction on the Pumpkin Patch and LCWA sites, a performance bond or other acceptable financial security shall be posted by the operator with the issuing entity in an amount commensurate with the estimated costs of decommissioning for all oil facilities approved in this permit. The cost of decommissioning shall include, but is not limited to, costs associated with planning, permitting and implementation of abandonment and removal of all facilities associated with the oil and gas production facility as well as site restoration. The bond or other financial security may be posted in increments over time based on the well drilling schedule at each site. However, before construction of any specific oil facility or drilling of any well commences, the Permittee shall ensure that the dollar amount of the bond or other financial security is sufficient to cover the cost of decommissioning that oil facility or well. The bond or other financial security shall be returned to the applicant upon successful decommissioning, abandonment and restoration of the site. This requirement

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is not intended to be duplicative of other state or federal requirements. If another government agency requires a bond or financial security for decommissioning of all facilities, the Applicant may provide evidence of obtaining said bond or financial security as a means to satisfy part or all of this requirement.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

10. **Pollution Prevention Plan for Steamshovel Slough. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the Applicant shall submit to the Executive Director for review and written approval a Pollution Prevention Plan (PPP) for Steamshovel Slough. The Plan shall describe how the existing berm separating Steamshovel Slough and the Synergy Oil Field will be breached and what measures shall be in place to ensure that the habitat and water quality within Steamshovel Slough is not adversely affected during or after the berm is breached. The Plan shall include the following components:
- a. A detailed methodology and timeline for excavation of the breaches in the existing berm and introduction of tidal flows into the newly restored areas. The Plan should specifically address phasing of the four proposed breaches and include provisions for sequential timing of the breaches with time in between for post-breach monitoring.
 - b. A staging plan, including types and locations of equipment, stockpiles, and proposed travel routes for construction equipment entering and existing the breach areas.
 - c. A description of all sediment control measures to be implemented before, during and after the berm is breached in each location. The Plan should include a site plan map indicating the location of all measures. These measures shall include the following:
 - i. Silt fences, silt curtains, coffer dams and/or other sediment control devices shall be deployed near the breaches to prevent any sediment from flowing into the Slough. If the silt fences are not adequately containing sediment, construction activity shall cease until remedial measures are implemented that prevents sediment from entering the waters below.
 - ii. Sediment sources shall be controlled using fiber rolls, silt fences, sediment basins, and/or check dams that shall be installed prior to or during grading activities and removed once the site has stabilized.
 - iii. Erosion control may include seeding, mulching, erosion control blankets, silt fences, plastic coverings, and geotextiles that shall be implemented after completion of construction activities.
 - iv. The use of erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) is prohibited in order to minimize wildlife entanglement and plastic debris pollution.
 - v. Appropriate energy dissipation devices shall be used to reduce or prevent erosion as tidal flows are introduced into newly restored areas.
 - d. A detailed monitoring plan that includes protocols for:

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- i. Baseline water quality monitoring. The Permittee shall conduct monitoring of baseline conditions in the Slough, including turbidity, pH, temperature, dissolved oxygen and other appropriate water quality parameters. Monitoring shall be conducted at different points in the tidal cycle and over a sufficient time period to adequately characterize the variability in baseline water quality conditions in the Slough.
 - ii. Monitoring of turbidity, pH, temperature, dissolved oxygen and other appropriate water quality parameters in Steamshovel Slough and the newly restored wetland areas immediately before, during and after tidal flows are introduced into newly restored areas. Monitoring shall continue throughout the site stabilization period to ensure that water quality in the Slough is not being degraded. The Plan shall identify thresholds for turbidity and other water quality parameters such that waters with measurements of turbidity and/or other parameters exceeding a certain threshold shall be contained and prevented from being discharged into receiving waters. The Plan shall also identify monitoring protocols. The turbidity and other water quality thresholds shall be developed in consultation with the RWQCB and explained in the Plan. If sediment is not being contained adequately, as determined by visual observation or turbidity measurements, the activity shall cease until corrective measures are taken to remedy the situation.
- e. A description of remedial actions that can be taken immediately by the Permittee if monitoring results indicate that water quality parameters are on a trajectory to exceed established thresholds or have exceeded established thresholds.
 - f. If monitoring results indicate that water quality thresholds in Steamshovel Slough are exceeded, the Permittee shall immediately stabilize the site, stop work, and notify the Executive Director. After consulting with the Executive Director, the Permittee shall implement remedial measures and continue monitoring all water quality parameters. Before continuing work, the Permittee shall submit a Supplemental Pollution Prevention Plan for Steamshovel Slough to the Executive Director for review and written approval describing what project-related activities lead to the exceedance, what sediment control measures were in place, what remedial measures were implemented after the exceedance was discovered and what measures will be implemented in the future to ensure another exceedance is avoided.
 - g. The Permittee shall submit a Final Report within 60 days of the completion of monitoring activities associated with breaching the existing berm and reintroducing tidal flows to newly restored areas. The report shall include a description of all related construction activities and sediment control measures, results of all monitoring activities, and a detailed discussion of any water quality parameter exceedances.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

11. **Construction and Pollution Prevention Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit to the Executive

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Director for review and written approval of a Construction and Pollution Prevention Plan. The Plan shall apply to all construction activities and all oil facility decommissioning and removal activities on all four project sites and shall, at a minimum, describe all structural and non-structural measures the Permittee will implement to avoid and minimize project-related impacts to wetlands and coastal waters adjacent to the project sites. The Plan shall be prepared by a qualified, licensed professional, who shall certify in writing that the Plan is in conformance with the following requirements:

- a. Erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including:
 - i. Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid increased erosion and sedimentation.
 - ii. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.
 - iii. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sand bag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters.
 - iv. Tracking control BMPs (such as a stabilized construction entrance/exit, and street sweeping) shall be installed or implemented as needed to prevent tracking sediment off-site by vehicles leaving the construction area.
 - v. Runoff control BMPs (such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area) that will be implemented during construction to retain, infiltrate, or treat stormwater and non-stormwater runoff.
- b. The erosion control measures shall be required on the project site prior to or concurrent with the initial grading operations and monitored and maintained throughout the development process to minimize erosion and sediment from runoff waters during construction. All sediment should be retained on-site, unless removed to an appropriate, approved disposal site permitted to receive fill.
- c. The plan shall also include erosion control measures should grading or site preparation cease for a period of more than 30 days, including but not limited to: stabilization of all stockpiled fill, access roads, disturbed soils and cut and fill slopes with geotextiles and/or mats, sand bag barriers, silt fencing; temporary drains and swales and sediment basins. The Plans shall also specify that all disturbed areas shall be seeded with native grass species and include the technical specifications for seeding the disturbed areas. These temporary erosion control measures shall be monitored and maintained until grading or construction operations resume.
- d. All construction and decommissioning-related erosion control materials shall be comprised of bio-degradable materials (natural fiber, not photo-degradable plastics) and must be removed when permanent erosion control measures are in place. Bio-degradable

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- erosion control materials may be left in place if they have been incorporated into the permanent landscaping design.
- e. The discharge of other pollutants resulting from construction activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris, and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including
- i. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials. BMPs shall include, at a minimum:
 1. Covering stockpiled construction materials, soil, and other excavated materials to prevent contact with rain, and protecting all stockpiles from stormwater runoff using temporary perimeter barriers.
 2. Cleaning up all leaks, drips, and spills immediately; having a written plan for the clean-up of spills and leaks; and maintaining an inventory of products and chemicals used on site.
 3. Proper disposal of all wastes; providing trash receptacles on site; and covering open trash receptacles during wet weather.
 4. Prompt removal of all construction debris from the beach.
 5. Detaining, infiltrating, or treating runoff, if needed, prior to conveyance off-site during construction.
 - ii. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile equipment conducted on site shall not take place on the beach, and shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless those inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.
- f. Minimize Other Impacts of Construction Activities. Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:
- i. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control.
 - ii. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.
 - iii. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene,

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- polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.
- iv. Tarps or other devices shall be used to capture debris, dust, oil, grease, rust, dirt, fine particles, and spills to protect the quality of coastal waters.
 - v. At the conclusion of the removal of all existing oil facilities on the Synergy and City sites, the former sites of these structures shall be level clean soil (with or without vegetation) that is unencumbered by remnant structures, debris, waste material, asphalt, or concrete foundations. These sites shall be revegetated with native vegetation according to Special Condition 8d.
 - vi. All abandoned material, equipment, structures, and debris within the Synergy and Pumpkin Patch sites shall be collected and removed from the site.
 - vii. The Permittee shall not engage in future stockpiling or long term storage of construction debris, vehicles, out of service or abandoned equipment. All such vehicles, equipment, and materials shall be removed as part of oil field decommissioning and abandonment activities.
 - viii. Noise control measures shall be employed to mitigate noise levels to the extent feasible. These measure shall include, but would not be limited to: temporary noise barriers or sound walls between construction areas and adjacent habitats; noise pads or dampers, or moveable task noise barriers, including rubberized pads within pipewalk areas; replacement or update of noisy equipment and use of enhanced hospital quality engine mufflers; queuing of trucks to distribute idling noise; siting of vehicle access points away from the sensitive habitat area; reduction in the number of loud activities that occur simultaneously; efforts to concentrate elevated noise causing activities during the middle hours of the day outside of key morning and evening wildlife foraging periods; placement of loud stationary equipment in acoustically engineered enclosures or maximum distances away from sensitive habitat areas; and use of walkie-talkies or similar devices to limit personnel noise;
 - ix. The Permittee shall prevent wildlife subsidies or attractants (primarily food and water) by minimizing watering for dust control, maintaining all tanks and pipes to prevent leaks, prohibiting littering by personnel, performing daily site cleanup, and providing self-closing waste containers and removing trash contents regularly to prevent overflow.
 - x. All construction lighting shall be installed at the minimum necessary height, shielded and directed downwards and towards the interior of the project areas to minimize night lighting of habitat areas located adjacent to these sites. All lighting shall employ the best available "dark sky" technologies including lights with the lowest intensity possible and using wavelengths that are the most environmentally protective of organisms active at night and dawn and dusk. The lowest intensity lighting shall be used that is appropriate for safety purposes.
 - xi. All construction activity, except for drilling and well installation operations that must be carried out continuously until completed, shall be limited to daylight hours.

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- g. Manage Construction-Phase BMPs. Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.
- h. Construction Site Map and Narrative Description. The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
 - i. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins). The map shall delineate the areas on all four project sites to be disturbed by grading or construction activities and shall include any temporary access roads, staging areas and stockpile areas. Wetlands and natural areas on the site shall be clearly delineated on the plan and on-site with fencing or survey flags
 - ii. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.
 - iii. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper sizing of BMPs.
 - iv. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.

Prior to implementing any new or modified project developments, facility locations, or BMPs not included in the initial Plan, the Permittee shall submit for Executive Director review and written approval proposed modifications needed to incorporate these project components into the Plan. The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

12. **Inadvertent Release Contingency Plan for jack and bore and/or Horizontal Directional Drilling (HDD) activities.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit to the Executive Director for review and approval an Inadvertent Release Contingency Plan for all jack and bore/HDD activities associated with the project. The plan shall include, at a minimum:
- a. An evaluation of a worst-case spill volume;
 - b. Clear identification of the location and dimensions of entry and exit pits and the trajectory and depth of bores beneath the intersection of Westminster Rd/2nd St. and Studebaker Rd.

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- c. Measures describing training of personnel, monitoring procedures, equipment, materials and procedures in place for the prevention, containment, clean up, and disposal of released drilling muds, and agency notification protocols;
- d. Methods for detecting the accidental release of drilling fluids that include: (1) monitoring by a minimum of one biological monitor throughout drilling operations to ensure swift response if a release (i.e., frac-out) occurs; (2) continuous monitoring of drilling pressures to ensure they do not exceed those needed to penetrate the formation; (3) continuous monitoring of mud returns at the exit and entry pits to determine if mud circulation has been lost; and (4) continuous monitoring by spotters to follow the progress of the drill bit during the pilot hole operation, and reaming and pull back operations.
- e. Protocols the Permittee will follow if there is a loss of circulation or other indicator of a release of fluids.
- f. Protocols the Permittee will follow if there is a fluid release in adjacent wetland areas (e.g., isolating the area through construction of temporary berms/dikes and use of silt fences, straw bales, absorbent pads, straw wattles, and plastic sheeting).
- g. If a frac-out and fluid release occurs in a wetland area, the Permittee shall immediately halt work and notify and consult with the staffs of the City, Coastal Commission, and U.S. Fish and Wildlife Service regarding appropriate incident-specific actions to be undertaken before HDD activities can begin again.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

13. **Southern Tarplant Restoration and Mitigation Plan.** PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the Applicant shall submit a Southern Tarplant Restoration and Mitigation Plan to the Executive Director for review and written approval. The Plan shall include the following elements:

- a. Provision for seed collection from existing Southern tarplant populations in late summer and fall in preparation for future mitigation. Southern tarplant is an annual species belonging to the sunflower family that grows in seasonally moist (saline) areas and that germinates in the spring and flowers in late summer and into fall. The tarplant phenology must be monitored by the biologist assigned to collect seeds in order to determine the appropriate timing for seed collection. Seeds must be collected from all tarplants within the impact area once it has been determined tarplants have set seed. A biological monitor must be present during seed collection activities to ensure that seed is only collected from plants that will be impacted by the oil infrastructure removal activities. Upon completion of seed collection, the seeds must be cleaned in preparation for planting. If necessary, the seed must be temporarily stored in a dark, cool place and not be allowed to become damp.
- b. Summary of impacts to Southern tarplant from project-related activities including the percent cover measurements of the areas of impacted Southern tarplant. The summary should note which impacts are to fragmented and disturbed Southern tarplant in and

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- around the oil infrastructure and which impacts are to Southern tarplant in large undisturbed areas.
- c. A detailed site plan of the Southern tarplant mitigation sites. Appropriate sites will have suitable hydrology, soils, and necessary open space. The mitigation sites shall mitigate impacts to the fragmented and disturbed Southern tarplant in and around the oil infrastructure, described in (b) at a 1:1 ratio (created:impacted) and impacts to Southern tarplant in large undisturbed areas, described in (b) at a 3:1 ratio (created:impacted). The mitigation site plan shall include both the restoration area and the buffer surrounding the restoration area.
 - d. A baseline assessment, including photographs, of the current physical and ecological condition of the proposed mitigation site including the hydrology and soil type.
 - e. A description of the goals of the restoration plan and the applicable mitigation ratio from (b) above.
 - f. A description of planned site preparation that includes:
 - i. Soil preparation – soils must be ripped or disced prior to seeding to alleviate any soil compaction that exists within the mitigation sites
 - ii. Weed control – all non-native species must be removed prior to seeding.
 - iii. Temporary irrigation may be necessary and may include either an overhead and/or drip system or use of a water truck or other hand-watering methods.
 - g. Seed planting/broadcasting shall occur between October and January 30 during following late fall and winter rain when the weather and soil conditions are suitable.
 - h. A plan for documenting and reporting the physical and biological “as built” condition of the restoration or mitigation site within 30 days of completion of the initial restoration activities.
 - i. Monitoring design that measures the percent germination rate and the number of seedlings the first year followed each year by the number and percent cover of surviving Southern tarplants.
 - j. Monitoring must occur until the number and percent cover of Southern tarplants has reached 75% of the value of the impacted areas for a minimum of five (5) years.
 - k. Provisions for submittal of annual reports and a final report once success criteria have been met.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

