APPEAL STAFF REPORT
SUBSTANTIAL ISSUE DETERMINATION ONLY

Appeal number ..........A-3-MRB-11-001, Morro Bay Wastewater Treatment Plant
Applicants .................City of Morro Bay and Cayucos Community Services District (MBCSD)
Appellants .................Commissioners Shallenberger and Stone; Morro Bay Farmers and Ranchers Ag Coalition; Sierra Club; Surfrider Foundation; Alex Beattie; Barry and Vivian Branin; Roger Ewing, Anne Reeves, and Betty Winholtz; Steve Hennigh; Lee Johnson; Michael Lucas; and Linda Stedjee
Local government ..........City of Morro Bay
Local decision ............Coastal Development Permit (CDP) Application Number CP0-339 approved by the Morro Bay City Council on January 11, 2011.
Project location ..........160 Atascadero Road in the City of Morro Bay, San Luis Obispo County (APNs 066-331-32, 066-331-33 and 066-331-34).
Project description ........Demolish an existing wastewater treatment plant and construct a new wastewater treatment plant and related development
File documents ..........Final Local Action Notice for Morro Bay CDP Number CP0-339; City of Morro Bay certified Local Coastal Program (LCP); Morro Bay-Cayucos Wastewater Treatment Plant Upgrade Environmental Impact Report, December 2010.

Staff recommendation ...Substantial Issue Exists

A. Staff Recommendation

1. Summary of Staff Recommendation
The City-approved project is for demolition of an existing wastewater treatment plant (WWTP) and construction of a new WWTP on an oceanfront site that is subject to significant development constraints and that raises significant coastal resource concerns, including with respect to hazard avoidance, public viewshed protection, maximizing and optimizing public access and recreational opportunities, protection of archeological resources, and sustainable public infrastructure requirements. Eleven different appeals of the City’s approval of a CDP for this project were filed with the Commission, and these appeals make
a wide variety and number of contentions primarily regarding these core coastal resource issues and concerns. Staff has been actively engaged in the local process for this project for multiple years, including providing recommendations to the City for addressing LCP issues, and firmly believes that the City’s approval did not adequately analyze the proposed project across the necessary range of feasible alternatives, including fundamentally in terms of alternative appropriate sites, in such a way as to allow an LCP and Coastal Act consistent decision to be made on the proposed project. In short:

- Although the LCP requires that new development such as this be sited and designed to avoid coastal hazards and explicitly prohibits all development in 100-year flood plains, the City-approved project site is located in a 100-year floodplain and tsunami inundation zone directly adjacent to an eroding shoreline where the sea level is rising and in an area subject to known seismic hazards. In conflict with LCP requirements, the approved WWTP would locate new, major public works infrastructure in a highly hazardous area where it is not allowed per the LCP.

- Although the LCP requires the scenic and visual qualities of the coast to be protected and requires development to be sited and designed to protect views to and along the ocean and other coastal areas, and although the WWTP site is located in an LCP-designated sensitive view area between Highway One and Morro Rock, the City-approved project would obstruct and degrade important public views, including through increased structural height for the new WWTP as compared to the old, inconsistent with the LCP.

- Although the LCP requires that significant archaeological and historic resources be preserved to the greatest extent possible, including requiring avoidance of significant archaeological sites if possible, the City-approved project is located in close proximity to numerous documented archaeological sites and is located on top of a significant burial ground of the Salinan Tribe inconsistent with the LCP.

- Although the LCP and the Coastal Act require public recreational access opportunities to be maximized and oceanfront land to be protected for recreational use, the City-approved project would reduce the availability of scarce oceanfront land for potential public recreational purposes, and it could cause adverse impacts to nearby existing public recreational access opportunities due to both construction activities and operation of the new WWTP (e.g., through additional truck traffic and objectionable odors), inconsistent with LCP and Coastal Act public recreational access requirements.

- Although the LCP requires the City to pursue water reclamation as part of this WWTP project, requires water supply to be protected for priority uses, and requires enhancement of Morro and Chorro groundwater basins where feasible, the City-approved project only includes a small amount of recycled water output (e.g., available for agricultural irrigation, urban landscaping, groundwater replenishment, etc.), and continues to propose to discharge (both tertiary and secondary treated effluent) via an ocean outfall when the LCP requires a more meaningful water reclamation program.

In summary, the approved project appears to be inconsistent with numerous policies of the City’s LCP, including policies related to coastal hazards, public access and recreation, public works, and visual and archaeological resources. The City-approved WWTP raises significant LCP conformance questions,
including whether a WWTP can be sited at this location at all, consistent with the LCP, and it does not appear that the City’s approval has adequately addressed the LCP in this respect, including in terms of evaluation of alternatives (including alternative sites) that could avoid LCP inconsistencies and better address Coastal Act and LCP objectives and requirements for such major public utility infrastructure.

Staff recommends that the Commission find that the City’s approval of a CDP for this project raises a substantial LCP conformance issue related to core LCP and applicable Coastal Act coastal resource protection requirements, and staff recommends that the Commission take jurisdiction over the CDP application. The Motion and resolution to effect this recommendation is found directly below.

In terms of de novo review of the CDP application, staff believes that such review would be premature absent substantial work on the Applicant/City’s part to develop the necessary supporting documentation for the proposed project, including fundamentally with respect to an adequate analysis of alternative siting and design options. Thus, once such information has been provided in a manner that allows it and the proposed project to be appropriately considered by the Commission in light of the relevant coastal resource issues, the de novo hearing would be scheduled for a later date.

2. Staff Recommendation on Substantial Issue

Staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the eleven appeals (“appeal”) were filed. A finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action.

Motion. I move that the Commission determine that Appeal Number A-3-MRB-11-001 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act. I recommend a No vote.

Staff Recommendation of Substantial Issue. Staff recommends a NO vote. Failure of this motion will result in a future de novo hearing on the CDP application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Find Substantial Issue. The Commission hereby finds that Appeal Number A-3-MRB-11-001 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

Report Contents

A. Staff Recommendation............................................................................................................................................................1
B. Findings and Declarations
The Commission finds and declares as follows:

1. Project Location
The proposed project is located adjacent to the dunes and shoreline north of Morro Creek in the City of Morro Bay.

Regional Setting
The City of Morro Bay is located on the shores of Morro Bay near the middle of the larger Estero Bay area in San Luis Obispo County. Until the mid-1940’s, most of the small community of Morro Bay was built on the bluff tops above the tidal flats. Between 1942 and 1945, the north and south breakwaters at the entrance to the Morro Bay harbor, two “T”-piers, and the inner harbor bulkhead were constructed for a Navy amphibious base. A navigational channel was dredged and the spoils deposited behind the inner harbor bulkhead to create a fill area along the bay that became known as the Embarcadero. In the late 1940’s the Navy base, including all waterfront facilities, was sold to San Luis Obispo County. Buildings began to be constructed on the Embarcadero, and various docks and piers were occupied by a growing fleet of commercial fishing boats. In the early 1950s, the County sold a portion of the old Navy base property to PG&E, which was later used to construct the Morro Bay Power Plant, now a defining feature in Morro Bay. In 1964, the City of Morro Bay incorporated and assumed jurisdiction over the County’s waterfront land and facilities, including the Embarcadero. Trusteeship of state tidelands was also transferred to the City at that time.
The City and the Embarcadero are major tourist attractions and prime coastal visitor-serving destinations with an estimated 1.5 million visitors annually. The Embarcadero is now largely developed with a variety of visitor-serving (overnight units, restaurants, gift shops, etc.) and coastal-related land uses (i.e., kayak rental, commercial and recreational fishing services, etc.). Parcels on the bayside of Embarcadero are leased to individual lessees by the City through the City’s proxy relationship to the State Lands Commission.

Morro Bay and the surrounding area include a variety of biological habitats, including coastal wetlands, intertidal mud/salt flats, rocky subtidal and intertidal zones, riparian corridors and woodlands. All of these habitats provide highly productive, diverse and dynamic ecosystems. Central to this habitat framework is the Morro Bay Estuary itself. This mostly shallow lagoon is approximately 2,500 acres and is sheltered from the open ocean by the sandspit and constructed breakwater. It is considered the most significant wetland system on California’s south central coast. The Bay serves as a critical link of the Pacific Flyway by providing important habitat for resident and migrating shorebirds and waterfowl. The Audubon Society has ranked Morro Bay as one of the top five areas out of nearly 1,000 sites nationwide for diversity of winter bird species. ¹

The Bay is home to a diverse collection of fish and wildlife species, many of which are rare, threatened, endangered, and/or endemic to the bay. For example, the estuary serves as resident and nursery habitat for the federally endangered tidewater goby and the steelhead trout, and other fish and shellfish. Other examples of federally threatened or endangered species that depend on the estuary and its watershed for their survival and recovery include: snowy plover, brown pelican, California black rail, California red-legged frog, Least Bell’s vireo, Morro shoulderband snail, Southern sea otter, California clapper rail, Southwestern Willow Flycatcher, and the Morro Bay kangaroo rat. In addition, the bay supports a diverse and wide range of marine organisms including fish, shellfish, invertebrates, and other taxa (e.g., phytoplankton, zooplankton, jellyfish). It also supports recreational and commercial fisheries, and also provides commercial shellfish harvests.

Morro Bay also includes the largest eelgrass beds in the southern part of the state, with dense stands located in the lower intertidal areas and shallow channels within the Bay. These beds are a complex and highly productive environment, serving as a spawning and nursery ground for many species of fish (e.g., halibut, English sole, topsmelt, shiner perch, speckled sanddab, plainfin midshipmen, arrow and bay goby), and larger invertebrates (e.g., bay shrimp, spiny cockle, nudibranchs, cancer crabs, yellowshore crab). The dense foliage serves a number of functions such as substrate for epiphytic flora, fauna, and microbial organisms that decontaminate the Bay’s water, and as a moderator of current and wave action, allowing suspended sediments and organic particles to settle, thereby improving water quality. Moreover, the eelgrass habitat in Morro Bay is the only significant eelgrass habitat in central and southern California available to the black brant during its annual migration to and from Mexico.

¹ For example, the Audubon Society estimates indicate that 200 different bird species have been identified using the Bay during a single day in December, including approximately 25,000 black brants.
their associated riparian areas provide habitat for fish and other aquatic organisms as well as food and shelter for migratory birds and other animals. In addition, they provide important habitat for the federally endangered steelhead trout. Steelhead trout are anadromous fish, which are spawned in streams, spend a portion of their life cycle in the ocean, and then return to the stream where they were spawned to reproduce.

B. Project Location
The City-approved project is located at 160 Atascadero Road in the City of Morro Bay. The site is located just inland of the beach and dunes and seaward of Highway One just upcoast of the Embarcadero, the Morro Bay Power Plant,\(^2\) Morro Creek, and the area defining Morro Rock. The site is occupied by the existing WWTP, which includes clarifiers, trickling filters, sludge drying beds and operations buildings. It is immediately adjacent to the Morro Dunes R.V. Park and Trailer Storage, Morro Bay High School, the City corporation yard, and a cement business. The WWTP is owned and operated by the co-applicants for the project, the City of Morro Bay and the Cayucos Community Services District (together, MBCSD). The City and the Community Services District operate the plant under a joint powers agreement.

See Exhibit A for location maps, site plans, and photos showing the project location and surrounding area.

2. Project Description
The existing WWTP was initially constructed in 1954, and it was upgraded in 1964 and again in the early 1980s. The upgrades in the early 1980s included: updating the WWTP design to provide secondary treatment for up to 0.97 million gallons per day (mgd) of wastewater; increasing the capacity to accommodate the current peak season dry weather flow (PSDWF) of 2.36 mgd; and extending the ocean outfall pipeline to 2,900 feet offshore.\(^3\) The existing WWTP is rated for an average dry weather flow (ADWF) of 2.06 mgd, a PSDWF of 2.36 mgd, and a peak hourly flow (PHF) equating to 6.6 mgd. The existing plant is equipped to treat up to 0.97 mgd of wastewater to secondary treatment levels, and to treat wastewater in excess of 0.97 mgd to primary treatment levels. Between 1995 and 2009, the WWTP treated an annual average measured daily flow of 1.25 mgd, and thus the existing WWTP has been discharging some effluent to the ocean that has only been treated to a primary level for many years.

The WWTP discharges treated effluent to the Pacific Ocean via ocean outfall and is regulated by a National Pollutant Discharge Elimination System (NPDES) Permit in accordance with Section 402 of the federal Clean Water Act. The WWTP is currently covered by a modified NPDES permit with a Clean Water Act Section 301(h) waiver, which waives the Clean Water Act minimum treatment

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\(^2\) The power plant is in the midst of a downsizing and complete modification project that includes essentially dismantling and removing the existing power plant, except for its intake and outfall lines, and constructing two new 600-megawatt power generation units at the site.

\(^3\) A 1981 CDP has been identified that appears to apply to this work, but as of the date of this report the file has not yet been retrieved from State archives so it is not clear what exactly was covered by that 1981 CDP.
requirement for full secondary treatment for all discharge. The Regional Water Quality Control Board (RWQCB) generally issues NPDES permits to waste dischargers every five years. The Morro Bay-Cayucos NPDES permit was first issued with a 301(h) waiver in 1985, and was re-issued with the same waiver in 1993, 1999 and 2008. Prior to the 1999 re-issuance, RWQCB staff requested that MBCSD consider upgrading the facility to full secondary treatment to comply with the Clean Water Act, as opposed to continuing to request a 301(h) waiver from discharge requirements, and to avoid discharging inadequately treated effluent into the ocean. MBCSD determined that such an upgrade was not feasible at that time, and again requested that RWQCB issue the 301(h) waiver-modified permit. In November 2005, RWQCB agreed to re-issue the 301(h) waiver-modified permit. In December 2005, the Applicant and RWQCB reached a Settlement Agreement to pursue a schedule for a full upgrade of the plant to eliminate the need for a 301(h) waiver-modified permit in the future. According to the Settlement Agreement, a WWTP upgrade is required to be completed by March 31, 2014.

The City-approved project provides for demolition of the existing WWTP facilities and construction of new WWTP facilities and related development on the same site. The new WWTP would be built mostly on the site of the existing sludge drying beds on the south side of the site. As soon as the new WWTP is completed, the old WWTP would be demolished. After demolition of the existing facilities, the northern portion of the site would be left vacant. The new WWTP facilities would include pumping stations, secondary clarifiers, oxidation ditches and a chlorine contact basin, as well as maintenance and operations buildings. The project also includes construction of new access roads, new fencing and landscaping.

The new WWTP would treat 1.5 mgd to tertiary treatment levels and it would treat additional wastewater to full secondary treatment. The effluent would be discharged via the old WWTP ocean outfall, which would be connected to the new facility as part of the proposed project. The tertiary treated wastewater produced at the WWTP would meet Title 22 standards for disinfected secondary-23 recycled water and could therefore be used for industrial use on-site and for limited off-site purposes such as soil compaction, concrete mixing and dust control. This water could only be used off-site if it is transported using trucks that would utilize the new truck filling station that is part of the approved project. In addition to these limited uses, the project includes a plan for the future production of 0.4 mgd of disinfected tertiary recycled water, the highest standard of reclaimed water, which could be put to a wide range of uses, including agricultural irrigation, groundwater replenishment and residential landscaping. However, as approved, this plan for future reclaimed water is not a requirement, and, the only way to transport the 0.4 mgd of higher quality water off-site would be using the proposed truck filling station and truck transport. Consistent with the RWQCB Settlement Agreement, the City-approved project would thus meet the minimum standards of the Clean Water Act that require at least secondary treatment for such discharge.

See detailed project information in the City’s final local action notice attached as Exhibit B, and see site plans and proposed project visual simulations in Exhibit A.

3. City of Morro Bay CDP Approval
On December 20, 2010, the City of Morro Bay Planning Commission unanimously denied a CDP for the proposed project, and denied certification of its associated environmental impact report (EIR). In making this decision, the City Planning Commission found that the proposed project could not be approved consistent with the LCP, including because the project was analyzed as an upgrade to existing development, while it actually constitutes a new project; because the EIR analysis was not sufficient; because the visual impacts were not minimized; and because there was an insufficient scoping process for the project. The Applicant appealed the Planning Commission’s denial to the City Council, and on January 11, 2011, the City Council approved the CDP. Notice of City Council action on the CDP was received in the Coastal Commission’s Central Coast District Office on January 14, 2011. The Coastal Commission’s ten-working day appeal period for this action began on January 18, 2011 and concluded at 5 p.m. on January 31, 2011. Eleven valid appeals (see below) were received during the appeal period.

4. Appeal Procedures
Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This project is appealable because it involves development that is located both seaward of the first public road and within 300 feet of the inland extent of the beach, and because it is a major public works project.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo CDP hearing on an appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is located between the nearest public road and the sea, and thus this additional finding would need to be made if the Commission approves the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives),
and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo CDP determination stage of an appeal.

5. Summary of Appeal Contentions
There are eleven appeals of the City’s approval. The main issues raised by the appeals are related to hazards, public access and recreation, visual resources, sustainable use of public resources, and archaeological resources. Appellants contend that the City’s approval is not consistent with the applicable policies related to these issues, both because the City did not perform an adequate alternatives analysis to determine if other site locations would be feasible, and because the City did not adequately evaluate or condition the project to ensure that development at this site would avoid and minimize resource impacts, as required by the LCP. In addition to these main issues, the Appellants make a variety of other contentions. Some of these additional contentions provide background information and others are not appropriate appeal contentions and thus are not relevant to the Commission’s substantial issue determination. See Exhibit C for the full text of the appeals.

6. Substantial Issue Determination
A. Applicable LCP Policies
The approved WWTP project would consist of demolishing the existing WWTP and constructing a new WWTP on the existing site. Although the City characterized the project as an “upgrade” to the existing WWTP, it is in fact a complete replacement of the existing facility, and the existing facility itself would be demolished once the new WWTP is fully operating. Therefore, as relevant, the project on appeal is not an upgrade project in a coastal permit sense; rather the project is new development of a WWTP and demolition of an existing facility.

The LCP requires development to avoid hazards, minimize risks to life and property, and minimize landform alterations. In addition, development that creates or contributes to erosion or geologic instability is prohibited. Relevant hazards policies include:

LUP Policy 9.01. All new development located within areas subject to natural hazards from geologic, flood and fire conditions, shall be located so as to minimize risks to life and property.

LUP Policy 9.02. All new development shall ensure structural stability while not creating nor contributing to erosion or geologic instability or destruction of the site or surrounding area.

4 These additional contentions that provide background information include: that the City’s Planning Commission denied the Draft EIR for the project; that the City’s water supply is in peril; that the technology of the wastewater treatment is outmoded; and information about consultants and the costs of contracts for design and construction.

5 These appeal contentions include claims that the project approval is inconsistent with CEQA, the City’s General Plan and the Estero Area Plan of the San Luis Obispo County LCP. However, contentions regarding the City’s compliance with CEQA, and the project approval’s consistency with the City General Plan or the County LCP, are not valid appeal contentions because appeal contentions, per the Coastal Act, are limited to questions of LCP consistency and Coastal Act access and recreation consistency.
LUP Policy 9.03. All development, including construction, excavation and grading, except for flood control projects and agricultural uses shall be prohibited in the 100-year floodplain areas unless off-setting improvements in accordance with the HUD regulations are required...

LUP Policy 9.05. Plans for development shall minimize cut and fill operations. Plans showing excessive cutting and filling shall be modified or denied if it is determined that the development could be carried out with less alteration of the natural terrain.

LUP Policy 9.06. All development shall be designed to fit the site topography, soils, geology hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. To accomplish this, structures shall be built to existing natural grade whenever possible. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited to development because of known soil geologic, flood, erosion or other hazards shall remain in project open space.

Chapter X. Section C.2.c.1.0 Provide for the identification and evaluation of existing structural hazards, and abate those hazards to acceptable levels of risk.

Chapter X. Section C.2.c.2.0 Ensure that new development within the City’s jurisdiction is designed to withstand natural and man-made hazards to acceptable levels of risk.

The standard of review for the approved project includes the public access and recreation policies of both the City’s certified LCP as well as the Coastal Act. These policies require new development to maximize public access and protect oceanfront land for public access and recreation. Relevant policies include:

Coastal Act Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Coastal Act Section 30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Coastal Act Section 30213. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

Coastal Act Section 30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.
Coastal Act Section 30222. The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Coastal Act Section 30223. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

LUP Policy 2.01. Lower-cost visitor and recreation facilities for persons and families of low or moderate income shall be protected, encouraged, and where feasible, provided. Developments providing public recreation opportunities are preferred.

The LCP also requires development to minimize visual impacts and protects public views to and along the shoreline. The LCP states:

LUP Policy 12.01. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic and coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas...

LUP Policy 12.02. Permitted development shall be sited and designed to protect views to and along the coast and designated scenic areas and shall be visually compatible with the surrounding areas...

The LCP requires water reclamation to be a part of any upgraded WWTP, requires water supply to be protected for priority uses, and requires the quantity of water in the Morro and Chorro groundwater basins to be enhanced where feasible. Taken together, these policies require this project to include a meaningful wastewater reclamation program. Relevant LCP policies include:

LUP Policy 3.08(5). Even with delivery of State Water, use of reclaimed water is the City’s second highest priority and remains a productive source of potential conservation for both large and small scale projects, respectively, and as a result, should be pursued when funded by a potential user, required as part of a wastewater plant upgrade or permit condition or when it is shown as cost effective for City use. Staff is further directed to pursue small scale projects as both internal and external funding sources are made available.

LUP Policy 3.04. …A Water Management Plan shall ensure at a minimum, the following: (1) An adequate water supply for coastal-dependent activities such as commercial fishing, oyster farming, fish and shellfish processing, recreation boating and fishing and industrial energy development...

LUP Policy 11.17. The biological productivity of the City’s environmentally sensitive habitat areas shall be maintained and, where feasible, restored through maintenance and enhancement of the quantity and quality of Morro and Chorro groundwater basins and through prevention of
interference with surface water flow. Stream flows adequate to maintain riparian and fisheries habitat shall be protected.

**LUP Policy 6.06.** The City shall participate in the efforts of the coastal Conservancy or other public or private agencies to implement agricultural enhancement programs. These programs may include but are not limited to... (4) Assistance programs (water subsidies, recycling methods...)

The LCP also includes strong protections for archaeological resources. The key LCP policies state:

**LUP Policy 4.01.** Where necessary significant archeological and historic resources shall be preserved to the greatest extent possible both on public and privately held lands.

**LUP Policy 4.07.** All available measures, including purchases, tax relief, purchase of development rights, etc. shall be explored to avoid development on significant archaeological sites...

**B. Analysis**

The City-approved project provides for the construction of major public infrastructure, a new WWTP, and demolition of an existing outdated plant. As such, the project represents a significant public investment that has the potential to provide substantial benefits to the community and to coastal resources, both by improving the quality of wastewater effluent and by providing an opportunity for a new supply of reclaimed water in a community where the existing water supply is not sustainable and water shortages are frequent. However, the project site is severely constrained by significant hazards and archaeological resources, and due to its oceanfront location, it would have adverse impacts on public access and recreation and visual resources.

The fundamental deficiency in the City’s approval of the project is a lack of a thorough and robust alternatives analysis to evaluate whether there is a more appropriate site to locate the plant. Alternative sites may avoid hazards and archaeological resources, and may minimize other coastal resource impacts. In addition, alternative sites (and alternative project components) may increase opportunities for producing and providing recycled water in an efficient manner.

In its approval, the City only considered one off-site alternative. The site is located in the Chorro Valley, more than a mile inland from the shoreline, and would avoid many of the constraints of the existing site. However, the alternative project included constructing a new WWTP in the Chorro Valley that would only treat a portion of the district’s wastewater, while the remainder of the wastewater would continue to be treated at the existing WWTP. The City rejected this alternative due to increased impacts related to visual resources, construction impacts, and land use compatibility.

Given the LCP polices that clearly require new development to avoid the coastal resource constraints that are present at the project site, the City should have considered a broader range of alternatives to determine if another site location would allow for an LCP-consistent project. Therefore, the appeal contentions calling for further alternatives analysis raise a substantial issue of conformance with the...
certified LCP.

1. Hazards

The LCP requires new development to minimize risks from geologic, flood and fire conditions and requires new development to ensure structural stability while not creating nor contributing to erosion or geological instability or destruction of the site or the surrounding area. The LCP also requires landform alterations to be minimized. LCP Policy 9.05 requires development to minimize cut and fill, and requires projects that have excessive cut and fill to be modified or denied if the development could be carried out with less alteration of the natural terrain; Policy 9.06 requires development to be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions so that grading and other site preparation is kept to a minimum. The LCP also describes the risks of flooding within the City. Page 156 of the LCP states that the floods of 1969 and 1973 showed that flooding could have been worse if the flood plain had been more highly developed, and on page 157, the LCP specifically identifies the fact that the existing WWTP is located in the flood plain as one of the City’s flood-related problems in this respect. The LCP goes on, in Policy 9.03, to prohibit all new development in the 100-year floodplain, except for flood control projects, agricultural uses, and off-setting improvements required by the Department of Housing and Urban Development (HUD) regulations.

The project site is subject to significant hazards from flooding, tsunamis, shoreline erosion and liquefaction. It is sited in a topographic depression that is subject to flooding near the mouth of Morro Creek, a watercourse that drains a 24-square-mile watershed. The Flood Hazard Analysis prepared for the site indicates that the depth of flood waters at the site would be between 3 and 4.5 feet during a 100-year storm event. The City’s analysis of the impacts of approximately 4.5 feet of sea level rise\(^6\) indicates that by 2100, storm surges associated with sea level rise alone could inundate the project site. Taken together with other related constraints (floodplain location issues, shoreline erosion issues, creek mouth geometry and volume, etc.), it can reasonably be presumed that such sea level rise will tend to result in even worse flooding and inundation at this site over time,\(^7\) and that the site will be subject to shoreline erosion and its attendant impacts in the future. Further, the project is located in an identified tsunami inundation area, and is subject to risks from liquefaction, unconsolidated soils and settlement.

As discussed above, the City’s approval is deficient in its review of project consistency with the policies of the LCP including the hazards policies because the site is so constrained as to make it difficult to see how such a project could be sited here consistent with the hazards policies, and despite this fundamental

\(^6\) Sea level has been rising slightly for many years, and there is a growing body of evidence that there has been an increase in global temperature and that acceleration in the rate of sea level rise can be expected to accompany this increase in temperature (some shoreline experts have indicated that sea level could rise 4.5 to 6 feet by the year 2100. For example, the California Climate Action Team has evaluated possible sea level rise for the California coast and, based on several of the Intergovernmental Panel on Climate Change (IPCC) scenarios, projected sea level rise up to 1.4 meters (4.5 feet) by 2100. These projections are in line with 2007 projections by Stefan Rahmstorff (“A Semi-Empirical Approach to Projecting Future Sea-Level Rise”, Science; Vol 315, 368 – 370.) Research by Pfeffer et al. (“Kinematic Constraints on Glacier Contributions to 21st-Century Sea-Level Rise”, Science, Vol, 321, 1340 – 1343) projects up to 2 meters of sea level rise by 2100.

\(^7\) For example, mean sea level affects shoreline erosion several ways, and an increase in the average sea level will exacerbate all these conditions. On the California coast, the effect of a rise in sea level will be the landward migration of the intersection of the ocean with the shore, and an intensification of shoreline hazards at this dynamic water-land interface.
problem, the City’s approval lacks the necessary robust alternatives analysis, including with respect to alternative sites. In addition, the City’s approval did not adequately address the specific hazards of this site. First, the City did not even acknowledge Policy 9.03, which prohibits all development in the 100-year floodplain, including construction, excavation and grading, except off-setting improvements required by HUD. This project is not an off-setting improvement required by HUD, and therefore, the LCP prohibits the project at this location. Further, in an effort to address the risks of flooding, the approved project includes raising the new WWTP on approximately five feet of new fill. Such an approach does not conform to Policy 9.05, which requires cut and fill to be minimized, and requires projects that include excessive cut and fill to be modified or denied.

With regard to tsunamis, in its approval, the City determined that because the risk of tsunamis to the existing WWTP is the same as the risk of tsunamis to the upgraded WWTP, there is no need to evaluate this risk. However, as discussed above, the approval is for construction of an entirely new WWTP and demolition of the existing WWTP, and therefore, the project must avoid and minimize the risk from tsunamis to ensure compliance with the LCP. To do this, an analysis of the tsunami risk and potential strategies to minimize this risk must be performed.

With regard to shoreline erosion, the City’s approval did not include up-to-date information about the risks to the project due to shoreline erosion, including due to global climate change and sea level rise. The EIR that the City certified for the project assumed a maximum of 23 inches of sea level rise by 2100 and concluded that because the site would be higher than 16 feet above current mean sea level, the project would not be at risk from the impacts of sea level rise. However, as discussed above, when considering approximately 4.5 feet of sea level rise by 2100, which is much closer to currently accepted estimates, one study found the site would be inundated by storm surge. This indicates that the site would also be subject to shoreline erosion, which may be exacerbated because future storm surges would impact the existing dune system, altering any erosion protection capability it may have on the project site. Therefore, an analysis of future shoreline erosion is necessary to ensure risks and impacts from this coastal hazard are minimized, as required by the LCP.

And finally, with regard to liquefaction, the City’s approval incorporates mitigation measures described in the EIR that rely on future geotechnical investigations to recommend future modifications to the project that would avoid and minimize these hazards. However, relying on future studies and future project modifications does not ensure that the project will minimize seismic risks, as required by the LCP. Instead, any such studies and project changes must be evaluated prior to project approval.

Therefore, the City’s approval did not adequately analyze the project for consistency with the hazards policies of the LCP, in part because the City did not consider the project to be new development. However, the project is without a doubt new development because it consists of completely demolishing the existing WWTP and constructing a new WWTP directly adjacent to it. Because of the significant hazards on the site, it is necessary to determine if constructing a new WWTP on an alternative site would avoid or minimize these significant coastal hazard risks. Further, the City did not adequately analyze or condition the project to ensure risks from hazards to the project and surrounding areas would be avoided and minimized, as required by the LCP. Therefore, the appeal contentions related to hazards
raise a substantial issue of conformance with the LCP.

2. Public Access and Recreation

The California Constitution\(^8\) and the federal Coastal Zone Management Act\(^9\) mandate the protection and enhancement of public access to and along California’s coastline. The Coastal Act and the City’s certified LCP refines these requirements, including prioritizing public recreational use and development in areas along the shoreline such as this one. Coastal Act Section 30210 requires that public recreational opportunities be maximized,\(^10\) Section 30211 further requires that development not interfere with existing public access. Section 30221 protects oceanfront land for recreational use, Section 30222 prioritizes the use of suitable lands for visitor-serving commercial recreational facilities, and Section 30223 reserves upland areas necessary to support public recreational uses for such uses. Coastal Act Section 30213 and LCP Policy 2.01 require lower-cost visitor and recreation facilities to be protected, encouraged, and where feasible, provided. In addition, in reference to the area of the project site, LCP Chapter IV Section F.2. states: “…When Embarcadero Road is connected to State Highway 41 this will become a secondary entrance to the City…” In other words, in addition to the public access and recreation policies that clearly require public access to be maximized, protected, and enhanced, the LCP also articulates a vision for the project site area where it transitions to a visitor serving corridor, providing a key component to the City and how visitors use and view the City.

The City’s approval did not provide a sufficient evaluation of the project’s impacts on public access and recreation. The City determined that because the new WWTP would not increase demand for recreational resources, the way that new commercial or residential development might draw a larger demand for local parks, for example, that the project would thus not cause any impacts on recreational resources at all, and thus recreational access issues weren’t identified nor resolved. However, such determination ignores the above-referenced LCP and Coastal Act policies and objectives for this prime shoreline location, including those requiring oceanfront land to be protected and prioritized for recreational uses, and it does not explain how the project could comply with policies requiring that public recreational access opportunities be maximized, that existing access be protected, and that lower cost public recreational access facilities to be protected, encouraged, and where feasible, provided. The City also determined that the project, which includes construction and operation of a WWTP, would not

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\(^8\) Section 4 of Article X of the California Constitution provides: “No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.”