14. **Revised Nuisance Minimization Plan.** PRIOR TO ISSUANCE OF A COASTAL DEVELOPMENT PERMIT, the Applicant shall submit, for review and written approval of the Executive Director, a Revised Nuisance Minimization Plan that is in substantial conformance to Development Plan, Section viii. Measures to Prevent or Reduce Nuisance Effects, submitted on September 28, 2018. The Plan shall describe how the Permittee will meet the criteria outlined in the Plan and also reflect the following additions or revisions:
 - a. Lighting. All allowed night lighting shall be minimized, directed downward, and shielded using the best available dark skies technology and pole height and design that minimizes light spill, sky glow, and glare impacts. Lighting shall use the lowest intensity

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possible that is appropriate for safety purposes and using wavelengths that are the most environmentally protective of organisms active at night and dawn and dusk. Outdoor lighting is limited to the following:

- i. The minimum necessary to light walkways used for entry and exit to structures, including parking areas on the site. This lighting shall be limited to fixtures that do not exceed three feet in height above finished grade, are shielded and directed downward, and generate the same or fewer lumens equivalent to those generated by a 60 watt incandescent bulb, unless a greater number of lumens is authorized in writing by the Executive Director.
 - ii. Security lighting attached to the structures shall use a control device or automatic switch system or equivalent functions to minimize lighting and is limited to same or fewer lumens equivalent to those generated by a 60 watt incandescent bulb. The control system shall include controls that automatically extinguish all outdoor lighting when sufficient daylight is available.
 - iii. The minimum necessary to light oil production facilities, if feasible, with the same or fewer lumens equivalent to those generated by a 60 watt incandescent bulb. This lighting shall be shielded and directed downward.
 - iv. All windows shall be comprised of glass treated to minimize transmission of indoor lighting to outdoor areas.
 - v. No lighting around the perimeter of the site and no lighting for aesthetic purposes is allowed.
- b. **Implementation Plan.** The Revised Plan shall include specific measures to implement the requirements and guidelines outlined in the Plan.

Within 60 days of the completion of construction of new oil production facilities and the Visitor's Center, the Permittee shall submit a written report, for the review and written approval of the Executive Director, showing that all project components were installed in compliance with the Revised Nuisance Minimization Plan. The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

15. **Management and Maintenance Plan for Public Access, Recreational Use, and Open Space Areas.** PRIOR TO OPERATION OF NEW OIL PRODUCTION FACILITIES, the Applicant shall provide for the review and written approval of the Executive Director, a Management and Maintenance Plan for all public access and recreational use areas on the Synergy site. The Plan shall balance public access and recreation on the Synergy site with protection of sensitive biological resources on the site, including Steamshovel Slough and the surrounding existing and restored areas. The final management and maintenance program(s) shall include the following:
- a. Identify all entities responsible for management and maintenance of the public access and recreational use areas. The current owner(s) of the Synergy site shall maintain those areas consistent with the final management and maintenance program until such time as management of the site is accepted by the Los Cerritos Wetlands Authority (LCWA). All

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- management and maintenance shall occur in accordance with the approved Management and Maintenance Program.
- b. Interim Management Plan that addresses how public access will be managed while oil production and decommissioning operations at the Synergy Oil Field are ongoing.
 - c. Restrictions on timing, locations, number of persons allowed on all public access features, and group activities for public access and recreation on the site that ensure disturbance to surrounding habitats is minimized. The Plan shall also include measures such as signage, wildlife-friendly fencing or barriers, public education programs and other means to ensure successful implementation of restrictions.
 - d. Signage Plan. The Permittee shall submit a Signage Plan, in compliance with the following:
 - i. Public Access Signage that directs the public to the public access and recreation areas, and trails, on the Synergy site.
 - ii. Conservation signage that directs the public to refrain from entering and disturbing wetland areas included in the mitigation bank and educates the public about the habitat value and lists common disturbances to wildlife which are to be avoided, including but not limited to: domestic pets, littering, loud noises, lights, etc.
 - iii. Signs shall be included that are located and sized such that they are visible from existing publicly accessible areas (e.g. nearby sidewalks and public roads) adjacent to the site. Signs shall invite and encourage public use of access opportunities and shall identify and direct the public to those locations.
 - iv. Directional signage is required including direction to public parking, directional monuments (e.g. location of public amenities), and public trails. Signage denoting a coastal access point is required.
 - v. Interpretative signage shall be limited to historical, environmental and cultural educational signage.
 - e. Identify funding for Management and Maintenance Activities. The Plan shall include:
 - i. A funding program sufficient to fund the actual cost of maintenance and periodic repair and replacement of the facilities within the areas open to the public, such as the Visitor's Center, trails, public access walkways and associated appurtenances including, but not limited to, surfaces, landscaping (if any), and signage; and
 - ii. A list of maintenance activities including but are not limited to: trash collection, repairs or replacement of surfaces due to cracks, spalling, broken concrete, etc., maintenance of gutters, curbs and sidewalks (keep free of debris, buildup, etc.), removal and/or trimming of vegetation that is interfering with public use of trails and any other public access and recreational use areas, repair/replacement of public access signs, trash receptacles, benches, handrails, stairs, and lighting, if necessary.
 - iii. A funding program sufficient to fund the actual cost of maintenance and periodic vegetation enhancements including on-going restoration, habitat enhancements for identified sensitive species, and repair and replacement of associated appurtenances including, but not limited to, fencing and signage for the trails and recreational areas; and

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- iv. A list of maintenance activities related to the on-going restoration and habitat enhancement for the trails and recreational areas.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

16. **Water Quality Management Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit to the Executive Director for review and written approval, a Water Quality Management Plan (WQMP) for post-construction conditions at all four project sites. This Plan shall be prepared by a qualified licensed water quality professional. For oil production facilities at the Pumpkin Patch and LCWA site, the Plan shall include site and grading plans demonstrating that all stormwater on the site will be collected onsite and treated as produced water. The Plans shall include all stormwater collection and transmission systems and equipment that handle stormwater on these two sites. For the Synergy and City sites, the WQMP shall include details on all aspects of this project, including detailed drainage and runoff control plan sheets, and all supporting BMP sizing calculations. The Plan shall include the following, where appropriate:
 - a. **Drainage and Runoff Controls:** A Drainage Plan shall be developed for each project site and included in the WQMP which details the movement and discharge of runoff. This plan shall include discharge directional indicators, sizing calculations for all associated BMPs included in the final Drainage Plan. The Plan shall include, at a minimum, the following water quality protection approaches and runoff controls throughout the development of the site, in the following order of priority:
 - i. **Site Design BMPs-** Project design features that reduce the creation or severity of potential pollutant sources, or reduce the alteration of the project site's natural stormwater flow regime. Examples are minimizing impervious surfaces, preserving native vegetation, and minimizing grading.
 - ii. **Source Control BMPs-** Methods that reduce potential pollutants at their sources and/or avoid entrainment of pollutants in runoff, including schedules of activities, prohibitions of practices, maintenance procedures, managerial practices, or operational practices. Examples are covering outdoor storage areas, use of efficient irrigation, and minimizing the use of landscaping chemicals.
 - iii. **Treatment Control BMPs-** Systems designed to remove pollutants from stormwater by gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or any other physical, biological, or chemical process. Examples are vegetated swales, detention basins, and storm drain inlet filters. Where post-construction treatment of stormwater runoff is required, treatment control BMPs (or suites of BMPs) shall, at a minimum, be sized and designed to treat, infiltrate, or filter stormwater runoff from each storm event, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, or the 85th percentile, 1-hour storm event (with an appropriate safety factor of 2 or greater) for flow-based BMPs.

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- iv. The qualified licensed professional shall certify in writing that the final Drainage and Runoff Control Plan is in substantial conformance with the following minimum requirements:
1. Projects shall incorporate Low Impact Development (LID) techniques in order to minimize stormwater quality and quantity impacts from development, unless a credible and compelling explanation is provided as to why such features are not feasible and/or appropriate. LID strategies use small-scale integrated and distributed management practices, including minimizing impervious surfaces, infiltrating stormwater close to its source, and preservation of permeable soils and native vegetation.
 2. Post-development runoff rates from the site shall be maintained at levels similar to pre- development conditions.
 3. Selected BMPs shall consist, or primarily consist of, site design elements and/or landscape based systems or features that serve to maintain site permeability, avoid directly connected impervious areas and/or retain, infiltrate, or filter runoff from rooftops, driveways and other hardscape areas, where feasible. Examples of such features include but are not limited to porous pavement, pavers, rain gardens, vegetated swales, infiltration trenches and cisterns.
 4. Structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
 5. Landscape plants shall have low water and chemical treatment demands.
 6. All slopes shall be stabilized in accordance with provisions contained in Special Condition 11 (Construction and Pollution Prevention Plan), and, if applicable, in accordance with engineered plans prepared by a qualified licensed professional.
 7. Runoff shall be discharged from the developed site (where applicable) in a non-erosive manner. Energy dissipating measures shall be installed to prevent erosion. Plan details and cross sections for any rock rip-rap and/or other energy dissipating devices or structures associated with the drainage system shall be prepared by a qualified licensed professional. The drainage plans shall specify the location, dimensions, cubic yards of rock, etc. for any velocity reducing structure with the supporting calculations showing the sizing requirements and how the device meets those sizing requirements. The qualified, licensed professional shall ensure that all energy dissipaters use the minimum amount of rock and/or other hardscape necessary to protect the site from erosion.

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8. All BMPs shall be operated, monitored, and maintained in accordance with manufacturer's specifications where applicable, or in accordance with well recognized technical specifications appropriate to the BMP for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired, prior to the onset of the storm season (October 15th each year) and at regular intervals as necessary between October 15th and April 15th of each year. Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner.
 9. Site drainage and BMP selection shall be developed concurrent with the preliminary development design and grading plan, and final drainage plans shall be approved by a licensed geotechnical engineer or engineering geologist.
 10. Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the affected area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
 11. The structural BMPs shall be constructed prior to or concurrent with the construction of infrastructure associated with the development. Prior to the occupancy of commercial or public structures approved by this permit, the structural BMPs proposed to service those structures and associated support facilities shall be constructed and fully functional in accordance with the final WQMP approved by the Executive Director.
 12. Structural BMPs shall incorporate natural treatment components (e.g. soft-bottom vegetated basins/bioswales) to the maximum extent practicable;
 13. The Plan shall include measures for reporting any events where BMPs did not prevent adverse impacts to wetlands or coastal waters and the measures taken in response to these events
- b. Best Management Practices. The WQMP shall incorporate long-term post-construction Best Management Practices (BMPs) that protect water quality and minimize changes in runoff volume and rate post-construction. The WQMP shall include the following requirements:
- i. The use of chemical pesticides, herbicides, and rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone), shall be prohibited. The use of fertilizers shall be minimized to the maximum extent practicable. An Integrated Pest Management Program (IPM) shall be implemented in all

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landscaped areas. The IPM Program shall be designed and implemented for all of the proposed landscaping/planting on the project site and shall include the following IPM features, as appropriate:

1. Bacteria, viruses and insect parasites shall be considered and employed as a pest management measure, where feasible.
 2. Manual weeding, hoeing and trapping
 3. Use of non-toxic, biodegradable, alternative pest control products.
 4. The applicant or responsible party shall be responsible for educating all landscapers or gardeners on the project site about the IPM program and other BMPs applicable to water quality management of landscaping and gardens. Education shall include written and verbal materials.
- ii. Trash and recycling containers and storage areas: The applicant shall use trash and recycling containers and storage areas that, if they are to be located outside or apart from the principal commercial structures, are fully enclosed and water-tight in order to prevent stormwater contact with waste matter which can be a potential source of bacteria, grease, and particulates and suspended solids in runoff, and in order to prevent dispersal by wind and water. Trash container areas must have drainage from adjoining roofs and pavement diverted around the area(s), and must be screened or walled to prevent off-site transport of trash.
- iii. Structures, hardscape, and Roads: Runoff from all new and redeveloped surfaces on the site shall be collected and directed through a system of media filter devices and bioswales. The filter elements shall be designed to treat, filter, or infiltrate runoff and a) trap sediment, particulates and other solids and b) remove or mitigate contaminants through filtration and biological uptake. The drainage system shall also be designed to convey and discharge runoff in a non-erosive manner.
- iv. Education and Training: Annual verbal and written training of employees, tenants, landscapers, and property managers and other parties responsible for proper functioning of BMPs in commercial development shall be required. Outdoor drains in the commercial site shall be labeled/stenciled to indicate whether they flow to an on-site treatment device, a storm drain, or the sanitary sewer as appropriate. Storm drain stenciling ("No Dumping, Drains to Ocean" or equivalent phrase) shall occur at all storm drain inlets in the development. Informational signs around the commercial establishments for customers and employees/tenants about water quality and the BMPs used on-site shall be provided.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

17. **Contaminated Soil Investigation and Removal Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit to the Executive

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Director for review and written approval a Contaminated Soil Investigation and Removal Plan for the Synergy and City sites that is consistent with Regional Water Quality Control Board requirements. The Plan shall be developed in consultation with other appropriate agencies, including, but not limited to the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife. The Plan shall include the following components:

- a. Description of all soil sampling and analysis efforts to identify and delineate contaminated areas, including dates, sampling methodologies, and analytical methods.
- b. Results of all soil sampling and analysis activities
- c. Identification of appropriate clean-up thresholds reflecting the ultimate use of the site as wetland habitat subject to tidal influence, and protective of existing surrounding wetlands and habitats. Development of these thresholds shall include input from all appropriate state and federal agencies.
- d. A detailed site plan of all excavation areas including any necessary staging and temporary stockpile areas.
- e. An estimate of the required surface area and volume of soil that must be excavated to achieve appropriate clean-up thresholds. If anticipated excavation activities will result in impacts to wetlands, Southern tarplant, or other sensitive resources that are not addressed in this permit, the Permittee shall submit an application to amend this permit to address additional wetland impacts, unless the Executive Director determines a permit amendment is not necessary.
- f. Avoidance and minimization measures to protect Steamshovel Slough and other wetland and upland habitat areas surrounding the excavation sites.
- g. A post-contaminated soil removal sampling protocol to verify that appropriate clean-up thresholds were achieved.
- h. Provisions for submittal of a final report documenting actual excavation surface areas and volumes and results of post-removal monitoring. If excavation activities result in unanticipated impacts to wetlands, the Permittee shall submit an application to amend this permit to address additional wetland impacts, unless the Executive Director determines a permit amendment is not legally necessary.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

18. **Land Surface Monitoring Plan.** PRIOR TO THE COMMENCEMENT OF OIL DRILLING ACTIVITIES, the Permittee shall submit for Executive Director review and written approval a Land Surface Monitoring Plan. The purpose of the Plan is to establish baseline land surface elevations in vulnerable areas, and then monitor those areas throughout the duration of the project for any significant change. The Plan shall include the following components:
- a. Baseline surface elevations on the project sites and the lands under which the Permittee holds or leases mineral rights for oil and gas extraction. Existing data, if sufficient, may be used to establish a baseline. The Plan shall use a statistical analysis to justify the number of data points used to establish the baseline.

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- b. Baseline data on ground shaking and land surface movement in the project vicinity obtained from available sources such as the U.S. Geological Survey (USGS) and the California Institute of Technology Seismological Laboratory (CalTech).
- c. Protocols for annual monitoring of land surface elevations at locations identified in Subsection a. above.
- d. Protocols for obtaining information on ground shaking and land surface movements in the project vicinity from sources identified in Subsection b. above. The type, frequency and duration of all monitoring activities shall be consistent with the City's monitoring program and shall be described in the Plan.
- e. Criteria developed in consultation with the City, DOGGR and the Executive Director to determine if a change in land surface elevation or the frequency and duration of seismic activity is significant.
- f. If monitoring results indicate significant changes in land surface elevations or land surface movements, the Permittee shall submit a supplemental report to the Executive Director for review and written approval that analyzes potential causes of the observed changes. The report shall specifically address the potential that oil and gas activities approved under this permit contributed to the observed changes. The report shall be submitted within 60 days of submittal of a report indicating significant changes.
- g. If land surface monitoring results, including results from the required supplemental report indicate that oil and gas activities approved under this permit caused or contributed to significant changes in land surface elevations or movement, the Permittee shall submit a Land Surface Mitigation Plan to the Executive Director for review and written approval that identifies additional measures the Permittee will take to address the causes and effects of the identified changes in land surface elevation or movement. The Permittee will apply for an amendment to this permit to implement the identified measures unless the Executive Director determines an amendment is not legally necessary.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

19. **Revised Oil Spill Prevention and Response Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the Applicant shall submit for Executive Director review and written approval, a revised Oil Spill Prevention and Response Plan (OSRP) that includes the following:
 - a. A risk assessment that analyses the oil spill risk and hazards for all project components that could cause an oil spill. The risk assessment shall include an inventory of the hazards that could cause an oil spill, or that have resulted in historical spills, and identify the control measures that will be used to avoid or minimize the risk of an oil spill. The risk assessment shall include a probability analysis of significant oil spills (specifying size, frequency, cause, duration, and location) that could still occur after any or all spill control measures have been implemented, including a cumulative worst-case spill scenario.
 - b. Demonstration that the prevention and response measures included in the Plan address the magnitude of the risk as determined in (a).

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- c. Updated worst case discharge volume and containment volume calculations for the selected pipeline route on the City site consistent with final design and site plans required in **Special Condition 3**.
- d. Detailed site and facility plans and all grading plans for all project components/sites, including the selected pipeline route on the City site (consistent with requirements in **Special Condition 3**), that match the details and results of the oil spill risk and worst-case spill assessment.
- e. Prevention and safety measures. The oil spill prevention and safety measures for all project components/sites, including schedules, methods, and procedures for testing, maintaining, and inspecting pipelines and other facilities, shall comply with California Office of Spill Prevention and Response regulations for Oil Spill Contingency Plans for Marine or Inland Facilities (14 CCR §§ 815.01 – 818.03; 14 CCR § 817.04).
- f. The Plan shall maximize secondary containment of all tanks to the extent feasible.
- g. Incorporate the use of smart pigs or equivalent monitoring technology to inspect the interior of the pipeline to detect internal corrosion, defects or irregularities a minimum of every three years.
- h. Preparedness training and emergency planning. The oil spill training programs for all project components/sites shall comply with California Office of Spill Prevention and Response oil spill training and drills regulations (14 CCR § 820.01).
- i. Evidence of financial responsibility. PRIOR TO OPERATIONS, the OSRP shall include evidence that a Certificate of Financial Responsibility (COFR) has been issued by the California Office of Spill Prevention and Response, demonstrating compliance with 14 CCR § 791-797, for all project components/sites.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

20. No Future Shoreline Protective Device

- a. By acceptance of this permit, the Permittee agrees, on behalf of itself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 9-18-0395 including, but not limited to, oil production facilities including wells, pipelines, tanks, processing equipment and other support infrastructure including in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, liquefaction, bluff retreat, landslides, or other coastal hazards in the future, and as may be exacerbated by sea level rise. By acceptance of this permit, the Permittee hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under applicable law.
- b. By acceptance of this permit, the Permittee further agrees, on behalf of itself and all successors and assigns, that the landowner shall remove the development authorized by this permit, including oil production facilities including wells, pipelines, tanks, processing equipment and other support infrastructure, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above, or if any public agency requires the structures to be removed. If any portion of the

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development at any time encroaches onto public property, the Permittee shall either remove the encroaching portion of the development or apply to retain it. Any application to retain it must include proof of permission from the owner of the public property. The Permittee shall obtain a coastal development permit for removal of approved development unless the Executive Director provides a written determination that no coastal development permit is legally required.

- c. Prior to removal/relocation, the Permittee shall submit two copies of a Removal/Relocation Plan to the Executive Director for review and written approval. The Removal/Relocation Plan shall clearly describe the manner in which such development is to be removed/relocated and the affected area restored so as to best protect coastal resources, including the Pacific Ocean. If portions of the development fall into surrounding waterways or wetlands before they are removed/relocated, the landowner shall remove all recoverable debris associated with the development from the bluffs and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

Seismic and Geotechnical Analysis and Hazard Mitigation Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit for the Executive Director review and written approval, a Seismic Analysis and Safety Plan. The Plan shall include the following:

- a. Detailed design plans for the following:
 - i. Sheetpile wall and berm separating Steamshovel Slough and restored wetlands from the Synergy oil field.
 - ii. All new significant structures, including buildings, pipelines, storage tanks, well cellars, walls and berms
- b. A site-specific geotechnical analysis for each site evaluating:
 - i. Fault rupture hazards, at a minimum evaluating the maximum horizontal and vertical fault displacement that could occur during an earthquake event on the Newport-Inglewood fault with a 1% in 50 year chance of occurrence (1/4,975 annual probability), as determined based on a review of the most current available science.
 - ii. Ground shaking, liquefaction and seismic settlement hazards based on current building codes (e.g., CBC 2016) and ASCE guidelines (e.g., ASCE 7-16) and the most current, best available science
- c. An engineering analysis, specific to each site, demonstrating the following:
 - i. The flood control barriers have been designed to withstand the maximum horizontal and vertical fault displacements indicated in the geotechnical analysis, and describing the specific design elements that would be used to accommodate the expected displacements.
 - ii. Project structures would be designed and constructed to withstand expected levels of ground shaking, liquefaction and ground settlement as determined in the geotechnical analysis, and describing the specific design elements and mitigation measures that would be used to assure the integrity of each structure.

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- d. Specific design recommendations and mitigation measures to address the hazards described in (b) and (c) above.
- e. An Inspection and Maintenance Plan describing in detail the types and frequency of inspections and the procedures that will be followed to maintain the flood control elements and structures in good working condition.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

22. **Greenhouse Gas Reporting.** The Permittee shall submit each year, for Executive Director review, the annual report required pursuant to its participation in the California Air Resources Board's Cap-and-Trade Program. The report is to document GHG emissions from all project sources covered by the Program and shall identify all offsets and credits acquired to fully offset emissions from those sources.

The Permittee shall also submit each year, for Executive Director review, an annual report documenting compliance with applicable requirements of the South Coast Air Quality Management District's Stationary Sources, Rules, and Plans program, or documentation from the District that the project is not subject to the program.

23. **Protection of Cultural Resources**

- a. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit for the review and written approval of the Executive Director an Archeological Research Plan (ARP), prepared consistent with subsections b, c and d of this condition. The ARP shall:
 - i. Include a detailed plan for additional archeological research and testing to better characterize the potential for archeological resources on the site and to identify and accurately delineate (to the maximum extent practicable and in accordance with current professional archeological practices) any resources that may be discovered during the investigations.
 - ii. Address the nature of archeological resources that could be found around the mudflats, beach lines, and wetlands in and around the project sites.
 - iii. Expand upon the existing records search investigation (Fulton & Fulton 2017) by conducting a new search that increases the search radius from within 0.5 miles to within 1.5 miles of the project sites.
 - iv. Address the larger cultural and tribal setting of the project area and describe how the project sites fit into this setting. The ARP shall address potential connections between the project sites and the broader network of prehistoric villages and resources of tribal people in the Long Beach area. The ARP shall address the value of living resources and the cultural significance for the surrounding sites to tribal communities.
 - v. Include further site testing at the Pumpkin Patch, LCWA and Synergy sites, at a minimum, soil core sampling to determine the depth of artificial fill and to characterize the deeper soil layers. The ARP shall address the likelihood of

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archeological resources (including burials) being present and what impacts the proposed project may have on unknown archeological resources under the artificial fill. Additional site testing may also include excavation of test pits and other soil testing methodologies if recommended by the peer review committee (see Item 9).

- vi. If, during archeological testing, any cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural, religious or spiritual sites, midden and lithic material or artifacts, are discovered, they shall not be exposed and the testing shall be immediately halted in this location. Additional testing shall be conducted further from the center of the discovery until sterile conditions are encountered. The ARP does not authorize the excavation of any cultural deposits nor data recovery. Nothing in this condition shall prejudice the ability to comply with applicable State and Federal laws if human remains are encountered. However, in compliance with applicable State and Federal laws the project archaeologist shall work with the County Coroner and other authorities to allow Native American human remains to be left in situ, to the maximum extent practical.
- vii. If resources are discovered, the Permittee shall undertake significance testing of these resources consistent with Subsection d. Based on the results of significance testing, the Permittee shall submit a revised ARP describing the nature and boundaries of any archeological sites. The revised ARP shall also identify proposed investigation and mitigation measures. If there is disagreement between the project archeologist and the Native American monitors and/or the Native American most likely descendent (MLD), both perspectives shall be presented to the Executive Director. The range of investigation and mitigation measures considered shall not be constrained by the approved development. Mitigation measures considered shall range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and creating an open space area around the cultural resource areas. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the final, approved ARP.
 - 1. If the Executive Director approves the revised ARP and determines that the revised ARP's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the Permittee of that determination.
 - 2. If the Executive Director approves the revised ARP but determines that the changes therein are not de minimis, construction may not recommence until after the Commission approves an amendment to this permit.
- viii. Archeological and cultural resource monitoring shall be consistent with subsection c of this condition;

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- ix. The ARP shall be reviewed by an archaeological peer review committee, Native American groups and agency review process, consistent with Subsection f.
- b. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit for the review and written approval of the Executive Director an Archaeological Monitoring and Mitigation Plan for the protection of archaeological/paleontological resources during project grading and construction activities, prepared by a qualified professional, consistent with **Subsections c, d, e, f and g** of this condition, which shall incorporate the following measures and procedures:
- i. The Archeological Monitoring and Mitigation Plan shall incorporate all measures and changes in the proposed development included by the approved revised ARP, if required, as described in Subsection a.
 - ii. During all digging, ground disturbance, and subsurface activity on the site, archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards and the Native American MLDs from each tribe when State Law mandates identification of MLDs, shall be present on the site.
 - iii. Also present during all digging, ground disturbance, and subsurface activity on the site shall be a minimum of 1 set of Native American monitors for every location of ground disturbance; 1 set shall include 2 individual monitors representing the Tribes identified on the Native American Heritage Commission's list (NAHC list). Both Native American monitors in the set shall be present at the same time and monitoring the same location.
 - iv. More than 1 set of monitors on the site may be necessary during times with multiple grading and soil disturbance locations.
 - v. Tribal representatives selected for the monitoring set shall be rotated equally and fairly among all tribal groups identified on the NAHC list, such that every tribal group has an equal opportunity to monitor on the site.
 - vi. During all digging, ground disturbance, and subsurface activity on the site, any Native American representatives from Tribes on the NAHC list are welcome to be present on the site and monitor, even if they are not the assigned set of monitors within the rotation for that day.
 - vii. The Permittee shall provide sufficient archeological and Native American monitors to assure that all project grading or other development that has any potential to uncover or otherwise disturb cultural deposits is monitored at all times. All archaeological monitors, Native American monitors and Native American most likely descendants (MLD) shall be provided with a copy of the final revised archaeological monitoring and mitigation plan required by this permit. Prior to commencement of grading, the Permittee shall convene an on-site pre-grading meeting with the all archaeological monitors, Native American monitors and Native American MLDs along with the grading contractor, the Permittee and the applicant's archaeological consultant in order to ensure that all parties understand the procedures to be followed pursuant to the subject permit condition and the approved archaeological monitoring and mitigation plan, including the procedures for dispute resolution. At the conclusion of the meeting all attendees shall be required to sign a declaration,

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which has been prepared by the applicant, subject to the review and written approval of the Executive Director, stating that they have received, read, discussed and fully understand the procedures and requirements of the approved Archaeological Monitoring and Mitigation Plan and agree to abide by the terms thereof. The declaration shall include contact phone numbers for all parties and shall also contain the following procedures to be followed if disputes arise in the field regarding the procedures and/or terms and conditions of the approved Archaeological Monitoring and Mitigation Plan. Prior to commencement of grading, a copy of the signed declaration shall be given to each signatory and to the Executive Director.