\(^9\) The federal Coastal Zone Management Act requires its State partners to “exercise effectively [its] responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone” (16 U.S.C. Section 1452(2)) so as to provide for “public access to the coasts for recreational purposes.” (Section 1452(2)(e))

\(^10\) Coastal Act Section 30210 direction to maximize access represents a different threshold than to simply provide or protect such access, and is fundamentally different from other like provisions in this respect. In other words, it is not enough to simply provide access to and along the coast, and not enough to simply protect access, rather such access must also be maximized. This terminology distinguishes the Coastal Act in certain respects, and provides fundamental direction with respect to projects along the California coast that raise public access issues, like this one.
cause any impacts to existing recreational resources, such as the adjacent beach and beach parking and the adjacent RV park. However, because it did not provide any basis for this determination, it is not clear how such determination could be made.

It is not clear that using the existing site for a replacement WWTP can be found consistent with these and other similar public recreational access policies, and it is inappropriate to find such project consistent when such determination is based on cursory statements as opposed to actual analysis of issues and concerns applicable to this location and its relation to the City and the LCP vision for this stretch of coast. Absent compelling evidence to the contrary, it appears clear that the highest, best use for property such as this is not for industrial use, particularly when the question is not whether the existing plant should stay, rather it is whether a new replacement plant ought to be constructed in this location. That latter question necessarily involves looking anew at LCP and Coastal Act priorities, and evaluating the manner in which such priorities square with related local and regional long-term visions for redevelopment over time related to this special location.

Moreover, the continuation of a wastewater plant at the proposed location will have impacts on both existing public recreational access and visitor serving resources in the area, as well as the manner in which such existing resources will be enhanced over time, including in terms of expected redevelopment in this area over the life of the project. The City’s approval did not include information to quantify these effects so that they could be compared to other potential alternative sites that can meet siting requirements appropriately. It seems reasonable to presume that sites farther inland are likely to have inherently reduced impacts on public recreational access and visitor serving resources, both existing and over time. The City also did not analyze the public access and recreation impacts that could be caused by demolition and construction activities, including impacts caused by construction traffic, staging and traffic detours, as well as ongoing traffic impacts once the plant is fully operating.

Therefore, because the City’s approval only analyzed the public access and recreation impacts of the project as they relate to how the project might induce demand for recreational resources, and not how the project may or may not conform to the public access and recreation policies of the LCP and the Coastal Act, the appeal contentions based on public access and recreation raise a substantial issue of conformance with the applicable policies.

3. Visual Resources
The LCP requires the scenic and visual qualities of the coast to be protected and requires development to be sited and designed to protect views to and along the ocean and other coastal areas. The project involves constructing a new WWTP immediately adjacent to multiple areas that are used by the public for access and recreation at and along the coast. The site is located on Atascadero Road, which is shown in LCP Figure 30 as a street providing scenic views. In addition, views from the dunes looking inland across the site include mountain ridgelines and views from the road looking towards the coast across the site include Morro Rock. The site is also visible from Highway One. New development at this location has the potential to obstruct and degrade these important public views.

Because the project site is located in a highly sensitive area for visual resources, as described above,
because the LCP requires such visually sensitive areas to be protected for their scenic resources, and because the City-approved project is for an industrial operation that includes large (including two-story structures) structures and elements that intrude into and on the public viewshed, the first requirement for an approval would be a thorough review of potential alternatives, including as described previously, to determine if there is a different, feasible location for project siting, including in relation to the potential highest, best use for the project site in an LCP and Coastal Act sense. Again, sites further inland are likely to have inherently reduced visual impacts in this respect, and such siting when combined with appropriate design can ensure visual compatibility.11

With regard to the approved project, the LCP requires visual impacts to be minimized. This requirement could be achieved through a variety of measures, including by moving to an alternate site and through reducing the height, scale and bulk of the development if possible, ensuring appropriate building materials, colors, architectural articulation and landscaping are utilized to allow the development to blend with the site, and ensuring lighting plans minimize impacts on nighttime views.

As described previously, the City did not perform an adequate alternatives analysis. Such an analysis would have provided information with which to understand visual impacts and potential mitigation, and may have resulted in moving the project to another location, avoiding or minimizing the visual impacts of the project at the visually prominent site where it is located. In addition, the City’s approval did not evaluate whether the height and scale of the accessory buildings could be reduced, and the City did not require submittal of a lighting plan prior to approving the permit. Further, the approved landscaping is minimal and would not adequately screen the development. Therefore, the City’s approval is not consistent with the requirements of the LCP and the appeal contentions related to visual resources raise a substantial issue of conformance with the LCP.

4. Sustainable Use of Public Resources

The LCP requires the City to pursue water reclamation as part of this WWTP project. Specifically, LCP Policy 3.08(5) says: “Even with delivery of State Water, use of reclaimed water is the City’s second highest priority and remains a productive source of potential conservation for both large and small scale projects, respectively, and as a result, should be pursued when funded by a potential user, required as part of a wastewater plant upgrade or permit condition, or when it is shown as cost effective for City use…” Furthermore, maximum reuse of reclaimed water would help the City meet its water supply needs and ensure water supply is available for priority uses as required by the LCP, especially if/when State Water is restricted or unavailable. Properly treated reclaimed water could be used for many beneficial purposes, including agricultural irrigation inside and/or outside of the district’s service area, injection wells to maintain and enhance the water quality and biological resources associated with the Chorro and Morro groundwater basins (including as required by LCP Policy 11.17), and for residential and municipal landscaping, among other uses. LCP Policy 6.06 encourages the City to support agricultural assistance programs, including through water subsidies and recycling methods. In addition, LCP Policy 11.17 states: “the biological productivity of the City’s environmentally sensitive habitat

11 For example, the rural agricultural design aesthetic approved last year by the Commission for the wastewater treatment plant in nearby Los Osos (Commission CDP A-3-SLO A-3-SLO-09-055/069).
areas shall be maintained and, where feasible, restored through maintenance and enhancement of the quantity and quality of Morro and Chorro groundwater basins…” In short, the LCP requires that the new WWTP provide for a meaningful reclaimed water component because the LCP requires: (1) water reclamation to be a part of the WWTP upgrade; (2) water supply to be protected for priority uses; and (3) the quantity of water in the Morro and Chorro groundwater basins to be enhanced where feasible.

The project includes a plan for only a small amount of wastewater reclamation. The tertiary treated wastewater produced at the new plant would meet Title 22 standards for disinfected secondary recycled water and could therefore be used for industrial use on-site and for limited off-site purposes such as soil compaction, concrete mixing and dust control. This water could only be used off-site if it is transported using trucks that would utilize the new truck filling station that is part of the approved project. In addition to these limited uses, the project includes a plan for the future production of 0.4 mgd of disinfected tertiary recycled water, the highest standard of recycled water, which could be put to a wide range of uses, including agricultural irrigation, groundwater replenishment and residential landscaping. However, as approved, there is no requirement to carry out this plan, and the only way to transport this 0.4 mgd of higher quality water off-site would be by using the proposed truck filling station and truck transport. No additional infrastructure is included as part of the project and the project does not include any provisions or planning to accommodate future infrastructure that could be used to transport the water, except for through the use of trucks.

It is clear that the City-approved project includes some capability to produce reclaimed water, but it is equally clear that it has not been designed to address sustainable public utility infrastructure more holistically as the LCP appears to envision. For a City that has significant water supply issues, including fragile groundwater basins, and given that there is a strong correlation between the health of the groundwater basins and broader environmental resource health, it is incumbent on the City to explore options for addressing such LCP issues more thoroughly than has been done to date, particularly for a major public improvement project such as this. The City’s approval lacks the level of data and analysis that would allow for informed LCP decisions to be made on this point, including with respect to the manner in which alternative sites and/or infrastructure may be more or less appropriate in that context than what has been approved to date. This represents a missed opportunity to take into account on-going public service needs as comprehensively as possible, including with respect to the manner in which the location of the disposal of the treated wastewater can be used to maximize its groundwater/water supply utility within its basic framework. For example, a more comprehensive water reclamation program would help the City carry out the policies of the LCP by reducing the quantity of water pumped from groundwater basins due to reduced demand, and by potentially allowing for injection wells that could help to recharge groundwater basins. More recycled water used in this way correspondingly reduces the need for ocean discharge, promoting other Coastal Act and LCP priorities related to the shoreline area and the area offshore. The City’s WWTP approval does not adequately identify information necessary for decision-makers to make LCP decisions on this point, and does not adequately account for LCP wastewater reclamation requirements, and therefore, the approval raises a substantial issue of conformance with the LCP.
5. Archaeological Resources
The project site is located in close proximity to numerous documented archaeological sites and is located on top of a significant burial ground of the Salinan Tribe. The LCP requires that such significant archaeological and historic resources be preserved to the greatest extent possible, and requires all available measures, including tax relief and purchase of development rights, in order to avoid development on significant archaeological sites. The new WWTP requires significant ground disturbance and excavation at this sensitive location, and would cover a large area with significant WWTP facilities. It is not clear that all measures have been taken to avoid disturbing archaeological resources, including because the City’s approval did not thoroughly evaluate potential alternative sites that could be used to avoid impacting such resources known to be present at this location. Thus, the appeal contentions related to archaeological resources raise a substantial issue of conformance with the LCP.

6. Other Issues

Plant Capacity
Several Appellants contend that the capacity of the plant is not sufficient to accommodate existing and planned development within the wastewater district. Specifically, appeal contentions include that using historic flow rates to project future flows, without considering potential changes in the demographic make-up of the City and related housing occupancy ratios, is not sufficient to ensure the plant is adequately sized. The LCP requires the City to ensure wastewater treatment capacity for certain priority uses, including commercial fishing and agriculture and coastal dependent land uses. Also, LCP Policy 3.06 specifically requires the City to provide wastewater treatment facilities to accommodate the LCP-consistent build-out. In addition to the City’s residential population, the upgraded WWTP must also serve the residential population of the Cayucos portion of the service district in the unincorporated County area, as well as the entire district’s industrial and commercial needs. The City utilized the population projections developed by the San Luis Obispo Council of Governments, but because it did not account for additional potential demographic changes, it may not have ensured sufficient wastewater treatment capacity would be available for priority uses and for LCP envisioned development otherwise, as required by the LCP. Further, the plant has been sized to accommodate growth until 2030, but no discussion of the impacts of expanding the plant in the future has been provided. Given the magnitude of investment in this major infrastructure and the requirements of the LCP, it is not appropriate to focus on the 2030 horizon and thus not evaluate what will happen at 2030 (or before) in relation to the project lifetime. Rather, it is necessary to evaluate the ability of the WWTP to accommodate demand for wastewater treatment beyond 2030. Therefore, because it is not clear that the City adequately identified future LCP consistent wastewater needs, and did not plan for wastewater treatment capacity beyond 2030 and the expected design life, its approval raises a substantial issue of conformance with the LCP policies requiring treatment facilities to accommodate LCP consistent build-out and to ensure wastewater treatment capacity is available for priority uses.

Coastal Dependent Development
The City’s approval considered the WWTP to be coastal dependent development because it is connected
to an ocean outfall. Several appeals argued that such a determination was inappropriate due to the fact that although the ocean outfall is coastal dependent, the WWTP is not. In fact, current technology may allow for the elimination of the ocean outfall altogether, as shown by the recently approved wastewater plant in nearby Los Osos,\textsuperscript{12} or for use of the ocean outfall (if it is proven necessary) by a plant that is located further inland. As such, the coastal-dependent nature of the plant as it relates to the ocean outfall is a much more nuanced question than a rote reliance on its current use of the ocean outfall to justify the current site location. Again, because the City’s approval did not include a robust alternatives analysis to explore whether it is possible to eliminate the need for the outfall or connect a WWTP that is located farther inland to the existing outfall, it is not possible to make the determination that it is coastal dependent, and these appeal contentions raise a substantial issue of conformance with the LCP.

In addition, the City’s approval relies on LCP Policy 5.03, which allows for protection of the existing WWTP at its current location because the ocean outfall line is coastal-dependent. However, this policy does not apply to the approved project because this project is for construction of a new WWTP. The policy in question is meant to indicate that the existing plant could be protected in situ (e.g., a floodwall to address flooding) if that were deemed appropriate for other reasons, but it is not a basis to justify a replacement plant incorporating different technologies at the same location. In short, LCP Policy 5.03 is not controlling in terms of the current project, and cannot be used as a reason for siting the project at the current location. The appeal contentions that argue the City’s approval misinterpreted Policy 5.03 raise a substantial issue of conformance with the LCP.

**Impacts on ESHA**

Some appeal contentions include that the City’s approval did not adequately protect environmentally sensitive habitat areas (ESHA), as required by the LCP. The LCP requires ESHA to be protected, and requires new development adjacent to ESHAs to avoid and minimize impacts to the resource. The approved WWTP is approximately 400 feet from the edge of the vegetated dunes, and approximately 500 feet from the edge of the riparian corridor associated with Morro Creek to the south of the site. The approved project has the potential to cause impacts to these areas from polluted runoff and increased erosion. However, the City’s approval includes a requirement to prepare a storm water pollution prevention plan to control erosion, sedimentation, and hazardous materials release. Because the City’s approval includes this requirement, and due to the distance between the project site and these ESHAs, this part of the contention does not raise a substantial issue of conformance with the LCP.

More broadly, though, and as discussed above, the City’s approval has not adequately explored the relationship (and/or potential relationship) of the WWTP to groundwater basins and other water supply features, and the way a re-envisioned project could affect such resources (and the ESHA they support in some cases) on the positive side of the ledger. As previously indicated, the watercourses in this area as well as Morro Bay itself are significant habitat resources, and their importance underscores the need for a project like this to be understood in relationship to how it affects or could affect these resources, including positively. Similarly, the City’s action presumed that the discharge from the ocean outfall was

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\textsuperscript{12} The Los Osos WWTP, approved by the Commission last year, was premised on returning all treated wastewater effluent to beneficial uses, and did not include any ocean outfall.
not an issue because it would be treated to a higher level than the existing effluent stream currently discharged overall. However, there was only limited data and analysis to support this conclusion, and it again misses the critical questions regarding whether an ocean outfall is even necessary if the project included a more significant wastewater reclamation component, or if it were constructed at a different location. Therefore, these appeal contentions raise a substantial issue of conformance with the LCP.

**Treatment of Biosolids**

Several appeal contentions discuss how the project would eliminate the onsite treatment of biosolids and the composting program associated with the existing WWTP. This change has the potential to cause coastal resource impacts by requiring an increase in truck trips to remove solids from the site. Such truck traffic has the potential to impact public access to the coast. Therefore, this contention may or may not raise a substantial issue of conformance with the LCP, based on the additional truck traffic it would create. The lack of analysis of the impacts to public access from operation of the new plant is discussed under the Public Access and Recreation section, above.

**Impacts on the High School**

Several appeal contentions discuss the impacts of the WWTP on the neighboring high school. Although these contentions may raise valid issues, schools are not a coastal resource that are categorically protected under the LCP. Lacking further articulation in relation to LCP policies on this point, these contentions do not raise a substantial issue of conformance with the LCP.

**C. Substantial Issue Determination Conclusion**

The City-approved project raises significant coastal resource issues, including with respect to hazard avoidance, public viewshed protection, maximizing and optimizing public access and recreational opportunities, protection of archeological resources, and sustainable public infrastructure requirements. The project site is subject to multiple significant constraints, including risks from a variety of coastal hazards, a location within a scenic public shoreline viewshed, and the presence of significant archeological resources. In addition, it is located on prime oceanfront land where it is not clear that continuation of industrial use is appropriate in light of LCP and Coastal Act objectives, and it may be that the site is better-suited for public access and recreation. The City also authorized a major public works project which does not appear to have properly countenanced the sustainable public works provisions of the LCP.

The City’s approval is fundamentally flawed in that it lacks a thorough alternatives analysis that evaluates a broad range of alternatives, including fundamentally in terms of alternative appropriate sites, such as is required to be able to find a WWTP project consistent with the LCP and the Coastal Act. Such

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13 The ocean outfall is located within the Coastal Commission’s retained CDP jurisdiction, and it appears that the approved project would require a CDP from the Commission for development associated with the outfall. The Commission has not to date received any such application, and it necessarily is affected by the need to identify the purpose and need for the outfall, including in relation to alternative sites and technologies, and including with respect to more aggressive water reclamation components and a different site altogether. In short, this aspect of the project has not yet been well defined, and is dependent on a better understanding of the appealed project in a de novo review.
alternative sites, especially if located further inland, have the potential to completely avoid the constraints of the subject site, and the potential to allow consideration of a WWTP project that can resolve other coastal resource issues associated with the City-approved project. As it is, it appears that the City-approved project is inconsistent with the LCP and the Coastal Act on multiple grounds, perhaps most critically because it is not clear that WWTP development at this site can even be found LCP and the Coastal Act consistent in terms of hazards avoidance, public recreational access, the public viewshed, sustainable use of public resources, and archaeological protection.

Therefore, the Commission finds that the City’s approval raises a substantial issue of conformance with the LCP and the public access and recreation policies of the Coastal Act, and takes jurisdiction over the CDP application for the proposed project.

Additional information necessary for de novo review
Prior to bringing this matter back for Coastal Commission review in a de novo CDP hearing context, the applicant will need to provide the information necessary to evaluate the project for consistency with the LCP and the public access and recreation policies of the LCP. Absent information regarding alternative siting and design, the Commission will not be in a position to evaluate the proposed project against the these requirements, and does not intend to schedule a hearing until the City and/or the Applicant has developed and provided further information to bridge the analytic gaps that are currently present and associated with the proposed project. Such information includes the following:

Alternatives Analysis
The Applicant must provide a thorough and robust alternatives analysis designed to address each of the substantial issues identified above. Clearly, the primary focus of such alternatives analysis needs to be one of looking at a range of feasible alternative sites to the site of the City-approved project. The alternatives analysis needs to be focused on a co-equal evaluation across the same range of evaluation factors, and it must identify and account for additional sites that would at a minimum be capable of avoiding the identified coastal resource impacts, addressing the identified coastal resource issues otherwise (including with respect to reclamation), and accommodating a wastewater treatment plant to meet the Applicant’s needs. The analysis must provide clear and documented information about the costs and benefits of alternative project locations, and it must provide clear and documented information relative to treated wastewater disposal options associated with the sites, including with respect to the manner reclamation for beneficial uses could be accommodated for each (for agricultural irrigation, landscaping, groundwater augmentation, etc.). For example, a site location farther inland has the potential to not only avoid hazard issues and significantly reduce the project’s impacts on water quality, biological resources, public viewsheds, public recreational and visitor-serving access, and archaeological resources, but it could also increase the efficacy and utility of potential water reclamation components, including with respect to distribution of reclaimed water to appropriate locations (e.g., agricultural irrigation, landscaping irrigation, etc.), and including the manner in which such reclamation can reduce related groundwater drawdown and augmentation on a location-specific basis. The Applicant is encouraged to review the Commission’s action with respect to San Luis Obispo’s nearby Los Osos Wastewater Treatment Project (that was approved by the Commission last year) for general information.
regarding the parameters of an approvable WWTP project.

**Updated Water Reclamation Feasibility Study**
The Applicant must also provide a complementary, updated water reclamation feasibility study that explores all potential demand for reclaimed water, including for agricultural irrigation inside and outside of the City limits, and the way in which the project could be reconceived to dispose of treated effluent in this manner. The study must evaluate the feasibility of constructing infrastructure to accommodate such water reclamation program, and it must evaluate the benefits of a water reclamation program, including potential benefits to stream habitats and water supply, potential revenue generation from providing such water to users and offsetting the need for purchased State Water credits, and the potential for elimination of the existing ocean outfall.

**Additional Site Specific Hazard Information**
The Applicant must submit a comprehensive coastal hazards study applicable to the current site, including in terms of expected shoreline erosion over the life of the project, and the relationship of global climate change and sea level rise to expected hazard problems that accrue to this site. Such study must include an evaluation of the impacts to the project as measured against a range of sea level rise conditions and the interaction of the various coastal hazards described in this report, including information specific to the threshold when the WWTP would be in danger from erosion. The study must also include the elevation and inland extent of storm surge and flooding that might occur over the life of the development due to shoreline dangers, including as this changes with expected sea level rise over the expected life of the project. Such information must include how far inland and how high such water would go when the combination of hazardous factors are at their most extreme, and must include evaluation of impacts from and appropriate responses to same. At a minimum, such combination of factors to be evaluated should factor in an eroded beach, a 100-year storm event (or the equivalent of the 1982/83 El Nino event if the 100-year storm event has not be determined), an extreme high tide, and a 100-year rise in sea level at both optimistic and conservative ends of the projection spectrum. All assumptions and methodologies for identifying the expected degree of danger must be clearly identified and documented. This study must also include a description of any shoreline protection or other project modifications that would be necessary to protect the WWTP under such future hazardous conditions. The study must include an analysis of the tsunami and liquefaction risk and strategies to minimize this risk. All information must be supported by appropriate studies, reports and related data (e.g., geotechnical reports, soils reports, soil stability reports, etc.).
Figure 2-1
Project Vicinity
Figure 2-3
Site Layout, Visual Simulation
Looking East
SOURCE: RRM Design Group, 2010
Figure 3.1-1
Scenic Resources

SOURCE: Crawford, Multari & Clark, 2004; GlobeXplorer; ESA, 2010
Figure 3.1-2
Visual Simulation,
Looking East from the Ocean
NOTICE OF FINAL ACTION ON COASTAL DEVELOPMENT
CITY OF MORRO BAY
Public Services Department

Date of Notice: JANUARY 12, 2011

NOTICE SENT TO (VIA CERTIFIED MAIL): California Coastal Commission-Central Coast District Office

Please note the following Final City of Morro Bay Action on a Coastal Permit, Coastal Permit Amendment, or Coastal Permit extension application (all local appeals have been exhausted for this matter):

Project Information

Application number: CPD-339
Project Applicant: City of Morro Bay and Cayucos Sanitary District
Applicant’s Representative: Bruce Krogh, 955 Shasta, Morro Bay, CA 93442
Project Location: 160 Mariscadero Road
Project Description: The project proposal is to upgrade the Morro Bay-Cayucos Wastewater Treatment Plant facilities. The plan will be constructed to provide full secondary treatment for all effluent discharged through its ocean outfall and to provide tertiary treatment capacity equivalent to 75% of the 1,5 mgd. The privately filtered effluent would meet Title 22 standards for diverted secondary-23 recycled water and as such could be used for limited beneficial uses. The project includes construction of facilities including, but not limited to sillfishing, circulation, hardwaste and landscaping. Once the upgraded wastewater treatment facilities are complete the existing wastewater treatment facilities will be demolished. The project includes an Environmental Impact Report which identified various concerns associated with the project; however, the EIR does not identify any potentially significant impacts which cannot be mitigated to a level than significantly

Final Action Information

Final Action Body: ☑ Zoning Administrator ☐ Planning Commission ☑ City Council
Final Action Date: January 13, 2011

<table>
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<th>Required Materials Supporting the Final Action</th>
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<td>Site Plans</td>
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<td>Geotechnical Report(s)</td>
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<td>Biotic Report(s)</td>
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<td>See EIR</td>
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<td>Other CEQA Findings of Fact</td>
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<td>See staff report</td>
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Coastal Commission Appeal Information

☐ NOT APPEALABLE to the California Coastal Commission (site is outside of the Coastal Commission Appeal Jurisdiction). The Final City of Morro Bay Action is now effective.

☒ APPEALABLE to the California Coastal Commission pursuant to the California Public Resources Code, Section 30463. The applicant or any aggrieved person may appeal this decision to the Coastal Commission. The Coastal Commission's 15-working day appeal period begins the first working day after the Coastal Commission receives a complete notice of this Final Action. The Final Action is not effective until after the Coastal Commissions’s appeal period has expired and no appeal has been filed. Any such appeal must be made in writing directly to the California Coastal Commission Central Coast District Office at 725 Front Street, Suite 305, Santa Cruz, CA 95060-4508, 408-477-4863; there is no fee for such an appeal. Should you have any questions regarding the Coastal Comission appeal period or process, please contact the Santa Cruz Office at the above address or phone.

Copies of this notice have also been sent via first-class mail to:
- The applicant
- Interested parties who arranged for mailing of the notice.

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 1 of 121
January 13, 2011

City of Morro Bay/Cayucos Sanitary District
955 Shasta Avenue
Morro Bay, CA 93442

SUBJECT: Case No.: Coastal Development Permit SITE: 160 Atascadero Road CP0-339 and Use Permit UP0-307

Dear Mr. Keogh:

At its regular meeting on January 11, 2011 the City of Morro Bay’s City Council conditionally approved your request for an upgrade of the Morro Bay/Cayucos Sanitary District Wastewater Treatment Plant. This action does not constitute a building permit. Any further processing of this project must be initiated by the applicant, subject to the applicable rules and regulations of the Morro Bay Municipal Code. Please be advised that you must return the enclosed Acceptance of Conditions form, signed, to this department within thirty (30) days.

Please be advised that due to the location of the project, within the Coastal Commission appeals Jurisdiction that the Coastal Development Permit can be appealed to the Coastal Commission. The appeal process can be found on the Final Action of Coastal Development Permit Form enclosed with this letter.

Sincerely,

Robert Livick
Director Public Services Department

enc: Permit, Findings, Conditions of Approval, and Acceptance of Conditions Form
COASTAL DEVELOPMENT & CONDITIONAL USE PERMIT

CASE NO: CP-339 & UP-307

THIS PERMIT IS HEREBY APPROVED AND ISSUED FOR:

SITE ADDRESS: 160 Atascadero Road

APPLICANT: City of Morro Bay and Cayucos Sanitary District

DATE APPROVED: January 11, 2011  APPROVED BY City Council

CEQA DETERMINATION: Certified EIR.

DESCRIPTION OF APPROVAL: The project proposal is to upgrade the Morro Bay-Cayucos Wastewater Treatment Plant Facilities. The plant will be constructed to provide full secondary treatment for all effluent discharged through its open outfall and to provide tertiary filtration capacity equivalent to a PSDW of 1.5 mgd. The tertiary filtered effluent would meet Title 22 standards for disinfected secondary-23 recycled water and such could be used for limited beneficial uses. The project includes construction of facilities including but not limited to buildings, circulation, hardscape and landscaping. Once the upgraded wastewater treatment facilities are complete the existing wastewater treatment facilities will be demolished. The project includes an Environmental Impact Report which identified various concerns associated with the project; however the EIR does not identify any potentially significant impacts which cannot be mitigated to a less than significantly

THIS APPROVAL IS BASED UPON THE ATTACHED FINDINGS AND IS VALID ONLY IF CONDITIONS (ATTACHED) ARE MET AND ONLY AFTER THE APPLICABLE APPEAR PERIOD. Failure to comply with the conditions of this permit shall, at the discretion of the Public Services Director pursuant to Municipal Code Section 17.60.150, render this entitlement null and void.

☐ YOUR PROPERTY IS LOCATED IN THE CITY OF MORRO BAY JURISDICTION, THERE IS AN APPEAL PERIOD OF TEN (10) Calendar days, WITHIN WHICH TIME YOUR PERMIT IS APPEALABLE TO THE CITY COUNCIL/PLANNING COMMISSION

☐ YOUR PROPERTY IS LOCATED IN THE COASTAL COMMISSION APPEALS JURISDICTION: THE FOLLOWING COASTAL COMMISSION APPEAL PERIOD APPLIES TO YOUR PROJECT: This City decision is appealable to the California Coastal Commission pursuant to the California Public Resources Code, Section 30603. The applicant or any aggrieved person may appeal this decision to the Coastal Commission within TEN (10) Working days following Commission receipt of this notice. Appeals must be in writing and should be addressed to: California Coastal Commission, 725 Front Street, Ste. 300, Santa Cruz, CA 95060, Phone: 415-427-4863. If you have any questions, please call the City of Morro Bay Public Services Department, 772-6261.

IF NOT Appealed, YOUR PERMIT WILL BE EFFECTIVE:

ATTEST: 

DATE: /3/2011

FINANCE  ADMINISTRATION  FIRE DEPARTMENT  PUBLIC SERVICE
995 Harbor Street  595 Harbor Street  715 Harbor Street  1001 Kennedy Way
HARBOR DEPARTMENT  CITY ATTORNEY  POLICE DEPARTMENT  RECREATION
1275 Embarcadero Road  955 Shasta Avenue  850 Morro Bay Boulevard  1001 Kennedy Way
RESOLUTION NO. 08-11

A RESOLUTION OF THE CITY COUNCIL OF MORRO BAY
MAKING THE FINDINGS FOR APPROVAL OF CONDITIONAL USE PERMIT U80-307
AND COASTAL DEVELOPMENT PERMIT CPO-339
FOR THE WASTEWATER TREATMENT PLANT PROJECT

City Council
City of Morro Bay, California

WHEREAS, on January 11, 2011 the City Council did hold a public hearing, received public testimony, both written and oral, and after closing the public hearing fully considered the various issues surrounding the case; and

WHEREAS the City Council made findings as follows for the approval of a Coastal Development Permit and Conditional Use Permit:

The City Council finds that the use, a wastewater treatment facility, is an allowable use in the M-1 (Light Industrial) district as it has been determined that the use is similar and consistent with the General Plan and Local Coastal Plan.

That the project (Wastewater Treatment Plant) is an allowable use within the M-1 Zone District and is also in accordance with the certified Local Coastal Program and the General Plan for the City of Morro Bay based on the analysis and discussion in the attached staff report; and

The establishment, maintenance, or operation of the use applied for will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use as the project is consistent with all applicable zoning and plan requirements as indicated in the attached staff report; and

The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City since the project, as conditioned, will be conducted consistent with all applicable City regulations, as indicated in the attached staff report, AND

NOW, THEREFORE, BE IT RESOLVED that the recitations are true and correct and constitute the finding of the City Council on this matter and that the City Council hereby approves Coastal Development Permit CPO-339 and Conditional Use Permit U80-307 for the Morro Bay-Cayucos Wastewater Treatment Plant Upgrade Project subject to the conditions as contained Exhibit B.

PASSED AND ADOPTED by the Planning Commission of the City of Morro Bay, California, at a regular meeting held on the 11th day of January 2011, by the following vote:

AYES: Borchard, Johnson, Leago, Yates

ABSENT: None

ABSTAIN: None

WILLIAM YATES, Mayor

JAMIE BOUCHER, Deputy City Clerk

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 4 of 121
STANDARD CONDITIONS

This permit is granted for the land described in the staff report dated December 20, 2010 and referenced above for the project depicted on the attached plans labeled "Exhibit F", date stamped November 10, 2010 on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:

An upgrade of all onsite facilities at the Wastewater Treatment Plant. The plant will be constructed to provide full secondary treatment for all effluent discharged through its ocean outfall and to provide tertiary filtration capacity equivalent to a PSDFW of 1.5 mgd. The tertiary filtered effluent would meet Title 22 standards for disinfected secondary-23 recycled water and as such could be used for limited beneficial uses. The project includes construction of facilities including but not limited to buildings, circulation, hardscape and landscaping. Once the upgraded wastewater treatment facilities are complete the existing wastewater treatment facilities will be demolished.

1. Precise Plan Submittal: A Precise Plan must be submitted to the Planning Commission within one year from the date of City Council approval or approval of the State Coastal Commission where said plan requires their approval. Without further action, concept plans shall automatically become null and void after one year has elapsed.

2. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Director of Public Services. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review.

3. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval. (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.

4. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project, or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.

5. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgement and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed herein shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director of Public Services and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void.

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 5 of 121
Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

6. Acceptance of Conditions: Prior to obtaining a building permit the applicant shall file with the Director of Public Services written acceptance of the conditions stated herein.

7. State and County Compliance: Prior to any final issuance for the project the applicant shall demonstrate compliance with all State and County regulations and provide documentation to the Public Services Department.

8. Construction Hours: Pursuant to MBMC Section 9.28.030 (I), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. on weekdays and eight a.m. to seven p.m. on weekends, unless an exception is granted by the Director of Public Services pursuant to the terms of this regulation.

9. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and windblown earth problems shall be submitted to and approved by the Building Official to ensure conformance with the performance standards included in MBMC Section 17.52.070.

10. Screening of Equipment/Utility Meters/Fencing: All roof-mounted air conditioning, or heating equipment, vents, ducts and/or utility meters shall be screened from view from adjoining public streets in a manner approved by the Director of Planning and Building. Prior to building permit issuance, the approved method of screening shall be shown on the project plans.

11. Timing of Landscaping: Prior to issuance of a final Certificate of Occupancy, all required plantings, groundcover and irrigation systems shall be in place to the satisfaction of the Director of Planning & Building. The landscape consultant shall provide a watering schedule and certify that all plantings and irrigation systems have been installed pursuant to the approved plans prior to issuance of the final Certificate of Occupancy.

12. Maintenance of Landscaping: All required plant materials shall be maintained in accordance with the watering schedule as specified in the approved landscape plan notes. All landscaping shall be cared for, maintained, watered, fertilized, fumigated, pruned and kept in a healthy growing condition for the life of the project. Where required plant(s) have not survived, it shall be promptly replaced with new plant materials of similar species, functional, size, and characteristics as specified in the approved landscape plant notes.

13. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation and implementation of any protective measures as determined by the Director of Planning & Building.
14. Property Line Verification: It is owner’s responsibility to verify lot lines. Prior to foundation inspection the lot corners shall be staked and setbacks marked by a licensed professional.

PLANNING CONDITIONS

1. Parking: In accordance with MBMC Chapter 17.44 a minimum of 11 parking stalls shall be provided. One space shall be a van accessible space.

2. Parking lot: The Precise Plan submittal shall include a fully dimensioned parking lot plan. The plan shall include the required landscape planters and landscaping. The design of the parking facilities shall be in accordance with all the standards as set forth within Chapter 17.44.

3. Lot Line Adjustment or Lot Merge: The project as proposed depicts structures that are located across property lines, which is not allowed by the Morro Bay Municipal Code. The applicant shall submit an application for either a lot line adjustment or lot merge in order to bring the project into conformance.

BUILDING CONDITIONS

1. Precise Plan Submittal: At the time of precise plan submittal, the applicant shall submit a plan for the phasing of construction, demolition and the construction of other site improvements.

2. Accessibility: At the time of precise plan submittal, the project plans shall depict those site elements that are required for landscaped accessibility, including a van accessible parking space, accessible paths of travel to building entrances, and an accessible path of travel to the public way.

ENVIRONMENTAL CONDITIONS

1. Environmental Impact Report: All mitigations contained in the Environmental Impact Report entitled “MORRO BAY-CAYUCOS WASTEWATER TREATMENT PLANT UPGRADE” shall be incorporated as conditions of approval.

FIRE CONDITIONS

1. Fire Safety During Construction and Demolition: In the course of construction, alteration, or demolition, including those in underground locations, compliance with 2007 California Fire Code, Chapter 14 and NFPA 241, is required.

2. Fire Protection in Wastewater Treatment and Collection Facilities (NFPA 820): This standard establishes minimum requirements for protection against fire and explosion hazards in wastewater treatment plants and associated collection systems, including the hazard classification of specific areas and processes, compliance with this standard is required.

3. Fire Protection Systems (2007 California Fire Code, Chapter 9 and NFPA 820, Chapter 7): These chapters specify where fire protection systems (Fire Sprinkler, Alarm, and Standpipe Systems) are required and apply to the design, installation, inspection,
operation, testing and maintenance of all fire protection systems. The plan identifies a number of different occupancies where automatic fire sprinklers are required, based on their hazard classification, as outlined in CFC Section 903, and shall be addressed during fire sprinkler plan submittal.

4. **Hazardous Materials-General Provisions (2007 California Fire Code, Chapter 27 and NFPA 45):** Prevention, control and mitigation of dangerous conditions related to storage, dispensing, use and handling of hazardous materials shall be in accordance with the above chapters.

5. **Fire Apparatus Access:** Fire apparatus access roads shall be provided and maintained in accordance with CFC Chapter 5 and Appendix D.

6. **Fire-Flow Requirements for Buildings:** Determination of fire-flows for buildings shall be in accordance with CFC Appendix B.

7. **Fire Hydrant Locations and Distribution:** Fire hydrants shall be provided for the protection of buildings or portions, in accordance with CFC Appendix C.

**PUBLIC WORKS**

1. **Damage to City Facilities:** Relocate/rebuild any City facility damaged or removed due to construction.

2. **Stormwater Treatment:** The project shall provide stormwater treatment for all impervious areas of the site.

3. **Design Standards:** Design Standards for Structural or Treatment Control BMPs

4. **Post-Construction Treatment Control BMP:** Post-construction treatment control BMP incorporates, at a minimum, either a volumetric or flow based treatment control design standard, or both, as identified below to mitigate (infiltrate, filter or treat) stormwater runoff:

   Volumetric Treatment Control BMP

   a.) The 95th percentile 24-hour runoff event determined as the maximized capture stormwater volume for the area (0.75in/24-hr), or equivalent method to be approved by the City Engineer.

   Flow Based Treatment Control BMP

   a.) The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the area (2 x 0.193 in/hr = 0.385 in/hr), or equivalent method to be approved by the City Engineer.

5. **Driveway Approach:** The commercial driveway approach shall have a minimum pan width between 24 and 35 feet. The driveway approach near the curve in Atascadero Rd shall meet the minimum sight distance. The minimum distance from the top of the approach to the BCR of the curve shall be the curb return radius plus five feet.

6. **Stabilization:** Include a plan for final stabilization of the entire site.
7. Household Hazardous Waste Facility: Precise plan shall provide a space for the IWMA Household Hazardous Waste facility.

The following items shall be included with the building permit submittal:

8. Conditional Letter of Map Revision: A Conditional Letter of Map Revision (CLOMR), based on the required fill, shall be completed prior to issuance of a building permit. The CLOMR shall be followed up with a Letter of Map Revision (LOMR) prior to final inspection and acceptance. The applicant/developer shall pay the Flood Hazard Development permit fee of $174 at building permit submittal.

9. Frontage Improvements: ADA driveway approaches are required at any proposed driveways along Atascadero Rd. Any proposed driveways shall meet City standard R-6. Any damage to City facilities, i.e. curb, gutter, sidewalk, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Morro Bay. The existing driveway shall be abandoned and City standard sidewalk, curb and gutter shall be built. Street trees shall be planted from the City’s master tree list located behind the sidewalk. One street tree shall be planted for every 50 feet of the property frontage.

10. Storm Drain Pipe: Repair or replace the storm drain pipe (located along the Atascadero Rd, property frontage) and reconstruct the catch basin to provide adequate stormwater conveyance from the property.

11. Intersection at Highway One: Pay a pro rata share for signalization and related improvements at the intersection at Highway One, Highway 41, and Main Street. The said fee shall be proportional to increased traffic generated by the subject project or subject as estimated by a traffic engineer and subject to review and approval by the City Engineer. The traffic volume on Atascadero Road at Highway One is 2,800 ADT. The estimated cost of the improvements to the intersection is $980,000 based on the 1988 Circulation Element of the General Plan (BNR-4519). Present day cost is estimated at $1,940,000 (BNR-891).

12. WDID Permit Numbers: Provide the WDID permit numbers for the Construction and Industrial Discharge permits issued by the State Resources Water Quality Control Board.

13. Erosion and Sediment Control Plan: Provide an erosion and sediment control plan including dust control measures. The plan shall include BMP’s to control erosion and sedimentation on the site. The applicant/developer shall follow the City’s erosion and sediment control manual which can be viewed at the City website www.morro-bay.ca.us/stormwater under quick links.
Staff Report

TO: City Council  DATE: January 4, 2011
FROM: Kathleen Vold, Planning Manager

SUBJECT: Appeal of the Planning Commission’s decision to deny certification of the Morro Bay Cayucos Sanitary District Wastewater Treatment Plant Environmental Impact Report and denial of the Coastal Development Permit CPD-339 and Conditional Use Permit UP-0307.

RECOMMENDATIONS:

Staff’s Recommendation:
Staff recommends the City Council adopt the facts and findings as presented in Attachment 3 by adopting Resolution Number 07-171 and make the findings for approval of the Conditional Use Permit and Coastal Development Permit by adopting Resolution Number 08-11. Certify Morro Bay Cayucos Sanitary District’s Wastewater Treatment Plant Upgrade EIR and conditionally approve Coastal Development Permit CPD-339 and Conditional Use Permit UP-0307.

Planning Commission’s Recommendation:
1. That the following time criteria be used in a screening report to evaluate properties within and outside of the City limits in a public process with the baseline of a new wastewater project proposal and that a letter be submitted to the Regional Water Quality control Board asking for time extension in order to conduct the site analysis.

2. Deny the Certification of the Morro Bay Cayucos Sanitary District’s Wastewater Treatment Plant Upgrade EIR, Coastal Development Permit CPD-339 and Conditional Use Permit UP-0307 of the applicant of City of Morro Bay and Cayucos Sanitary District based on the following findings:
   1. The proposed project constitutes a new project. 2. The EIR analysis was insufficient. 3. Aesthetics are questionable and 4. Insufficient scoping of the project.

Prepared By: ____________________________  Draft Review: ____________________________

City Manager Review: ____________________________
City Attorney Review: ____________________________

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 10 of 121
FISCAL IMPACT:

The fiscal impacts of the proposed project have been previously approved by the City of Morro Bay and the Cayucos Sanitary District at signatories of the Joint Powers Agreement (JPA) when the Facility Master Plan document was adopted. There will be additional fiscal impacts associated with the Planning Commission’s recommendation to provide a new screening report analyzing additional sites based on a new baseline and updating the EIR to reflect this analysis, a new project description and additional scoping.

The fiscal impacts for performing the requested alternatives analysis and producing an EIR based on a new project description and new baseline for all impacts could be significant. A recent local example is the Los Osos Sewer Project on which the County of San Luis Obispo has spent approximately $8 million dollars and 2 1/2 years of effort to screen the alternative sites and to prepare the project’s EIR report. Depending on the level of effort put into a screening analysis, and the action taken tonight on the EIR report, the City could see could see impacts from over one half to multiple millions of dollars. In addition the delay created by starting the project over from scratch could result in fines which would only add to the financial impacts.

BACKGROUND:

The WWTP is operated under a National Pollutant Discharge Elimination System (NPDES) Permit (Ne, CA0047881) issued by the US Environmental Protection Agency (USEPA) and the Central Coast Regional Water Quality Control Board (RWQCB). The current NPDES permit allows for the discharge of a blend of primary and secondary treated effluent to the ocean through the existing 27-inch diameter outfall pipeline. This discharge is in accordance with Section 301(b) of the federal Clean Water Act that modifies the requirement for full secondary treatment in certain cases. MBBOD has made a commitment to the Central Coast RWQCB to phase out the need for the 301(b) modified discharge permit by upgrading the WWTP to at least full secondary treatment by March 2014. The proposed project would construct facilities to provide full secondary treatment for all effluent discharged through its ocean outfall and to provide enhanced treatment with tertiary filtration capacity equivalent to the PSDWF of 1.5 mgd.

The process of examining the various planning and design options were carefully analyzed during the past several years through a Facility Master Plan (FMP), which was prepared by Carollo Engineers. The process involved intense technical analysis and public input and discussion, which resulted in the current project description. Based on the analysis and public input, the Council and District Board adopted the final recommendation to upgrade the plant to tertiary treatment using an oxidation ditch with filtration as the preferred treatment option and retire many of the existing facilities.

Since August 2006, the Joint Powers Agreement (JPA) Board, which is comprised of both the City of Morro Bay (City) Council and members of the Cayucos Sanitary District (CSD) Board, have been working to develop a FMP for upgrade of the Morro Bay Cayucos Sanitary District (MBUSD) wastewater treatment plant (WWTP) through the twenty-year planning period. During this time, the JPA Board has been presented with various technical topics.

2

A-3-MRB-11-001 (MBR WWTP)
Page 11 of 121
ranging from regulatory requirements to wastewater and biosolids treatment alternatives, and has consistently provided feedback and direction. Impacts on the receiving waters, the ratepayers in both communities, and local sustainability were topics that framed discussion in seven public meetings and other smaller technical subcommittee meetings. The public meetings were intended to educate the residents of the local community and JPA Board. The result of this process has been the selection of tertiary treatment with offsite solids disposal as the preferred project for upgrade of the WWTP. The decisions made by the JPA Board have supported local sustainability by positioning the community for future water reuse from this project.

The FMP considered historical and projected flows and loadings were analyzed for the twenty-year planning period. New flows and loadings projections are used to design treatment alternatives for upgrade of the WWTP as well as assist in determining future capacity needs for the City and CSD.

**PROJECT OBJECTIVES:**
The objectives of the proposed project are as follows:

- Comply with the secondary treatment standards contained in 40 CFR Part 132;
- Phase out the need for a 301(h) modified discharge permit;
- Minimize flooding impacts onsite at the WWTP and adjoining properties; and
- Accommodate future installation of reclamation capability to meet Title 22 requirements for disinfected tertiary recycled water for unrestricted use
- Compliance with “Settlement Agreement for Issuance of Permits to and Upgrade of Morro Bay Cuyucos Wastewater Treatment Plant” and be fully operational by March 31, 2014.

**DISCUSSION:**
Coastal Act Regulations Regarding the Review of Wastewater Treatment Facilities:
Section 30412 of the Coastal Act pertains to the Wastewater Treatment Facilities and sections C.1, 2 and 3 specifically set down perimeters that the Coastal Commission can review.

Section 30412, C. 1. 2, and 3 states: Any development within the coastal zone or outside the coastal zone which provides service to any area within the coastal zone that constitutes a treatment work shall be review by the commission and any permit it issues, if any, shall be determinative only with respect to the following aspects of the development:

1. The siting and visual appearance of treatment works within the coastal zone
2. The geographic limits of service areas within the coastal zone which are to be served by particular treatment works and the timing of the use of capacity of treatment works for those service areas to allow for phasing of development and use of facilities consistent with this division.
3. Development projects which determine the size of treatment works for providing service within the coastal zone.

**Consistency with the Local Coastal Program:**
For the proposed project to be approved, findings must be made that the project is consistent
with applicable goals, objectives and policies of the Local Coastal Program (as defined above to include the General Plan, the Local Coastal Plan and the implementing zoning regulations). Staff has reviewed the project pursuant to the various applicable goals, objectives and policies of the LCP and determined that the project is consistent. Below are applicable policies, programs, and objectives that relate to this project.

The California Coastal Act establishes a framework for resolving conflicts among competing uses for limited coastal lands. There are policies which spell out the priority of uses. The Coastal Act places as its highest priority the preservation and protection of natural resources including environmentally sensitive habitats areas and prime agricultural lands. On lands not suited for agricultural use, coastal-dependent development, a use which requires a site adjacent to or on the sea to function, has the highest priority. The adopted LCP designates the subject site as an area for coastal dependent development (policy 5.63).

In addition to the overall priority status given to coastal-dependent development there are also specific sections contained within the LCP pertaining to industrial development.

Section 30250(a) states: New residential, commercial or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land division, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. The proposed project is in compliance with this section as the proposal is to upgrade facilities at the existing site which is within the core of the city with adequate access.

Section 30250(e) where feasible, new hazardous industrial development shall be located away from existing developed areas. The upgrade of the WWTP is not new development but instead is a project whose objectives are to improve the processing of the City’s wastewater by constructing new facilities and implementing new processes to accomplish this objective. The use will continue onsite throughout the process of the upgrade, therefore the project is not a new use.

The LCP establishes two industrial land use categories; General Industry and Coastal-Dependent Industrial Land use. The Coastal-Dependent land use category was specially created to address the industrial land uses which are given priority by the Coastal Act of 1976 for location adjacent to the coastline, such as thermal power plants, seawater intake structures, discharge structure tanker support facilities and other similar uses which must be located on or adjacent to the sea in order to function. The LCP further states that the City of Morro Bay’s wastewater treatment facilities are protected in their present location since an important operational element, the outfall line, is coastal-dependent (see policy 5.93). The proposed project consists of an upgrade (modernization) to the wastewater facilities at the current protected site, however there will be some relocation of facilities on the site to allow the
existing facilities to remain functioning while the new facilities are constructed. In addition, the facilities will continue to use the outfall line as an integral element of the facilities thus firmly establishing the facilities as coastal dependent and securing the WWTP's right to continue to be located at 160 Atascadero. The use (a treatment facility) will continue on site without interruption.

The certified LCP also acknowledges the demands on the coastal area for public works-related development and the Coastal Act contain numerous general and specific policies regarding public works-related development. Although the Coastal Act emphasizes the protection, enhancement, and restoration of coastal resources, it also recognizes that public works development is necessary for the social and economic well-being of the state.

Section 30260 states: "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 the 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." This Section of the Coastal Act allows special consideration for industrial development that may not be consistent with other Coastal Act policies, yet may be necessary to provide for the public welfare. The proposed project site is a grouping of many small parcels and includes the wastewater facilities, the City of Morro Bay's corporation yard and a cement plant. As stated in the LCP long term plans for the Wastewater Treatment Plant has always included upgrades and expansions. Policies within the LCP protect the overall site for this coastal dependent use encouraging it to upgrade or expand on the existing site to facilitate reasonable long term viability. It is clear that the proposed project (an upgrade of the Wastewater Treatment Plant at it protected site location) is consistent with the LCP.

There are also two policies (policy 5.03 & 5.04) contained within the LCP which reinforce that the location of the upgraded wastewater treatment facilities is consistent with the LCP.

Policy 5.03 states: The Morro Bay Wastewater Treatment facilities shall be protected in their present location since an important operational element, the outfall line, is coastal-dependent.

Coastal Act requires reserving areas for the WWTP per 38412.d

Policy 5.4 states: In the areas designated for industrial land uses, coastal-dependent uses shall have priority over non-coastal-dependent uses.

The City of Morro Bay has policies which mirror the policies contained within the LCP. They are as follows:

5
General Plan Program LU-39:3: The Morro Bay Wastewater Treatment facilities shall be protected in their present location since an important operational element, the outfall line, is coastal-dependent. As stated above this policy as well as those contained in the LCP refer to the facilities as a land use, they do not specifically state the existing plant. Other coastal policies substantiate that the intent of protecting the facilities as a Coastal Dependent Use would allow for the potential expansion or upgrading of facilities to ensure that the site would be viable in the long run.

General Plan program LU-39:4: In the areas designated for industrial land uses, Coastal-dependent uses shall have priority over non-coastal-dependent uses.

General Plan Program LU-B:1: The City will continue a program of providing wastewater treatment facilities to accommodate the build-out population of 12,195, determined to be the buildout figure in Coastal Development Permit NO. 406-01, which permits further expansion of the wastewater treatment facilities to 2.4 mgd. The certified LCP contains information regarding the siting of the Wastewater Treatment plant and the community's future needs. The siting of the plant contained within this document assumes that the plant would continue with the same technologies as those that the plant was operating under in 1988 and the same consumer patterns as the population had in 1988. Today just over twenty years later three issues have had a significant effect on the amount of plant capacity necessary to meet demand. Since 1988, there have been improvements in technology resulting in improved wastewater processing, the Morro Bay consumer has embraced conservation, and finally the community growth has not kept up with population projections contained in the LCP.

Typically, the capacity of a wastewater treatment plant is upgraded incrementally, often in 20 year increments, to meet demand for the projected growth of a time frame. The proposed plant upgrade was sized to accommodate the growth that is projected to occur within a time frame ending in 2030. This timeframe is consistent with what is estimated to be the life span of this upgrade. The population to be accommodated by this plant upgrade did not consider total community build out of 12,500 as projected in the LCP but instead utilized the projected population growth for 2030 as provided by the San Luis Obispo Council of Governments between 11,510 and 12,610. In addition, the City's population is constrained by Measure P, which limits the City's overall population to 12,700. Increases to this figure would require a vote of the people. As such a WWTP design capacity based on a population of 12,500 for Morro Bay is appropriate. The Estero Area Plan which governs Cayucos calls for a full build-out of Cayucos by 2022 with a population of 4,765. The proposed project assumes a population of 5,730 in Cayucos by the year 2010. As with any public facility there is a balancing act that must occur between providing sufficient resources for projected growth and over sizing facilities for growth that is far into the future. Over sizing facilities can be growth inducing and costly as the additional cost associated with the increased capacity are realized. So the sizing of the plant as proposed is consistent with the LCP as it provides the necessary capacity for orderly and well-planned growth consistent with the policies in the LCP. Measure P and the growth trends projected by the regional planning agency.
California Coastal Commission Issues:
The Commission submitted electronically their response to the Draft EIR on November 12, 2010. Their correspondence while stating their general support of the proposed project based on the beneficial effects to the water quality in Estero Bay, that it bring into compliance the Cayucos Sanitary District with its National Pollutant Discharge Elimination System Phase II permit and providing an avenue to address other public utility constraints related to water supplies in the area, they did have a number of issues with both the EIR and the project.

An overview of the these issues follows:

1. The District’s proposed preferred site location appears to be inappropriate for the development proposed. The concept of locating major public works infrastructure in an area that is subject to multiple significant hazards is not consistent with the hazards policies of the LCP. Further, the location is directly adjacent to the shoreline in a visually sensitive area where such objectives, and lead to adverse public viewsed impacts. Finally, the area has significant archaeological resources that, as required by the LCP, must be avoided. All of these impacts could be avoided or minimized by moving the project to an alternative location.

2. The proposal to reduce the capacity of the new WWTP is not consistent with LCP policies requiring infrastructure to accommodate future growth that is planned for in the LCP.

3. The proposal does not include a plan for water reclamation that meets the expectation of the City of Morro Bay LCP, the San Luis Obispo County LCP, or recent actions of the Commission including in its recent approval of the Los Osos Wastewater Project. Under the current proposal, the new WWTP would produce a large quantity of highly treated wastewater, and the vast majority of it would be disposed of through the ocean outfall.

The City of Morro Bay has relied on policies contained within the Coastal Act, The City’s Local Coastal Land Use Plan, The City’s General Plan as well as the City of Morro Bay Zoning Ordinance when choosing to move forward with the plant’s upgrade at the 160 Atascadero Road site. Both the City’s General Plan and its Local Coastal Land Use Plan designate the 160 Atascadero Road site as an Industrial site and identify the Morro Bay wastewater treatment facilities as a land use protected at this site because an important operational element, the outfall line, is coastal-dependent. As we know these documents are intended to provide a future vision for the City and guide growth and development. They are comprehensive documents that provide goals, objectives, policies and programs all guide for the City’s long-term development. At the very core of the document are the Land Use designations and the map which indicates where land uses are to occur. These certified documents establish that a wastewater facility is an intended use at this site and goes on further to state it is protected. The issues mentioned above, public view shed, archaeological resources and hazard policies were all known at the time the California Coastal Commission certified these documents and yet they certified the documents protecting the wastewater land use at this site. To suggest that reliance of the land use designations and protections provided for within these documents are now invalid is very concerning. If there were statewide policies adopted which invalidated wastewater treatment facilities and their associate outfall
element as coastal dependent uses then it would supersede our documents but that is not the case. There are examples of recently approved wastewater facilities with major upgrades such as what is proposed here in Morro Bay. These would include the one for the Cities of Goleta and Pismo Beach that were permitted in close proximity to the coast. The inability to rely on the land use designations contained within these documents creates a city without any long-term development policies upon which the citizenry can move forward with development proposals and place development of any kind it a situation where there are no known perimeters for development within their community.

The Coastal Commission letter indicates that this is not an upgrade to facilities but a new plant and therefore must be analyzed in relationship to the LCP and the Coastal Act as a new plant capable of being located anywhere. While it is true that majority of the existing treatment plant will be retired is somewhat of a shortsighted view to then argue for purposes of review that the site is vacant. There are two major components to provide wastewater services to a community. The first is the treatment plant and the second is the wastewater collection facilities. Since the incorporation of the city the long term planning documents including subsequent facility master plans have shown the treatment facilities at 160 Atascadero site. Overt the last 50+ years the collection facilities have all been designed to convey the City’s and District’s wastewater to this location. To suggest that this modernization or upgrade of the facilities is an opportunity to redesign a City’s entire wastewater facilities including its collection system is a bit far reaching. In addition, under the proposed project scenario there will be no termination of the land use at this site. The existing facilities will continue to provide service to the district while the new facilities are being constructed and only when the new facilities are up and running will the majority of the older antiquated facilities will be retired. The intent of the project was to modernize the plant facilities including compliance with the secondary treatment standards contained in 40 CFR Part 135, phase out the need for a 30(h) modified discharge permit, minimize flooding impacts onsite at the WWTP and adjoining properties, and accommodate future installation of reclamation capabilities to meet Title 22 requirements for disinfected tertiary recycled water for unrestricted use and compliance with "Settlement Agreement for Issuance of Permits to and Upgrade of Morro Bay Cayucos Wastewater Treatment Plant". It was the decision of the district that the most cost effective way to modernize the plant while continuing to provide reliable service to its community was to continue to use the existing facilities while constructing the new modern facilities onsite.

It should be pointed out that if the site is determined to be unsuitable for any development associated with a "new" wastewater treatment facility due to the hazards identified in CCC’s letter, it would prohibit the construction of a lift station for the same reasons, a lift station which would be required to utilize the existing collection system if the plant were forced to be relocated. As such, it would result in project consisting of both a new treatment plant and all new collection facilities with the elimination of the outfall element. In other words, a much more comprehensive project resulting in increased costs to the community far beyond those associated with the current project.

The certified LCP contains information regarding the sizing of the Wastewater Treatment
Plant and the community’s future needs. The sizing of the plant contained within this document assumes that the plant would continue with the same technologies as those that the plant was operating under in 1988 and the same consumer patterns as the population had in 1988. Today just over twenty years later three issues have had a significant effect on the amount of plant capacity necessary to meet demand. Since 1988, there have been improvements to technology resulting in improved wastewater processing, the Morro Bay consumer has embraced conservation, and finally the community growth has not kept up with population projections contained in the LCP.

Typically, the capacity of a wastewater treatment plant is upgraded incrementally, often in 20 year increments, to meet demand for the projected growth of that time frame. The proposed plant upgrade was sized to accommodate the growth that is projected to occur within a time frame ending in 2030. This timeframe is consistent with what is estimated to be the life span of this upgrade. The population accommodated by this plant upgrade did not consider total community build out of 13,500 as projected in the LCP but instead utilized the projected population growth for 2030 as provided by the San Luis Obispo Council of Governments of between 11,910 and 12,610. In addition, the City’s population is constrained by Measure F, which limits the City’s overall population to 12,200. Increases to this figure would require a vote of the people. As such a WWTP design capacity based on a population of 12,500 for Morro Bay is appropriate. The Estero Area Plan which governs Cayucos calls for a full build-out of Cayucos by 2022 with a population of 4,765. The proposed project assumes a population of 5,730 in Cayucos by the year 2030. As with any public facility there is a balancing act that must occur between providing sufficient resources for projected growth and over-sizing facilities for growth that is far into the future. Over-sizing facilities can be growth inducing and costly as the additional cost associated with the increased capacity are realized. So the sizing of the plant as proposed is consistent with the LCP as it provides the necessary capacity for orderly and well-planned growth consistent with the policies in the LCP, Measure F and the growth trends projected by the regional planning agency.

In response to the CCC point regarding the City’s plan for water reclamation as identified in the City of Morro Bay’s LCP and those within the San Luis Obispo County LCP, the project is not in conflict with these policies. The project as design is the foundation and first steps toward providing a comprehensive water reclamation system. These first steps, providing reclaimed water for wash down, landscaping and construction uses is meeting the identified current demand. The project does include a truck fill station for the public which will allow the public to put the water treated to 23 to full use. As additional demand is identified the City and/or the District will pursue development of a full reclaimed water system. The fact that the City is implementing the process incrementally and only when additional demand is identified is not in conflict with the LCPs but recognizes that these types of systems are the way of the future and need to be fluid in their design to accommodate ever changing regulations and new demands as they emerge.

PLANNING COMMISSION ISSUES:
• There were sufficient alternatives studied. Additional alternatives should be screened using the following criteria: Flood plain impacts, Cultural resources, visual resources,
greenhouse gases, accommodation of build out, water reclamation, cogeneration opportunities, lifecycle costs and economic benefits. The existing site shall be evaluated with a baseline of zero or as a vacant site.

- The shortened time schedule from 14 years to 8 years.
- The project is not an upgrade of the existing plant but should be viewed as a new project being proposed on a vacant site.
- The scoping provided for the Environmental Document was insufficient.
- The EIR analysis was insufficient.
- Technical merits of the project including effluent quality discharged through ocean outfall, water reclamation, building height and whether it can be lowered and the visual impacts associated with two-story versus a one-story building.
- The importance of the Household Hazardous Waste Collection facility program to the community.

The alternative analysis provided within the EIR document is sufficient analysis as required under CEQA regulations. There was additional analysis conducted by the district prior to engaging consultants to perform an EIR on the project site. Since August 2006, the Joint Powers Agreement (JPA) Board, which is comprised of both the City of Morro Bay (City) Council and members of the Cayucos Sanitary District (CSD) Board, have been working to develop a FMP for upgrade of the Morro Bay Cayucos Sanitary District (MBCSD) wastewater treatment plant (WWTP) through the twenty-year planning period. During this time, the JPA Board has been presented with various technical topics ranging from regulatory requirements to wastewater and biosolids treatment alternatives, and has consistently provided feedback and direction. Impacts on the receiving waters, the ratepayers in both communities, and local sustainability were topics that framed discussion in seven public meetings and other smaller technical subcommittee meetings. The public meetings were intended to educate the residents of the local community and JPA Board. The result of this process has been the selection of tertiary treatment with offsite solids disposal as the preferred project for upgrade of the WWTP. The decisions made by the JPA Board have supported local sustainability by positioning the community for future water reuse, from this project. Other sites where not pursued due to the additional costs and the fact that the General Plan and the Local Coastal Plan protected this site for a wastewater treatment use.

In response to the Planning Commission desire to analyze the existing site as if it were a vacant site, this is in conflict with the rights afforded to projects under CEQA. Pursuant to Section 15125 the baseline shall be established under the environmental setting portion of the EIR which describes the physical environmental conditions as they exist at the time the Notice of Preparation is published.

The time schedule is part of a settlement agreement and not subject to modification without buy-in from all parties.

The project is an upgrade or modernization of treatment facilities. The use, wastewater treatment facilities, is currently on site and will remain in use continually throughout the
process. There will be new structures and processing equipment built on the site as part of the modernization but the use remains the same.

The scoping provided for the Morro Bay Cayucos Sanitary District Wastewater Treatment Plant EIR met all legal requirements under the California Environmental Quality Act.

No details were provided on the inadequacy of the analysis except under the alternatives analysis, please see response above.

Plant processes are a function of the engineered design, existing regulations and our Water Board permit and are not elements reviewed by the Planning Commission except on how these elements may affect the environment.

The hazardous materials facility is operated by a separate entity, relocation of their facility is at their discretion.

ENVIRONMENTAL DETERMINATION:
Section 15151 of the CEQA guidelines provides standards for the adequacy of an EIR: It states: An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main point of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

The City of Morro Bay as the Lead Agency has prepared a Draft Environmental Impact Report (Draft EIR) to provide the public and trustee agencies with information about the potential effects on the local and regional environment associated with the Morro Bay-Cayucos Wastewater Treatment Plant Upgrade (WWTP Upgrade Project or proposed project).

The Draft EIR has been prepared in compliance with the California Environmental Quality Act (CEQA) of 1970 (as amended), codified at California Public Resources Code Sections 21000 et. seq., the Guidelines for California Environmental Quality Act (CEQA Guidelines) in the Code of Regulations, Title 14, Chapter 3, Sections 15000 et. seq., and CEQA-Plus requirements of the State Water Resources Control Board (SWRCB). The proposed project would be implemented in conjunction with the Cayucos Sanitary District (CSD), which shall serve as a Responsible Agency under CEQA.