1. Any disputes in the field arising among the archaeologist, archaeological monitors, Native American monitors, Native American MLD, the grading and construction contractors or the applicant regarding compliance with the procedures and requirements of the approved archaeological monitoring and mitigation plan shall be promptly reported to the Executive Director via e-mail and telephone.
 2. All work shall be halted in the area(s) of dispute. Work may continue in area(s) not subject to dispute, in accordance with all provisions of this special condition.
 3. Disputes shall be resolved by the Executive Director, in consultation with the archaeological peer reviewers, Native American monitors, Native American MLD, the archaeologist and the Permittee. The Executive Director shall make a good faith effort to resolve the dispute within 20 working days after notification of the Executive Director.
 4. If the dispute cannot be resolved by the Executive Director in the timeframe described in subsection 3. above, said dispute shall be reported to the Commission for resolution at the next regularly scheduled Commission meeting or as soon as practicable after the dispute is referred to the Executive Director.
- viii. If any cultural deposits are discovered during project grading or construction, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, the Permittee shall carry out significance testing of said deposits and, if cultural deposits are found by the Executive Director to be significant pursuant to **Subsection d** of this condition and any other relevant provisions, additional investigation and mitigation in accordance with all subsections of this special condition;
- ix. If any cultural deposits are discovered, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, all development shall cease in accordance with **Subsection c** of this special condition;
- x. In-situ preservation and avoidance of cultural deposits shall be considered as the preferred mitigation option, to be determined in accordance with the process outlined in this condition, including all subsections. A setback shall be established between the boundary of cultural deposits preserved in-situ and/or

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reburied on-site and any proposed development; the setback shall be no less than 50 feet and may be larger if necessary to protect the cultural deposits;

- xi. If human remains are encountered, the Permittee shall comply with applicable State and Federal laws. Procedures outlined in the monitoring and mitigation plan shall not prejudice the ability to comply with applicable State and Federal laws. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Where appropriate and consistent with State and Federal laws, the treatment of remains shall be decided as a component of the process outlined in the other subsections of this condition.

c. Discovery of Cultural Deposits. If an area of cultural deposits, including but not limited to skeletal remains and grave-related artifacts, traditional cultural sites, religious or spiritual sites, or other artifacts, is discovered during the course of the project, all grading and construction activities in the area of the discovery that have any potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that may foreclose mitigation options or the ability to implement the requirements of this condition shall cease and shall not recommence except as provided in **Subsections e and f** and other subsections of this special condition. In general, the area where construction activities must cease shall be no less than a 200-foot wide buffer around the cultural deposit.

d. Significance Testing Plan Required Following the Discovery of Cultural Deposits. PRIOR TO RECOMMENCING CONSTRUCTION, the Permittee, following a discovery of cultural deposits, shall submit a Significance Testing Plan for the review and written approval of the Executive Director. The Significance Testing Plan shall identify the testing measures that will be undertaken to determine whether the cultural deposits are significant. The Significance Testing Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), and the Most Likely Descendent (MLD) when State Law mandates identification of a MLD. Once a plan is deemed adequate, the Executive Director will make a determination regarding the significance of the cultural deposits discovered:

- i. If the Executive Director approves the Significance Testing Plan and determines that the Significance Testing Plan's recommended testing measures are de minimis in nature and scope, the significance testing may commence after the Executive Director informs the permittee of that determination.
- ii. If the Executive Director approves the Significance Testing Plan but determines that the measures therein are not de minimis, significance testing may not commence until after the Commission approves an amendment to this permit.
- iii. Once the measures identified in the Significance Testing Plan are undertaken, the permittee shall submit the results of the testing to the Executive Director for review and written approval. The results shall be accompanied by the project archeologist's recommendation as to whether the findings should be considered significant. The project archeologist's recommendation shall be made in consultation with the Native American monitors and the MLD when

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State Law mandates identification of a MLD. If there is disagreement between the project archeologist and the Native American monitors and/or the MLD, both perspectives shall be presented to the Executive Director. The Executive Director shall make the determination as to whether the deposits are significant based on the information available to the Executive Director. If the deposits are found to be significant, the permittee shall prepare and submit to the Executive Director a supplementary Archeological Plan in accordance with **Subsection e** of this condition and all other relevant subsections. If the deposits are found to be not significant by the Executive Director, then the Permittee may recommence grading in accordance with any measures outlined in the Significance Testing Plan.

- e. **Supplementary Archeological Plan Required Following an Executive Director Determination that Cultural Deposits are Significant.** PRIOR TO RECOMMENCING CONSTRUCTION, the Permittee, following a determination by the Executive Director that the cultural deposits discovered are significant, shall submit a ~~Supplementary Archeological Plan for the review and written approval of the Executive Director.~~ The Supplementary Archeological Plan shall be prepared by the project archaeologist(s), in consultation with the Native American monitor(s), the MLD when State Law mandates identification of a MLD, as well as others identified in subsection f of this condition. The supplementary Archeological Plan shall identify proposed investigation and mitigation measures. If there is disagreement between the project archeologist and the Native American monitors and/or the MLD, both perspectives shall be presented to the Executive Director. The range of investigation and mitigation measures considered shall not be constrained by the approved development plan. Mitigation measures considered shall range from in-situ preservation to recovery and/or relocation. A good faith effort shall be made to avoid impacts to cultural resources through methods such as, but not limited to, project redesign, capping, and creating an open space area around the cultural resource areas. In order to protect cultural resources, any further development may only be undertaken consistent with the provisions of the final, approved, Supplementary Archeological Plan.
- i. If the Executive Director approves the Supplementary Archeological Plan and determines that the Supplementary Archeological Plan's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after the Executive Director informs the Permittee of that determination.
 - ii. If the Executive Director approves the Supplementary Archeological Plan but determines that the changes therein are not de minimis, construction may not recommence until after the Commission approves an amendment to this permit.
- f. **Review of Plans Required by Archeological Peer Review Committee, Native American Groups and Agencies.** Prior to submittal to the Executive Director, all plans required to be submitted pursuant to this special condition, including the revised ARP and the monitoring and mitigation plan during project grading, excepting any Significance Testing Plan, shall have received review and written comment by a peer review committee convened in accordance with current professional practice. The Committee

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shall consist of 3 professional archeologists with experience in Los Angeles and/or Orange Counties. Names and qualifications of selected peer reviewers shall be submitted for review and written approval by the Executive Director. The Executive Director shall make a good faith effort to complete the review within 20 working days after submittal to the Executive Director. Representatives of Native American groups with documented ancestral ties to the area, as determined by the NAHC, shall also be invited to review and comment on the above required plans. The plans submitted to the Executive Director shall incorporate the recommendations of the peer review committee and the Native American groups or an explanation provided as to why the recommendations were rejected. Furthermore, upon completion of the peer review and Native American review process, and prior to submittal to the Executive Director, all plans shall be submitted to the California Office of Historic Preservation (OHP) and the NAHC for their review and an opportunity to comment. The plans submitted to the Executive Director shall incorporate the recommendations of the OHP and NAHC. If any of the entities contacted for review and comment do not respond within 30 days of their receipt of the plan, the requirement under this permit for those entities' review and comment shall expire, unless the Executive Director extends said deadline for good cause. All plans shall be submitted for the review and written approval of the Executive Director.

- g. **Final Report.** At the completion of the revised ARP and the Archaeological Monitoring and Mitigation Plan, the Permittee shall prepare a report, subject to the review and written approval of the Executive Director, which shall include but not be limited to, detailed information concerning the quantity, types, location, and detailed description of any cultural resources discovered on the project site, analysis performed and results and the treatment and disposition of any cultural resources that were excavated. The report shall be prepared consistent with the State of California Office of Historic Preservation Planning Bulletin #4, "Archaeological Resource Management Reports (ARMR): Recommended Contents and Format". The final report shall be disseminated to the Executive Director and the South Central Coastal Information Center at California State University at Fullerton.
- h. The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director determines that no amendment is legally required.

24. **Tribal Culture Education Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITIES ON THE SYNERGY SITE, the Permittee shall submit to the Executive Director for review and written approval a Tribal Culture Education Plan. The Plan shall describe educational materials and activities to be provided at the Visitor's Center to educate visitors about the history and culture of all tribal peoples with a cultural connection to the Los Cerritos Wetlands. The Plan shall seek to include a variety of tribal perspectives and shall be representative and respectful of all tribal peoples. The Plan shall include the following components:
- a. The Permittee shall work with tribal representatives to develop an educational plan for the Visitor's Center.
- i. The Permittee shall contact all tribal members on the NAHC list to gather feedback on the types of materials, displays, activities or other educational

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components the tribal members would like include at the Visitor's Center. The Permittee shall provide an adequate amount of time, and no less than 45 days for tribal representatives to respond.

- ii. Based on the feedback received from tribal representatives, the Applicant shall develop a draft Plan describing tribal educational materials and activities to be provided at the Visitor's Center.
 - iii. The Permittee shall submit this Plan to all tribal members on the NAHC list to provide them an opportunity to comment on the draft Plan. The Permittee shall provide an adequate amount of time, and no less than 60 days for tribal representatives to provide comments.
- b. If there is a disagreement among different tribal representatives on the content or types of materials and activities to be included, the Permittee will present different alternatives in the Plan that is submitted to the Executive Director.
 - c. The Plan shall provide for maintenance and upkeep of the educational materials and activities.
 - d. The Plan should include a process to re-evaluate tribal educational materials and activities with interested tribal representatives on the NAHC list every five years.
 - e. The Permittee shall implement the final approved Plan within one year of approval by the Executive Director unless he or she determines that additional time is warranted. Any subsequent changes to the Plan must be submitted to the Executive Director for review and written approval.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

25. **Visual Compensation Plan.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit for Executive Director review and written approval a Visual Compensation Plan to address the adverse visual effects of the proposed project. The Visual Compensation Plan shall include the following:
- a. Descriptions and photographs of existing visual conditions from viewpoints around the project sites and descriptions and visual simulations of conditions expected during typical periods of project construction and operations during the upcoming 20-year project life. The visual simulations are to encompass visual conditions during both maximum and minimum levels of activities at the project sites. [Note: these may be expanded versions of the visual elements provided in the project EIR.]
 - b. Descriptions of the viewsheds from within which the proposed project's components are visible, including aerial views or maps showing the extent of the viewsheds surrounding the project sites.
 - c. Measures proposed to restore and enhance visual quality within visually degraded areas of the nearby coastal zone within these viewsheds. Cumulatively, the measures proposed shall be roughly proportional in scale to the visual components of the proposed project, and/or be visible to a significant portion of the public using the coastal zone in the project vicinity. These measures may include, but not be limited to, any of the following improvements to public views to or along the shoreline:

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- i. Removing or reducing in size structures that block or inhibit public views to or along the shoreline.
- ii. Adding screening to existing blighted or degraded structures visible from public locations to or along the shoreline.
- iii. Restoring or repairing blighted or degraded structures visible from public locations to or along the shoreline.
- iv. Providing landscape enhancements to areas visible from public locations to or along the shoreline.

For each of these proposed restoration and enhancement measures, the Plan is to include photographs of existing conditions and visual simulations of conditions expected upon implementation of each measure.

- d. A schedule that assures the proposed measures will be implemented in concert with project development.
- e. A description of all approvals and legal instruments needed to implement the proposed measures.
- f. Provision for a final post-implementation report demonstrating the visual improvements achieved by implementation of the visual enhancement measures.

The Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.

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

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19STCP00435

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NON-PROFIT PUBLIC BENEFIT CORPORATION vs
CALIFORNIA COASTAL COMMISSION, A CALIFORNIA
PUBLIC AGENCY, et al.**

1:30 PM

Judge: Honorable Mary H. Strobel
Judicial Assistant: N DiGiambattista
Courtroom Assistant: R Monterroso

CSR: Cindy Cameron/CSR 10315
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Livia Beaudin (Telephonic) (X)

For Respondent(s): Ginetta Giovinco (X) (Telephonic); Alan Asher Greenberg (X) (Telephonic);
Michael J Mais (X) (Telephonic) -- See additional appearances below.

NATURE OF PROCEEDINGS: HEARING ON PETITION FOR WRIT OF MANDATE

Matter comes on for hearing and is argued.

Petitioner's exhibit 1 (administrative record) is admitted into evidence.

The court adopts its tentative ruling as the order of the court and is set forth in this minute order.

Petitioners Puvunga Wetlands Protectors and Anna Christensen ("Petitioners") petition for a writ of administrative mandate directing California Coastal Commission ("Commission") to set aside its approval of a Coastal Development Permit ("CDP") for consolidation of an oil and gas development and wetlands restoration project ("Project") on four sites in the City of Long Beach ("City"). Commission and Real Parties in Interest Beach Oil Minerals, LLC, Lyon Housing (Pumpkin Patch) XLV, LLC, and Los Cerritos Wetlands, LLC ("Real Parties") separately oppose the petition, and Real Party in Interest Los Cerritos Wetlands Authority ("LCWA") joins the opposition.

Background

Project Site

The Project spans four distinct sites in the Los Cerritos Wetlands Complex and within the Coastal Zone. (AR 49-50, 151.) These are known as the "Synergy," "City," "Pumpkin Patch," and "LCWA" sites. (AR 150 [site map].) Since the mid-1920s, the two largest sites (i.e., the

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Synergy and City sites) have been used for oil and gas production. (AR 49-50.) Current operations on the Synergy and City sites include a total of 106 acres of aging oil and gas facilities (like wells, above-ground pipelines, tanks, transformers, and other production equipment). (AR 49-50, 84; see, e.g., AR 5054-5059, 5062, 19518-19522 [photographs]; AR 153, 155 [aerials].) Most of the equipment is old and outdated, which contributes to the relatively low annual production from the field in recent history. (AR 49-50.)

The Pumpkin Patch Site is an approximately 7-acre disturbed site that is currently used seasonally for the sale of pumpkins and Christmas trees. (AR 50.) The LCWA site is an approximately 5-acre disturbed industrial site that is generally used as a temporary storage and staging area. In 2007, Real Party LCWA accepted an offer of dedication for this site. Other than some non-native trees on the perimeter, the LCWA site is generally devoid of vegetation. (Ibid.)

The wetlands in this area have been severely degraded by urban developments, including oil production. (AR 49, 151, 609.) Only a few remnant wetlands remain. (AR 49.) One such wetland, the relatively pristine 30-acre Steamshovel Slough, lies within the northern part of the Synergy oil field property. (Ibid.) The 150-acre Synergy site is divided into a 76.5-acre northern section and 73.1-acre southern section. (AR 49, AR 153 [Figure of northern and southern sites]). All existing oil production facilities are located on the southern site, interspersed among wetlands and wildlife. (AR 49.)

Project Description

The Project consists of five main components:

- (1) Construction and operation of two new oil production facilities on the Pumpkin Patch and LCWA sites, including drilling up to 120 new wells with a maximum production capacity of 24,000 barrels per day.
- (2) Construction and operation of a 2,200 foot above-ground pipeline on the City site that connects the Pumpkin Patch and LCWA sites.
- (3) Decommissioning of existing oil productions at the Synergy, Pumpkin Patch, and City sites over a 20-year period.
- (4) Conversion of an existing building into a Visitor's Center for the Los Cerritos Wetlands on the southern portion of the Synergy site.
- (5) Implementation of a wetlands restoration project and mitigation bank on the northern portion

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of the Synergy site. (AR 50-51; see also 51-59 [detailed description of Project components].)

CEQA Review

Between April 2016 and January 2018, the Project underwent environmental review under CEQA. City certified an EIR and adopted corresponding CEQA findings, a statement of overriding considerations (“SOC”), and a mitigation monitoring and reporting program (“MMRP”) in January 2018. (See e.g. AR 15235-26 [City Council resolution], 12369-14690 [FEIR].) In this writ action, Petitioners have not challenged the City’s approval of the Project under CEQA, or any other land use entitlements granted by the City.

Commission Approves Coastal Development Permit

On December 13, 2018, in a lengthy public hearing, Commission considered an application of Real Parties Beach Oil Minerals (“BOM”) and LCWA for a Coastal Development Permit (“CDP”) for the Project. (AR 19855.) The Commission’s initial staff report, which was published prior to the hearing, recommended 25 special conditions to mitigate the environmental impacts of the project. (AR 2568-2607.) The Commission received 70-80 comments, approximately one-half supporting the project, and one-half objecting. (AR 19855.) An addendum added a twenty-sixth special condition (AR 2715), and responded to comments about the project. (AR 2701-2716.) Commission staff presented its recommendations orally during the hearing and described the main benefits to the public: the restoration of a small area of wetlands and the ability to restore a much larger area in the future, and the certainty of a timeline for removal of the existing aging and outdated oil infrastructure. (AR 19873.)

After hearing from the applicant, tribal leaders, conservation groups, and members of the public, the Commission voted 6-3 to approve the project’s coastal development permit. (AR 1- 146 [final adopted findings]; AR 19854-20103 [hearing transcript].) The Commission imposed 26 special conditions on the Project. (AR 20175-20217.)

The Commission assessed the Project’s consistency with each of the policies in Chapter 3 of the Coastal Act — i.e., wetland resources (§ 30233), environmentally sensitive biological resources (§ 30240), water quality (§§ 30230-30231), oil and gas development (§ 30262), oil spills (§ 30232), visual resources (§ 30251), geological hazards (§ 30253(a)-(b)), greenhouse gas emissions (§ 30253(c)), cultural and tribal resources (§ 30244), public access and recreation (§§

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30210 & 30214), and environmental justice (§ 30604(h)). (AR 60-138.) For all but two of those policies (i.e., visual resources [§ 30251] and oil spills [§ 30232]), the Commission found the Project is consistent with Chapter 3's policies. (See AR 72, 83, 85-86, 117, 123-124, 132, 134, & 137-138.)

The Commission approved the project despite its inconsistency with the Oil Spill and Visual Resources policies of the Coastal Act, finding that the project met the three-part test of the override provision in section 30260, as further discussed below. (Pub. Res. Code § 30260; see AR 86-97, 138-145.)

Procedural History

On February 11, 2019, Petitioner Puvunga filed a verified petition for writ of mandate pursuant to CCP section 1094.5. On August 2, 2019, Petitioners Puvunga and Christensen filed a first amended petition ("FAP") for writ of mandate.

On October 27, 2020, after a hearing and briefing, the court denied the motion of Real Parties for an order tolling term of the Coastal Development Permit.

On December 7, 2020, Petitioners filed their opening brief ("OB") in support of the writ petition. The court has received hyperlinked opposition briefs from Real Parties and Commission, the joinder of Real Party in Interest Los Cerritos Wetlands Authority, Petitioners' reply, the administrative record, and the joint appendix.

Standard of Review

Under CCP section 1094.5(b), the pertinent issues are whether the respondent has proceeded without jurisdiction, whether there was a fair trial, and whether there was a prejudicial abuse of discretion. An abuse of discretion is established if the agency has not proceeded in the manner required by law, the decision is not supported by the findings, or the findings are not supported by the evidence. (CCP § 1094.5(b).)

The trial court reviews Commission's decision and findings under the substantial evidence test. "The trial court presumes that the agency's decision is supported by substantial evidence, and the party challenging that decision bears the burden of demonstrating the contrary. [Citation] In

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reviewing the agency's decision, the court examines the whole record and considers all relevant evidence, including that evidence which detracts from its decision. [Citation.] Although this task involves some weighing to fairly estimate the worth of the evidence, that limited weighing does not constitute independent review where the court substitutes its own findings and inferences for that of the Commission. Rather, it is for the Commission to weigh the preponderance of conflicting evidence, as [the court] may reverse its decision only if, based on the evidence before it, a reasonable person could not have reached the conclusion reached by it.” (Lindstrom v. Cal. Coastal Com. (2019) 40 Cal.App.5th 73, 93.)

Substantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion (California Youth Authority v. State Personnel Board (2002) 104 Cal. App. 4th 575, 584-85), or evidence of ponderable legal significance which is reasonable in nature, credible and of solid value. (Mohilef v. Janovici (1996) 51 Cal. App. 4th 267, 305 n. 28.)

““On questions of law arising in mandate proceedings, [the court] exercise[s] independent judgment.”” (Christensen v. Lightbourne (2017) 15 Cal.App.5th 1239, 1251.) To the extent “purely legal issues involve the interpretation of a statute [or regulation] an administrative agency is responsible for enforcing, [the court] exercise[s] [its] independent judgment, ‘taking into account and respecting the agency's interpretation of its meaning.’” (Housing Partners I, Inc. v. Duncan (2012) 206 Cal.App.4th 1335, 1343; see also Yamaha Corp. of America v. State Bd. Of Equalization (1998) 19 Cal.4th 1, 11.)

Analysis

Exhaustion of Administrative Remedies

Real Parties and Commission contend that Petitioners failed to exhaust their administrative remedies for all (Real Parties) or most (Commission) of the arguments made in Petitioners’ writ briefs.

“Where an administrative remedy is provided by statute, this remedy must be exhausted before the courts will act. This is not a matter of judicial discretion, but is a fundamental rule of procedure laid down by courts of last resort, followed under the doctrine of stare decisis, and binding upon all courts. The rationale for the rule is that an agency is entitled to learn the contentions of interested parties before litigation arises, so it will have an opportunity to address

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the contentions and perhaps render litigation unnecessary. To advance this purpose an interested party must present the exact issue to the administrative agency that is later asserted during litigation or on appeal. General objections, generalized references or unelaborated comments will not suffice. [T]he objections must be sufficiently specific so that the agency has the opportunity to evaluate and respond to them. The petitioner bears the burden of demonstrating that the issues raised in the judicial proceeding were first raised at the administrative level.” (Greene v. California Coastal Com. (2019) 40 Cal.App.5th 1227, 1237 [Property owners' general arguments before Coastal Commission did not put Commission on notice of takings issue, and thus, owners did not exhaust their administrative remedies on this issue].)

“To satisfy the exhaustion requirement, [Petitioners] were required to present the ‘exact issue’ to the administrative agency.” (Green, supra, at 1238.) “Less specificity is required to preserve an issue for appeal in an administrative proceeding than in a judicial proceeding.” (East Peninsula Ed. Council, Inc. v. Palos Verdes Peninsula Unified School Dist. (1989) 210 Cal.App.3d 155, 176-177.) Nonetheless, to prove that they exhausted their administrative remedies, Petitioners must show that they fairly alerted the Commission to the issues raised in their writ briefs. (Ibid.)

Public Resources Code section 30801 sets forth a specific exhaustion requirement for proceedings before the Commission, and provides in relevant part:

Any aggrieved person shall have a right to judicial review of any decision or action of the commission by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure

For purposes of this section ..., an “aggrieved person” means any person who, in person or through a representative, appeared at a public hearing of the commission, local government, or port governing body in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the commission, local government, or port governing body of the nature of his concerns or who for good cause was unable to do either. (§ 30801.)

Petitioners concede that Petitioner Puvunga Wetlands Protectors “did not exist until after the Commission rendered its decision” and therefore did not participate in the administrative proceedings. (Reply 5, fn. 2.) Petitioners contend that “[b]ecause it was impossible for Petitioner Puvunga to appear before the Commission good cause exists for its failure to do so.” (Ibid.) The

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court is not persuaded by this interpretation of the “good cause” exception in section 30801, which would substantially weaken the exhaustion requirement for entities created after the Commission proceedings.

However, Petitioner Christensen appeared in the administrative proceedings and informed the Commission of her concerns about approval of the CDP. (See e.g. 2760, 2775-2789, 19930-57.) Accordingly, she exhausted administrative remedies for issues she raised to Commission below. For the specific arguments raised in Petitioners’ writ briefs, the court analyzes below whether Petitioner Christensen exhausted administrative remedies based on written and oral statements she or other persons presented to the Commission.

In the reply brief, Petitioners suggest that they could exhaust administrative remedies if the issue was raised by other participants in the Commission proceedings, even though such persons or entities are not parties to this writ petition. (See e.g. Reply 12:21-24 [“Petitioners and others commented that the plans required via Special Conditions should have been submitted to the Commission prior to project approval”]; Reply 16:7-8 [same].) Because this argument was raised in reply, Real Parties and Commission have not had the opportunity to respond. They should do so at the hearing. Subject to argument at the hearing, the court is inclined to interpret section 30801 similarly to the exhaustion requirement that applies in CEQA cases. (See Pub. Res. Code § 21177(a).) Under CEQA, the exhaustion requirement is satisfied if the issue was “presented to the public agency orally or in writing by any person...” (Pub. Res. Code § 21177(a).) Although section 30801 is not identical, it does not state that the “aggrieved person” is prohibited from raising arguments on writ review that were presented to the Commission by other persons. A stricter interpretation of section 30801 would seem inconsistent with section 30009, which requires the Coastal Act to be “liberally construed to accomplish its purposes and objectives.” The court would reach the same result on this writ petition even if the exhaustion requirement were strictly construed to require the “aggrieved person” to have exhausted the specific argument at issue.

Commission’s Public Welfare Findings Under Section 30260

The Commission approved the project despite its inconsistency with the Oil Spill and Visual Resources policies of the Coastal Act, finding that the project was subject to the override provision in section 30260 and that it met its three-part test. (Pub. Res. Code § 30260; see AR 86-97, 138-145.) Section 30260 provides in full:

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Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division. However, where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30261 and 30262 if (1) alternative locations are infeasible or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the maximum extent feasible. (§ 30260.)

Petitioners' Writ Contentions; and Exhaustion of Administrative Remedies

Petitioners contend that Commission's finding that denying the project would be against the public interest was improperly based on the benefits of the land swap and the wetlands restoration rather than the expanded oil and gas development alone. (OB 10.) Petitioners contend that the Commission should have denied the oil and gas project because (1) there is little need for oil and gas infrastructure due to the decrease in use of fossil fuels, and (2) the benefit of decommissioning older infrastructure is outweighed by the "increased potential spill risk." (OB 9.)

Real Parties contend that Petitioners failed to exhaust administrative remedies for these arguments. (RP Opp. 16.) In reply, Petitioners contend that "Petitioner and numerous others took issue with the Commission's override consistency determination, including the project description. (AR19964[Marcia Hanscom, Ballona Institute and Wetlands Defense, CDP hearing, first and second prong of override provision not met]; AR19973 [Steve Brothers, CDP hearing, second prong not met]; AR14837 ["Again, I understand that the promise of Wetlands restoration is driving today's hearing and the pressure to approve the modified LCP document before you."]; AR4618-4619; AR15044; AR15192)." (Reply 7.) Petitioners also cite comments from Commission staff, Commissioners, and others that the "impetus" behind the Project is the expansion and relocation of Real Parties' existing oil operations. (Reply 8.)

Petitioners do not cite any evidence that they, or any other commenters, raised their contention that Commission could not base its public welfare finding, in part, on the benefits of the land swap and the wetlands restoration. However, Commission itself analyzed and considered that legal issue, and members of the public raised concerns about Commission's analysis of the

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second prong of section 30260. In that circumstance, and where Petitioner Christensen participated in the administrative proceedings, the court considers the issue preserved for writ review. (AR 141-143.)

Commission Correctly Interpreted the Override Provision in Section 30260

As noted, Petitioners contend that the Commission’s finding that denying the project would be against the public interest was improperly based on the benefits of the land swap and the wetlands restoration rather than the expanded oil and gas development alone. (OB 10.) In effect, Petitioners contend that Commission applied the wrong legal standard with respect to the public welfare prong of section 30260.

Petitioners raise a question of statutory construction. “To determine legislative intent, we turn first to the words of the statute, giving them their usual and ordinary meaning. [Citations.] When the language of a statute is clear, we need go no further. However, when the language is susceptible of more than one reasonable interpretation, we look to a variety of extrinsic aids, including the ostensible objects to be achieved, the evils to be remedied, the legislative history, public policy, contemporaneous administrative construction, and the statutory scheme of which the statute is a part.” (Nolan v. City of Anaheim (2004) 33 Cal.4th 335, 340.)

Real Parties contend that the plain language of section 30260 does not support Petitioners’ narrow interpretation. (RP Oppo. 19-20.) The court agrees. Section 30260 does not expressly limit or constrain Commission’s discretion to consider non-industrial benefits or detriments to the public welfare of the proposed project.

Petitioners rely on Gherini v. California Coastal Co. (1998) 204 Cal.App.3d 699. In Gherini, the Commission rejected a proposal that would allow new hydrocarbon development on Santa Cruz Island in an area that was designated as a National Park and an Area of Special Biological Significance, and surrounded by a marine sanctuary. (Id., at 706-707.) Evaluating whether an “override” was appropriate, the Commission “determined that energy development on the island would be inconsistent with the resource protection policies of the Act” and that the public welfare would not be adversely affected by prohibition of energy development on the island. (Id. at 707-708.) Similarly to Petitioners, the Gherini applicant argued it was improper for the Commission to consider “environmental effects of development” in its public welfare analysis and that the Commission must focus “solely” on whether there would be an “adverse impact on

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the public welfare of prohibiting energy development.” (Id. at 707.) The Court of Appeal disagreed, stating “We do not read the section so narrowly.” The Court held that “a determination of what will adversely affect the public welfare requires consideration of the preservation and protection of the state’s natural resources and the ecological balance of the coastal zone as well as the need for a particular type of coastal-dependent development.” (Id. at 707-708.) The Court held that the Commission “properly balanced the risk of harm to the highly sensitive and unique natural resources in and around Santa Cruz Island against the public’s need to permit oil and gas development in ascertaining whether refusal to permit such hydrocarbon development would adversely affect the public welfare.” (Ibid.)

Petitioners contend that Gherini “confirms the Commission should consider the positive and negative direct impacts of the oil and gas development, not non-industrial incentives as the Commission did here.” (Reply 10.) The court is not persuaded by this narrow reading of Gherini, especially where non-industrial aspects of the Project are designed to promote protection of natural resources in the Coastal Zone. Although the Gherini Court upheld a Commission determination that the public welfare requirement was not satisfied, Gherini strongly supports Commission’s decision in this case to consider both the preservation and protection of the state’s natural resources—the wetlands—and the need for the oil and gas infrastructure. As stated in Gherini, legislative findings for the Coastal Act recognize that “the public welfare involves both protection and preservation of natural coastal resources and the need for some coastal development.” (Gherini, *supra* at 708; see Pub. Res. Code § 30001, § 30001.2

Further, Real Parties argue Petitioners’ interpretation of the public welfare prong is problematic because it would require Commission to evaluate a hypothetical version of the Project that the applicant has not proposed — a project that only includes oil and gas development and does not include any wetland restoration, nor provision of public access and public ownership of the wetlands. Petitioners’ interpretation would require the Commission to “piecemeal” or “split” the Project in a manner that is not required in the statute. (See RP Oppo. 20-21.)

In reply, Petitioners contend that, under Real Parties’ and Commission’s interpretation, “applicants could simply add infinite project features until the scales tipped in their favor. For example, an oil and gas drilling project could be coupled with a cash donation to a local agency or foundation for a land purchase. Petitioners argue that interpretation would stretch the statute beyond its literal and logical confines.” (Reply 10-11.) Unlike these hypotheticals, the Commission’s public welfare finding was based directly on Project benefits to natural resources

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– wetlands – that fall squarely within the scope of the Coastal Act. (See Pub. Res. Code § 30001.) The court need not and does not decide whether Commission’s discretion under section 30260 extends to Petitioner’s hypothetical scenarios.

Based on the foregoing, Petitioners do not show that Commission prejudicially abused its discretion or failed to proceed as required by law in the manner it interpreted the public welfare requirement of section 30260.