The Draft EIR describes the proposed project and the existing environmental setting, identifies short-term, long-term, and cumulative environmental impacts, identifies mitigation measures for impacts found to be significant, and provides an analysis of project alternatives. The environmental baseline for determining potential impacts is the date the NOP for the proposed project is published (CEQA Guidelines, Section 15125(e), in this case October 13, 2009.)
Significance criteria have been developed for each environmental resource analyzed in Draft EIR. Impacts are categorized as follows:

**Significant and Unavoidable**: mitigation might be recommended but impacts are still significant;

**Less than Significant with Mitigation**: potentially significant impact but mitigated to a less-than-significant level;

**Less than Significant**: mitigation is not required under CEQA but may be recommended or

**No Impact**.

The level of significance for each impact was determined using significance criteria (thresholds) developed for each category of impacts; significant impacts are those adverse environmental impacts that meet or exceed the significance thresholds; less-than-significant impacts would not exceed the thresholds. The EIR contains a table which identifies the measures that will be implemented to avoid, minimize, or otherwise reduce significant impacts to a less-than-significant level. The EIR concluded that there were no impacts to any environmental resource which could not be mitigated to a level of Less than Significant with Mitigation.

In addition to the requirements contained under the State CEQA regulations, the City also has their own CEQA guidelines. The City’s Local CEQA guidelines (Resolution number 25-81) contains the regulations under which the decision making body shall review an Environmental Impact Report (EIR). The following is a brief overview of these regulations:

If the Planning Commission finds that the EIR is adequate and complete, the Planning Commission shall then determine, on the basis of the EIR, the facts presented and these guidelines whether or not, in light of the effects of the project, the project should be:

A) Approved

B) Denied

C) Whether or not alternatives or mitigation conditions should be required to mitigate adverse environmental effects.

Findings: No city agency shall approve or carry out a project for which an Environmental Impact Report has been completed which identifies one or more significant effects of the project unless the body agency makes one or more of the following written findings for each of those significant effects, accompanied by a statement of the facts supporting each finding.

1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects thereof as identifies in the final EIR.

12

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 21 of 121
2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the City of Morro Bay. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

3) Specific economic, social, or other considerations make infeasible the mitigation measures or project alternative identified in the final EIR.

4) The findings required by subsection (a) shall be supported by substantial evidence in the record.

5) The finding number 2 shall not be made if the City agency making the finding has concurrent jurisdiction with another public agency to deal with identified feasible mitigation measures or alternatives.

The EIR is an attachment to this report and due to the lengthy analysis contained in the document is not repeated here in the staff report but is incorporated into this report by reference.

PROJECT FEATURES:
Please refer to the attached Planning Commission staff report for the analysis on project features.

CONCLUSION:
Based on the information contained in this report and all documents referenced within including the Morro Bay Cayucos Sanitary District Wastewater Treatment Plant EIR staff recommends that the City Council approve Resolution Number 07-11 adopting the findings of fact to allow certification of the EIR, Certify the EIR, approve Resolution Number 08-11 adopting the findings of approval for the Coastal Development Permit and Conditional Use Permit and finally conditionally approve Coastal Development Permit CP0-339 and Conditional Use Permit UP0-307.

ATTACHMENTS:
Attachment 1 – Planning Commission Staff Report with exhibits dated December 20, 2010
Attachment 2 – Draft Planning Commission Meeting Synopsis Minutes for December 20, 2010
Attachment 3 – Finding of Fact, MBCSD Wastewater Treatment Plant Upgrade Project, dated January 2011
Attachment 4 – Mitigation Monitoring and Reporting Program, MBCSD Wastewater Treatment Plant Upgrade Final Environmental Impact Report, dated January 2011
Attachment 5 – Appeal Form date stamped December 22, 2010
Attachment 6 – Plans and Visual Simulations
Staff Report

TO: City Council  DATE: January 6, 2011
FROM: Rob Lisick, PE/PLS/Public Services Director

SUBJECT: Appeal of the Planning Commission’s decision to deny certification of the Morro Bay Cayucos Sanitary District Wastewater Treatment Plant Environmental Impact Report and denial of the Coastal Development Permit CP0-39 and Conditional Use Permit UP0-307.

SUMMARY:
On January 6, 2011 the City received the attached correspondence from Roger Briggs the Executive Director for the California Regional Water Quality Control Board – Central Coast Region. The letter supports the currently proposed upgrade project and certification of the Final EIR. The letter also reminds the City and Cayucos Sanitary District of failure to comply with the time schedule stipulated in the Settlement Agreement has consequences.

ATTACHMENT:
Attachment 1 – Letter Dated January 6, 2011 from the California Regional Water Quality Control Board – Central Coast Region
January 6, 2011

Morro Bay City Council
595 Harbor Street
Morro Bay, CA 93442

Honorable City Council Members:

PENDING ADOPTION OF THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE UPGRADE OF THE MORRO BAY-CAYUCOS WASTEWATER TREATMENT PLANT, SAN LUIS OBISPO COUNTY

I am writing this letter in support of the proposed wastewater treatment facility upgrade project and to recommend you certify the December 13, 2010, Final Environmental Impact Report (FEIR) for the project and approve the proposed conditional use permit and coastal development permit. The timely completion of the project pursuant to the time schedule spelled out within the December 4, 2008, Settlement Agreement for Issuance of Permits to and Upgrade of the Morro Bay-Cayucos Wastewater Treatment Plant (Settlement Agreement) between the Water Board and the Joint Powers Agreement Board (JPA) consisting of the City of Morro Bay and Cayucos Sanitary District is currently dependent on the adoption/certification of the FEIR and accompanying permits. Failure of the JPA to implement the project pursuant to the schedule set forth in the Settlement Agreement may subject the JPA to Water Board enforcement actions, including imposition of monetary liabilities. Moreover, not approving the project will result in delaying required upgrades to the existing wastewater treatment facility that will improve the quality of wastewater discharged to Estero Bay and bring the facility into full compliance with the federal Clean Water Act. The proposed project also sets the stage for water recycling that will decrease the volume of wastewater discharged to Estero Bay over time and help provide sustainable water supplies for the community.

Based on our review of the comments and responses contained within the FEIR, I would like to provide our perspective on several key issues before you.

Although we cannot specifically comment on the consistency of proposed project with the Coastal Act or Local Coastal Plan (LCP), we do not consider the proposed project to be a new development project at a new location, but rather an upgrade to an existing wastewater treatment facility at an existing site currently designated for that use. This
is consistent with our facility permitting activities and oversight of numerous facility upgrade projects. This appears to be the first case within our Region in which various permitting authorities are claiming a wastewater treatment facility upgrade project is a new development project. Using this argument to leverage an alternative project location could result in the project either being stillborn or the increased expenditure of public monies to evaluate, design, permit, build, and operate a new facility at a different location that will likely result in additional and potentially significant and ongoing impacts to public resources above those which have been identified for the proposed project at the existing facility location. The proposed upgrade project is designed to mitigate or completely eliminate various impacts associated with the existing facility and should therefore be considered the environmentally preferred alternative.

Questions and concerns have arisen regarding the proposed facility upgrade design flows (i.e., treatment capacity), which are less than the existing facility design capacity and projected buildout wastewater flows specified within the Estero Area Plan and LCP. Although we agree that the response to comments contained within the FEIR sufficiently addresses this issue (see response to COASTAL-15 on page 10-25), we would like to provide some additional context. General planning documents are useful in estimating buildout wastewater flow conditions, but should not be relied on as the sole basis for determining appropriate design capacity. This is particularly true when more detailed analyses are available such as those which are contained within the Morro Bay-Cayucos Sanitary District Wastewater Treatment Plant Facility Master Plan (FMP). The proposed design flows specified within the FEIR as supported by the FMP provide sufficient excess capacity above existing wastewater flows as documented within discharge monitoring reports submitted to our agency. As noted in the FEIR, it is also customary to size wastewater treatment facilities based on the projected buildout flows at the time the facility is expected to reach its useful life and not total projected buildout flows. Furthermore, it should be noted that oversizing wastewater treatment facilities is not only cost prohibitive from both a construction and operational/maintenance standpoint, but can also result in operational problems leading to inconsistent or diminished effluent quality.

In May 2007 the Morro Bay City Council and Cayucos Sanitary District Board of Directors both unanimously approved, independently of each other, an upgrade of the facility to achieve tertiary treatment standards. However, the Settlement Agreement only requires the JPA to upgrade the facility to full secondary treatment in compliance with the Clean Water Act. Consequently, the proposed project goes above and beyond the Settlement Agreement by proposing an upgrade capable of treating 100 percent of the effluent to Clean Water Act secondary treatment standards plus tertiary filtration to initially achieve Title 22 Water Recycling Criteria for “disinfected secondary-23 recycled water” for up to 1.5 million gallons per day (mgd). The proposed tertiary filtration provides additional treatment beyond secondary standards that will result in an initial limited diversion of wastewater for reuse/reclamation via end uses that are immediately
available based on existing demand, allow for increased reuse of up to 1.5 mgd of recycled water, and allow for the future expansion/upgrade of tertiary treatment facilities as new end uses are identified and implemented. The proposed project is forward thinking with regard to water recycling given significant end uses for recycled water have yet to be identified and developed within the area and it clearly sets the stage for the development and implementation of a recycled water master plan. The proposed project is therefore in alignment with the statewide water recycling and conservation goals set forth within the State Water Resources Control Board Recycled Water Policy (Resolution No. 2009-0011) and California’s 20x2020 Water Conservation Plan. Given the tertiary filtration portion of the project is not required pursuant to the Settlement Agreement or any other existing statutes, we are concerned that a protracted stalemate over the approval of the FEIR or required permits based on potentially unreasonable or unrealistic conditions could result in a JPA decision to scrap the proposed project and implement only the minimum upgrades required to comply with the Settlement Agreement and the Clean Water Act. This would be a significant loss to the local community in improving water supply sustainability.

In conclusion, I urge you to approve the FEIR and adopt the permits in an effort to move this project forward given it will provide significant benefits not only to the communities of Morro Bay and Cayucos, but also to the surrounding communities and the environment. Failure to do so may result in a less desirable project and/or potential Water Board enforcement action pursuant to the Settlement Agreement.

If you have any questions regarding this matter, please contact Matthew Keeling at (805) 549-3685 or at mkeeling@waterboards.ca.gov, Harvey Packard at (805) 542-4839.

Sincerely,

Roger W. Briggs
Executive Officer

S:\IPDES\NPDES Facilities\San Luis Obispo ColMorro Bay-Cayucos WWTP\FEIR Comment 010510.doc
Facility ID 241479
ATTACHMENT 1

CITY OF MORRO BAY
PLANNING COMMISSION

December 20, 2010

FILE NUMBERS/ADDRESS
Coastal Development Permit (CP0-339)
and Conditional Use Permit (UP0-307)

LEGAL DESCRIPTION (S)
Being a portion of Block 28 of the Atascadero Beach
Subdivision in the City of Morro Bay, County of
San Luis Obispo State of California, According to a
Map Filed in Book 2 at Page 15 of Maps, on
July 2, 1917 in the Office of the County Recorder

APN/ADDRESS
APN-066-332-32, 33 & 34, 160 Atascadero

APPLICANT
City of Morro Bay/Cayucos Sanitary District

ATTACHMENTS
1. Findings, Exhibit A
2. Conditions, Exhibit B
3. Graphical/Plan Radionics, Exhibit C
4. Chronology of Major Milestones in WWTP Upgrade Project and Settlement Agreement,
Exhibit D
5. Environmental Impact Report, Exhibit E
6. Plans, Exhibit F
7. Correspondence from the Cayucos Sanitary District, Exhibit G

STAFF RECOMMENDATION
That the Planning Commission forward a favorable recommendation to the City Council to
Certify the HIR and conditionally approve Coastal Development Permit (CP0-339) and
Conditional Use Permit (UP0-307) by adopting a motion including the following action(s):

A. That the Planning Commission forward a favorable recommendation to the City Council
via resolution number 01-10 to adopt the Findings included as Exhibit "A" including
those pertaining to the completeness and adequacy of the Environmental Impact Report
prepared for the project pursuant to the California Environmental Quality Act (CEQA);

B. That the Planning Commission forward a favorable recommendation to the City Council
to conditionally approve Conditional Use Permit (CP0-339) and Coastal Development
Permit (UP0-307), subject to the Conditions included as Exhibit "B" and the site
development plans, on file with the Public Services Department date stamped November
10, 2010.

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 27 of 121
PROJECT SUMMARY
The applicant is requesting approval of Conditional Use Permit and Coastal Development Permit for the Morro Bay-Cayucos Wastewater Treatment Plant (WWTP) Upgrade Project. The project will upgrade all onsite facilities. The plant will be constructed to provide full secondary treatment for all effluent discharged through the ocean outfall and to provide tertiary filtration capacity equivalent to a PSDWP of 1.5 mgd. The tertiary filtered effluent would meet Title 52 standards for disinfected secondary-23 recycled water and as such could be used for limited beneficial uses. The project includes construction of facilities including but not limited to buildings, circulation, hardscape and landscaping. Once the upgraded wastewater treatment facilities are complete the existing wastewater treatment facilities will be demolished. The project includes an Environmental Impact Report which identified various concerns associated with the project; however the IIR does not identify any potentially significant impacts which cannot be mitigated to a less than significant level.

PROJECT OBJECTIVES
The objectives of the proposed project are as follows:

- Comply with the secondary treatment standards contained in 40 CFR Part 132;
- Phase out the need for a 301(b) modified discharge permit;
- Minimize flooding impacts onsite at the WWTP and adjoining properties; and
- Accommodate future installation of reclaimed capability to meet Title 22 requirements for disinfected tertiary recycled water for unrestricted use.

- Compliance with "Settlement Agreement for Issuance of Permits to Upgrade of Morro Bay Cayucos Wastewater Treatment Plant" and be fully operational by March 31, 2014.

ENVIRONMENTAL DETERMINATION
Section 15131 of the CCEQA guidelines provides standards for the adequacy of an EIR: It states: An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main point of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

The City of Morro Bay as the Lead Agency has prepared a Draft Environmental Impact Report (Draft EIR) to provide the public and various agencies with information about the potential effects on the local and regional environment associated with the Morro Bay-Cayucos Wastewater Treatment Plant Upgrade (WWTP Upgrade Project or proposed project).

The Draft EIR has been prepared in compliance with the California Environmental Quality Act (CEQA) of 1970 (as amended), codified at California Public Resources Code Sections 21000 et. seq., the Guidelines for California Environmental Quality Act (CEQA Guidelines) in the Code of Regulations, Title 14, Chapter 3, Section 15000 et. seq., and CEQA-Plus requirements of the State Water Resources Control Board (SWRCB). The proposed project would be implemented in conjunction with the Cayucos Sanitary District (CSD), which shall serve as a Responsible Agency under CEQA.

The Draft EIR describes the proposed project and the existing environmental setting, identifies short-term, long-term, and cumulative environmental impacts, identifies mitigation measures for 2

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 28 of 121
impacts found to be significant, and provides an analysis of project alternatives. The
environmental baseline for determining potential impacts to the site the NWIP for the proposed
project is published (CEQA Guidelines, Section 15122(a), in this case October 15, 2009.

Significance criteria have been developed for each environmental resource analyzed in Draft
EIR. Impacts are categorized as follows:

- Significant and Unavoidable: mitigation might be recommended but impacts are still
  significant;
- Less than Significant with Mitigation: potentially significant impact but mitigated to a
  less-than-significant level;
- Less than Significant: mitigation is not required under CEQA but may be recommended;

or

- No Impact.

The level of significance for each impact was determined using significance criteria (thresholds)
developed for each category of impacts; significant impacts are those adverse environmental
impacts that meet or exceed the significance thresholds; less-than-significant impacts would not
exceed the thresholds. The EIR contains a table which identifies the measures that will be
implemented to avoid, minimize, or otherwise reduce significant impacts to a less-than-
significant level. The EIR concluded that there were no impacts to any environmental resource
which could not be mitigated to a level of Less than Significant with Mitigation.

In addition to the requirements contained under the State CEQA regulations, the City also has
their own CEQA guidelines. The City’s Local CEQA guidelines (Resolution number 25-81)
contains the regulations under which the decision making body shall review an Environmental
Impact Report (EIR). The following is a brief overview of these regulations:

1) Changes or alterations have been required in, or incorporated into, the project which
mitigate or avoid the significant environmental effects thereof as identified in the final
EIR.

2) Such changes or alterations are within the responsibility and jurisdiction of another
public agency and not the City of Morro Bay. Such changes have been adopted by such
other agency or can and should be adopted by such other agency.
3) Specific economic, social, or other considerations make infeasible the mitigation measures or project alternative identified in the final EIR.

4) The findings required by subsection (a) shall be supported by substantial evidence in the record.

5) The finding number 2 shall not be made if the City agency making the finding has concurrent jurisdiction with another public agency to deal with identified feasible mitigation measures or alternatives.

The EIR is an attachment to this report and due to the lengthy analysis contained in the document is not repeated here in the staff report but is incorporated into this report by reference.

**BACKGROUND**

The WWTP is operated under a National Pollutant Discharge Elimination System (NPDES) Permit (No. CA0047881) issued by the US Environmental Protection Agency (USEPA) and the Central Coast Regional Water Quality Control Board (RWQCB). The current NPDES permit allows for the discharge of a blend of primary and secondary treated effluent to the ocean through the existing 27-inch diameter outfall pipeline. This discharge is in accordance with Section 301(2) of the federal Clean Water Act that modifies the requirement for full secondary treatment in certain cases. MBCSD has made a commitment to the Central Coast RWQCB to phase out the need for the 301(h) modified discharge permit by upgrading the WWTP to at least full secondary treatment by March 2014. See exhibit D for a summary of the project history.

The proposed project would construct facilities to provide full secondary treatment for all effluent discharged through its ocean outfall and to provide enhanced treatment with tertiary filtration capacity equivalent to the PSDWF of 1.5 mgd.

**COASTAL ACT REGULATIONS REGARDING THE REVIEW OF WASTE WATER TREATMENT FACILITIES**

Section 30412 of the Coastal Act pertains to the Wastewater Treatment Facilities and sections C 1, 2, and 3 specifically set down parameters that the Coastal Commission can review.

Section 30412, C. 1, 2, and 3 states: Any development within the coastal zone or outside the coastal zone which provides service to any area within the coastal zone that constitutes a treatment work shall be review by the commission and any permit it issues, if any, shall be determinative only with respect to the following aspects of the development:

1) The siting and visual appearance of treatment works within the coastal zone.
2) The geographic limits of service areas within the coastal zone which are to be served by particular treatment works and the finding of the use of capacity of treatment works for those service areas to allow for planning of development and use of facilities consistent with this division.
3) Development projects which determine the sizing of treatment works for providing service within the coastal zone.
CONSISTENCY WITH THE LOCAL COASTAL PROGRAM

For the proposed project to be approved, findings must be made that the project is consistent with applicable goals, objectives and policies of the Local Coastal Program (as defined above to include the General Plan, the Local Coastal Plan and the Implementing zoning regulations). In staff’s opinion the proposed project is consistent with the various applicable goals, objectives and policies of the LCP. Below are applicable policies, programs, and objectives that relate to this project.

The Coastal Act establishes a framework for resolving conflicts among competing uses for limited coastal lands. There are policies which spell out the priority of uses. The Coastal Act places as its highest priority the preservation and protection of natural resources including environmentally sensitive habitat areas and prime agricultural lands. On lands not suited for agricultural use, coastal-dependent development, a use which requires a site adjacent to or on the sea to function, has the highest priority. The adopted LCP designates the subject site as an area for coastal dependent development (policy 5.03).

In addition to the overall priority status given to coastal-dependent development there are also specific sections contained within the LCP pertaining to industrial development.

Section 30250(c) states: New residential, commercial or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land division, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels. The proposed project is in compliance with this section as the proposed is to upgrade facilities at the existing site which is within the core of the city with adequate access.

Section 30250(b) where feasible, new hazardous industrial development shall be located away from existing developed areas. The upgrade of the WWTP is not new development but instead is a project whose objectives are to improve the processing of the City’s wastewater by constructing new facilities and implementing new processes to accomplish this objective. Therefore the project is not in conflict with this policy.

The LCP establishes two industrial land use categories, General Industry and Coastal-Dependent Industrial. Land uses. The Coastal-Dependent land use category was specially created to address the industrial land uses which are given priority by the Coastal Act of 1976 for location adjacent to the coastline, such as thermal power plants, seawater intake structures, discharge structure buffer support facilities and other similar uses which must be located on or adjacent to the sea in order to function. The LCP further states that the City of Moss Landing’s wastewater treatment facilities are protected in their present location since an important operational element, the outfall line, is coastal-dependent (see policy 5.03). The proposed project consists of an upgrade to the wastewater facilities at the current protected site, however there will be some relocation of facilities on the site to allow the existing facilities to remain functioning while the new facilities are constructed. In addition, the facilities will continue to use the outfall line as an integral element of the facilities thus firmly establishing the facilities as coastal dependent and securing the WWTP’s right to continue to be located at 169 Alviso Road.

5 Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 31 of 121
The certified LCP also acknowledges the demands on the coastal area for public works-related development and the Coastal Act contains numerous general and specific policies regarding public works-related development. Although the Coastal Act emphasizes the protection, enhancement, and restoration of coastal resources, it also recognizes that public works development is necessary for the social and economic well-being of the state.

Section 30260 states: "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 the section and sections 30260 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." This Section of the Coastal Act allows special consideration for industrial development that may not be consistent with other Coastal Act policies, yet may be necessary to provide for the public welfare. The proposed project site is a grouping of many small parcels and includes the wastewater facilities, the City of Morro Bay's corporation yard and a cement plant. As stated in the LCP long term plans for the Wastewater Treatment Plant has always included upgrades and expansions. Policies within the LCP protect the overall site for this coastal dependent use encouraging it to upgrade or expand on the existing site to facilitate reasonable long term viability. It is clear that the proposed project (an upgrade of the Wastewater Treatment Plant at its protected site location) is consistent with the LCP.

There are also two policies (policy 5.03 & 5.04) contained within the LCP which reinforce that the location of the upgraded wastewater treatment facilities is consistent with the LCP.

Policy 5.03 states: The Morro Bay Wastewater Treatment facilities shall be protected in their present location since an important operational element, the outfall line, is coastal-dependent.

Policy 5.4 states: In the areas designated for industrial land uses, coastal-dependent uses shall have priority over non-coastal-dependent uses.

The City of Morro Bay has policies which mirror the policies contained within the LCP. They are as follows:

General Plan Program LU-39.3: The Morro Bay Wastewater Treatment facilities shall be protected in their present location since an important operational element, the outfall line, is coastal-dependent. As stated above this policy as well as those contained in the LCP refer to the facilities as a land use, they do not specifically state the existing plant. Other coastal policies substantiate that the intent of protecting the facilities as a Coastal Dependent Use would allow for the potential expansion or upgrading of facilities to ensure that the site would be viable to the long run.

General Plan Program LU-39.4: In the areas designated for industrial land uses, Coastal-dependent uses shall have priority over non-coastal-dependent uses.

General Plan Program LU-81.1: The City will continue a program of providing wastewater treatment facilities to accommodate the build-out population of 12,191, determined to be the build out figure in Coastal Development Permit NO. 406-01, which permits further expansion of 6

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 32 of 121
the wastewater treatment facilities to 2.4 mgd. The certified LCP contains information regarding the siting of the Wastewater Treatment plant and the community's future needs. The siting of the plant contained within this document assumes that the plant would continue with the same technologies as those that the plant was operating under in 1988 and the same consumer patterns as the population had in 1988. Today just over twenty years later these basins have had a significant effect on the amount of plant capacity necessary to meet demands. Since 1988, there have been improvements to technology resulting in improved waste water processing, the Morro Bay consumer has embraced conservation, and finally the community growth has not kept up with population projections contained in the LCP.

Typically, the capacity of a wastewater treatment plant is upgraded incrementally, often in 20 year increments, to meet demand for the projected growth of the time frame. The proposed plant upgrade was sized to accommodate the growth that is projected to occur within a time frame ending in 2030. This timeframe is consistent with what is estimated to be the life span of this upgrade. The population accounted for by this plant upgrade did not consider total community build-out of 13,500 as projected in the LCP but instead utilized the projected population growth for 2025 as provided by the San Luis Obispo County of Governments of between 11,910 and 12,610. In addition, the City's population is constrained by Measure F, which limits the City's overall population to 12,200. Increases to this figure would require a vote of the people. As such a WWTP design capacity based on a population of 12,500 for Morro Bay is appropriate. The Better Area Plan which governs Cayucos calls for a full build-out of Cayucos by 2022 with a population of 4,765. The proposed project assumes a population of 5,730 in Cayucos by the year 2030. As with any public facility there is a balancing act that must occur between providing sufficient resources for projected growth and over siting facilities for growth that is far into the future. Over siting facilities can be growth inducing and costly on the additional cost associated with the increased capacity are realized. So the siting of the plant as proposed is consistent with the LCP as it provides the necessary capacity for orderly and well-planned growth consistent with the policies in the LCP, Measure F and the growth trends projected by the regional planning agency.

**SITE CHARACTERISTICS**

<table>
<thead>
<tr>
<th><strong>Location</strong></th>
<th><strong>Description</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>North:</td>
<td>C-VS (PD) Vacant</td>
</tr>
<tr>
<td>South:</td>
<td>M-1 (PD), Interim Use of Trailer storage</td>
</tr>
<tr>
<td>West:</td>
<td>C-VS (PD) Trailer park</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Project Data</strong></th>
<th><strong>Description</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Site Area</strong></td>
<td>5.54 acres</td>
</tr>
<tr>
<td><strong>Existing Use</strong></td>
<td>Waste water Treatment Plant, City Maintenance Yard &amp; Cement Plant</td>
</tr>
<tr>
<td><strong>Terrain</strong></td>
<td>The project site is located within the coastal plain and contains a slope of less than 20° slope</td>
</tr>
<tr>
<td><strong>Vegetation/Wildlife</strong></td>
<td>Urbanized site with landscaping</td>
</tr>
<tr>
<td><strong>Archaeological Resources</strong></td>
<td>The project area is considered to have high archaeological sensitivity</td>
</tr>
<tr>
<td><strong>Access</strong></td>
<td>Atascadero Road</td>
</tr>
</tbody>
</table>
Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 34 of 121

<table>
<thead>
<tr>
<th>Land Use Designation</th>
<th>General Plan/Coastal Plan</th>
<th>General (Light) Industrial</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Zone District</td>
<td>Light Industrial (M-1)</td>
<td></td>
</tr>
<tr>
<td>Zoning Overlay District</td>
<td>Planned Development (PD) &amp; Interim use (I) overlay zone.</td>
<td></td>
</tr>
<tr>
<td>Special Treatment Area</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Combining District</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Specific Plan Area</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>Coastal Zone</td>
<td>Yes, within the appeal's jurisdiction</td>
<td></td>
</tr>
</tbody>
</table>

**PLANNED DEVELOPMENT (PD)**

The PD Overlay elevates the level of review for all development to the Planning Commission via the conditional use permit process. For projects located on public property or on private property exceeding one (1) acre, the PD Overlay requires a heightened review process involving concept plans and precise plans and action by both the Planning Commission and City Council. The proposed project is subject to this procedural requirement because it is over one acre in size and on public property.

The PD Overlay also allows flexibility from strict application of zoning standards, such as density and setbacks, where a better design or public benefit would result. As stated in Section 17.40.033(A) of the Zoning Ordinance, the purpose of the PD Overlay designation is:

"...to provide for detailed and substantial analysis of development on parcels which, because of location, size or public ownership, warrant special review. This Overlay Zone is also intended to allow for the modification of or exemption from the development standards of the primary zone which would otherwise apply if such action would result in better design or other public benefit."

Finally, the site is located in interim use (I) overlay zone. This overlay zone is for certain properties being held for future use. This would not pertain to the majority of the site which will have permanent use; it may pertain to the area of the site which will be left vacant after decommissioning of the existing plant.

**PROJECT FEATURES**

The Use Permit approval sought by the applicant is a concept plan level approval. Section 17.40.030.7 states that the plans submitted for a concept plan shall be general development plans. The plans submitted show the overall site layout, the height, conceptual design and exterior materials of the buildings and visual simulation of the buildings on the site. The concept plan will contain a specific development plan showing grosses location and dimensions of all structures, parking and landscaping. The submitted will also include fully developed architectural elevations of all structures, signs and fencing including colors and material of construction. The landscape plan will be submitted that shows plant materials, type and size, and engineering plan will be submitted showing site grading, amount of cut and fill including finished grades and proposed drainage facilities.

**Design of the Buildings:**

The residuals facility, operations building and the maintenance building are designed with a consistent architectural theme that is compatible with the project site and its surroundings. Potential exterior treatments include reinforced concrete, concrete masonry block or a
combination of the two materials. Concept designs for the new WWTP facilities are included as Exhibit C.

Landscaping:
Panhunter landscaping will include trees, bushes or vines to provide a natural screening of the WWTP from public view. Landscaping within the fence line of the new WWTP will be minimal to reduce maintenance.

Parking Spaces & Onsite Circulation:
The site plan indicates the provision of 15 parking spaces and a new road which provides access to the new facility. The project is required to provide at least 11 parking spaces one of which shall be van accessible. The project has proposed 15 parking spaces with no accessible space. A condition has been placed on the project to provide the accessible space.

Public Improvements:
No new frontage improvements have been proposed. The site has all frontage improvements already existing. The project is conditioned to provide minor frontage improvements such as the planting of street trees and reconstruction of disturbed frontage or damaged improvements.

Sustainable features:
The new WWTP will be designed to incorporate sustainable features such as the following:

- Use of existing site results in a lower environmental disturbance than would occur with the development of a new site.
- Utilization of durable, easy to maintain materials (like concrete block), ensures a long life for the buildings and reduced environmental impacts of consistent maintenance (i.e. painting).
- Selection of regional materials that are produced within a relatively close proximity to the site reduces the amount of embodied energy of a product (less environmental impact from shipping overseas or trucking from across the states).
- Low-emitting materials will ensure that the building occupants are staying healthy and safe. When possible, all adhesives, sealants, paints, flooring, and composite wood products would contain low to no VOC’s.
- By controlling indoor chemical and pollutant sources, building occupant exposure to potentially hazardous particulates and chemical pollutants can be minimized.
- Daylighting the interior space with glass transom windows will ensure that all occupied rooms will receive natural light.
- Views will help provide the building occupants a connection to the outdoors through the introduction of daylight and views to regularly occupied areas of the building.
- Low flow modern fixtures will provide the restrooms and break areas with a water reduction compared to existing facilities.
### Design Standards for the M-1 district

<table>
<thead>
<tr>
<th>M-1 Zone District</th>
<th>Proposed Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>setbacks front</td>
<td>25 feet</td>
</tr>
<tr>
<td>setbacks interior</td>
<td>0 feet N/A</td>
</tr>
<tr>
<td>setbacks rear</td>
<td>0 feet</td>
</tr>
<tr>
<td>Lot Coverage</td>
<td>50% maximum lot coverage</td>
</tr>
<tr>
<td>Building Height</td>
<td>30 feet. An increase in height is allowed in the M-1 zone for public buildings not to exceed 45 feet upon the securing of a conditional use permit, provided that the front, rear and side yards shall be increased one foot for each two feet by which such building exceeds the height limit of the district</td>
</tr>
<tr>
<td>Parking</td>
<td>11 parking spaces, 1 van accessible space required</td>
</tr>
<tr>
<td></td>
<td>15 spaces provided (total building square footage is 5,210, parking is 1 per 500 square feet for a total of 11 spaces)</td>
</tr>
</tbody>
</table>

*Note: Finish grade is dependent on the processing of a letter of map amendment through PEMA. Finish grade shall be one foot above the 100 year water surface elevation. This will add between four and six feet of fill across the site to comply with the City’s Flood Damage Prevention Regulations (MBMC14.72)*

### PUBLIC NOTICE

Notice of this item was posted at the site and published in the Sun Luis Obispo Telegram-Tribune newspaper on December 10, 2010, and all property owners of record within 300 feet of the subject site and occupants within 100 feet of the subject site were notified of this evening’s public hearing and invited to voice any concerns on this application.

### CONCLUSION

As documented in this staff report the project as proposed and conditioned is in compliance with the goals and policies of the Local Coastal Plan, General Plan and the Zoning Ordinance. Therefore staff is recommending that the Planning Commission forward a favorable recommendation to the City Council for both the Coastal Development Permit and the Use Permit subject to the conditions as stated in Exhibit B and all the mitigations contained in the IID.

Report prepared by: Kathleen Wold, Planning Manager

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10

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 36 of 121
RESOLUTION NO. 01-10

A RESOLUTION OF THE PLANNING COMMISSION OF MORRO BAY MAKING THE FINDINGS FOR A RECOMMENDATION OF APPROVAL TO THE CITY COUNCIL FOR THE WASTEWATER TREATMENT PLANT PROJECT INCLUDING THE CEQA, CONDITIONAL USE PERMIT AND COASTAL DEVELOPMENT FINDINGS

THEREFORE, BE IT RESOLVED that the resolutions are true and correct and constitute the finding of the Planning Commission on this matter and:

1. That the Planning Commission hereby recommends certification of the Morro Bay - Cayucos Wastewater Treatment Plant Upgrade Final Environmental Impact Report dated December 2010

2. That the Planning Commission hereby recommends approval of the Coastal Development Permit and the Conditional Use Permit for the Morro Bay - Cayucos Wastewater Treatment Plant Upgrade Project subject to the conditions as contained in Exhibit B.

PASSED AND ADOPTED by the Planning Commission of the City of Morro Bay, California, at a regular meeting held on the 20th day of December 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

, Chairperson

Rob Livick, Planning Commission Secretary
EXHIBIT A:
FINDINGS

California Environmental Quality Act (CEQA) / Local CEQA Guidelines

That for purposes of the California Environmental Quality Act, an Environmental Impact Report (EIR) has been conducted for Wastewater Treatment Plant Project (Use Permit UPO-307 and Coastal Development Permit (CP0-339). The EIR is adequate and complete and satisfies all CEQA requirements.

Local CEQA guideline findings: No city agency shall approve or carry out a project for which an environmental impact report has been completed which identifies one or more significant effects of the project unless the body agency makes one or more of the following written findings for each of those significant effects, accompanied by a statement of the facts supporting each finding.

1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects thereof as identified in the final EIR. The EIR contains mitigations which reduce all environmental impacts to a level of less than significant.

2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the City of Morro Bay. Such changes have been adopted by such other agency or can and should be adopted by such other agency. N/A

3) Specific economic, social, or other considerations make infeasible the mitigation measures or project alternative identified in the final EIR. N/A

4) The findings required by subsection (e) shall be supported by substantial evidence in the record. The Planning Commission has reviewed the project EIR and finds that the document is complete and adequate.

5) The finding number 2 shall not be made if the City agency making the finding has concurrent jurisdiction with another public agency to deal with identified feasible mitigation measures or alternatives. N/A

Conditional Use & Coastal Development Permit Findings

The Planning Commission finds that the use, a wastewater treatment facility, is an allowable use in the M-1 (Light Industrial) district as it has been determined that the use is similar and consistent with the General Plan and Local Coastal Plan.

That the project (Wastewater Treatment Plant) is an allowable use within the M-1 Zone District and is also in accordance with the certified Local Coastal Program and the General Plan for the City of Morro Bay based on the analysis and discussion in the attached staff report; and

The establishment, maintenance, or operation of the use applied for will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use as the project is consistent with all applicable zoning and plan requirements as indicated in the attached staff report; and
The use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the City since the project, as conditioned, will be conducted consistent with all applicable City regulations, as indicated in the attached staff report. The Planning Commission finds that the project EIR is adequate and complete and has determined based on the EIR, the facts presented, the local CEQA guidelines and in light of the effects of the project that the project should be approved subject to proposed project mitigations and conditions.
STANDARD CONDITIONS

This permit is granted for the land described in the staff report dated December 28, 2010 and referenced above for the project depicted on the attached plans labeled "Exhibit F", date stamped November 10, 2010 on file with the Public Services Department, as modified by these conditions of approval, and more specifically described as follows:

An upgrade of all onsite facilities at the Wastewater Treatment Plant. The plant will be constructed to provide full secondary treatment for all effluent discharged through its ocean outfall and to provide tertiary filtration capacity equivalent to a PSWOF of 1.5 mgd. The tertiary filtered effluent would meet Title 22 standards for disinfected secondary-23 recycled water and as such could be used for limited beneficial uses. The project includes construction of facilities including but not limited to buildings, circulation, hardscape and landscaping. Once the upgraded wastewater treatment facilities are complete the existing wastewater treatment facilities will be demolished.

1. Preplan Plan Submission: A Preplan Plan must be submitted to the Planning Commission within one year from the date of City Council approval or approval by the State Coastal Commission where said plan requires their approval. Without further action, concept plans shall automatically become null and void after one year has elapsed.

2. Changes: Minor changes to the project description and/or conditions of approval shall be subject to review and approval by the Director of Public Services. Any changes to this approved permit determined not to be minor by the Director shall require the filing of an application for a permit amendment subject to Planning Commission review.

3. Compliance with the Law: (a) All requirements of any law, ordinance or regulation of the State of California, City of Morro Bay, and any other governmental entity shall be complied with in the exercise of this approval. (b) This project shall meet all applicable requirements under the Morro Bay Municipal Code, and shall be consistent with all programs and policies contained in the certified Coastal Land Use Plan and General Plan for the City of Morro Bay.

4. Hold Harmless: The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attach, set aside, void, or annul this approval by the City of the applicant's project; or applicants failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.

5. Compliance with Conditions: The applicant's establishment of the use and/or development of the subject property constitutes acknowledgment and acceptance of all Conditions of Approval. Compliance with and execution of all conditions listed hereon shall be required prior to obtaining final building inspection clearance. Deviation from this requirement shall be permitted only by written consent of the Director of Public Services and/or as authorized by the Planning Commission. Failure to comply with these conditions shall render this entitlement, at the discretion of the Director, null and void.

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 40 of 121
Continuation of the use without a valid entitlement will constitute a violation of the Morro Bay Municipal Code and is a misdemeanor.

6. Acceptance of Conditions: Prior to obtaining a building permit the applicant shall file with the Director of Public Services written acceptance of the conditions stated herein.

7. State and County Compliance: Prior to the any final issuance for the project the applicant shall demonstrate compliance with all State and County regulations and provide documentation to the Public Services Department.

8. Construction Hours: Pursuant to MBMC Section 9.28.030 (J), noise-generating construction related activities shall be limited to the hours of seven a.m. to seven p.m. on weekdays and eight a.m. to seven p.m. on weekends, unless an exception is granted by the Director of Public Services pursuant to the terms of this regulation.

9. Dust Control: Prior to issuance of a grading permit, a method of control to prevent dust, construction debris, and windblown earth problems shall be submitted to and approved by the Building Official to ensure conformity with the performance standards included in MBMC Section 17.52.070.

10. Screening of Equipment/Utility Meters/Peaking: All roof-mounted air conditioning or heating equipment, vents, dikes and/or utility meters shall be screened from view from adjoining public streets in a manner approved by the Director of Planning and Building. Prior to building permit issuance, the approved method of screening shall be shown on the project plans.

11. Topping of Landscaping: Prior to issuance of a final Certificate of Occupancy, all required plantings, groundcover and irrigation systems shall be in place to the satisfaction of the Director of Planning & Building. The landscape consultant shall provide a watering schedule and certify that all plantings and irrigation systems have been installed pursuant to the approved plans prior to issuance of the final Certificate of Occupancy.

12. Maintenance of Landscaping: All required plant materials shall be maintained in accordance with the watering schedule as specified in the approved landscape plan notes. All landscaping shall be cared for, maintained, watered, fertilized, summertized, pruned and kept in a healthy growing condition for the life of the project. Where required plant(s) have not survived, it shall be promptly replaced with new plant materials of similar species, functional, size, and characteristics as specified in the approved landscape plant notes.

13. Archaeology: In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall immediately cease in the immediate area, and the find should be left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation and implementation of any protective measures as determined by the Director of Planning & Building.
14. Property Line Verification: It is owner's responsibility to verify lot lines. Prior to
foundation inspection the lot centers shall be staked and setbacks marked by a licensed
professional.

PLANNING CONDITIONS

1. Parking: In accordance with MBMC Chapter 17.44 a minimum of 11 parking stalls shall
be provided. One space shall be a van accessible space.

2. Parking Lot: The Precise Plan submission shall include a fully dimensioned parking lot
plan. The plan shall include the required landscape planters and landscaping. The design
of the parking facilities shall be in accordance with all the standards as set forth within
Chapter 17.44.

3. Lot Line Adjustment or Lot Merger: The project as proposed deploys structures that are
located across property lines, which is not allowed by the Morro Bay Municipal Code.
The applicant shall submit an application for either a lot line adjustment or lot merger in
order to bring the project into conformance.

BUILDING CONDITIONS

1. Precise Plan Submittal: At the time of precise plan submission, the applicant shall submit a
plan for the phasing of construction, demolition and the construction of other site
improvements.

2. Accessibility: At the time of precise plan submission, the project plans shall depict those
site elements that are required for handicapped accessibility, including a van accessible
parking space, accessible paths of travel to building entrances, and an accessible path of
travel to the public way.

ENVIRONMENTAL CONDITIONS

1. Environmental Impact Report: All mitigations contained in the Environmental Impact
Report entitled “MORRO BAY-CAYUCOS WASTEWATER TREATMENT PLANT
UPGRADE” shall be incorporated as conditions of approval.

FIRE CONDITIONS

1. Fire Safety During Construction and Demolition: In the course of construction, alteration,
or demolition, including those in underground locations, compliance with 2007 California
Fire Code, Chapter 14 and NFPA 241, is required.

2. Fire Protection in Wastewater Treatment and Collection Facilities (NFPA 820): This
standard establishes minimum requirements for protection against fire and explosion
hazards in wastewater treatment plants and associated collection systems, including the
hazard classification of specific areas and processes, compliance with this standard is
required.

7B): These chapters specify where fire protection systems (Fire Sprinkler, Alarm, and
Standpipe Systems) are required and apply to the design, installation, inspection,
operation, testing and maintenance of all fire protection systems. The plan identifies a number of different occupancies where automatic fire sprinklers are required, based on their hazard classification, as outlined in CFC Section 903, and shall be addressed during fire sprinkler plan submittal.

4. **Hazardous Materials-General Provisions** (2007 California Fire Code, Chapter 27 and NFPA 40): Prevention, control and mitigation of dangerous conditions related to storage, dispensing, use and handling of hazardous materials shall be in accordance with the above chapters.

5. **Fire Apparatus Access:** Fire apparatus access roads shall be provided and maintained in accordance with CFC Chapter 5 and Appendix D.

6. **Fire-Flow Requirements for Buildings:** Determination of fire-flows for buildings shall be in accordance with CFC Appendix B.

7. **Fire Hydrant Locations and Distribution:** Fire hydrants shall be provided for the protection of buildings, or portions, in accordance with CFC Appendix C.

**PUBLIC WORKS**

1. **Damage to City Facilities:** Relocate/rebuild any City facility damaged or removed due to construction.

2. **Stormwater Treatment:** The project shall provide stormwater treatment for all improved areas of the site.

3. **Design Standards:** Design Standards for Structural or Treatment Control BMPs

4. **Post-Construction Treatment Control BMP:** Post-construction treatment control BMP incorporate, at a minimum, either a volumetric or flow-based treatment control design standard, or both, as identified below to mitigate (infiltrate, filter or treat) stormwater runoff;

- **Volumetric Treatment Control BMP**
  a.) The 85th percentile 24-hour runoff event determined as the maximum capture stormwater volume for the area (0.75in/24-hr), or equivalent method to be approved by the City Engineer.

- **Flow Based Treatment Control BMP**
  a.) The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the area (2 x 0.193 in/hr = 0.385 in/hr); or equivalent method to be approved by the City Engineer.

5. **Driveway Approaches:** The commercial driveway approach shall have a minimum pan width between 24 and 35 feet. The driveway approach near the curve in Atascadero Rd shall meet the minimum sight distance. The minimum distance from the top of the approach to the BCR of the curve shall be the curb return radius plus five feet.

6. **Stabilization:** Include a plan for final stabilization of the entire site.

The following items shall be included with the building permit submittal:

8. Conditional Letter of Map Revisions: A Conditional Letter of Map Revisions (CLOMR), based on the required fill, shall be completed prior to issuance of a building permit. The CLOMR shall be followed up with a Letter of Map Revisions (LMR) prior to final inspection and acceptance. The applicant/developer shall pay the Flood Hazard Development permit fees of $174 at building permit submittal.

9. Frontage Improvements: ADA driveway approaches are required at any proposed driveways along Atascadero Rd. Any proposed driveways shall meet City standard B-6. Any damage to City facilities, i.e. curb, gutter, sidewalk, street, sewer line, water line, or any public improvements shall be repaired at no cost to the City of Moorpark. The existing driveway shall be abandoned and City standard sidewalk, curb, and gutter shall be built. Street trees shall be planted from the City’s master tree list located behind the sidewalk. One street tree shall be planted for every 50 feet of the property frontage.

10. Storm Drain Pipe: Repair or replace the storm drain pipe (located along the Atascadero Rd. property frontage) and reconstruct the outlet to provide adequate stormwater conveyance from the property.

11. Intersection at Highway One: Pay a pro rata share for signalization and related improvements at the intersection at Highway One, Highway 41, and Main Street. The said fee shall be proportional to increased traffic generated by the subject project as said intersection as estimated by a traffic engineer and subject to review and approval by the City Engineer. The traffic volume on Atascadero Road at Highway One is 2,800 ADT. The estimated cost of the improvements to the Intersection is $890,000 based on the 1998 Circulation Element of the General Plan (BWR-4519). Present day cost is estimated at $1,940,000 (BWR-0851).

12. WDID Permit Numbers: Provide the WDID permit numbers for the Construction and Industrial Discharge permits issued by the State Resources Water Quality Control Board.

13. Erosion and Sediment Control Plan: Provide an erosion and sediment control plan including dust control measures. The plan shall include BMP’s to control erosion and sedimentation on the site. The applicant/developer shall follow the City’s Erosion and Sediment control manual which can be viewed on the City website www.moorpark.com/Stormwater under quick links.
Chronology of Major Milestones in WWTP Upgrade Project

January 2003: RWQCB sends a letter to MBCSD urging them to look to the future and to upgrade the plant so a 301(h) modified discharge permit would no longer be required.

January 2003: City and District form a subcommittee to study the long term future of the plant.

July 2003: MBCSD submits a timely application to RWQCB for renewal of the 301(h) modified discharge permit.

September 2003: MBCSD contacts with Cannon Associates to analyze feasibility of EQ Basin and upgrades to trickling filter to negate the need for a 301(h) permit.

February 2004: RWQCB administratively extends 301(h) permit until renewal process can be completed.

June 2004: MBCSD receives Alternative Evaluation Report from Cannon Associates. The report states, "Prior to investing significant funds in the implementation of flow equalization and trickling filter modifications, a more comprehensive capacity evaluation of the entire WWTP (both liquid and solids streams) should be conducted based on potentially more stringent effluent discharge requirements."

June 2004: MBCSD approves a recommendation by the WWTP (MBCSD) Subcommitte that the governing bodies of the MBCSD approve a process that will explore the possibility of upgrading the plant on a fifteen-year Time Schedule. MBCSD authorizes staff to prepare an RFP for development of a Time Schedule for upgrading the plant.

November 2004: MBCSD awards Carollo Engineers contract for development of a Time Schedule for upgrades to the WWTP.

April 2005: Carollo presents a 15 Year Time Schedule to the MBCSD; Carollo told to shorten Time Schedule and get the upgrade done "as quick as possible." Environmental groups including Natural Resource Defense Council, Surfrider, Sierra Club begin an intensive lobbying campaign to shorten the time schedule.
May 2005: MBCSD adopts a revised 9.5 year Time Schedule for upgrading the plant; Compliance date is June 23, 2015; MBCSD agrees to form a subcommittee composed of two members of each governing body.

September 2005: MBCSD directs staff to prepare RFP for Facility Master Plan.

September 2005: RWQCB staff sends a draft Settlement Agreement for review by MBCSD staff. Settlement Agreement contains the following monetary penalties for not completing the project as outlined in the 9.5 Year Timeline for upgrading the plant.

December 2005: MBCSD approves "Settlement Agreement for Issuance of Permit to and Upgrade of Morro Bay Capitola Wastewater Treatment Plant." The Agreement contains the 9.5 Year Timeline for upgrading the plant.

December 2005: RWQCB public notices draft NPDES permit for public comment; NRDC submits 75-page comment letter titled "Time is of the Essence, communities also submitted by Surfrider, Sierra Club, and other environmental organizations demanding a shorter Time Schedule for upgrading the plant.

April 2006: MBCSD agrees to shorten the Time Schedule to the current 8 Year Schedule due to increased pressure from the NRDC, Surfrider and other various environmental organizations despite City and District staffs and Carollo Engineers recommendation not to shorten the Schedule. Attached hereto is the 8 Year Conversion Schedule.

April 2006: MBCSD awards contract for Facility Master Plan to Carollo Engineers.

May 2006: RWQCB and EPA hold a joint hearing on the removal of the 501(h) permit. outcome of the hearing was the continuance of the hearing until US Fish & Wildlife Service and USFWS perform an informal Section 7 consultation on the effects of the discharge on sea otters and the Balanced Indigenous Population.

June 2006: MBCSD contracts with Carollo Engineers for the development of a Facility Master Plan. The MBCSD meets regularly for the next year to discuss and consider the recommendation in the draft FMP. Environmental organizations continue lobbying for a shorter schedule with tertiary treatment.

December 2006: MBCSD awards a joint contract for the preparation of Draft Revenue Programs for the two agencies for establishing rate structures capable of meeting the SRF loan requirement.

December 2006: City Council awards contract to Cannon Associates for the City of Morro Bay Wastewater Treatment Alternatives in the Chorro Valley.
May 2007: City accepts Chorro Valley Wastewater Treatment Alternatives in the Chorro Valley analysis developed by Cannon Associates. Study concluded that construction of a stand-alone treatment facility in the Chorro Valley with a creek discharge is a viable option and they provide revised project costs estimates of $58.7M.

May 2007: Cayucos Board votes to include tertiary treatment in recommended project (extended septic) followed by filtration; City delays decision pending more comparison of treatment alternatives.

August 2007: City of Morro Bay votes to include tertiary treatment in the recommended project, ox ditch with filtration.

September 2007: MBCSD adopts the draft PMP, with the recommended project alternative being the rehabilitation and upgrade of the existing plant location with an oxidation ditch with tertiary filtration.


November 2007: MBCSD approves RFP for environmental review and analysis for the upgrade project.

November 2007: Morro Bay adopts Resolution 55-07 establishing new wastewater user fees schedule. Resolution follows the Prop 218 notification process.

November 2007: MBCSD public notices RFP for Environmental Services for the WWTP upgrade project.

January 2008: MBCSD receives letter from US Fish & Wildlife that they had concurred with the USEPA determination that the continued ocean discharge from the plant is not likely to adversely affect the sea otter or brown pelican; this determination allows permit renewal process to resume.


October 2008: A Notice of Preparation (NOP) of an Environmental Impact Report for the upgrade project was public noticed, with a thirty day comment period.

December 2008: RWQCB and USEPA vote to renew the 301(d) modified discharge permit; permit includes the Settlement Agreement and the 8-Year Time Schedule that calls for the plant to achieve full secondary compliance no later than March 2014. Attached is the 8-Year Conversion Schedule.
January 2009: The California Coastal Commission determined that the 301(b) modified discharge permit complies with the California Coastal Zone Management Act.

January 2009: The Natural Resources Defense Council (NRDC), The Outer Project, the Environmental Center of San Luis Obispo, and the Santa Lucia Chapter of the Sierra Club files a petition with the State Water Resources Control Board (SWRCB) filed “Petition For Review of Central Coast Regional Water Board Action of Adopting Order NO. R3-2008-0005, NPDES No. CJ-0047881.” The petitioners request that this Petition be held in abeyance, and reserve the right to supplement the legal arguments and authorities in support of this Petition. On January 8, the SWRCB responded to the NRDC stating that they will hold the Petition in abeyance. It is staffs understanding that the NRDC and the other groups filed the Petition to ensure that the City and District adheres to the 8 Year Time Schedule for upgrading the plant to tertiary treatment.

March 2009: MBCSD receives a renewed 301(b) discharge permit, the permit is valid until March 2014.

June 2009: MBCSD staff informs the Council and District Board of the results of the Flood Hazard Analysis conducted by Wallace Group and the potential serious implications of this report.

August 2009: Amendment No. 1 to the FMP was presented at the MBCSD meeting; Amendment discusses moving treatment facility to the area currently being occupied by the sludge drying beds and/or the trailer storage area.

September 2009: The Council and District Board vote to designate the property to the south as the new treatment plant site and conduct the according environmental analysis; the Council and District Board reaffirmed their designation of the oxidation ditch with filtration as the recommended treatment technology.


October 2009: A revised Notice of Preparation was public noticed; the revised NOP includes a modified project description that reflects construction of a new treatment plant next to the existing plant and demolition of the existing plant is constructed and brought on-line.

February 2010: MBCSD awards contract for Engineering Design Services to MWI.

March 2010: Contract with MWI executed, design process begins.

April 2010: MBCSD directs staff to prepare RFP for Project Management Services.

Exhibit B
A-3-MRB-11-001 (MRB WWTP) Page 50 of 121
## Preliminary Activities

1. Issuance of Request for Consulting Engineering Proposals for Facilities Master Plan
   - Date: November 11, 2005

2. Award of Consulting Engineering Contracts
   - Date: April 27, 2006

## Facilities Planning

1. Submit Draft Facilities Master Plan
   - Date: November 30, 2007

2. Submit Draft Facilities Master Plan
   - Date: September 30, 2009

## Environmental Review and Permitting

1. Complete and Circulate Draft CRQA Document
   - Date: February 27, 2009

2. Certification of Final CRQA Document
   - Date: December 31, 2009

3. Submit proof of application for all necessary permits
   - Date: June 1, 2010

4. Obtain all necessary permits
   - Date: May 31, 2011

## Design and Construction

1. Initial Design
   - Date: September 30, 2010

2. 30 Percent Design
   - Date: April 29, 2011

3. 60 Percent Design
   - Date: July 25, 2011

4. 90 Percent Design
   - Date: September 30, 2011

5. 100 Percent Design
   - Date: December 27, 2011

6. Issuance of Notice to Proceed with Construction
   - Date: March 20, 2012

7. Construction Progress Reports
   - Date: Quarterly (with BRMS)

8. Complete Construction and Omissions Debagging and Startup
   - Date: January 31, 2014

9. Achieve Full Compliance with Secondary Treatment
   - Date: March 31, 2014

1. Liquidated damages shall be $250/day for the first 180 days if the Discharger fails to achieve compliance by the date specified in the Conversion Schedule.
   - Date: For the first 180 days, liquidated damages shall be $250/day until the Discharger achieves compliance with the requirements. After 365 days, liquidated damages shall be $1,000/day until the Discharger achieves full compliance with the requirements.

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Exhibit B
A-3-MRB-11-001 (MRB WWTP) Page 51 of 121
SETTLEMENT AGREEMENT FOR ISSUANCE OF PERMITS TO AND UPGRADE OF THE MORRO BAY-CAYUCOS WASTEWATER TREATMENT PLANT

THIS AGREEMENT ("Agreement") is made by and between the CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CENTRAL COAST REGION (the "Water Board"), on the one hand, and the CITY OF MORRO BAY and the CAYUCOS SANITARY DISTRICT (collectively, the "Discharger"), on the other hand. The Water Board and the Discharger are collectively referred to as the "Parties," and each of them may be singularly referred to as a "Party."

Recitals

A. Pursuant to the requirements of Clean Water Act ("CWA") section 402 (33 U.S.C. §1342) and Water Code sections 13000 et seq., the Water Board or the United States Environmental Protection Agency (the "EPA") must prepare and adopt a National Pollutant Discharge Elimination System ("NPDES") permit for the Discharger's wastewater discharge, every five (5) years.

B. Although NPDES permits issued to publicly owned treatment works generally specify secondary treatment of wastewater (33 U.S.C. §1311(b)(1)(B)) or more stringent standards, Congress has authorized the issuance of discharge permits with modified secondary treatment standards under CWA section 301(b) (33 U.S.C. §1311(b)). To qualify for a modified discharge permit, a discharger must satisfy the conditions of CWA Section 301(b) and applicable regulations. The Discharger currently discharges its treated wastewater under a 301(b) modified discharge permit (No. CA0047881) jointly issued by the EPA and the Water Board, which became effective on March 1, 1999. On July 3, 2003, the Discharger applied to EPA and the Water Board for another 301(b) modified discharge permit with a peak seasonal dry weather flow limit of 2.36 million gallons per day ("mgd").

C. A modified discharge permit was issued to the discharger in March 1985 (Permit No. CA0047881) by the U.S. Environmental Protection Agency (EPA), Region 9 and the California Regional Water Quality Control Board, Central Coast (RWQCB). This original permit expired in March of 1990 and has been replaced by EPA and the RWQCB.
twice since, in March 1993 and March 1999. The current (re-issued) permit expired on March 1, 2004, and has been administratively extended until a decision regarding the application is made. On November 10, 2005, USEPA issued its Tentative Decision for the renewal of Discharger’s application for a 301(b) modified discharge permit. The USEPA’s Tentative Decision states the Discharger has successfully demonstrated (through past performance) the ability to comply with the California Ocean Plan water quality standards for suspended solids, dissolved oxygen, and pH and will be in compliance with all applicable Federal water quality criteria. The Water Board will consider the USEPA’s Tentative Decision at the time of the issuance of the Modified Discharge Permit.

D. Subject to the provisions of this Agreement regarding Water Board discretion and New Evidence (defined below), this Agreement contemplates that the Water Board will concur in the Modified Discharge Permit (defined below) and issue the NPDES Permit (defined below), which will effect the Discharger’s obligation to complete the upgrade of its treatment facility to a minimum of full secondary treatment standards within a five-and-one-half-year period. Pursuant to the May 1984 Memorandum of Understanding for Modified NPDES Permits Under Section 301(b) of the Clean Water Act between the California State Water Resources Control Board and EPA Region 9, the Water Board concurs with EPA 301(b) modified discharge permits and issues Clean Water Act Section 401 certification by issuing final waste discharge requirements. Concurrently with issuance of the waste discharge requirements, EPA issues a NPDES permit including the 301(b) modified discharge permit provisions. References in this Agreement to the Water Board “issuing” a permit means, as applicable, issuance by the Water Board of waste discharge requirements that constitute Section 401 certification of and concurrence with an EPA NPDES permit that includes modifications under Section 301(b), or issuance by the Water Board of an NPDES permit.

E. Disputes have arisen between the parties who wish to avoid unnecessary delay, expense and the uncertainties resulting from litigation over treatment plant upgrades and the currently pending and future applications for discharge permits. The Parties, therefore, have agreed to settle and resolve issues related to the pending application for permit renewal as set forth in this Agreement.
Agreement

In consideration of the foregoing and the following and for other valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

A. DEFINITIONS

1. Modified Discharge Permit: A five year NPDES permit and waste discharge requirements jointly issued to the Discharger by the United States Environmental Protection Agency (EPA) and the Water Board in or about February 2006 that will include requirements for biochemical oxygen demand (BOD₃) and suspended solids that are modified pursuant to CWA section 301(h), and that are no more stringent than the Limits in the Discharger's current NPDES permit.

2. NPDES Permit: A five year NPDES permit issued to the Discharger upon the expiration of the Modified Discharge Permit that includes final effluent limits for biochemical oxygen demand (BOD₃) and suspended solids that are at least as stringent as the CWA requirements for full secondary treatment. Interim effluent limits to affect the Conversion Schedule will be set forth in the NPDES Permit, if allowed by law, or in a 13385(Q)(3) Order.

3. Conversion Schedule: The schedule for upgrading to full secondary treatment as set forth in Section B.1. It is not the intent of this Agreement to impose sanitary or narrative requirements for other constituents (e.g., limits for bacteria) that would effectively require the Discharger to upgrade to full-secondary treatment faster than provided under the Conversion Schedule.

4. Conversion Period: The nine-and-one-half year upgrade period, commencing with the issuance of the Modified Discharge Permit and ending on the last date listed in the Conversion Schedule.

5. New Evidence: Clear and convincing evidence not in the administrative record at the time the Modified Discharge Permit is issued that more stringent limits for biochemical oxygen demand (BOD₃) or suspended solids are necessary.

6. 13385(Q)(3) Order: A time schedule order or cease and desist order that requires the Discharger to complete the upgrade according to the Conversion Schedule, and that

3
meets the requirements of Water Code section 13383(j)(3), in order to allow the Water Board to avoid imposing mandatory minimum penalties.

B. TERMS.

1. Conversion Schedule

The Discharger agrees to undertake a program to install and operate equipment at its treatment plant capable of achieving, and that will achieve, full secondary treatment requirements set forth in 40 C.F.R. Part 133, other than 40 C.F.R. section 133.105. The upgraded treatment plant must adequately address future wastewater flows, projected as of the end of the Conversion Schedule. The Discharger shall complete the planning, design, construction and operation of the facilities necessary to attain compliance with the secondary treatment requirements in accordance with the schedule set forth below (the "Conversion Schedule").
## CONVERSION SCHEDULE

<table>
<thead>
<tr>
<th>Task</th>
<th>Date of Completion¹</th>
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</thead>
<tbody>
<tr>
<td><strong>Preliminary Activities:</strong></td>
<td></td>
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<tr>
<td>1. Morro Bay/Cayucos Negotiations for Shared Facility Plan and</td>
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<tr>
<td>Cost Allocation</td>
<td>April 1, 2006</td>
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<td>2. Issuance of Request for Consulting Engineering Proposals for</td>
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<tr>
<td>Facilities Master Plan</td>
<td>October 3, 2006</td>
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<tr>
<td>3. Award of Consulting Engineering Contracts</td>
<td>December 22, 2006</td>
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<tr>
<td><strong>Facilities Planning:</strong></td>
<td></td>
</tr>
<tr>
<td>1. Submit Final Draft Facilities Master Plan</td>
<td>September 18, 2008</td>
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<tr>
<td>2. Submit Final Facilities Master Plan</td>
<td>July 22, 2010</td>
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<tr>
<td><strong>Environmental Review and Permitting:</strong></td>
<td></td>
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<tr>
<td>2. Certification of Final CEQA Document</td>
<td>October 18, 2010</td>
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<tr>
<td>3. Submit proof of application for all necessary permits</td>
<td>March 17, 2011</td>
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<tr>
<td>4. Obtain all necessary permits</td>
<td>March 19, 2012</td>
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<tr>
<td><strong>Financing:</strong></td>
<td></td>
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<tr>
<td>1. Complete Draft Plan for Project Design and Construction Financing</td>
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<tr>
<td>2. Complete Final Plan for Project Financing</td>
<td>April 20, 2009</td>
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<td>3. Submit proof that all necessary financing has been secured,</td>
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<td>including compliance with Proposition 21B</td>
<td>August 20, 2010</td>
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<tr>
<td><strong>Design and Construction:</strong></td>
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<tr>
<td>1. Initiate Design</td>
<td>April 19, 2011</td>
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<td>2. 30 Percent Design</td>
<td>February 7, 2012</td>
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<td>3. 60 Percent Design</td>
<td>May 7, 2012</td>
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<td>4. 90 Percent Design</td>
<td>July 16, 2012</td>
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<td>5. 100 Percent Design</td>
<td>October 15, 2012</td>
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<tr>
<td>7. Construction Progress Reports</td>
<td>Quarterly (as SRRs)</td>
</tr>
<tr>
<td>8. Complete Construction and Commence Ozone and Startup</td>
<td>April 22, 2015</td>
</tr>
</tbody>
</table>

¹ Any completion date falling on a Saturday, Sunday or State holiday shall be extended until the next business day. The District shall submit proof of completion of each task within 30 days after the due date for completion.