Substantial Evidence Supports Commission’s Public Welfare Findings

Petitioners contend that the Commission’s public welfare findings are not supported by substantial evidence because (1) there is little need for oil and gas infrastructure due to the decrease in use of fossil fuels, and (2) the benefit of decommissioning older infrastructure is outweighed by the “increased potential spill risk.” (OB 9-10, citing AR 2, 12, 84, 87, 120.) Petitioners contend that the Commission’s denial of a 1998 application for a different oil and gas development on one of the Project sites (the “Samedan project”) undermines the Commission’s finding that denying this Project would adversely affect the public welfare. (OB 9-10, citing AR 608.)

The court’s role is to consider whether the Commission’s decision regarding the public welfare is supported by substantial evidence, not whether there is support for a different decision. There was substantial evidence before the Commission to support its decision that denying the permit would be against the public welfare. Commission found that the principal public benefits from the Project would be: (1) “immediate restoration of 29.66 acres of salt marsh and mudflat habitat and about 6 acres of wetlands buffer areas”; (2) “preservation of 32 acres of relatively pristine salt marsh, mudflat and subtidal habitat in Steamshovel Slough”; (3) “the construction of a Visitor’s Center and a trail on the adjacent upland which would allow the public to access a valuable biological resource that has been locked away on private land for almost 100 years”; (4) the opportunity for tribal communities “to educate the public on their culture and connection to the wetlands and to experience a small part of their cultural landscape returned to a natural state”; (5) “the possibility of restoring up to 106 additional acres after the 20 year decommissioning period is completed”; and (6) “the decommissioning of existing aging oil infrastructure which would eliminate a potential oil spill risk and a visual blight from the Los Cerritos Wetlands area. (AR 141-143.)

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In their writ briefs, Petitioners do not dispute that substantial evidence supports Commission's findings that the Project would have these public benefits. Based on the court's independent review, the court finds substantial evidence supporting these findings. (See e.g. AR 49-50; 5054-61, 19518-522 [photographs]; 153-168 [aerials]; 1455-56 [chart comparing existing and proposed conditions]; 19524-566 [PowerPoint slides]; 4989, 5023 [draft EIR].)

Commission also acknowledged "BOM's proposed project also imposes potential risks to the public," including "a significant visual impact from the drill rig for a twelve year period" and oil spill risks. (AR 141-143.) Commission also considered the uncertainty with respect to wetlands preservation and restoration that would be caused by denial of the Project: "If the proposed project does not move forward, it is uncertain what would happen with the four project sites. Synergy Oil, the current operator of the Synergy and City sites, could continue to operate the oil fields indefinitely.... At this time, the only way to ensure restoration of these wetlands on an established timeline would be to approve the proposed project." (AR 141-143.) Petitioners do not dispute these findings. Substantial evidence supports that the public benefits set forth above could be lost, reduced, or delayed if Commission denied the permit.

Commission's denial of the 1998 application for a different oil and gas development does not mean Commission had to reach the same decision here. (See OB 9, citing AR 608.) Unlike this Project, the Samedan project did not include a wetlands restoration component. (AR 621-614.) It would have expanded oil and gas development (i.e., added 12 new wells) on a site planned for wetlands restoration (i.e., the Synergy site) and was not consolidated to the "maximum extent feasible" (as required by Section 30262(b)). (AR 608-609.) It would have created an "industrial 'island' that would divide the restorable area" on the Synergy site. (AR 612.) Rejecting the Samedan project, the Commission staff encouraged that applicant to "evaluate whether the drill site could be relocated either completely outside of, or to a more appropriate alternative site within, the wetland restoration area to optimize restoration opportunities" (AR 624.) Substantial evidence supports that the current Project addresses at least some of the Commission's concerns from the Samedan project. In any event, Commission's prior findings are not binding on its current determination under section 30260.

Commission considered potential adverse impacts of the Project and also that it was unlikely that the public would be harmed by loss of additional oil and gas development. Weighing these factors, the Commission concluded that denial of the Project would adversely affect the public welfare. The court cannot re-weigh the evidence to determine if it would reach a different

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conclusion than the Commission. (See *San Diego Navy Broadway Complex Coalition v. California Coastal Com.* (2019) 40 Cal.App.5th 563, 600 [court “will not reweigh the evidence” in writ petition challenging Commission’s evidentiary findings under the Coastal Act].) The court determines that substantial evidence supports the Commission’s decision the Project would promote important policies of the Coastal Act, including wetlands preservation and restoration, and that Commission’s weighing of the public benefits and risks for the second prong of section 30620 was not unreasonable, arbitrary or capricious.

Based on the foregoing, Commission’s public welfare findings under section 30260 are supported by substantial evidence. Commission applied the correct legal standard in making these findings. Other than the specific arguments analyzed below related to mitigation, Petitioners otherwise do not challenge Commission’s override findings under section 30260. (See OB 8-15; see also Reply 16, fn. 7.)

Commission’s Findings and Mitigation for Cultural and Tribal Resources

The third requirement of the override statute, section 30260, is that “adverse environmental effects are mitigated to the maximum extent feasible.” Commission interpreted this requirement to apply only to “impacts in the areas of policy inconsistency identified” in its decision, specifically visual resources and oil spill. (AR 143-145.) With imposition of various mitigation measures and special conditions, Commission found that “adverse visual impacts from the proposed project would be mitigated to the maximum extent feasible” and “the proposed project would have mitigated potential oil spill impacts to the maximum extent feasible.” (AR 144-145.) Other than the improper delegation and deferred mitigation arguments discussed below, Petitioners do not challenge these specific findings under section 30260 in their writ briefs. (*Nelson v. Avondale HOA* (2009) 172 Cal.App.4th 857, 862-863 [argument waived if not raised].)

Rather, Petitioners challenge Commission’s mitigation findings related to impacts on cultural resources. Commission analyzed mitigation for impacts to cultural resources under section 30244. (AR 132.) Section 30244 provides that “[w]here development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.”

Petitioners contend that “[b]ecause the Commission applied a less stringent standard to the

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Project's adverse cultural resources impacts [from section 30244], it failed to proceed in the manner required by law and the Project did not meet this additional aspect of the Section 30260 override provision." (OB 12.) Petitioners contend that "Commission only imposed 'reasonable mitigation measures' pursuant to Coastal Act Section 30244" and "[c]ultural resource impacts were therefore not eliminated (AR132) and additional feasible mitigation measures were in fact available." (OB 12.) Petitioners make this same argument in reply. (Reply 18:4-6.)

Exhaustion of Administrative Remedies

Real Parties and Commission contend that Petitioners failed to exhaust administrative remedies as to these mitigation arguments related to cultural resources impacts. (RP Oppo. 23; Comm. Oppo. 10:9-15.) The court agrees.

Petitioners have the burden to prove exhaustion of administrative remedies. The Commission's staff report applied the section 30260 mitigation standard only to impacts related to visual resources and oil spills. (AR 2698-2700.) The staff report analyzed mitigation for cultural resources impacts under section 30244. (AR 2682-91.) The staff report was circulated prior to the Commission hearing. (See AR 2560, 2760, 4521-23.) Despite this analysis in the staff report, Petitioners' record citations do not show that any person made an argument that Commission should apply the section 30260 standard to impacts on cultural resources or to any other Coastal Act policies for which Commission made findings of consistency (i.e., any policies other than visual resources and oil spills). (See Reply 16-17, citing AR 19939, 3546, 2784, 20209-210, 20213, 3493.)

In their writ briefs, Petitioners do not contend or develop an argument that Commission abused its discretion in finding that the mitigation measures for cultural resources impacts satisfied the reasonableness standard of section 30244. All of Petitioners' arguments depend on the theory that Commission was required to apply the more "stringent" standard from section 30260. (See OB 10-12; Reply 16-18.) Because Petitioners did not exhaust administrative remedies on that issue, Petitioners' arguments about the sufficiency of mitigation for cultural resources impacts are waived.

No Prejudicial Abuse of Discretion

Even if Petitioners exhausted administrative remedies, Petitioners do not show a prejudicial

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abuse of discretion in the Commission's decision related to cultural resources impacts.

Petitioners contend that “[b]ecause the Commission applied a less stringent standard [of section 30244] to the Project’s adverse cultural resources impacts, it failed to proceed in the manner required by law and the Project did not meet [the third requirement] of the Section 30260 override provision.” (OB 12.) Petitioners raise a question of statutory interpretation. Petitioners contends that section 30260 governs even if the agency finds that the project is consistent with the Coastal Act because impacts were found for cultural resources. In contrast, Commission interpreted section 30260 to apply only to “impacts in the areas of policy inconsistency identified” in its decision, specifically visual resources and oil spill. (AR 143-145.)

“A statute must be construed 'in the context of the entire statutory system of which it is a part, in order to achieve harmony among the parts.’” (People v. Hall (1991) 1 Cal. 4th 266, 272.) “When the legislature has carefully employed a term in one place and has excluded it in another, it should not be implied where excluded.” (Wasatch Property Management v. Degrade (2005) 35 Cal.4th 1111, 1118.) The court “may neither insert language which has been omitted nor ignore language which has been inserted.” (See People v. National Auto. and Cas. Ins. Co. (2002) 98 Cal.App.4th 277, 282.)

The override provisions of section 30260 only apply “where new or expanded coastal-dependent industrial facilities cannot feasibly be accommodated consistent with other policies of this division.” (emphasis added.) Section 30244 provides that “[w]here development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.” Petitioners do not argue or show that any other statute in the Coastal Act specifically governs impacts on cultural resources. Harmonizing sections 30260 and 30244, these provisions are reasonably interpreted such that a project that complies with the “reasonable mitigation” standard of section 30244 is consistent with the Coastal Act. Thus, where a project complies with section 30244, the override provisions of section 30260 do not apply. Commission’s interpretation of the statute is reasonable, harmonizes sections 30244 and 30260, and is entitled to deference. (Reddell v. California Coastal Com. (2009) 180 Cal.App.4th 956, 965.) Petitioners’ interpretation creates a conflict between sections 30244 and 30260 and fails to harmonize the statutory scheme. The court finds Commission’s interpretation of the statutes to be more reasonable.

Here, Commission found that the Project, as conditioned and mitigated, would be consistent with

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section 30244 and Coastal Act policies related to cultural resources. (AR 124-132.) Specifically, Commission found that the Project complies with section 30244 because “as conditioned, the proposed project includes reasonable mitigation measures that would partially address but do not eliminate this impact, and there are no additional reasonable mitigation measures available that could fully eliminate this impact.” (AR 132.) The court reviews this finding for substantial evidence. “Where the alleged defect predominantly relates to a factual dispute, such as ‘whether adverse effects have been mitigated or could be better mitigated’ [citation], the courts ‘accord greater deference to the agency’s substantive factual conclusions.’” (Citizens Opposing a Dangerous Environment v. County of Kern (2014) 228 Cal.App.4th 360, 382.)

Substantial evidence supports Commission’s finding that the Project complies with section 30244 because reasonable mitigation measures were included for any adverse impacts on cultural resources. Although no known cultural resources were discovered on any of the project sites, because it was nevertheless possible that cultural resources were present, a mitigation measure for Protection of Cultural Resources, consisting of six pages of mitigation, was imposed. (AR 129-131, 20207-20213 [special condition 23].) Special condition 23 requires an Archeological Research Plan and Archaeological Monitoring and Mitigation Plan, which expands and increases the records search radius from within 0.5 miles to within 1.5 miles of the project sites, and includes additional soil core sampling. (AR 20207.) If any cultural deposits are discovered, all work is halted until the discovery can be evaluated by a qualified archaeologist, with consultation with Native American representatives for possible treatment or preservation. (AR 20207-08 [special condition]; 2049, 4942-43, 8601-03 [same mitigation standard under CEQA].)

The Commission also evaluated any potential impacts to the Tribal Cultural Landscape as described by members of the Gabrieleno – Tongva tribe and the Gabrieleno – Kizh Nation, and imposed five special conditions to mitigate any potential impacts: 10, 11, 14, 19 and 24. (AR 130- 132.) This mitigation included: a Revised Nuisance Minimization Plan to meet identified lighting, noise, and vibration restrictions (AR 131, 20196-97 [special condition 14]), a Pollution Prevention Plan and Cultural Responsibilities Plan to verify that erosion control measures are in place and are mitigated during construction (AR 132, 20189-94 [special conditions 10 & 11]), an Oil Spill Prevention and Response Plan to reduce the chance of a spill and respond adequately in the event it occurs (AR 131-32, 20204-05 [special condition 19]), and a Tribal Cultural Education Plan with direct involvement from tribal members on educational materials for the Visitor’s Center (AR 132, 20213-14 [special condition 24]).

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ERM: None
Deputy Sheriff: None

To address these potential impacts on cultural resources, the Commission also sought input from several tribal representatives. (AR 126, 19870-72.) Of the representatives who spoke at the Commission hearing, the Tribal Chair of the Gabrielino Band of Mission Indians – Kizh Nation, appearing on behalf of 550 members, supported the project as conditioned. (AR 19902-03; see also 19906-07, 19912-13.) A tribal biologist also spoke in support of the project’s benefits to plants and animals, including endangered species, in the wetlands. (AR 19903-05.) An archeologist testified favorably that the cultural resources conditions were “comprehensive and well suited to mitigate impacts to archeological deposits that might be found during the project,” and that the Tribal Education Plan would “emphasiz[e] the past and present Native American contributions to the local area.” (AR 19928-29.) This testimony is substantial evidence supporting Commission’s determination that the cultural resources impacts are reasonably mitigated, as required by section 30244. (AR 132.)

Petitioners have not challenged Commission’s finding that the Project is consistent with section 30244 and Coastal Act policies related to cultural resources. Because Commission’s finding of consistency with the Coastal Act is supported by substantial evidence, the override provisions of section 30260 were not triggered as to impacts on cultural resources. Accordingly, Petitioners do not show a prejudicial abuse of discretion. (CCP § 1094.5(b).)

Finally, even assuming arguendo that section 30260 did apply to cultural resources impacts, Petitioners do not show a prejudicial abuse of discretion. Petitioners contend that Commission’s findings violate section 30260 because “Cultural resource impacts were ... not eliminated (AR132).” (OB 12.) Section 30260 does not require adverse impacts to be eliminated, but rather to be “mitigated to the maximum extent feasible.”

Petitioners do not cite evidence establishing that any feasible mitigation measures exist that would be more protective of and further reduce the impacts on cultural resources. Petitioners contend that “additional feasible mitigation measures were in fact available,” specifically a “LCWA Cultural Resources Plan suggesting incorporation of Tongva advisors in restoration planning and potential salt panne landscape as unique habitat for cultural and educational activity.” (OB 12, citing AR 3493-96; see also Reply 16-17.) In response, Commission contends that “similar measures are already imposed, and Puvunga does not explain how its proposals provide any more protection.” (Comm. Oppo. 17, citing 20180, 20213-14; see also RP Oppo. 29.) Commission’s argument is persuasive.