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 56 of 121
2. Secondary Treatment Limits and Discharger’s Conversion to Secondary.
   a. First Permit Cycle – Waiver Petition.

   1. At its February 2, 2005 meeting, or as soon thereafter as practicable, the
      Water Board’s Executive Officer shall recommend that the Water Board (i)
      concur in the issuance of the Modified Discharge Permit, and (ii) provide
      water quality certification of the Modified Discharge Permit under Clean Water
      Act Section 401 (33 U.S.C. §1341).

   2. The BOD₃ and suspended solids limits to be recommended by the Executive
      Officer for approval are as follows:

      | Constituent      | Units | Monthly (30-day) Average | Maximum at any time |
      |------------------|-------|--------------------------|---------------------|
      | BOD₃ (50°C)      | mg/L  | 120                      | 180                 |
      |                  | lb/day| 2062                     | 3092                |
      |                  | kg/day| 936                      | 1404                |
      | Suspended Solids | mg/L  | 70                       | 105                 |
      |                  | lb/day| 1203                     | 1804                |
      |                  | kg/day| 546                      | 83                  |

3. The findings in the Modified Discharge Permit shall reference this
   Agreement and shall incorporate the Conversion Schedule. The draft Modified
   Discharge Permit’s findings shall also state that:

   (i) Subject to the provisions of this Agreement regarding Water Board
       Discretion (below) and New Evidence, this Agreement contemplates that the Water Board
       will concur in the Modified Discharge Permit and issue the NPDES Permit in order to effect
       the Discharger’s agreement and obligation to complete the upgrade of its treatment facility to full
       secondary treatment standards within a nine-and-one-half-year period.
(6) Based on the administrative record, including population growth projections through 2015, known environmental and cumulative impacts of the Discharger’s existing wastewater treatment facilities, and evidence submitted by the Discharger of the time needed for upgrading the plant, the Conversion Schedule is reasonable, necessary and appropriate.

4. The Modified Discharge Permit shall require the Discharger, as a condition of the Modified Discharge Permit, to submit an application to the Water Board at least 180 days before the expiration of the Modified Discharge Permit, which application requests the NPDSS Permit. The Discharger agrees not to apply for a permit that includes modifications to full secondary discharge requirements after the expiration of the Modified Discharge Permit.

5. If the Water Board concurs with the Modified Discharge Permit and issues water quality certification, the Discharger shall complete the tasks in the Conversion Schedule by their respective due dates, except as extended in accordance with this Agreement.

b. Second Five-Year Permit Cycle – NPDSS Permit. For the five (5) year period following the expiration of the Modified Discharge Permit, the Water Board shall (i) issue a NPDSS Permit that includes effluent limits consistent with CWA full secondary treatment requirements, or any more stringent requirements that are necessary due to New Evidence or that the Discharger agrees to, and (ii) concurrently issue a 13885(Q) Order. The Order shall include interim effluent limits for BOD₅ and suspended solids that are the same as those in the Modified Discharge Permit. Notwithstanding the foregoing, the Water Board may include more stringent limits for BOD₅ and suspended solids if there is New Evidence. The Water Board may include a shorter Conversion Schedule, after considering the feasibility of meeting a shorter Conversion Schedule, if there is New Evidence that a shorter schedule is necessary. In either case, the NPDSS Permit findings shall clearly identify the New Evidence.

c. Other Permit Provisions. This Agreement does not address any effluent limits of the Modified Discharge Permit and the NPDSS Permit other than BOD₅ or suspended solids. Notwithstanding anything herein to the contrary, Discharger reserves the right to challenge any other provision of the Modified Discharge Permit and the NPDSS Permit besides BOD₅ and suspended solids limits or the Conversion Schedule.

d. Water Board Discretion.

I. This Agreement does not limit the discretion the Water Board would otherwise have regarding the subject matter of this Agreement. The Parties understand that the Water Board
members must consider the evidence before them and exercise their authority consistent with applicable laws, the record before them, and the discretion vested in them by applicable laws. Any decision by the Water Board not to issue the Modified Discharge Permit, NPDIS Permit or 13385(I)(3) Order, or to issue a permit that includes more stringent requirements than those set forth in here, i.e., more stringent BOD₅ or suspended solids limits or a shorter Conversion Period (either explicitly or through the imposition of effluent limits or other requirements that require a shorter Conversion Period), shall not constitute a breach of this Agreement by the Water Board. However, the Water Board’s concurrence with the Modified Discharge Permit and related water quality certification, and the issuance of the 13385(I)(3) Order concurrently with the NPDIS Permit, are conditioned precedent to the Discharger’s continuing obligations under this Agreement.

2. The Discharger does not waive the right to challenge the imposition of more stringent limits or standards or a shorter conversion schedule than set forth herein, but agrees not to challenge any provision of the Modified Discharge Permit, NPDIS Permit or other order of the Water Board that are consistent with the standards set forth in this Agreement (i.e., Conversion Schedule; BOD₅ and suspended solids effluent limits; remedies for not meeting the Conversion Schedule). Nothing in this Agreement relieves the Discharger of the requirement to exhaust applicable administrative remedies, including those set forth in Water Code Section 13320, to challenge any provision of the Modified Discharge Permit, the NPDIS Permit or the 13385(I)(3) Order. The Discharger’s sole remedy for any claimed violation of this Agreement shall be by petition pursuant to Water Code Section 13320 and, if applicable, a writ under Water Code Section 13330. The parties acknowledge that the State Board may decline to review any petition filed pursuant to this Agreement. The Discharger hereby waives all of its rights, if any, to seek damages from the Water Board or any of its employees in the event the Discharger claims a breach of this Agreement. Nothing herein shall operate as a waiver of any defenses the Water Board or its employees may assert in such an action.

C. REQUIRED ACTIONS DURING CONVERSION PERIOD.

1. Force Majeure
   a. A ‘force majeure event’ is any event beyond the control of the Discharger, its contractors, or any entity controlled by the Discharger, including, but not limited to third party litigation that delays the performance of any obligation under this Agreement despite the
Discharger's best efforts to fulfill the obligation. “Best efforts” includes anticipating any potential force majeure event and addressing the effects of any such event (a) as it is occurring and (b) after it has occurred, to prevent or minimize any resulting delay to the greatest extent feasible. If any event occurs that the Discharger believes is a force majeure event, the Discharger shall immediately notify the Water Board by telephone, and shall notify the Water Board in writing within fifteen (15) calendar days of the date on which the Discharger first knew of the event. The notice shall describe the anticipated length of time the delay may persist, the precise causes or causes of the delay, the measures taken or to be taken by the Discharger to prevent or minimize the delay as well as to prevent future delays, and the timetable by which those measures will be implemented. Failure by the Discharger to comply with the notice requirements of this Paragraph, without good cause shall constitute a waiver of the Discharger’s right to obtain an extension of time for its obligations based on such incident.

b. If the Executive Officer agrees that a violation has been caused by a force majeure event, the time for performance of an affected requirement shall be extended for a period not to exceed the actual delay in performance resulting from such circumstance. In addition, liquidated damages shall not be due for said delay. The Executive Officer or the Executive Officer’s designee shall notify the Discharger of the agreement or disagreement with the Discharger’s claim of a delay or impediment to performance within fifteen (15) calendar days of receipt of the Discharger’s notice. If the Executive Officer does not so agree, or does not notify the Discharger of its decision within fifteen (15) calendar days, the request for force majeure classification shall be deemed denied, and the Discharger may appeal that determination to the Water Board end, if denied thereby, may appeal to the State Board. Notwithstanding anything therein to the contrary, Discharger reserves the right to seek judicial review of the State Board decision. The Discharger bears the burden of proving, by a preponderance of the evidence, that each claimed force majeure event is a force majeure event; that the Discharger gave the notice required by this Section; that the force majeure event caused the delay the Discharger claims was attributable to that event; and that the Discharger reasonably attempted to prevent or minimize any delay caused by the event.

c. Unless determined to be a force majeure event, unanticipated or increased costs or expenses associated with the implementation of this Agreement, or changed financial
circumstances, shall not, in any event, serve as a basis for extensions of time under this Agreement, unless otherwise agreed by the Executive Officer.

d. An extension of one compliance date based on a particular incident may, but shall not necessarily result in an extension of a subsequent compliance date or dates.

e. Where the Executive Officer agrees to an extension of time, the appropriate modification shall be made to this Agreement.

f. If the Discharger fails to timely complete a task in the Conversion Schedule because the Discharger must first complete another task with a later due date, the later due date shall not be a defense to missing the earlier due date.

E. ENFORCEMENT

1. Except for force majeure events as provided above, and except as otherwise agreed by the Parties, if the Discharger fails to complete a required action by the date set forth in the Conversion Schedule, liquidated damages shall accrue as set forth below. Liquidated damages shall accrue only with respect to one task on the Conversion Schedule at a time. In other words, if the Discharger is behind schedule with respect to more than one required task, liquidated damages shall accrue only for the most recent task.

a. Liquidated damages shall be $100/day for the following milestones, which are to be completed prior to the Discharger’s issuance of a Notice to Proceed: Issuance of Request for Consulting Engineering Proposals, Submit Plan/Drawings, Complete and Circulate Draft CEQA Document, Obtain all Necessary Permits, submit proof that all necessary financing has been secured, Initiate Design, 30 Percent Design, and 106 Percent Design. The Discharger shall pay all such accrued liquidated damages within thirty (30) days following the due date for achieving full compliance with secondary treatment requirements. If the Discharger is current (i.e., has “caught up” with the Conversion Schedule) by the due date for achieving full compliance with secondary treatment requirements, or if the Water Board does not issue the 13385(D) Order, any accrued liquidated damages thereon shall be cancelled and forgiven.

b. Liquidated damages shall be $200/day if the Discharger fails to issue a timely Notice to Proceed. The Discharger shall pay all such accrued liquidated damages, within thirty (30) days following the due date for achieving full compliance with secondary treatment requirements. If the Discharger is current (i.e., has “caught up” with the Conversion Schedule) by
the due date for achieving full compliance with secondary treatment requirements, any accrued liquidated damages thereon shall be cancelled and forgiven.

c. Liquidated damages shall be $250/day for the first 180 days if the Discharger fails to achieve compliance with secondary treatment requirements by the date specified in the Conversion Schedule. For the next 185 days following the initial 180 days, liquidated damages shall be $500/day until the Discharger achieves full compliance with full secondary treatment requirements. After 365 days, liquidated damages shall be $1,000/day until the Discharger achieves full compliance with full secondary treatment requirements. Liquidated damages under this paragraph shall be paid by the Discharger quarterly, commencing on the first day of the next calendar quarter that is at least thirty (30) days following the date on which the stipulated penalty is incurred.

2. In addition to or in lieu of seeking liquidated damages, the Water Board may seek judicial enforcement, including specific performance, of this Agreement, including without limitation enforcement of the tasks and due dates set forth in the Conversion Schedule.

3. If the Executive Officer does not agree that a delay in the Discharger’s performance was caused by a force majeure event and the Discharger does not stipulate in writing to the amount of penalties due after missing a milestone under the Conversion Schedule, the Water Board may impose liquidated damages by issuing an administrative civil liability complaint, pursuant to Water Code Sections 13323-13328. This Agreement satisfies the requirement that the Water Board consider the factors in Section 13327. If the Water Board chooses to consider those factors, it may impose liquidated damages in excess of the amounts stated in Section B.1, but nothing in this Agreement waives the Discharger’s right to contest amounts in excess of those stated in Section B.1. If the Water Board utilizes the procedures of Sections 13323-13328, the Parties agree that the liquidated damages shall be deemed administrative civil liability. The Water Board may hold administrative civil liability proceedings at any time, but any administrative civil liability order shall include the applicable payment due date and conditions of cancellation and forgiveness set forth in Sections B.1.a and B.1.b. The Discharger may, but shall not be required to, waive the right to a hearing. If the Discharger does not waive the right to a hearing, except as otherwise stated in this paragraph 3, the Discharger agrees not to challenge the daily amount of the liquidated damages as set forth in this Agreement. The issues for hearing shall be limited to whether the Discharger undertook or completed the required task or activity by the completion date(s) in question, the
number of days or months for which liquidated damages apply, and whether the delay, if any, was caused by force majeure. The Discharger agrees not to contest the use of the administrative civil liability process and waives any claim that Water Code Sections 13323-13328 do not apply to administrative enforcement of the stipulated penalty provisions of this Agreement. However, the Discharger reserves the right to petition to the State Board for review of any decision made by the Water Board under this paragraph. Upon the filing of such a petition, the Discharger and the Water Board shall jointly request that the petition be held in abeyance until such time as it is determined, as applicable, that the liquidated damages at issue are not subject to cancellation and forgiveness under Section B.1, such that it can be determined whether any liquidated damages are due and the amount thereof. Following the expiration of the abeyance and either final action by the State Board on the Discharger’s petition or the dismissal of the Discharger’s petition by the State Board without review, the Discharger may seek judicial review in accordance with California Water Code Section 13330 with respect to the administrative civil liability order. In any such action the Discharger agrees not to challenge the daily amount of the liquidated damages as set forth in this Agreement. Nothing in this paragraph 4 shall relieve the Discharger of any obligation to exhaust applicable administrative remedies prior to seeking judicial review.

4. The requirements of this Agreement with respect to (I) the Conversion Schedule, (II) the Conversion Period, and (III) liquidated damages shall be incorporated into the findings adopted by the Water Board in connection with the Modified Discharge and NPDES Permits. In addition to the procedures set forth above for enforcement with respect to failure to meet the Conversion Schedule, the Water Board may use any enforcement action or procedure to remedy any and all violations of the terms of any permit (including the Modified Discharge or NPDES Permit) issued to the Discharger, including, without limitation, any remedy set forth in the California Water Code. Nothing in this Agreement shall limit other remedies available to either Party to enforce the terms and conditions of this Agreement or any permit or 401 certification issued to the Discharger.

E. MISCELLANEOUS PROVISIONS

1. No Admission of Liability. Except as set forth in this Agreement, nothing in this Agreement shall be construed as an admission of liability by any Party, or as a waiver of any future claims or causes of action, or as an agreement on the appropriate standard of review or causes of
action or claims that may be asserted in challenging any permit issued to the Discharger or the requirements thereof.

2. Signatures. This Agreement may be signed in counterparts. Signatures transmitted by facsimile shall be deemed to have the same force and effect as original signatures. Photocopies and facsimiles of counterparts shall be binding and admissible as originals.

3. Representation by Counsel. The Parties agree and confirm that this Agreement has been freely and voluntarily entered into by the Parties, each of which has been fully represented by counsel at every stage of the proceedings, and that no representations or promises of any kind, other than as contained herein, have been made by any Party to induce any other Party to enter into this Agreement. The language of this Agreement shall be construed in its entirety, according to its fair meaning, and not strictly for or against any of the Parties.

4. Integrated Agreement. Except as otherwise set forth in this Agreement, this Agreement contains the entire understanding of the Parties concerning the matters contained herein and constitutes an integrated agreement.

5. Subsequent Amendment. This Agreement may not be altered, amended, modified, or otherwise changed except after a public meeting by a writing executed by each of the Parties. The Water Board may, on a case-by-case basis in a public meeting, delegate to the Executive Officer the authority to approve and sign on behalf of the Water Board written amendments to this Agreement.

6. Effective Date. This Agreement is effective when signed by all Parties and the effective date shall be date of the last signature.

7. Notice Requirements. Any notice provided under this Agreement shall be provided by facsimile and first class mail as follows:

If to the Discharger:

Directly Manager
Corporation Systems 28th
200 Ash Avenue
P.O. Box 203
Cupertino, CA 95040
Telephone (650) 955-3000
Facsimile (650) 955-3673

If to the Water Board:

Roger W. Judge, Executive Officer
REGIONAL WATER QUALITY CONTROL BOARD,
6956 Access Drive, Suite 101
San Jose, CA 95040
Telephone: (408) 340-3147
Facsimile: (408) 340-3097

Exhibit B

A-3-MRB-11-001 (MRB WWTP)
Page 64 of 121
8. Authority. Each Party to this Agreement warrants that the individual executing this Agreement is duly authorized to do so and that execution is the act and deed of the Party.

9. Counsel Approval. Counsel for the represented Parties have negotiated, read, and approved as to form the language of this Agreement, the language of which shall be construed in its entirety according to its fair meaning and not strictly for or against any of the Parties.

10. Fees and Costs. The Parties acknowledge and agree that each of them will bear their own attorneys' fees and costs in the negotiation, drafting, and execution of this Agreement or any dispute arising out of this Agreement.

11. Severability. In the event that any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect.

12. Successors in Interest. Whenever in this Agreement one of the Parties hereto is named or referenced, the legal representative, successors, and permitted assigns of such Party shall be included and all covenants and agreements contained in this Agreement by or on behalf of any of the Parties hereto shall bind and inure to the benefit of their respective successors and permitted assigns, whether so expressed or not.

13. References. This Agreement is made without respect to number or gender, and as such, any reference to a party hereto by any pronoun shall include the singular, the plural, the feminine, and the masculine.
IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates indicated below.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CENTRAL COAST REGION

Dated: __________ 2005

By: ____________________________
Rogers W. Briggs, Executive Officer

CITY OF MORRO BAY

Dated: __________ 2005

By: ____________________________
Mayor, Janice Peters

CAYUCOS SANITARY DISTRICT

Dated: __________ 2005

By: ____________________________
President, Robert Hans

APPROVED AS TO FORM

Dated: __________ 2005

By: ____________________________
Levi T. Glenn
Senior Staff Counsel

Dated: __________ 2005

By: ____________________________
Rob Schultz, Morro Bay City Attorney

Dated: __________ 2005

By: ____________________________
Timothy J. Carmel
Cayucos Sanitary District Counsel
Exhibit E

The Environmental Impact Report document as referenced as Exhibit E in the Staff Report was handed out separately to Planning Commissioners. Please reference both the Draft and Final EIR document online at:

Draft EIR
http://www.ceqapost.com/member/morro-bay

Final EIR

Please note that the Final EIR will be in an Adobe PDF format and will need to be opened or saved.
EXHIBIT G

CAYUCOS SANITARY DISTRICT

315 N 3rd Avenue
P.O. Box 333, Cayucos, California 93430-0333
805-995-2200

GOVERNING BOARD
R. Luna, President
R.B. Bad Mahal, Vice President
H. Parker, Director
J. Luna, Director
B. Parker, Director

December 14, 2010

City of Morro Bay Planning Commission
955 Shafter Avenue
Morro Bay, CA 93442

Honorable Commissioners,

The Cayucos Sanitary District and City of Morro Bay have worked together with the BPA, RWQCB, environmental groups, and the public over the past five years, giving thoughtful consideration to comments and suggestions for the MBCSD Wastewater Treatment Plant Upgrade Project. The District believes that this is the right project for both of our communities as it will improve treatment plant effluent quality and provide a plan for future efficient reclamation when potential end users are identified. This is of the essence for this project in order to comply with the settlement agreement executed into with the Regional Water Quality Control Board (RWQCB). The District is hopeful that we can move forward as fast as possible for successful project completion by March 2014.

The Cayucos Sanitary District, as co-owner of the Wastewater Treatment Plant, respectfully requests your expedient recommendation for approval of the CDP, CUP, and certification of the ISR for the MBCSD Wastewater Treatment Plant Upgrade. Approval by the City Planning Commission will help to ensure continued forward progress with this project and compliance with the terms of the settlement agreement with the Regional Water Quality Control Board.

Thank you for your thoughtful consideration.

Sincerely,

[Signature]

Robert B. Luna, President
Cayucos Sanitary District

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 68 of 121
CALL MEETING TO ORDER
Vice-Chairperson Luhr called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE
Michael Lucas led the pledge.

ROLL CALL
Vice-Chairperson Luhr took roll and noted that all Commissioners are present with the exception of former Chairperson Nancy Johnson.
Staff Present: Rob Livick, Kathleen Wold, Bruce Keogh, Dylan Wade, Rob Schultz and Andrea Lueker

ELECTION OF CHAIR AND VICE-CHAIR
MOTION: Luhr moved to nominate Commissioner DiDioti as Chair and Lucas seconded the motion. The motion carried unanimously (4-0).

MOTION: DiDioti moved to nominate Commissioner Irons as Vice-Chair and Lucas seconded the motion. The motion carried unanimously (4-0).

ACCEPTANCE OF AGENDA
Lucas moved to accept the Agenda and Vice-Chairperson Irons seconded the motion. The motion carried unanimously. (4-0).

DIRECTOR’S REPORT/WRITTEN COMMUNICATIONS
Rob Livick briefed the Commission on the status of the following:

- Completion of the North Main project, and
- Cancellation of the City Council meeting of December 27, 2010 noting that the Council has voted to move future Council meetings to the second and fourth Tuesdays.
Chairperson Diiodato inquired whether the Council had discussion regarding the vacant Planning Commissioner seat. Livick clarified that the Council has set January 24th as the date to interview prospective candidates.

VII. PUBLIC COMMENT
Diiodato opened the Public Comment period:

- Janice Peters, resident of Morro Bay, gave a brief history of the timeline of the WWTP Upgrade project and encouraged the Commission to certify the Environmental Impact Report (EIR) and forward a favorable recommendation to the City Council in order to move the project forward.

Hearing no further public comment, Diiodato closed the Public Comment period.

VIII. CONSENT CALENDAR
A. Approval of minutes from hearing held on November 1, 2010 as amended and minutes from the December 6, 2010 meeting.
MOTION: Lucas moved the Planning Commission approve the minutes. Irons seconded the motion. The motion carried unanimously (4-0).

IX. PRESENTATIONS – None

X. FUTURE AGENDA ITEMS
A. Staff presentation on the Affordable Housing Rehabilitation Program and general affordable housing issues.
Commissioners had no discussion.

XI. PUBLIC HEARINGS
A. Site Location: 160 Atascadero Road, Wastewater Treatment Plant
Applicant: City of Morro Bay and Cayucos Sanitary District
Agent: Bruce Keogh, Wastewater Division Manager
Request: The applicant proposes the Morro Bay-Cayucos Wastewater Treatment Plant (WWTP) Upgrade Project to provide full secondary treatment for all effluent discharged through its ocean outfall and to provide tertiary filtration capacity equivalent to a PSDF of 1.5 mgd. The tertiary filtered effluent would meet Title 22 standards for disinfected secondary-23 recycled water and as such could be used for limited beneficial uses. The project includes construction of facilities including but not limited to buildings, circulation, hardware and landscaping. Once the upgraded wastewater treatment facilities are completed the existing wastewater treatment facilities will be demolished.
Staff Recommendation: Consider request and make recommendation to Council on Conditional Use Permit #007 and Coastal Development Permit #339.
Staff Contact: Kathleen Wold, Planning Manager #05-772-6211.

Livick introduced the Environmental Impact Report, Conditional Use Permit and Coastal Development permit for the WWTP Upgrade project. Livick introduced the consultant from ESA who prepared the Environmental Impact Report (EIR).

Wold presented the staff report and turned it over to Jennifer Jacobus of ESA who gave an overview of the EIR document including chapters 9, 10 and 11.
Commissioners asked staff to clarify the options available to the Commission specifically if the EIR is not certified. Wold responded that CEQA has very specific guidelines for recirculating.

Diodati inquired if the three options are to, either adopt the EIR with no changes, adopt the EIR with changes or deny the EIR. Livick confirmed.

Diodati opened the Public Hearing:

- Dennis Deloach, Project Manager representing the Applicant, presented an overview of the proposed project asking the Commissioner to certify the EIR and forward a favorable recommendation on to the City Council.
- The following persons spoke against the proposed project and encouraged the Planning Commission to deny the project:
  - Andrew Christie, of Sierra Club, and Morro Bay residents Jane Heath, Barry Winholz, Lee Johnson, Bill Martony, Barry Bransil, Dorothy Cutler, Steve Hennigh, Ann Reeves, and Jack McCurdy.

Hearing no further comment, Diodati closed the Public Hearing.

Commissioners discussed with staff:

- The shortened time schedule from 14 years to 8 years and whether the alternatives have been adequately studied;
- The original project upgrade of the existing plant and whether this is an upgrade or in fact a new project. Livick responded that this project as identified in the Facilities Master Plan is an upgrade and decolloration. The administration and maintenance building will remain;
- The viability of the proposed site location and whether alternate locations would have been preferable. Livick responded that City infrastructure and Cayucos infrastructure points to this location and noted the considerable cost to redirect infrastructure to an alternate site location;
- Whether the public scoping period was of sufficient length;
- Appropriate project alternatives. Livick responded that the project as proposed was selected by the JPA consisting of the City Council and Cayucos Sanitary District. During the course of their review, they chose where and what to build. Livick also noted the alternatives analysis in the EIR does meet CEQA guidelines;
- Wold clarified for Commissioners that the City’s General Plan/Local Coastal Plan (LCP) specifically directs this as an industrial piece of property and protects the wastewater facilities as a use, not a building. The zoning allows the use. In addition, CEQA guidelines establish the baseline, so baseline impacts do not reduce to zero. CEQA establishes baseline as existing site conditions, not vacant undeveloped land. With the established WWTP baseline, the LCP delineates the site as protected for WWTP;
- Technical merits of the project including effluent quality discharged through ocean outfall, water reclamation, building height and whether it can be lowered and the visual impacts associated with two-story versus a one-story building;
- The importance of the Household Hazardous Waste Collection facility program to the community. Livick noted that the Integrated Waste Management Authority (IWMA) operates this program and has been contacted regarding the potential for grant opportunities.

Commissioners continued lengthy discussion over whether the proposed project is a new or upgraded project and the resulting site and location analysis. In addition, Commissioners discussed how to define the baseline, whether that would be the existing plant as a baseline for comparison to other sites or whether to use a zero baseline of vacant land when comparing to other sites.
City Attorney Rob Schultz encouraged the Commission to make its conclusion by determining if the CEQA analysis has been prepared correctly, whether the conditions of approval recommended by staff are correct and then certify, or not, the EIR and forward on to the City Council.

Commissioners discussed whether if they determine this project is defined as a new project and not as an upgrade, that then automatically invalidates the EIR and therefore they could send it to City Council with that conclusion.

Commissioners expressed concern at the lack of alternative sites with which to compare to this site and agreed that siting is the number one issue.

Further discussion continued over whether the project WWTP project is consistent with LCP policy, using a baseline of an industrial site, the question of the aesthetic arguments listed in the EIR, and the planning impacts created by the zoning.

MOTION: Irons moved to continue the Planning Commission meeting past 10 p.m. Luhr seconded the motion. The motion carried unanimously (4-0).

Commissioners then discussed the need to develop criteria that can be used to further an alternatives analysis.

MOTION: Diodati moved that the following nine criteria be used to evaluate in a screening report of properties within and outside of the City limits in a public process with the baseline of a new wastewater project proposal and that a letter be submitted to the Regional Water Quality Control Board asking for a time extension in order to conduct the site analysis:

1. Flood plain impacts
2. Cultural resources
3. Visual resources
4. Greenhouse gases
5. Accommodation of build out
6. Water reclamation
7. Cogeneration opportunities
8. Lifecycle costs
9. Economic benefits

Luhr seconded the motion. The motion carried unanimously (4-0).

MOTION: Diodati moved the Planning Commission deny certification of the EIR presented for the MBCSD WWTP Upgrade and deny the Coastal Development Permit CPO-339 and Conditional Use Permit UPO-307 with the applicant: City of Morro Bay and Cayucos Sanitary District. Lucas seconded the motion.

Commissioners discussed amending the motion to include the reason for denial. The four reasons stated were the proposed project constituted a new project; the EIR analysis was insufficient, the aesthetics and insufficient scoping of the project.
Luhr and Lucas accepted these reasons as an amendment to the motion.

The motion carried unanimously (4-0).

XII. OLD BUSINESS
    A. Current Planning Processing List/Advanced Work Program
       Commissioners reviewed with staff and did not add any new items.

XIII. NEW BUSINESS
    A. Consider canceling the January 3, 2011 Planning Commission Meeting.
       MOTION: Lucas moved to cancel the January 3, 2011 Planning Commission meeting. Irons seconded the motion.
       The motion carried unanimously (4-0).

XIV. ADJOURNMENT
    DiDato adjourned the meeting at 10:20 p.m. to the next regularly scheduled Planning Commission meeting at the Veterans Hall, 209 Surf Street, on Tuesday, January 18th, 2011 at 6:00 p.m.

                                 John DiDato, Chairperson

ATTEST:

Reb Livick, Secretary
FINDINGS OF FACT
MBCSD Wastewater Treatment Plant Upgrade Project

The City of Morro Bay has prepared an Environmental Impact Report (EIR) pursuant to the requirements of the California Environmental Quality Act (CEQA) (Public Resource Code Section 21080(d)) and the State CEQA Guidelines (Title 22, California Code of Regulations Section 15063) evaluating potential environmental effects that may result from the proposed Wastewater Treatment Plant Upgrade Project (proposed project). These Findings of Fact have been prepared for the project pursuant to State CEQA Guidelines Sections 15061 and 15089.

Certification of Final EIR

In accordance with State CEQA Guidelines Section 15061, the City of Morro Bay, as Lead Agency for the project, certifies that:

(a) The Final EIR for the project has been completed and processed in compliance with the requirements of CEQA;

(b) The Final EIR was presented to the Morro Bay City Council, and as the decision-making body for City, the Morro Bay City Council reviewed and considered the information contained in the Final EIR prior to approving the project;

(c) The Final EIR reflects the City’s independent judgment and analysis.

With the adoption of these findings, the City of Morro Bay has exercised independent judgment in accordance with Public Resource Code (PRC) Section 21081(c) while retaining its own environmental consultant, i.e., directing the consultant to preparation of the entire EIR as well as reviewing, analyzing, and revising material prepared by the consultant.

These Findings of Fact have been prepared in accordance with CEQA and State CEQA Guidelines. The purpose of these Findings of Fact is to satisfy the requirements of PRC Section 21081 and Sections 15061, 15069, 15082, 15093, 15094, and 15087 of the State CEQA Guidelines, in connection with the approval of the Wastewater Treatment Plant Upgrade Project.

Before project approval, a Final EIR must be certified pursuant to Section 15061 of the State CEQA Guidelines. Additionally, the City of Morro Bay must make one or more of the following findings in its Findings of Fact, accompanied by a brief explanation of the rationale, pursuant to
Chapter 1, Project Description describes the location, project overview, project objectives, and the required permits and approvals for the project.

Chapter 2, CEQA Review and Public Outreach describes the steps the City has undertaken to comply with the State CEQA Guidelines as they relate to public input, review, and participation during the preparation of the Draft and Final BIR.

Chapter 3, Impacts Determined to be Less than Significant provides a summary of those environmental issue areas where no reasonably foreseeable impacts would occur and those impacts determined to be below the threshold of significance without the incorporation of mitigation measures.

Chapter 4, Less-than-Significant Environmental Impacts with Mitigation provides a summary of potentially significant environmental impacts for which implementation of proposed feasible mitigation measures would avoid or substantially reduce the environmental impacts to less-than-significant levels.

Chapter 5, Significant and Unavoidable Environmental Impacts provides a summary of potentially significant and significant environmental impacts for which no feasible mitigation measures are identified, or for which implementation of proposed feasible mitigation measures would not avoid or substantially reduce the environmental effects to less-than-significant levels. This section also provides specific written findings regarding each significant impact associated with the proposed project.

Chapter 6, Project Alternatives provides a summary of the alternatives considered for the proposed project.

Record of Proceedings

The documents and other materials that constitute the record of proceedings upon which the City's project approval is based are located at the City offices: 955 Shasta Avenue, Morro Bay, CA 93442. The City of Morro Bay is the custodian of such documents and other material that constitute the record of proceedings. The record of proceedings is provided in compliance with PRC Section 21081.6(a)(2) and Section 15091(c) of the State CEQA Guidelines.