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Special Condition 4, the Wetland Restoration and Mitigation Plan, requires a restoration plan developed in consultation with Native American groups “with documented ancestral ties to the area,” and therefore allows Tongva advisors to be involved in restoration planning or wetlands design. (AR 20180 [condition 4(g)]; see also AR 3494 [“the entire LCW Complex is a cultural site and is of great significance within the larger homeland of the Tongva”].) Relatedly, Special Condition 24, the Tribal Cultural Education Plan, requires consultation with tribal representatives to develop an education plan, and provides notice and an opportunity for tribal representatives to comment on the draft plans, which will be re-evaluated every five years. (AR 20213-20214.) While Petitioners contend that these special conditions only apply to Native American Heritage Commission (“NAHC”) groups, and do not include public comment, Petitioners have not shown it suggested public comment or that such a provision would improve the level of mitigation. In light of Special Conditions 4 and 24, Petitioners cited evidence does not show that impacts on cultural resources were not “mitigated to the maximum extent feasible.” Thus, even if section 30260 applied Petitioners do not show a prejudicial abuse of discretion in Commission’s decision with respect to cultural resources. 1

Based on the foregoing, Petitioners did not exhaust administrative remedies with respect to their arguments about mitigation of cultural resources impacts. Moreover, Petitioners do not show a prejudicial abuse of discretion in the Commission’s decision for the reasons discussed above. Based on these conclusions, the court need not reach Real Parties’ arguments that the State Historic Preservation Officer has not identified any archeological resources on the sites and section 32044 does not require any mitigation. (RP Oppo. 25-28.)

Delegation of Duties to the Executive Director; and Deferred Mitigation

Petitioners contend that “the Commission delegated its quasi-judicial function and deferred analysis of numerous Project mitigation measures.” (OB 13-14.) Specifically, “the Commission imposed 26 Special Conditions, most of which require preparation of a plan or study and mitigation measures based thereon, subject to Executive Director review and approval.” (OB 12.)

Exhaustion of Administrative Remedies; and Failure to Plead Claim

Real Parties and Commission contend that Petitioners failed to exhaust administrative remedies for, or plead in the petition their arguments about improper delegation of duties to the executive director, and impermissible deferred mitigation. (RP Oppo. 29-30; Comm. Oppo. 17-18.) The

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court agrees.

In written correspondence relevant to the improper delegation issue, Petitioner Christensen and others objected that plans for the 25 special conditions should be submitted to the Commission before approving the project. (AR 2777-79, 2749, 4544.) This objection was part of a request to postpone the hearing, stating that the “plans should be submitted and agreed to by both parties before this project is approved.” (AR 2775, 2777-78.)

In arguing that they exhausted their administrative remedies, Petitioners contend that “Petitioners and others commented that the plans required via Special Conditions should have been submitted to the Commission prior to project approval.” (Reply 12-13, citing AR 2863, 2789, 2778, 4528, 3542, 3584.) In a letter dated December 3, 2018, Center for Biological Diversity requested a postponement of the Commission hearing “to provide stakeholders ... additional time to review, comment, and consult with the Commission” (AR 2862-64.) Among other reasons for a postponement, Center for Biological Diversity wrote that “much of the mitigation relied on by the Staff Report to reduce these impacts and risks is included in 25 Special Conditions and remains to be fully developed and evaluated.” (AR 2863.)

To satisfy the exhaustion doctrine, “the objections must be sufficiently specific so that the agency has the opportunity to evaluate and respond to them.” (Greene v. California Coastal Com. (2019) 40 Cal.App.5th 1227, 1237.) Petitioners’ record citations do not satisfy that standard with respect to their arguments about improper delegation of duties and deferred mitigation. Christensen and other commentators (including Center for Biological Diversity) did not argue that the special conditions were inadequate because they lacked specific criteria or because they delegated duties to the executive director. Nor do these record citations show any legal arguments applying concepts of improper delegation or deferred mitigation to specific components of the Special Conditions, which are extremely detailed and span some 40 pages. (See AR 1-48.)

Real Parties and Commission also contend that Petitioners failed to plead in their writ petition a claim that Commission improperly delegated duties to the executive director or deferred mitigation. (RP Oppo. 29-30; Comm. Oppo. 17-18.) The court agrees. Contrary to Petitioners’ assertion in reply, Petitioners’ general allegations about “conflicts with Chapter 3 of the California Coastal Act” did not place in issue a claim that Commission improperly delegated duties or deferred mitigation. (See Reply 13, citing FAP ¶¶ 56, 59-64, 67.) Nor did Petitioners’

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allegation that “Commission abused its discretion in determining the Project met all three tests of Section 30260.” (FAP ¶ 59.) An issue not raised in the petition for writ of mandate should not be considered by the trial court. (*Borror v. Department of Investment* (1971) 15 Cal.App.3d 531, 547; see also *Duchrow v. Forrest* (2013) 215 Cal.App.4th 1359, 1380 [denying leave to amend pleadings mid-trial to add a new and substantially different theory of liability])

In their Reply, Petitioners request leave to amend their petition to conform to proof. (Reply 13-14.) “A trial court has broad discretion to allow the filing of amendments to pleadings to conform to proof after a trial has been concluded. Granting leave to file such an amendment is not an abuse of discretion unless the amendment brings new and substantially different issues into the case.” (*Nelson v. Gaunt* (1981) 125 Cal.App.3d 623, 636.) However, leave to amend is not automatically granted. “[E]ven if a good amendment is proposed in proper form, unwarranted delay in presenting it may—of itself—be a valid reason for denial.” (*Duchrow*, supra, 215 Cal.App.4th at 1380.) In assessing a request for amendment at trial, the court may consider the diligence of the party making the request. (*Ibid.*)

Here, in requesting leave to amend, Petitioners provide no explanation for the delay in seeking to add a new legal theory to the petition. The writ petition was filed in February 2019, more than two years ago. Petitioners filed an amended petition in August 2019. On October 27, 2020, after a hearing and briefing, the court denied the motion of Real Parties for an order tolling the term of the Coastal Development Permit. This motion highlighted that the passage of time was significant to Real Parties, given that the project approval contained a deadline for commencement of development. Substantial new legal theories that delay resolution of this writ action could prejudice Real Parties as a practical matter. Nonetheless, Petitioners did not seek at that time to amend their petition or at any time prior to filing their reply brief. This unexplained delay and lack of diligence weigh heavily against granting an amendment at trial, especially where Petitioners did not show that they exhausted administrative remedies with respect to the proposed amended claim.

Petitioners suggest that leave to amend must be granted because their new legal claim is based on an administrative record and not new evidence. (Reply 13-14, citing *Rainer v. Buena Community Memorial Hosp.* (1971) 18 Cal.App.3d 240, 254.) The court is not persuaded. In a writ action based on an administrative record, which in this case spans more than 20,000 pages, an entirely new legal theory necessarily “brings new and substantially different issues into the case.” (*Nelson v. Gaunt* (1981) 125 Cal.App.3d 623, 636.) The mere fact that a writ petition is based on

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an administrative record does not justify amendment of the petition at trial.

Based on the foregoing, Petitioners failed to exhaust administrative remedies with respect to their contentions that Commission improperly delegated duties to its executive director and deferred analysis of numerous Project conditions. Petitioners also failed to plead this claim in the writ petition. Petitioners' request to amend the writ petition is DENIED. (See Reply 13-14.)

No Prejudicial Abuse of Discretion

Because Petitioners did not exhaust administrative remedies and also failed to plead the claim, Petitioners' arguments that Commission improperly delegated duties to its executive director and deferred analysis of numerous Project mitigation measures were waived. These procedural defects are a sufficient basis for the court to deny the claim and have been specifically relied upon by the court in its decision. However, even if Petitioners overcame these procedural defects, Petitioners do not show a prejudicial abuse of discretion.

The Commission imposed 40 pages of special conditions on the Project. (AR 1-48; AR 20175-20217.) The majority of the plans imposed therein require "review and written approval" by the Executive Director. These plans concern numerous different aspects of the Project, including: the development's seismic safety (AR 20178, 20206-20207); wetland restoration and mitigation (AR 20179-82); the protection of wetlands, sensitive habitat areas, and special-status species (AR 20184-20188); construction pollution prevention (AR 20190-20194); special-status plant restoration and mitigation (AR 20195-20196); nuisance minimization (AR 2196-20197); public access protection (AR 20197-20199); water quality protection (AR 20199-20202); contaminated soil investigation and removal (AR 20202-20203); land surface elevation and seismic activity monitoring and mitigation (AR 20203-20204); oil spill prevention and response (AR 20204-20205); seismic analysis and safety (AR 20206-20207); archeological research and protection of cultural resources and a monitoring and mitigation plan (AR 20207-20213); tribal culture education (AR 20213-20214); and visual compensation (AR 20214-20215).

Petitioners contend that these conditions "are not mere formalities" and that important decision-making functions are delegated to the executive director or deferred. (OB 14.) As an example, Petitioners refer to Special Condition 21, which requires BOM to submit a Seismic and Geotechnical Analysis and Hazard Mitigation Plan that requires detailed design plans, site-specific geotechnical analysis for each site evaluating fault rupture hazards, and engineering

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analysis and specific design recommendation and mitigation measures the address the aforementioned hazards. (AR 39-40.) Prior to issuance of the CDP, BOM must submit these plan documents to the executive director for “review and written approval.” The condition states that “[t]he Permittee shall undertake development in conformance with the approved plans unless the Commission amends this permit or the Executive Director provides a written determination that no amendment is legally required.” (Ibid.)

Citing CEQA cases, Petitioners contend that “such deferral of formulation of mitigation measures is forbidden unless the agency commits itself to specific criteria for evaluating the efficacy of the measures implemented.” (OB 14.) Under guidelines that apply specifically to CEQA, “[f]ormulation of mitigation measures should not be deferred until some future time.” (King & Gardiner Farms, LLC v. County of Kern (2020) 45 Cal.App.5th 814, 856, citing CEQA Guidelines § 15126.4.) “Thus, as a general rule, ‘it is inappropriate [under CEQA] to postpone the formulation of mitigation measures.’ However, the general rule is not absolute and ‘there are circumstances in which some aspects of mitigation may appropriately be deferred.’ For instance, ‘measures may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way.’” (King & Gardiner, supra at 856.) “‘Deferral of the specifics of mitigation is permissible where the local entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated in the mitigation plan. . . . If mitigation is feasible but impractical at the time of a general plan or zoning amendment, it is sufficient to articulate specific performance criteria and make further approvals contingent on finding a way to meet them.’” (Ibid.)

Petitioners cite no authority that CEQA concepts of deferred mitigation have been applied to conditions imposed by the Commission under the Coastal Act. *Bolsa Chica Land Trust v. Superior Court* (1999) 71 Cal. App. 4th 493, cited by Petitioners, did not decide that question. (OB 14.) “‘It is axiomatic that language in a judicial opinion is to be understood in accordance with the facts and issues before the court. An opinion is not authority for propositions not considered.’” (*People v. Knoller* (2007) 41 Cal.4th 139, 154-55.)

Even if the CEQA standard provides guidance here, Petitioners have not provided sufficient discussion of the Special Conditions to establish that Commission improperly deferred mitigation. In the opening brief, Petitioners only discuss Special Condition 21 and Petitioners’ legal analysis is conclusory. (OB 14.) As noted by Real Parties, Special Condition 21 provides technical and specific standards for BOM’s preparation of a Seismic Analysis Safety Plan. For

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instance, the plan must include a geotechnical analysis for each site evaluating “[f]ault rupture hazards, at a minimum evaluating the maximum horizontal and vertical fault displacement that could occur during an earthquake event on the Newport-Inglewood fault with a 1% in 50 year chance of occurrence (1/4,975 annual probability), as determined based on a review of the most current available science.” (AR 39.) The geotechnical plan must also evaluate “[g]round shaking, liquefaction and seismic settlement hazards based on current building codes (e.g., CBC 2016) and ASCE guidelines (e.g., ASCE 7-16) and the most current, best available science.” (Ibid.)

In addition to the detailed requirements regarding the contents of the Plan, the Special Condition also provides performance standards the Plan is to meet. For example, the Plan requires an engineering analysis demonstrating that “flood control barriers have been designed to withstand the maximum horizontal and vertical fault displacements identified in the geotechnical analysis,” and that project structures are “designed and constructed to withstand expected level of ground shaking, liquefaction and ground settlement as determined in the geotechnical analysis.” (Ibid.)

Given the highly technical nature of the required Plan, it seems reasonable for Commission to articulate specific performance criteria and require Real Parties to submit the plans to the executive director for review and approval. As long as the Special Condition contains criteria by which the Plan is to be evaluated, such condition does not constitute improper deferred mitigation, assuming the CEQA analysis of this issue is analogous.

In reply, Petitioners contend that “Special Condition 19, which is intended to address oil spills, includes similar language [as Condition 21], requiring a risk assessment and thereafter a demonstration that the prevention and response measures address the deferred assessment.” (Reply 15, citing AR 37.) “The salutary rule is that points raised in a reply brief for the first time will not be considered unless good cause is shown for the failure to present them before.” (Balboa Ins. Co. v. Aguirre (1983) 149 Cal.App.3d 1002, 1010.) Petitioners do not show good cause to raise a new argument in reply regarding a condition that was not discussed in the opening brief. In any event, like Condition 21, Special Condition 19 specifies the information that must be included in the Oil Spill Prevention and Response Plan and contain at least some standards by which the Plan is to be evaluated [e.g. “oil spill prevention and safety measures for all project components, ... and procedures for testing, maintaining, and inspecting pipelines shall comply with California Office of Spill Prevention and Response regulations.”] (AR 37-38.)

Other than Special Conditions 19 and 21, Petitioners provide no meaningful discussion in their

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writ briefs concerning the specific components of the conditions and why Petitioners believe Commission improperly deferred mitigation. It is not the court's function to develop such arguments in the first instance. (Nelson v. Avondale HOA (2009) 172 Cal.App.4th 857, 862-863 [argument waived if not raised]; Pfeifer v. Countrywide Home Loans, Inc. (2012) 211 Cal.App.4th 1250, 1282 [same]; Inyo Citizens for Better Planning v. Inyo County Board of Supervisors (2009) 180 Cal.App.4th 1, 14 [court does not serve as "backup" counsel]; Quantum Cooking Concepts, Inc. v. LV Associates, Inc. (2011) 197 Cal.App.4th 927, 934 [Cal. Rules of Court, Rule 3.1113 "rests on a policy-based allocation of resources, preventing the trial court from being cast as a tacit advocate for the moving party's theories"].)

Petitioners also make a broader argument that "neither the Coastal Act nor the Commission's regulations authorize delegation of the Commission's primary quasi-judicial role to review development permits for Coastal Act consistency." (OB 13-15.) Petitioners contend that "[t]hough the Coastal Act envisions some level of delegation to the Executive Director, such instances must be specifically enumerated." (Ibid.)

In response, Real Parties and Commission contend that the Coastal Act and its implementing regulations authorize Commission to delegate certain duties to the executive director, including with respect to execution of special conditions and determination of compliance with permit conditions. (See e.g. Comm. Oppo. 18-19.) The Coastal Act empowers the Commission to promulgate regulations and hire an executive director and staff counsel to administer those regulations. (§§ 30333, 30335.) The executive director is authorized to issue coastal permits in certain cases (§ 30624) and grant permit extensions (14 CCR § 13169(a) & (b)). Most important here, the executive director is authorized to "administer the affairs of the commission." (14 CCR § 13032.)