Project Level Analysis

The Final BIR for the proposed project provides an analysis of potential impacts of all construction, operational and routine maintenance actions and activities reasonably foreseeable with implementation of the proposed project. In other words, the following project components are evaluated at a level of detail that is typically provided in a project BIR (State CEQA Guidelines Section 15161):

- Construction of a new wastewater treatment plant (WWTP) elements and associated upgrades to treatment facilities;
CHAPTER 1

Project Description

The City of Morro Bay, as the Lead Agency, is adopting the proposed project as described in the Draft EIR and amended in the Final EIR. The following is a brief overview of the project description.

1.1 Project Location

The proposed project would be located at the existing Morro Bay-Cayucos WWTP located at 160 Atascadero Road in the City of Morro Bay in San Luis Obispo County. The City of Morro Bay and the unincorporated community of Cayucos are located on the coast of California along State Route 1 approximately 14 miles northwest of the City of San Luis Obispo.

1.2 Project Overview

The WWTP is owned and operated by the City of Morro Bay and Cayucos Sanitary District (CSD). The proposed project would provide full secondary treatment for all effluent discharged through its ocean outfall and provide tertiary filtration capacity equivalent to the peak seasonal dry weather flow (PSDWF) of 1.5 million gallons per day (mgd). The tertiary filtered effluent would meet Title 22 standards for disinfected secondary-23 recycled water and as such could be used for limited beneficial uses. The proposed project would accommodate future improvements to produce disinfected tertiary recycled water for unrestricted use in accordance with Title 22 standards. The City of Morro Bay and CSD (collectively "MBCSD") anticipate reclaimed water end uses would include, but not be limited to, treatment process applications onsite at the WWTP, landscape irrigation around the perimeter of the WWTP, and other municipal and industrial (M&I) applications such as dust control, soil compaction, street cleaning, municipal landscape irrigation, and agricultural irrigation.

The new treatment facilities would be built largely in the footprint of the existing sludge drying beds. As a result, temporary solids handling facilities would be required during construction of the new WWTP. Once the new treatment facilities are complete and brought online, the existing treatment facilities, electrical equipment, and yard piping would be decommissioned and demolished. After demolition of the existing facilities, the vacant area would be graded and finished with a surface treatment of either pavement or rock to create a flood flow pathway. The existing ocean outfall would continue to be used to discharge the treated effluent to Estero Bay.
WWTP to at least full secondary treatment. The proposed project would construct facilities to provide full secondary treatment for all effluents discharged through its ocean outfall and to provide enhanced treatment with tertiary filtration capacity equivalent to the peak mean dry weather flow (PMDWF) of 1.5 mgd.

The existing WWTP is located in a 100-year flood zone as designated by the Federal Emergency Management Agency (FEMA). The existing WWTP site is subject to inundation from a 100-year storm event to depths ranging from 3.0 to 4.5 feet (Wallace Group, 2009). The results of a Flood Hazard Analysis prepared for the WWTP Upgrade Project indicate that the flood elevation on neighboring properties would increase if new facilities are built within the existing WWTP footprint (Wallace Group, 2009). The Final WWTP Facility Master Plan recommends a replacement WWTP be built immediately south of the existing facilities on engineered fill to raise the finished grade above the 100-year flood elevation. This would mitigate potential flooding both onsite and offsite.

The objectives of the proposed project are as follows:

1. Comply with the secondary treatment standards outlined in 40 CFR Part 133;¹
2. Plan out the need for a 301(b) modified discharge permits;
3. Minimize flooding impacts onsite at the WWTP and adjoining properties; and
4. Accommodate future instillation of reclamation capability to meet Title 22 requirements for distributed tertiary recycled water for unrestricted use.

1.4 Discretionary Actions

An EIR is a public document used by a public agency to analyze the potentially significant environmental effects of a proposed project, to identify feasible alternatives, and to disclose possible ways to substantially reduce or avoid such impacts to the physical environment (CCR, Title 14, Section 15121). As an informational document, an EIR does not recommend for or against approval of a project. The main purpose of an EIR is to inform governmental decision makers and the public about the potential environmental impacts of a proposed project. This Final EIR will be used by the City of Morro Bay, as the Lead Agency under CEQA, and responsible agencies to making decisions with regard to the construction and operation of the proposed project. Responsible Agencies having discretionary approval over components of the project include the Cayucos Sanitary District (CSD) who may use this EIR for budgetary purposes and/or obtaining grants or financing for CSD operations. If the proposed project is approved on the basis of this analysis, the City would use the analysis contained within this EIR to support acquisition of the following regulatory permits or approvals:

- City of Morro Bay: Conditional Use Permit (CUP); Coastal Development Permit (CDP)
- U.S. Environmental Protection Agency: NPDES Permit

¹ 2012 Code of Federal Regulations (CFR) Title 40, Protection of the Environment, Chapter 1, Environmental Protection Agency, Part 133, Recordkeeping Requirements
CHAPTER 2
CEQA Review and Public Outreach

The City of Morro Bay has complied with CEQA, and the State CEQA Guidelines during the preparation of the EIR for the proposed project. In accordance with Section 15082 of the State CEQA Guidelines, an initial NOP was circulated to local, state, and federal agencies and to other interested parties in October 2008. A Revised NOP was later circulated on October 2009 to inform the public that the City of Morro Bay has modified the proposed project from that described in the previous NOP. Copies of the NOP and project documentation were made available on the City Web Site (www.morro-bay.ca.us); at the Morro Bay Public Library (625 Harbor Street, Morro Bay); at City Hall (595 Harbor Street, Morro Bay); at the Public Services Department (955 Shasta Avenue, Morro Bay); and at the Wastewater Treatment office (160 Atascadero Road, Morro Bay). Copies also were available at the Cayucos Library (448 S. Ocean Avenue, Cayucos); Cayucos Sanitary District (200 A St, Cayucos); and CSO Web Site (www.csocsd.org). In response to the NOP, comments, letters were received from various organizations and interested parties. The NOP, scoping meeting material and reports, and comments received on the NOP are included in Appendix A of the Draft EIR.

The Draft EIR was circulated for public review and comments in October 2010, initiating a 45-day public review period pursuant to CEQA and its implementing guidelines. The document and Notice of Completion (NOC) was distributed to the California Office of Planning and Research, State Clearinghouse. Relevant agencies also received copies of the document. A Notice of Availability (NOA) was distributed to interested parties and adjacent property owners and residents, which informed them of where they could view the document and how to comment. The purpose of the 45-day review period was to provide interested public agencies, groups and individuals the opportunity to comment on the contents and accuracy of the document.

During the public comment period, copies of the Draft EIR were made available for review at the following locations:

- City of Morro Bay Web Site (www.morro-bay.ca.us/water/water.htm);
- Cayucos Sanitary District Web Site (www.csocsd.org);
- Morro Bay Public Library (625 Harbor Street, Morro Bay);
- Cayucos Library (448 S. Ocean Avenue, Cayucos);
- Morro Bay Public Services Department (955 Shasta Avenue, Morro Bay);
- Wastewater Treatment office (160 Atascadero Road, Morro Bay);
- Cayucos Sanitary District (200 A St, Cayucos);
- ASAP signboard – for purchase (495 Morro Bay Blvd, Morro Bay)
CHAPTER 3
Impacts Determined to be Less than Significant

The following potential environmental impacts of the project are less than significant and therefore do not require mitigation measures.

3.1 Aesthetics
The proposed project would not substantially degrade the existing visual character or quality of the site and its surroundings. The overall visual character of the general area would not be significantly degraded as seen from surrounding views since these views are predominantly industrial in character. Proposed facilities would be designed to be consistent with the architectural elements compatible with the project site and neighboring properties, which are also characterized by existing visible industrial facilities. Therefore, impacts would be less than significant. (Draft EIR p. 2.1-10)

3.2 Air Quality and Greenhouse Gas Emissions
The proposed project would not expose sensitive receptors to substantial pollutant concentrations. Short-term, construction activities of the proposed project and compliance with SLOCAPCD thresholds would result in impacts that are less than significant. The proposed project would not result in a long-term substantial source of carbon monoxide or volatile air contaminants emissions during operation of the proposed project. Therefore, impacts would be less than significant. (Draft EIR p. 3.1-25 – 3.1-26)

The proposed project would not conflict with implementation of state goals for reducing greenhouse gas emissions and would not have a negative effect on Global Climate Change. The project would not conflict with the California Air Resources Board (CARB). Furthermore, none of the CARB early action strategies are applicable to wastewater treatment plants. The proposed project would result in a small increase in local greenhouse gas (GHG) emissions due to the construction of the proposed project and operational truck trips. However, the proposed WWTP upgrade would be considered inherently energy efficient and potential future use of recycled water produced at the new WWTP would reduce the relative amount of GHG emissions produced compared to the use of desalinated water that is known to have the greatest energy requirement of all water supply sources. Impacts associated with greenhouse gas emissions would be less than significant. (Draft EIR p. 3.2-27 – 3.2-30)
on local roadways and would therefore not generate substantial increase in ambient noise along local roadways. Impacts would be less than significant. (Draft EIR p. 3-9-12)

### 3.8 Public Services and Utilities

The proposed project would not significantly increase the demand for disposal capacity of biosolids. The proposed project would upgrade and construct treatment facilities and includes the discontinuation of onsite composting. Sludge produced at the new facility would be hauled offsite for composting or disposal in accordance with 40 CFR Part 503. The proposed project would comply with federal and local statutes related to solid waste. Therefore, impacts on solid waste facilities and disposal of biosolids would be less than significant. (Draft EIR p. 3-10-8)

The proposed project would not require the construction of new storm water drainage facilities. Runoff would be contained within the property and drained to the proposed Influent Pump Station for treatment at the new WWTP and discharge to the ocean. Runoff would also continue to be moved offsite through existing storm drain facilities, including drains to Morro Creek and the beach, overflow to Atascadero Road, or through on-site percolation, depending on the condition of the flood flow pathway. No new offsite storm water drainage facilities would be needed and impacts would be less than significant. (Draft EIR p. 3.10-9 – 3.10-10)

Operation of the proposed project would increase energy consumption at the WWTP. However, no offsite improvements would be necessary to provide the additional energy to operate the proposed new facility at full capacity. The facility would be connected to existing grid infrastructure. Impacts associated with energy use would be less than significant. (Draft EIR p. 3.10-10)
Findings: The City of Mono Bay finds that changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR. Specifically, Mitigation Measure 3.1-2 would reduce the significant impact to a less than significant level.

Mitigation Measure 3.1-2: MBCSD shall ensure that all exterior lighting is shielded and directed downward to minimize impacts to nighttime views. MBCSD shall minimize the use of light poles and consider using light bollards. In addition, highly reflective finishes shall not be used in the design for proposed structures.

Rationale/Supporting Explanations: Operation of the proposed project may result in additional local light sources in the form of new security lighting that would be installed on new facilities that could potentially contribute to an increase in local ambient light. Mitigation Measure 3.1-2 would ensure new sources of light are shielded that would result in less than significant impacts related to light and glare. (Draft EIR p. 3.1-11)

4.2 Air Quality and Greenhouse Gas Emissions

Impact 3.2-1: The Final EIR concludes in Impact 3.2-1 that the proposed project could violate air quality standards or contribute substantially to an existing or projected air quality violation. (Draft EIR p. 3.2-20)

Findings: The City of Mono Bay finds that changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR. Specifically, Mitigation Measures 3.2-1a through 3.2-1f would reduce the significant impact to a less than significant level.

Mitigation Measure 3.2-1a: MBCSD shall require the construction contractor to prepare a Construction Activity Management Plan (CAMP) for submittal to SLOCAPC. Prior to initiation of construction, the CAMP shall be approved by SLOCAPC. The CAMP shall include mitigation measures to monitor VOC and NOx, including but not limited to the following Standard Mitigation Measures recommended by the CAMP Guidelines:

a. Maintain all construction equipment in proper tune according to manufacturer’s specifications;

b. Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);

c. Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State off-Road Regulation;

d. Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;

e. Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g., captive or NOx exempt area fleets) may be eligible by proving alternative compliance;

16

Preliminary - Subject to Revision

Exhibit B

A-3-MRB-11-001 (MRB WWTP) Page 81 of 121
Mitigation Measure 3.2-1c: MBCSD shall evaluate whether naturally-occurring asbestos (NOA) is present within the area of disturbance based on geological information collected at the site. If NOA is present, then the construction contractor must comply with all requirements of CARB’s Air Toxics Control Measure (ATCM). Compliance may include preparation and implementation of an Asbestos Dust Mitigation Plan and an Asbestos Health and Safety Program for approval by APCD. If NOA is not found, then the construction contractor shall file an exemption request with SLOCAPCD.

Mitigation Measure 3.2-1d: Prior to demolition activities, MBCSD shall retain a licensed asbestos inspector to determine the presence of asbestos and asbestos-containing materials (ACM) within buildings to be re-used and/or demolished. If asbestos is discovered, the City would comply with asbestos abatement regulations to safely remove all ACM from the site.

Mitigation Measure 3.2-1e: Should hydrofluoric contaminated soil be encountered during construction activities, the SLOCAPCD shall be notified as soon as possible and no later than 48 hours after affected material is discovered to determine if an SLOCAPCD Permit will be required. In addition, the following measures shall be implemented immediately after contaminated soil is discovered:

a. Covers or storage piles shall be maintained in place at all times in areas not actively involved in soil addition or removal.

b. Contaminated soil shall be covered with at least six inches of packed uncontaminated soil or other TPH non-permeable barrier such as plastic tarp. No loose areas shall be allowed where vapors could accumulate.

c. Covered piles shall be designed in such a way to eliminate erosion due to wind or water. No openings in the covers are permitted.

d. The air quality impacts from the excavation and haul trips associated with removing the contaminated soil shall be evaluated and mitigated if total emissions exceed the APCD’s construction phase thresholds.

e. During the soil excavation, odors shall not be evident to such a degree as to cause a public nuisance; and,

f. Clean soil shall be segregated from contaminated soil.

Mitigation Measure 3.2-1f: Prior to the start of the project, MBCSD shall contact the SLOCAPCD for specific information regarding construction permitting requirements.

Rationale/Supporting Explanations: Construction of the proposed project would generate short-term construction-related emissions that would result in adverse effects on air quality. Emissions generated from construction activities would include fugitive dust sources, combustion emissions from heavy off-road construction equipment, construction worker trips, and expensivite emissions from asphalt paving and architectural coatings. The proposed project would generate operational emissions that would be generated primarily from on-road vehicle traffic during on- and off-site operational activities. Implementation of Mitigation Measures 3.2-1e through 3.2-1f would ensure air quality impacts generated during construction and operation of the proposed project are reduced to a less significant level. (Draft EIR p. 3.2-20 – 3.2-24)
Findings: The City of Morro Bay finds that changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR. Specifically, Mitigation Measures 3.7-1 and 3.7-3 would reduce the significant impact to a less than significant level.

Implement Mitigation Measures 3.7-1 and 3.7-3.

Rationale/Supporting Explanation: Construction and operation of the proposed project would not impact the tidewater goby fish species that may potentially occur south of the proposed project area within Morro Bay. The proposed project would be located within the Morro watershed, which drains to Estero Bay and the Pacific Ocean and does not drain to Morro Bay. The ocean outfall associated with the WWTP is also located offshore within Estero Bay. Therefore, there would be no impact to the tidewater goby. Construction activities may impact steelhead fish species that may occur within the Morro Creek even though there are no recent recordings of existence at this time. Implementation of Mitigation Measures 3.7-1 and 3.7-3 would ensure that MBCSD obtains and complies with the requirements of the de-watering permits prior to the start of construction. Therefore, potential impacts to steelhead due to de-watering discharges and other construction activities would be reduced to a less than significant level. (Draft EIR p. 3.3-6 - 3.3-7)

Impact 3.3-5: The Final EIR concludes in Impact 3.3-5 that the proposed project could have a substantial effect on plant species. (Draft EIR p. 3.3-9)

Findings: The City of Morro Bay finds that changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR. Specifically, Mitigation Measures 3.7-1 and 3.7-3 would reduce the significant impact to a less than significant level.

Implement Mitigation Measures 3.7-1 and 3.7-3.

Rationale/Supporting Explanation: Storm water discharges generated during construction and operation of the proposed project would indirectly affect riparian habitat within Morro Creek, which may include special-status plant species. Implementation of Mitigation Measures 3.7-1 and 3.7-3 would ensure that the City obtains all required permits and prepares the associated plans that manage storm water runoff during construction. Mitigation would ensure that project operational activities include the implementation of storm water management plans, monitoring and BMP’s reduce impacts on special-status plant species in Morro Creek due to storm water quality to a less than significant level. (Draft EIR p. 3.3-9 - 3.3-10)

Impact 3.3-6: The Final EIR concludes in Impact 3.3-6 that the proposed project could have a substantial adverse effect on riparian habitats and natural communities of special concern. (Draft EIR, p. 3.3-10)

Findings: The City of Morro Bay finds that changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant
implement an archaeological monitoring plan. The plan shall include, but not be limited to, provisions for the monitoring of all ground-disturbing activities by a qualified archaeologist, including but not limited to trenching, boring, grading, removal of retired facilities, and use of staging areas and access roads. The duration and timing of monitoring shall be determined by the qualified archaeologist in consultation with the lead agency and based on the grading plans.

In the event that cultural resources are unearthed during ground-disturbing activities, the archaeological monitor shall be empowered to halt or redirect ground-disturbing activities away from the vicinity of the find so that the find can be evaluated. The monitor shall prepare and submit to the City brief weekly monitoring reports as well as one final monitoring report summarizing the results of the monitoring activity and describing any cultural resources recovered in the duration of monitoring.

Due to the sensitivity of the project area for Native American resources, at least one Native American monitor shall also monitor all ground-disturbing activities in the project area. Selection of monitors shall be made by agreement of the City and the Native American groups identified by the Native American Heritage Commission as having affiliation with the project area.

Mitigation Measure 3.4-1b: If cultural resources are encountered, all activity in the vicinity of the find shall cease until it can be evaluated by a qualified archaeologist. If the archaeological monitor determines that the resources may be significant, the qualified archaeologist will notify the lead agency and will develop an appropriate treatment plan for the resources. The archaeologist shall consult with Native American monitors or other appropriate Native American representatives in determining appropriate treatment for unearthed cultural resources if the resources are prehistoric or Native American in nature.

In considering any proposed mitigation measure by the archaeologist in order to mitigate impacts to cultural resources, the Project proponent will determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is feasible, other appropriate measures (e.g., data recovery) will be instituted. Work may proceed on other parts of the Project site while mitigation for cultural resources is being carried out.

Rationale/Supporting Explanation: The potential staging area for construction equipment and vehicle traffic during the construction phase of the proposed project would be to the north of the WWTP. The potential staging area may have some sensitivity for buried cultural resources or human remains that may be disturbed during grading, excavation, or other subsurface activities. Implementation of Mitigation Measures 3.4-1a and 3.4-1b would ensure that potential archaeological resources are avoided and handled appropriately during construction, including the unintentional unearthings of resources. Impacts would be reduced to a less than significant level. (Draft EIR p. 3.4-21 – 3.4-22)

Impact 3.4-3: The Final EIR concludes in impact 3.4-3 that the proposed project could adversely affect paleontological resources. (Draft EIR p. 3.4-22)

Finding: The City of Morro Bay finds that changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant

[EXHIBIT WATER TREATMENT PLANT UPGRADE
Findings of Fact

21

SIA-1326295

Exhibit B

A-3-MRB-11-001 (MRB WWTP)

Page 84 of 121]
Impact 3.4-4: The Final EIR concludes in Impact 3.4-4 that the proposed project could result in the disturbance of human remains. (Draft EIR p. 3.4-24)

Finding: The City of Morro Bay finds that changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR. Specifically, Mitigation Measures 3.4-1a and 3.4-4 would reduce the significant impact to a less than significant level.

Implement Mitigation Measure 3.4-1a.

Mitigation Measure 3.4-4: Half Work If Human Skeletal Remains Are Identified During Construction. If human skeletal remains are discovered during project construction, the project proponent will immediately halt work, contact the San Luis Obispo County coroner to evaluate the remains, and follow the procedures and protocols set forth in Section 15064.5(e)(1) of the CEQA Guidelines. If the County coroner determines that the remains are Native American, the coroner will contact the NARIC in accordance with Health and Safety Code Section 70505.5, subdivision (c), and Public Resources Code 5097.58 (as amended by AB 2641). The NARIC will then identify the person(s) thought to be the Most Likely Descendant (MLD) of the deceased Native American, who will then help determine what course of action should be taken in dealing with the remains.

The archaeologist, City, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recondition, analysis, curation, and final disposition of the human remains and associated or unassociated funerary objects. If the MLD and the other parties do not agree on the reburial method, the project will follow Section 5097.58(d) of the California Public Resources Code, which states that “the landowner or his or her authorized representative shall reinstate the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.”

Per Public Resources Code 5097.58, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and confirmed, as prescribed in this section (PROC 5097.58), with the most likely descendants regarding their recommendations.

Rationale/Supporting Explanations: The high level of historic and prehistoric activity in the project area may suggest that previously unknown human remains could be present as evidenced by large historic and prehistoric sites near the project area and burials present in the nearby sites. Construction and excavation activities may uncover or inadvertently damage human remains, which could be a significant impact. Implementation of Mitigation Measures 3.4-1a and 3.4-4 would ensure that any impacts to encountered human remains would be less than significant and that proper procedures to temporarily halt construction are taken. (Draft EIR p. 3.4-24)
potential effects of liquefaction on the proposed project would be reduced to a level less than significant level. (Draft EIR p. 3.5-11 - 3.5-12)

Impact 3.5-3: The Final EIR concludes in Impact 3.5-3 that construction of new facilities and demolition of existing facilities could result in substantial soil erosion. (Draft EIR p. 3.5-12)

Findings: The City of Moor Bay finds that changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR. Specifically, Mitigation Measure 3.5-3 would reduce the significant impact to a level less than significant level.

Mitigation Measure 3.5-3: To control water and wind erosion during construction of the project, MBCSID shall ensure that contractors implement Best Management Practices (BMPs) to control wind and water erosion during and shortly after construction of the project and permanent BMPs to control erosion and sedimentation once construction is complete. The BMPs could include, but would not be limited to, sediment barriers and traps,ilt basins, silt fences, and soil stockpile protection measures.

Rationale/Supporting Explanations: Excavation and demolition activities during construction could result in erosion in rain or high wind events. Implementation of Mitigation Measure 3.5-3 would reduce erosion through the management of water and wind erosion during construction activities and the implementation of both temporary and permanent BMPs once construction is complete. (Draft EIR p. 3.5-12 - 3.5-13)

Impact 3.5-4: The Final EIR concludes in Impact 3.5-4 that the proposed project components would be located on unstable soils that could expose structures to risk of damage due to settlement. (Draft EIR p. 3.5-13)

Findings: The City of Moor Bay finds that changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR. Specifically, Mitigation Measures 3.5-2 and 3.5-4 would reduce the significant impact to a level less than significant level.

Implement Mitigation Measure 3.5-2.

Mitigation Measure 3.5-4: The design level geotechnical evaluation described in Mitigation Measure 3.5-2 shall include a review of the surface and near-surface soils in the areas where new project components will be constructed and where excavated spoil material will be stockpiled. The evaluation shall determine if the underlying soils have adequate strength to support the proposed facilities and stockpiles and, if necessary, should provide recommendations to avoid this hazard. Recommendations made as a result of these investigations shall be considered during project design and the evaluation report shall become part of the construction documents for the project.
Disposal of all hazardous materials shall be in compliance with applicable California hazardous waste disposal laws. The construction contractor(s) shall contact the local fire agency and the Environmental Health Services Division of the San Luis Obispo County Public Health Department/County Department of Public Health, Environmental Health Division, for any site-specific requirements regarding hazardous materials or hazardous waste containment or handling.

Mitigation Measure 3.6-1a: In the event of an accidental release of hazardous materials during construction, containment and clean up shall occur in accordance with applicable regulatory requirements.

Mitigation Measure 3.6-1d: Oil and other solvents used during maintenance of construction equipment shall be recycled or disposed of in accordance with applicable regulatory requirements. All hazardous materials shall be transported, handled, and disposed of in accordance with applicable regulatory requirements.

Mitigation Measure 3.6-1e: The implementing agencies shall require the construction contractor(s) to prepare a Site Safety Plan in accordance with applicable regulatory requirements.

Mitigation Measure 3.6-1f: The implementing agencies shall require the construction contractor(s) to prepare and implement a Safety Program to ensure the health and safety of construction workers and the public during project construction. The Safety Program shall include an injury and illness prevention program, as site-specific safety plan, and information on the appropriate personal protective equipment to be used during construction.

Rationale/Supporting Explanations: Operation of the proposed project would not require additional amounts of existing hazardous materials of sodium hypochlorite and sodium bisulfite. Therefore, potential impacts associated with the risk of accidental upset of hazardous materials would be limited to the construction phase of the project and associated transportation of construction equipment. Implementation of Mitigation Measures 3.6-1a through 3.6-1f would ensure that risks to accidental upset of hazardous materials are reduced to a less than significant level by requiring BMPs during project construction. (Draft EIR p. 3.6-9)

Impact 3.6-3: The Final EIR concludes in Impact 3.6-3 that the proposed project would handle hazardous materials within one-quarter mile of Morro Bay High School. (Draft EIR p. 3.6-11)

Findings: The City of Morro Bay finds that changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR. Specifically, Mitigation Measures 3.6-1a through 3.6-1f and 3.11-1 would reduce the significant impact to a less than significant level.

Implement Mitigation Measures 3.6-1a through 3.6-1f and 3.11-1.

Rationale/Supporting Explanations: Potential impacts associated with the transportation of hazardous materials within schools would be limited to the construction phase of the proposed
Mitigation Measure 3.7-2: MBCSD shall require the construction contractor to file a Notice of Intent to comply with the SWRCB or CRWQCB Low-Threat General WDRs prior to initiating excavation and dewatering activities and to comply with all requirements and conditions of the General WDRs, including preparation of a discharge monitoring plan (DMP).

Mitigation Measure 3.7-3: MBCSD shall file a Notice of Intent to comply with the NFDES General Industrial Permit requirements upon completion of the proposed project. MBCSD shall prepare a SWPPP and monitoring plan, as required by the General Industrial Permit, that identify sources of pollutants and the measures to be implemented to manage the sources and reduce storm water pollution. The SWPPP shall include relevant BMPs from the City of Morro Bay's SWM Plan.

Rationale/Supporting Explanation: Project construction will involve earthmoving activities such as excavation, grading, soil stockpiling, and filling that could degrade water quality. Project operation could impact water quality due to storm water runoff occurring onsite. Implementation of Mitigation Measures 3.7-1 through 3.7-3 would assure that project operation and construction does not impact water quality or violate waste discharge requirements by requiring adherence to all permits, management plans and associated BMPs. Impacts would be reduced to a less than significant level. (Draft EIR p. 3.7-16 - 3.7-17)

Impact 3.7-2: The Final EIR concludes in Impact 3.7-2 that construction of the proposed project could result in dewatering of shallow groundwater resources and contamination of surface waters. (Draft EIR p. 3.7-18)

Finding: The City of Morro Bay finds that changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR. Specifically, Mitigation Measure 3.7-2 would reduce the significant impact to a less than significant level.

Implement Mitigation Measure 3.7-2.

Rationale/Supporting Explanation: Dewatering activities associated with the construction of the proposed project could potentially degrade surface water or groundwater quality due to discharge of typical construction materials such as soil, fuel, grease or other chemicals. Implementation of Mitigation Measure 3.7-2 would require compliance of permits associated with the management of construction dewatering activities. Construction dewatering impacts to surface water or groundwater quality would be reduced to a less than significant level. (Draft EIR p. 3.7-18)

Impact 3.7-3: The Final EIR concludes in Impact 3.7-3 that the proposed project would alter the drainage pattern of the project site and floodplains and could place structures within a 100-year flood hazard area. (Draft EIR p. 3.7-19)

Finding: The City of Morro Bay finds that changes or alterations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant
(1) Implement "quiet" pile-driving technology (such as percussive pile drivers and the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;

(2) Use noise control blankets on building structures to reduce noise emissions from the equipment at the site;

(3) Conduct daily noise measurements at the site; and

(4) Monitor the effectiveness of noise abatement measures by collecting noise measurements.

Rationale/Supporting Explanation: Construction activities would generate noise levels that would be substantially greater than existing noise levels at nearby sensitive receptor locations and would exceed the noise standards of 50 dBA. Implementation of Mitigation Measure 3.9-1 and 3.9-2 would ensure that project construction occurs during daylight hours and would further mitigate noise associated with pile driving and other extreme noise-generating construction activities. Impacts would be reduced to a level less than a significant level. (Draft EIR p. 3.9-10)

Impact 3.9-3: The Final EIR concludes in Impact 3.9-3 that project operation could result in substantial increases in ambient noise levels in the project vicinity above levels existing without the project. (Draft EIR p. 3.9-12)

Findings: The City of Morro Bay finds that changes or alterations have been required for, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effects as identified in the Final EIR. Specifically, Mitigation Measures 3.9-2 and 3.9-3 would reduce the significant impact to a level less than a significant level.

Implement Mitigation Measure 3.9-2

Mitigation Measure 3.9-2: If a vibratory compactor is used within 25 feet of any structure, the construction contractor shall conduct crack surveys before drilling to prevent potential structural damage to nearby structures. The surveys shall be conducted by photographs, video tapes, or visual inventories, and all documentation shall include inside and outside locations. All existing cracks in walls, floors, and driveways shall be documented with sufficient detail for comparison after construction to determine whether actual vibration damage occurred. A post-construction survey shall be conducted to document the condition of the surrounding buildings after the construction is complete.

Rationale/Supporting Explanation: Construction activity may generate vibration that has the potential to generate vibration levels that exceed the ground-borne vibration thresholds for buildings within a distance of 25 feet. Vibration impacts would only be experienced for a short period of time, but would still be considered significant during the construction phase of the project. Implementation of Mitigation Measure 3.9-2 and 3.9-3 would require crack surveys before and after drilling activity to buildings within 25 feet from vibrations caused by equipment. Impacts would be reduced to a level less than a significant level. (Draft EIR p. 3.9-11)
4.10 Transportation and Traffic

**Impact 3.11-1:** The Final EIR concludes in Impact 3.11-1 that construction and demolition activities may result in short-term increases in vehicle trips by construction workers and construction vehicles that could potentially cause an increase in traffic on roads within the project vicinity. (Draft EIR, p. 5.11-77)

**Finding:** The City of Moore Bay finds that changes or alternations have been required in, or incorporated into, the proposed project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR. Specifically, Mitigation Measure 3.11-1 would reduce the significant impact to a less than significant level.

**Mitigation Measure 3.11-1:** MBCSD shall require the construction contractor to prepare and implement a Traffic Control/Traffic Management Plan to minimize impacts during project construction. The Traffic Control/Traffic Management Plan shall include, but not be limited to, the following measures:

- The City of Moore Bay shall maintain access for local land uses including public properties, recreational properties, beachfront access, and commercial properties during construction activities.
- Emergency services access to local land uses will be maintained for the duration of construction activities. Local emergency service providers will be informed of lane closures and detours.
- The City of Moore Bay shall post advanced warning of construction activities to allow motorists to select alternative routes in advance.
- The City of Moore Bay shall arrange for a telephone resource to address public questions and complaints during project construction.
- The City of Moore Bay shall comply with roadside safety protocols, so as to reduce the risk of accident.
- For roadways requiring lane closures, the City of Moore Bay (and the construction contractor) shall develop circulation plans to minimize impacts to local street circulation. This would include the use of signing to guide vehicles around the construction zone.