Real Parties and Commission contend that "[i]t would be entirely impractical for the Commission, a 12-member body responsible for statewide Coastal Act compliance, to monitor compliance with each of its individual decisions." (Comm. Oppo. 18.) They also point out that some of the special conditions specify that Commission approval is required, either for mitigation that changes Project plans in a manner that is more than "de minimis," or to resolve disputes between interested parties. (RP Oppo. 32-33, citing AR 20210-12.)

The court is not persuaded that practical considerations alone, unconnected to any statute or regulatory framework, allow Commission to delegate duties to the executive director or staff. It

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is also noteworthy that, other than for certain emergency and nonemergency permits not at issue here (see § 30624), Commission has not identified any regulation that specifically describes the circumstances in which Commission may delegate duties to the executive director related to review, approval, and execution of project conditions. On the other hand, by regulation promulgated pursuant to the Coastal Act, the executive director has broad authority to “administer the affairs of the commission.” (14 CCR § 13032.) Petitioners have not disputed that such authority extends to routine and ministerial duties related to the permit conditions, such as receipt from the permittee of all local, state, and federal permits required to perform the project-related work. (See AR 9; Special Condition 1.) There is at least a colorable argument that such authority also extends to review and approval of design or mitigation plans, where the conditions include detailed performance standards and instructions approved by the Commission.

None of the parties have provided the court with any case law authority bearing on the scope of proper delegation to the Executive Director under the Coastal Act. Under the circumstances of this case, the court need not further opine on this issue. Petitioners have not exhausted administrative remedies on this argument, depriving Commission of an opportunity to respond to Petitioners’ concerns in the administrative proceedings or modify the project conditions. Nor did Petitioners sufficiently plead the claims.

As an unpled claim, and one for which Petitioners did not exhaust administrative remedies, and for the further reasons discussed above, the court does not find the Commission’s delegation of authority to the Executive Director with respect to some of the Special Conditions is a basis to overturn the Commission’s decision.

Conclusion

The writ petition is DENIED.

FOOTNOTE:

1- In Reply, Petitioners argue that they suggested a mitigation measure turning over the entire design of the Archaeological Research Plan to NAHC. Petitioners have not shown it would be consistent with the Coastal Act to delegate design of a mitigation measure to a party not under the control of the Commission, or that it would result in greater mitigation of any impact than the Commission’s condition.

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Counsel for respondent is to give notice and is to prepare, serve and e-file the proposed judgment within ten days. The court will hold the proposed judgment for ten days unless there is no objection from opposing counsel as to form.

Additional appearances for Respondent(s):
Alisha Anne Patterson (X) (Telephonic)
John Andrew Ramirez (X) (Telephonic)
Leena Mary Sheet (X) (Telephonic)

| <u>Interested Party</u> | <u>Mailing Address</u> | <u>Email</u> |
|--|---|-----------------------------|
| Gabrieleno – Kizh Nation, Andrew Salas | PO Box 393 Covina, CA 91723 | gabrielenoindians@yahoo.com |
| Native American Heritage Commission, Gayle Totten | 1550 Harbor Blvd. Ste 100 West Sacramento, CA 95691 | |
| California Coastal Commission | 45 Fremont, Suite 2000 San Francisco, CA 94105-2219 | |
| California Department of Transportation, Dianna Watson | 100 S. Main Street, MS 16 Los Angeles, CA 90012 | |
| California Regional Water Quality Control Board | 320 W. 4th Street, Suite 200 Los Angeles, CA 90013 | |
| California Department of Water Resources | P.O. Box 942836 Sacramento, CA 94236 | |
| California Department of Toxic Substances Control | 5796 Corporate Avenue Cypress, CA 90630-4732 | |
| California Native American Commission | 915 Capitol Mall, Room 364 Sacramento, CA 95814 | |
| County Sanitation District, Adriana Raza | 1955 Workman Mill Road Whittier, CA 90601 | |
| State of California, California Coastal Commission | 200 Oceangate, 10th Floor Long Beach, CA 90802-4316 | |
| State of California, Department of Fish and Wildlife, Scott Harris | 3883 Ruffin Road San Diego, CA 92123 | |
| State Clearinghouse | 1400 Tenth Street Sacramento, CA 95814 | |
| County Sanitation Districts of Los Angeles County, Kevin Johnson | 1320 North Eastern Avenue Los Angeles, CA 90063-3294 | |
| City of Long Beach Planning Department, 5th Floor, Craig Chalfont | 333 West Ocean Blvd. Long Beach CA, 90802 | |
| Los Angeles County Fire Department | 1320 North Easetern Avenue Los Angeles, CA 90063 | |

| | | |
|---|--|--|
| Los Angeles District Office, U.S. Army Corps of Engineers | 915 Wilshire Boulevard, Suite 1101 Los Angeles, CA 90017 | |
| Long Beach Library | 195 Bay Shore Avenue Long Beach, CA 90803 | |
| LACMTA Development Review, Elizabeth Carvajal | One Gateway Plaza, MS 99-23-4 Los Angeles, CA 90012-2952 | |
| Metropolitan Water District of Southern California | 700 N. Alameda St. US3-230 Los Angeles, CA 90012 | |
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| Belmont Shore Residents Assn. | PO Box 30327 Long Beach CA 90853 | |
| California Cultural Resource Preservation Alliance, Inc. | P.O. Box 54132, Irvine, CA 92619-4132 | p.martz@cox.net |
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| Marina Pacifica HOA | PO Box 57063 Irvine, CA 92619-7063 | |
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6240 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6240 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6241 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6241 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6242 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6242 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6243 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant
6243 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6244 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6245 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant
6245 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6246 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant
6246 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6241 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6242 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant
6242 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6243 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6244 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6244 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6245 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6245 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6246 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6247 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6241 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6242 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6243 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6243 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6244 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6245 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6245 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6246 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6246 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6247 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant

6247 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant

6247 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant

6248 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant

6249 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant

6249 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant

6250 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant

6251 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant

6251 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant

6252 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant

6253 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant

6247 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant

6248 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant

6248 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant

6249 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant

6249 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant

6250 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant

6251 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant

6251 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant

6252 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant

6253 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant

6247 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant

6248 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant

6248 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant

6249 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant

6250 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant

6250 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant

6251 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant

6251 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant

6252 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant

6253 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6254 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6254 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6255 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6256 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6257 2ND ST
LONG BEACH CA 90803

Occupant
6257 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6258 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6259 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant
6259 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6260 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6254 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6255 2ND ST
LONG BEACH CA 90803

Occupant
6255 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6256 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6257 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant
6257 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6258 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6259 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6259 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6260 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6254 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6255 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6255 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6256 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6257 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6257 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6258 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6259 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6260 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6261 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6261 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6262 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6262 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6263 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6264 DRIFTWOOD DR MHP
LONG BEACH CA 90803

Occupant
6264 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6265 2ND ST ; #102
LONG BEACH CA 90803

Occupant
6265 DRIFTWOOD DR MHP
LONG BEACH CA 90803

Occupant
6265 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6266 DRIFTWOOD DR MHP
LONG BEACH CA 90803

Occupant
6261 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6262 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6263 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6264 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6264 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6264 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6265 2ND ST ; #103
LONG BEACH CA 90803

Occupant
6265 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6265 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6266 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6261 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6262 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6263 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6264 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant
6264 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6265 2ND ST ; #101
LONG BEACH CA 90803

Occupant
6265 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant
6265 GOLDEN SANDS DR MHP
LONG BEACH CA 90803

Occupant
6266 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6266 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6266 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6267 DRIFTWOOD DR MHP
LONG BEACH CA 90803

Occupant
6267 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6268 DRIFTWOOD DR MHP
LONG BEACH CA 90803

Occupant
6268 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6269 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6270 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6271 DRIFTWOOD DR MHP
LONG BEACH CA 90803

Occupant
6272 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6272 E PACIFIC COAST HWY ; #D
LONG BEACH CA 90803

Occupant
6267 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6267 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6268 BEACHCOMBER DR MHP
LONG BEACH CA 90803

Occupant
6268 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6269 DRIFTWOOD DR MHP
LONG BEACH CA 90803

Occupant
6269 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6270 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6271 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6272 E PACIFIC COAST HWY ; #B
LONG BEACH CA 90803

Occupant
6272 E PACIFIC COAST HWY ; #E
LONG BEACH CA 90803

Occupant
6267 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant
6267 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6268 CRYSTAL COVE DR MHP
LONG BEACH CA 90803

Occupant
6268 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6269 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6270 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6270 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6271 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6272 E PACIFIC COAST HWY ; #C
LONG BEACH CA 90803

Occupant
6272 E PACIFIC COAST HWY ; #G
LONG BEACH CA 90803

Occupant
6272 E PACIFIC COAST HWY ; #H
LONG BEACH CA 90803

Occupant
6272 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6273 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6274 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6275 DRIFTWOOD DR MHP
LONG BEACH CA 90803

Occupant
6276 DRIFTWOOD DR MHP
LONG BEACH CA 90803

Occupant
6277 DRIFTWOOD DR MHP
LONG BEACH CA 90803

Occupant
6278 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6281 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6286 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6272 E PACIFIC COAST HWY ; #J
LONG BEACH CA 90803

Occupant
6272 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6273 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6274 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6275 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6276 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6277 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6279 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6282 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6288 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6272 EMERALD COVE DR MHP
LONG BEACH CA 90803

Occupant
6273 DRIFTWOOD DR MHP
LONG BEACH CA 90803

Occupant
6274 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6274 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6275 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6276 SEA BREEZE DR MHP
LONG BEACH CA 90803

Occupant
6278 DRIFTWOOD DR MHP
LONG BEACH CA 90803

Occupant
6280 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6284 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6289 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6290 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6294 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6310 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6310 E PACIFIC COAST HWY ; #C
LONG BEACH CA 90803

Occupant
6324 E PACIFIC COAST HWY ; #B
LONG BEACH CA 90803

Occupant
6324 E PACIFIC COAST HWY ; #E
LONG BEACH CA 90803

Occupant
6332 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6346 E PACIFIC COAST HWY ; #C
LONG BEACH CA 90803

Occupant
6374 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6376 E PACIFIC COAST HWY ; #C
LONG BEACH CA 90803

Occupant
6290 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6296 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6310 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6312 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6324 E PACIFIC COAST HWY ; #C
LONG BEACH CA 90803

Occupant
6326 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6346 E PACIFIC COAST HWY , #A
LONG BEACH CA 90803

Occupant
6346 E PACIFIC COAST HWY ; #D
LONG BEACH CA 90803

Occupant
6376 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6378 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6292 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6298 MARINA VIEW DR MHP
LONG BEACH CA 90803

Occupant
6310 E PACIFIC COAST HWY ; #B
LONG BEACH CA 90803

Occupant
6324 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6324 E PACIFIC COAST HWY ; #D
LONG BEACH CA 90803

Occupant
6326 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6346 E PACIFIC COAST HWY ; #B
LONG BEACH CA 90803

Occupant
6346 E PACIFIC COAST HWY ; #E
LONG BEACH CA 90803

Occupant
6376 E PACIFIC COAST HWY ; #B
LONG BEACH CA 90803

Occupant
6378 E PACIFIC COAST HWY ; #C
LONG BEACH CA 90803

Occupant
6378 E PACIFIC COAST HWY ; #D
LONG BEACH CA 90803

Occupant
6382 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6382 E PACIFIC COAST HWY ; #C
LONG BEACH CA 90803

Occupant
6405 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6423 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6433 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6449 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #11
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #14
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #17
LONG BEACH CA 90803

Occupant
6380 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6382 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6391 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6415 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6427 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6437 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #1
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #12
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #15
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #18
LONG BEACH CA 90803

Occupant
6380 E PACIFIC COAST HWY ; #B
LONG BEACH CA 90803

Occupant
6382 E PACIFIC COAST HWY ; #B
LONG BEACH CA 90803

Occupant
6401 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6417 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6427 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6445 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #10
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #13
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #16
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #19
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #2
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #22
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #4
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #7
LONG BEACH CA 90803

Occupant
6457 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6467 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6471 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6477 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6487 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6495 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #20
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #23
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #5
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #8
LONG BEACH CA 90803

Occupant
6459 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6467 E PACIFIC COAST HWY ; #B
LONG BEACH CA 90803

Occupant
6473 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6481 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6489 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6499 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #21
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #3
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #6
LONG BEACH CA 90803

Occupant
6451 E PACIFIC COAST HWY ; #9
LONG BEACH CA 90803

Occupant
6463 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6467 E PACIFIC COAST HWY ; #C
LONG BEACH CA 90803

Occupant
6475 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6483 E PACIFIC COAST HWY ; #E7
LONG BEACH CA 90803

Occupant
6491 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6501 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6507 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6511 E PACIFIC COAST HWY ; #C
LONG BEACH CA 90803

Occupant
6527 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6537 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6543 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6549 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6563 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6603 E PACIFIC COAST HWY
LONG BEACH CA 90803

Owner – Loynes LLC
2651 WALNUT AVE
SIGNAL HILL CA 90755-1830

Owner – AES ALAMITOS LLC
690 N STUDEBAKER RD
LONG BEACH CA 90803-2221

Occupant
6511 E PACIFIC COAST HWY ; #A
LONG BEACH CA 90803

Occupant
6521 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6529 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6539 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6545 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6553 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6575 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6605 E PACIFIC COAST HWY
LONG BEACH CA 90803

Owner – LOS CERRITOS WETLANDS LLC
6433 E 2ND ST
LONG BEACH CA 90803-4205

Owner – LA COUNTY FLOOD CONTROL
DISTRICT
900 S FREMONT AVE
ALHAMBRA CA 91803-1331

Occupant
6511 E PACIFIC COAST HWY ; #B
LONG BEACH CA 90803

Occupant
6523 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6535 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6541 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6547 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6557 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6601 E PACIFIC COAST HWY
LONG BEACH CA 90803

Occupant
6801 2ND ST
LONG BEACH CA 90803

Owner – IN-N-OUT BURGER
4199 CAMPUS DR FL 9
IRVINE CA 92612-4684

Owner – PLAINS WEST COAST
TERMINALS LLC
333 CLAY ST 1600
HOUSTON TX 77002-4101

Owner – SOUTHERN CALIFORNIA
EDISON CO
2244 WALNUT GROVE AVE
ROSEMEAD CA 91770-3714

Owner – SAIRAFE, MOHAMAD M
PO BOX 290
DALLAS TX 75221

Owner – PACIFIC CASTLE
2601 MAIN ST 900
IRVINE CA 92614-4232

Owner – BRYANT DAKIN LLC
PO BOX 148
SANTA BARBARA CA 93102-0148

Owner – WESSEX INVESTMENT LLC
2200 W VALLEY BLVD
ALHAMBRA CA 91803-1928

Owner – ALAMITOS BAY PARTNERSHIP
LLC
2200 W VALLEY BLVD
ALHAMBRA CA 91803-1928