- Include a plan to coordinate all construction activities with the San Luis Coastal Unified School District at least two months in advance. The San Luis Coastal Unified School District shall be notified of the timing, location, and duration of construction activities. The implementing agencies shall require its contractor to coordinate vehicle, pedestrian, and school bus service during construction through inclusion of such provisions in the construction contract. The assignment of temporary crossing guards at designated intersections may be needed to enhance pedestrian safety during project construction. Also, the following provisions shall be met:
  - A minimum of two months prior to project construction, the implementing agencies shall coordinate with the San Luis Coastal Unified School District to identify peak circulation periods at the Moore Bay High School (i.e., the arrival and departure of students), and require their contractor to avoid lane closures during these periods.
  - A minimum of two months prior to project construction, the implementing agencies shall coordinate with the San Luis Coastal Unified School District to identify...
CHAPTER 5
Significant Environmental Impacts

The proposed project does not result in significant and unavoidable impacts for the environmental resources analyzed and discussed in the Draft EIR. The Final EIR concludes that any potentially significant environmental effects associated with construction and operation of the proposed project could be mitigated to a level of less-than-significant.
Bioreactor (MBR) Alternative (Alternative 2) would meet all the project objectives and would result in similar impacts to those described in the Final EIR for the proposed project, with exception to air quality and water quality. Alternative 2 would use more energy for the proposed new facilities that would cause an increase in GHG impacts, but would not have a negative effect on Global Climate Change. Alternative 2 would not lessen or avoid impacts to water quality associated with the proposed project. The Chorro Valley Location Alternative (Alternative 3) would construct additional wastewater treatment facilities in a new location separate from the existing WWTP. Alternative 3 would meet all project objectives and have similar impacts to those identified in the Final EIR, but would increase impacts to many resources associated with: aesthetics; construction impacts associated with air quality, noise, and traffic; odor; biological resources; hazards and hazardous materials; hydrology and water quality; and land use, agriculture, forestry, and recreation. Overall, Alternative 2 represents a tradeoff between the provision of recycled water and the energy required to produce such recycled water in comparison to the proposed project. Therefore, Alternative 2 and the proposed project would be considered environmentally equivalent alternatives and neither would be more superior to the other. Nonetheless, the EPA voted to proceed with the proposed project as the preferred alternative of upgrading the WWTP to full secondary treatment with tertiary filtration with the intention to potentially provide future improvements that would distribute tertiary recycled water for unrestricted use if decision-makers find it necessary for such use.

6.1 No Project Alternative

Description: According to Section 15126.6(o) of the State CEQA Guidelines, discussion of the No Project Alternative must include a description of existing conditions and reasonably foreseeable future conditions that would exist if the project were not approved. Under the No Project Alternative, existing operations at the WWTP would remain the same and would not result in any upgraded facilities to comply with renewed waste discharge requirements established by the Central Coast RWQCB or allow MBCSD to phase out the 301(b) modified discharge permit. MBCSD has entered into a legal agreement with the Central Coast RWQCB to phase out the need for the 301(b) modified discharge permit by upgrading the WWTP to at least full secondary treatment. The No Project Alternative would violate the terms of the Settlement Agreement made with the RWQCB. (Draft EIR p. 6-3)

Findings: The City finds that the No Project Alternative is infeasible because it fails to meet any Project objectives or provide the benefits of the Project related to wastewater treatment and potential improvement of effluent water quality.

Rationale/Supporting Explanation: Implementation of the No Project Alternative would result in greater impacts to water quality and would only meet one of the four project objectives. The No Project Alternative would not result in the installation of treatment facilities to produce reclaimed water that meets Title 22 standards for beneficial reuse. There would be no recycled water produced or used in the vicinity of the WWTP. The only project objective that the No Project Alternative would meet is to not alter the flood impacts on adjoining properties. No changes would be made to the WWTP and therefore no changes to storm flows or flood
6.4 Alternative 3: Chorro Valley Location

Description: Alternative 3 involves constructing a new facility at a new location inland from the existing plant. This location was identified as a result of a series of feasibility studies conducted to examine state laws is developing a stand-alone treatment plant in a new location. (Draft EIR p. 6-7)

Findings: The City finds that the Alternative 3 is infeasible because it would not satisfy all the project objectives and would not avoid any significant impacts of the proposed project.

Rationale/Supporting Explanations: Moving the treatment plant from its existing location to the Chorro Valley location or any other inland location would avoid any significant impacts of the proposed project and could potentially create several new significant environmental impacts associated with aesthetics; construction impacts to air quality and GHG emissions, noise, and traffic; odor; land use compatibility; energy use; and water quality. Therefore, Alternative 3 would not be a feasible alternative in comparison to the proposed project. (Draft EIR p. 6-7)
MITIGATION MONITORING AND REPORTING PROGRAM

MBCSD Wastewater Treatment Plant Upgrade
Final Environmental Impact Report

In accordance with Section 15091(d) and Section 15097 of the CEQA Guidelines, which require a public agency to adopt a program for reporting on or monitoring required changes or conditions of approval to substantially lessen significant environmental effects, the Mitigation Monitoring and Reporting Program is hereby adopted for this project.

This Mitigation Monitoring and Reporting Program (MMRP) summarizes the mitigation commitments identified in the Morro Bay-Cayucos Wastewater Treatment Plant Upgrade Final EIR (State Clearinghouse No. 2008101138). Mitigation measures are presented in the same order as they occur in the Final EIR. The columns in the MMRP table provide the following information:

- **Mitigation Measure(s):** The action(s) that will be taken to reduce the impact to a lesser-than-significant level.
- **Implementation, Monitoring, and Reporting Actions:** The appropriate steps to implement and document compliance with the mitigation measures.
- **Responsibility:** The agency or private entity responsible for ensuring implementation of the mitigation measure. However, until the mitigation measures are completed, the City of Morro Bay, as the CEQA Lead Agency, remains responsible for ensuring that implementation of the mitigation measures occur in accordance with the program (CEQA Guidelines, Section 15097(a)).
- **Monitoring Schedule:** The general schedule for conducting each monitoring task, either prior to construction, during construction, and/or after construction.
# MITIGATION MONITORING AND REPORTING PROGRAM

## Implementation, Monitoring, and Reporting Action

<table>
<thead>
<tr>
<th>Mitigation Measures</th>
<th>Responsibility</th>
<th>Monitoring Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Aesthetics</strong></td>
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<tr>
<td>3.1-1: MBCEID shall ensure that new facility designs include non-glare exterior coatings (including vans) that are colored to blend in with the surrounding structures and landscape.</td>
<td>- Include mitigation measure in project specs.</td>
<td>MBCEID X</td>
</tr>
<tr>
<td></td>
<td>- Include mitigation measure in construction contractor specifications.</td>
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<tr>
<td>3.1-2: MBCEID shall ensure that all exterior lighting is shielded and directed downward to minimize impacts to nighttime views. MBCEID shall minimize the use of high-intensity discharge lamps. In addition, MBCEID shall minimize highly reflective finishes and shall not be used in the design for proposed structures.</td>
<td>- Include mitigation measure in project specs.</td>
<td>MBCEID X</td>
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<tr>
<td></td>
<td>- Include mitigation measure in construction contractor specifications.</td>
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<tr>
<td><strong>Air Quality and Greenhouse Gas Emissions</strong></td>
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<tr>
<td>3.2-1a: MBCEID shall require the construction contractor to prepare a Construction Activity Management Plan (CAMP) for submission to SLOCAP/CD. Prior to initiation of construction, the CAMP shall be reviewed by SLOCAP/CD. The CAMP shall include mitigation measures to minimize ROG and NDV, including but not limited to the following practices recommended in the CAMP Guidelines.</td>
<td>- Include mitigation measure in construction contractor specifications.</td>
<td>MBCEID; construction contractor X X</td>
</tr>
<tr>
<td>a. Maintain all construction equipment in proper tune according to manufacturing’s specifications;</td>
<td>- Conduct SLOCAP/CD prior to preparation of CAMP to discuss potential mitigation measures;</td>
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<tr>
<td>b. Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-division suitable for use off-road);</td>
<td>- Submit CAMP to SLOCAP/CD for approval prior to initiation of construction;</td>
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</tr>
<tr>
<td>c. Use diesel construction equipment meeting ARB’s Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State off-Road Regulation;</td>
<td>- Retain copies of CAMP in project file</td>
<td></td>
</tr>
<tr>
<td>d. Use on-road heavy-duty trucks that meet the ARB’s 2007 or cleaner certification standards for on-road</td>
<td>- Obtain a qualified mitigation monitor to perform mitigation monitoring activities during project construction;</td>
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<td>- Conduct two-step inspections of construction equipment and operations to ensure compliance with CAMP;</td>
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<td>- Maintain written inspection reports in the project file to verify compliance with CAMP;</td>
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<tr>
<td>Mitigation Measures</td>
<td>Implementation, Monitoring, and Reporting Action</td>
<td>Responsibility</td>
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<td></td>
<td>All maintenance and operation records shall be retained in the project file.</td>
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<tr>
<td></td>
<td>• All maintenance and operation records shall be retained in the project file.</td>
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</tr>
<tr>
<td>a.</td>
<td>Heavy-duty diesel engines, and comply with the State On-Road Regulation;</td>
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<tr>
<td>b.</td>
<td>Construction or trucking companies with fleets that that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. diesel or NOx exempt area fleets) may be eligible by proving alternative compliance;</td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td>All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated parking areas and or job sites to restrict drivers and operators of the 5 minute idling limit;</td>
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<td>d.</td>
<td>Electric equipment when feasible;</td>
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<tr>
<td>e.</td>
<td>Substitute gas-powered in place of diesel-powered equipment, where feasible; and,</td>
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<tr>
<td>f.</td>
<td>Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.</td>
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<tr>
<td>3.2-1b. To further reduce the impact of flylow dust, MBCCD shall require the construction contractor to comply with the BLOGCPD's rule 402. The construction contractor shall prepare a CAMP that includes dust control mitigation measures to be implemented during construction, certainly demolition and new printing process. Mitigation measures may include, but not be limited to, the following recommendation from the CAMP Guidelines:</td>
<td>Include mitigation measure in construction contractor specifications.</td>
<td>MBCCD;</td>
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<tr>
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<td>• Include PM10 mitigation measures on construction drawings and grading plans.</td>
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<td>• Contact BLOGCPD prior to preparation of CAMP to discuss potential mitigation measures.</td>
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<td>• Submit CAMP to BLOGCPD for approval prior to initiation of construction.</td>
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<td>• Retain copy of CAMP in project file</td>
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<td>• Retain a qualified mitigation monitor to implement mitigation monitoring</td>
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<tr>
<td>Mitigation Measures</td>
<td>Implementation, Monitoring, and Reporting Actions</td>
<td>Responsibility</td>
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<td>activities during project construction. The name and telephone number of such monitor shall be provided to the BUCAP/CDC.</td>
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<tr>
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<td>- Mitigation monitor shall conduct routine inspection of construction equipment and operations to ensure compliance with CAMP PMTC and dust control measures and determine when increased watering or dust control is required.</td>
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<td>- Mitigation monitor shall maintain written inspection records in the project file to verify compliance with CAMP.</td>
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<td>- Maintenance and operation records shall be retained in the project file.</td>
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<td></td>
<td>All dirt stockpile areas should be sprayed daily as needed.</td>
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<td></td>
<td>Permanent dust control measures identified in the approved project revegetation and land use plans should be implemented as soon as possible following completion of any soil disturbing activities.</td>
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<td></td>
<td>Exposed ground areas that are planned to be reseeded at dates greater than one month or longer after initial grading should be sown with fast growing native grass seed and watered until vegetation is established.</td>
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<td></td>
<td>All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil stabilizers, mulching, or other methods approved in advance by the APCD.</td>
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<td>All roadways, driveways, sidewalks, etc. to be paved should be completed after grading unless leveling or soil binders are used.</td>
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<td></td>
<td>Vehicles operated for all construction vehicles shall not exceed 15 mph on any unpaved surfaces at the construction site.</td>
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<td></td>
<td>All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard.</td>
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<td>Install wheeled washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site.</td>
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<td></td>
<td>Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible.</td>
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</tbody>
</table>
### Mitigation Measures

<table>
<thead>
<tr>
<th>Implementation, Monitoring, and Reporting Action</th>
<th>Responsibility</th>
<th>Before Construction</th>
<th>During Construction</th>
<th>After Construction</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.2-1c: MBCSD shall evaluate whether naturally- occurring asbestos (NOA) is present within the area of disturbance based on geotechnical information collected at the site. If NOA is present, then the construction contractor must comply with all requirements of CARRB Asbestos Control Measures (ACM). Compliance must be verified through a consultant's inspection.</td>
<td>MBCSD; construction contractor</td>
<td>X</td>
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<tr>
<td>3.2-1e: Prior to demolition activities, MBCSD shall retain a licensed asbestos finder to determine the presence of asbestos and asbestos-containing materials (ACM) within buildings to be reused and/or demolished. If asbestos is discovered, the City would comply with asbestos abatement regulations to safely remove all ACM from the site.</td>
<td>MBCSD; construction contractor</td>
<td></td>
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</table>

- Include mitigation measures in construction contractor specifications. Construction contractor shall determine the presence or absence of NOA within the area of disturbance of the project.
- If NOA is present, retain copies of Asbestos Dust Mitigation Plan, Asbestos Health and Safety Program, or any requirements of CARRB ACM. Maintain records of compliance with any asbestos control measures or claims in the project files.
- If NOA is not found, then the construction contractor shall file an exemption request with SLOCAPC.

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**Note:**

- **Exhibit B**: A-3-MRB-11-001 (MRB WWTP)
- **Page 98 of 121**
### MITIGATION MONITORING AND REPORTING PROGRAM

<table>
<thead>
<tr>
<th>Mitigation Measures</th>
<th>Implementation, Monitoring, and Reporting Action</th>
<th>Responsibility</th>
<th>Monitoring Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- If ACM is found, meet spin records of construction contractor compliance with asbestos abatement specifications.</td>
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<td>Before Construction</td>
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<td>- Indicate mitigation measures in construction contractor's specifications.</td>
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<td>- If hazard contaminated soils are encountered, maintain records of correspondence with $ILCACP(CD and</td>
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<td>compliance with mitigation measures.</td>
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</tbody>
</table>

**a.** Contain any exposed ACES shall be maintained to place at all times. It may be covered with sand or the contents may be removed.

**b.** Contaminated soil shall be covered with at least 6 inches of clean uncontaminated soil or after TPH non-permeable barrier such as polythene, etc. No vegetation shall be allowed where wastes could accumulate.

**c.** CONTRACTOR shall be designed in such a way to effectively prevent entry to cold of water. No openings in the covers are permitted.

**d.** The air quality monitor from the excavation and heap pile associated with removing the contaminated soil shall be suspended and monitored if final emissions exceed the APCD's construction area thresholds.

**e.** During the site excavation, covers shall be set up extend to such a degree as to ensure public safety.

**MICED:** construction contractor

<table>
<thead>
<tr>
<th></th>
<th>MICED: construction contractor</th>
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<td></td>
<td>MICED: construction contractor</td>
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**MICED** WarderWay Treatment Plant Upgrade

6

ESD 02908
January 2010

Exhibit B
A-3-MRB-11-001
Page 99 of 121
Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 100 of 121

MITIGATION MONITORING AND REPORTING PROGRAM

<table>
<thead>
<tr>
<th>Mitigation Measures</th>
<th>Implementation, Monitoring, and Reporting Authority</th>
<th>Responsibility</th>
<th>Before Construction</th>
<th>During Construction</th>
<th>After Construction</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.3.12 Prior to the start of the project, MRCSCD shall submit the SLOCAPCO for specific information reflecting construction permitting requirements.</td>
<td>Include mitigation measure in construction contractor specifications.</td>
<td>MRCSCD; construction contractor</td>
<td>X</td>
<td></td>
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<tr>
<td>3.2.2, MRCSCD shall review the pilot impact mitigation plan (OIMP) for the WWTP in accordance with Title 14 CON Section 17860.4. Include the proposed new facilities, MRCSCD shall identify new sources of objectionable events and develop and implement new procedures to minimize odors. MRCSCD shall comply with all requirements of the revised OIMP. Once the updated OIMP is completed it shall be submitted to the SLOCAPCO for review.</td>
<td>Review OIMP in accordance with Title 14 CON, submit OIMP to SLOCAPCO for review.</td>
<td>MRCSCD</td>
<td>X</td>
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Cultural Resources

3.4.4a Prior to issuance of a grading permit, an archaelogist meeting the Secretary of the Interior’s Standards for Prehistoric Anthropological Research (Appendix A of 36 CFR part 198) ("qualified archeologist") shall be retained by the City to develop and implement an archeological monitoring plan. The plan shall include, but not be limited to, provisions for the monitoring of all ground-disturbing activities by a qualified archeologist, including not limited to excavation, boring, grading, removal of reliable features, and use of staging areas and access roads. The duration and timing of monitoring shall be determined by the qualified archeologist in consultation with the lead agency and based on the grading plans. In the event that cultural resources are unearthed during ground-disturbing activities, the archaeological monitor shall be empowered to halt or restrict ground-disturbing activities away from the vicinity of the find as that the find can be evaluated. The report shall contain and | Include mitigation measure in construction contractor specifications. | MRCSCD | X | X

MRCSCD, Monitoring and Reporting Program

7

February 2013

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 100 of 121
### MITIGATION MONITORING AND REPORTING PROGRAM

<table>
<thead>
<tr>
<th>Monitoring Schedule</th>
<th>Implementation, Monitoring, and Reporting Actions</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3.4.a. If cultural resources are encountered, all activity in the vicinity of the find shall cease until it can be evaluated by a qualified archaeologist. If the archaeologist determines that the resource may be significant, the qualified archaeologist will notify the lead agency, and will develop an appropriate mitigation plan for the resources. The archaeologist shall consult with Native American monitors or other appropriate Native American representatives in determining appropriate treatment for unclassified cultural resources if the resources are prehistoric or Native American in nature.</td>
<td>MBGSD</td>
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<td>In considering any suggested mitigation proposed by the archaeologist, the Project will determine whether adequate mitigation is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If mitigation is insufficient, other appropriate measures (e.g., rescue recovery) will be initiated. Work may proceed on other parts of the Project site while mitigation for cultural resources is being carried out.</td>
<td>MBGSD</td>
</tr>
<tr>
<td></td>
<td>4.4.b. During all construction activities that involve substantial soil disturbance at a depth of greater than 5 feet below the current ground surface, the following</td>
<td>MBGSD</td>
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<tr>
<td></td>
<td>Include mitigation measure in construction contractor specifications.</td>
<td>x</td>
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<tr>
<td></td>
<td>Retain a qualified paleoarchaeologist to monitor the paleoarchaeological monitoring plan.</td>
<td>x</td>
</tr>
<tr>
<td></td>
<td>If significant cultural resources are identified, the qualified archaeologist shall develop a Treatment Plan in consultation with Native American representatives. The Treatment Plan shall identify appropriate mitigation measures (e.g., survey or data recovery).</td>
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<td>Retain records of Treatment Plan implementation in project files.</td>
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Note: The text above is a representation of the content on the page. The exhibit information and page number are provided for context.
## Mitigation Monitoring and Reporting Program

<table>
<thead>
<tr>
<th>Mitigation Measures</th>
<th>Implementation, Monitor, and Reporting Action</th>
<th>Responsibility</th>
<th>Monitoring Schedule</th>
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<tbody>
<tr>
<td></td>
<td>development and implement a Monitoring and Mitigation Plan that include requirements of Mitigation Measure 3.4-5.</td>
<td>developer and implement a Monitoring and Mitigation Plan that include requirements of Mitigation Measure 3.4-5.</td>
<td>Before Construction</td>
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<td>Maintain weekly monitoring reports for the duration of monitoring as defined by the Plan.</td>
<td>maintain weekly monitoring reports for the duration of monitoring as defined by the Plan.</td>
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<td>Prepare and file a mitigation report at the completion of the monitoring period as defined by the Plan.</td>
<td>prepare and file a mitigation report at the completion of the monitoring period as defined by the Plan.</td>
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<tr>
<td></td>
<td>Retain copies of weekly and final monitoring reports in the project file.</td>
<td>retain copies of weekly and final monitoring reports in the project file.</td>
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<tr>
<td>a. A qualified Paleontologist will be retained to supervise monitoring of excavation excavations and to produce a monitoring and mitigation plan for the proposed project. Paleontological monitoring will include inspection of exposed rock walls and microscopic examination of matrix to determine if fossils are present.</td>
<td>a. a qualified paleontologist will be retained to supervise monitoring of excavation excavations and to produce a monitoring and mitigation plan for the proposed project. Paleontological monitoring will include inspection of exposed rock walls and microscopic examination of matrix to determine if fossils are present.</td>
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</tr>
<tr>
<td>b. Artificial fill, active beehive and dune sand, and younger Quaternary alluvium have little paleontological sensitivity level, and will be subjected to periodic baseline to ensure that older underlying sediments are not being penetrated and fossils are not being exposed. All earth moving in older Quaternary alluvial deposits will be monitored at a suitable frequency by the Paleontologist in consultation with the City and based on grading plans.</td>
<td>b. artificial fill, active beehive and dune sand, and younger quaternary alluvium have little paleontological sensitivity level, and will be subjected to periodic baseline to ensure that older underlying sediments are not being penetrated and fossils are not being exposed. All earth moving in older quaternary alluvial deposits will be monitored at a suitable frequency by the paleontologist in consultation with the City and based on grading plans.</td>
<td>b. artificial fill, active beehive and dune sand, and younger quaternary alluvium have little paleontological sensitivity level, and will be subjected to periodic baseline to ensure that older underlying sediments are not being penetrated and fossils are not being exposed. All earth moving in older quaternary alluvial deposits will be monitored at a suitable frequency by the paleontologist in consultation with the City and based on grading plans.</td>
<td></td>
</tr>
<tr>
<td>c. The monitor will have authority to temporarily divert grading away from exposed basalt in order to recover the fossil specimens, or emphasis will be placed on thorough fossil locality documentation stratigraphic data creation.</td>
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<td></td>
</tr>
<tr>
<td>d. If microfossils are present, the monitor will collect matrix for processing. In order to expedite removal of substantial matrix, the monitor may request heavy machinery assistance to move large quantities of matrix out of the path of construction to designated stockpile areas. Testing of stockpiles will consist of screen washing and samples (approximately 90 kilograms, or 200 pounds) to determine if significant fossils are present. Positive tests will result in screen washing of additional matrix from the stockpiles to a minimum of 2,700 kg (6,000 lb) per locality to ensure recovery of a scientifically significant</td>
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### MITIGATION MONITORING AND REPORTING PROGRAM

<table>
<thead>
<tr>
<th>Mitigation Measures</th>
<th>Implementation, Monitoring, and Reporting Action</th>
<th>Responsibility</th>
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</thead>
<tbody>
<tr>
<td>c. Recovered fossils will be prepared to the point of identification, identified by qualified experts, entered in a database to facilitate inventory, analyzed for significance, and deposited in a designated repository. At each level, locally, field data forms will be used to record the locality, stratigraphic columns will be measured and appropriate scientific samples submitted for analysis.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. The Paleontologist will prepare brief weekly progress reports to be filed with the client and the lead agency. The Paleontologist will prepare a final mitigation report to be filed with the client, the lead agency, and the repository.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. 4.4.4 High Value if Native Seated Remains are identified During Construction, if human skeletal remains are uncovered during Project construction, the Project proponent will immediately halt work, contact the San Luis Obispo County Planner to evaluate the remains, and follow the procedures and protocols set forth in Section 1506A.5(a)(7) of the CEQA Guidelines. If the County curator determines that the remains are Native American, the proponent will contact the NAHC, in accordance with Health and Safety Code Section 15365.5, subdivision (c), and Public Resource Code Section 2077.56 (as amended by AB 2541). The NAHC will then identify the persons in the Project, thought to be the Most Likely Descendants (MLD) of the deceased Native American, who will then help determine what course of action should be taken in dealing with the remains. The archaeologist, City, and MLD shall make all reasonable efforts to develop an agreement for the treatment with appropriate dignity, of human remains and associated or interrelated remains of Native Americans. The agreement should take into consideration the appropriate excavation.</td>
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<td>f. Include mitigation measures in construction contractor specifications.</td>
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<td>Return records of all relevant discovery evaluations in the project file.</td>
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<tr>
<th>Monitoring Schedule</th>
<th>Before Construction</th>
<th>During Construction</th>
<th>After Construction</th>
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<tbody>
<tr>
<td><strong>A-3-MRB-11-001</strong></td>
<td><strong>MICED; construction contractor</strong></td>
<td>X</td>
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</table>
## MITIGATION MONITORING AND REPORTING PROGRAM

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<tbody>
<tr>
<td>Project site removal, renovation, analysis, custody, curation, and final disposition of the human remains and associated or unassociated funerary objects. If the MLD and the other parties do not agree on the burial method, the project will follow Section 5975.8(h) of the California Public Resources Code, which states that the landowner or his or her authorized representative shall render the human remains and items associated with Native American funerary objects appropriate with the property as a location not subject to further subsurface disturbance.</td>
<td>MLCSD to provide seismic standards to the design engineer for incorporation into the project design and construction plans.</td>
<td>MLCSD</td>
<td>Before Construction: X</td>
</tr>
<tr>
<td>For Public Resources Code 5975.8(h), the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has consulted and conformed, as prescribed in this section (PRC 5975.8(h), with the most likely descendants regarding their recommendations.</td>
<td>Verify seismic standards prior to issuance of building permit.</td>
<td>MLCSD</td>
<td>X</td>
</tr>
<tr>
<td>Geology, Soils, Seismicity, and Mineral Resources</td>
<td>MLCSD</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>3.5-1: MLCSD shall ensure construction of the proposed project facilities adhere to the City's seismic standards and the California Building Code requirements to reduce risk of damage from potential seismic ground shaking.</td>
<td>Retain a qualified engineer to evaluate a design-level geotechnical investigation.</td>
<td>MLCSD</td>
<td>X</td>
</tr>
<tr>
<td>3.5-2: Prior to the acceptance of construction plans for the project by the JPA Board, a design-level geotechnical investigation, including collection of site-specific subsurface data shall be completed by MLCSD. The geotechnical analysis shall identify density profiles, approximate maximum shallow groundwater levels, characterize the vertical and lateral extent of the alluvial sand/clay layers that could undergo liquefaction.</td>
<td>Require the design engineer to incorporate recommendations into project design.</td>
<td>MLCSD</td>
<td>X</td>
</tr>
<tr>
<td>MLCSD: Wastewater Treatment Plant Upgrade.</td>
<td>Verify recommendations have been</td>
<td>MLCSD</td>
<td>X</td>
</tr>
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</table>
### MITIGATION MONITORING AND REPORTING PROGRAM

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<td></td>
<td>Incorporated into project design prior to issuance of building permit.</td>
<td>MRCS2; construction contractor</td>
<td>Before Construction</td>
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<tr>
<td></td>
<td>• Retain the geotechnical report in the project file.</td>
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<td></td>
<td>• Include the geotechnical report as part of the construction documents.</td>
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<tr>
<td>3.5-3: To control water and wind erosion during construction of the project, MRCS2 shall ensure that contractors implement best management practices (BMPs) to control wind and water erosion during and shortly after construction of the project and permanent BMPs to control erosion and sedimentation once construction is complete. The BMPs could include, but would not be limited to, sediment barriers and traps, silt basins, silt fences, and soil-erodible protection measures.</td>
<td>• Include mitigation measure in construction contractor specifications.</td>
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<td>• Require the design engineer to incorporate post-construction erosion control BMPs into the project design specifications.</td>
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<td>• Retain a qualified construction monitor to conduct routine inspections of BMP implementation during project construction.</td>
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<td></td>
<td>• Prepare weekly construction monitoring reports.</td>
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<td>• Retain construction monitoring reports in project file.</td>
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<tr>
<td>3.5-4: The design-level geotechnical evaluation conducted in Mitigation Measure 3.5-2 shall include a review of the surface and near-surface soils in the areas where new project components will be constructed and where excavated spoil materials will be stockpiled. The evaluation shall determine if the underlying soils have adequate strength to support the proposed facilities and stockpiles and, if not, provide recommendations to avoid this hazard. Recommendations made as a result of these investigations shall be considered during project design and the evaluation report shall become part of the construction documents for the project.</td>
<td>• Retain a qualified engineer to conduct a design-level geotechnical investigation.</td>
<td>MRCS2</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>• Require the design engineer to incorporate recommendations into project design.</td>
<td></td>
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<tr>
<td></td>
<td>• Verify recommendations have been incorporated into project design prior to issuance of building permit.</td>
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<tr>
<td></td>
<td>• Retain the geotechnical report in the project file.</td>
<td></td>
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<tr>
<td></td>
<td>• Include the geotechnical report as part of the construction documents.</td>
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<tr>
<td><strong>3.6-1a:</strong> Construction contractor(s) shall be required to implement best management practices (BMPs) for handling hazardous materials during the project. The use of the construction BMPs shall minimize negative effects on groundwater and soils, workers, and the public, and still include, without in-trenching, the following:</td>
<td>- Follow manufacturers' recommendations and regulatory requirements for use, storage, and disposal of chemical products and hazardous materials used in construction.</td>
<td>MCSCD; construction contractor</td>
<td>X</td>
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<tr>
<td>- Avoid overtopping construction equipment fuel tanks.</td>
<td>- During mixing maintenance of construction equipment, properly contain and remove grease and oils.</td>
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<tr>
<td>- Properly dispose of discarded containers of fuels and other chemicals.</td>
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<tr>
<td><strong>3.6-1b:</strong> The implementing agencies shall require the construction contractor(s) to implement safety measures in accordance with General Industry Safety Orders for Non-Incidental Use or Overflow Control (29 CFR Title 8, Sections 5153-5167) to protect the project area from contamination due to accidental release of hazardous materials. The safety measures shall include, but not be limited to, the following:</td>
<td>- Spills and overflows of hazardous materials shall be neutralized and disposed of promptly.</td>
<td>MCSCD; construction contractor</td>
<td>X</td>
</tr>
<tr>
<td>- Hazardous materials will be stored in containers that are identified by type and quantity of the hazardous substance.</td>
<td>- Containers shall not be stored where they are</td>
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<tr>
<td>Mitigation Measures</td>
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<td>Monitoring Schedule</td>
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<td>Before Construction</td>
<td>During Construction</td>
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<tr>
<td>3.5.1c: In the event of an accidental release of hazardous materials during construction, containment and clean-up shall occur in accordance with applicable regulatory requirements.</td>
<td>Include mitigation measure in construction contractor specifications.</td>
<td>MRCSD; construction contractor</td>
<td>X</td>
</tr>
<tr>
<td>3.5.1d: Oil and other liquids used during maintenance of construction equipment shall be recycled or disposed of in accordance with applicable regulatory requirements.</td>
<td>Include mitigation measure in construction contractor specifications.</td>
<td>MRCSD; construction contractor</td>
<td>X</td>
</tr>
<tr>
<td>3.5.1e: The implementing agencies shall require the construction contractor(s) to prepare a site safety plan in accordance with applicable regulatory requirements.</td>
<td>Include mitigation measure in construction contractor specifications.</td>
<td>MRCSD; construction contractor</td>
<td>X X</td>
</tr>
<tr>
<td>3.5.1f: The implementing agencies shall require the construction contractor(s) to prepare and implement a Safety Program to ensure the health and safety of construction workers and the public during project construction. The Safety Program shall include an injury</td>
<td>Include mitigation measure in construction contractor specifications.</td>
<td>MRCSD; construction contractor</td>
<td>X X</td>
</tr>
<tr>
<td>Mitigation Measures</td>
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and illness prevention program, as site-specific safety plan, and information on the appropriate personal protective equipment to be used during construction.

**Hydrology and Water Quality**

3.7.1: MBGSD shall require the construction contractor to prepare and implement a SWPPP in accordance with the requirements of the NPDES General Construction Permit. The SWPPP shall include BMPs to control erosion, sedimentation, and hazardous material spills. The SWPPP shall be approved by the City of Irvine prior to the start of construction. The BMPs shall be maintained at the site for the duration of construction.

The objectives of the BMPs are to identify pollutant sources that may affect the quality of storm water discharges and to implement measures to reduce pollutants in storm water discharges. The BMPs for the proposed project shall include, but not be limited to, the implementation of the following elements in accordance with the City's Storm Water Management Plan (SWMP):

- Identification of all pollutant sources, including sources or sediment that may affect the quality of storm water;
- Identification of non-storm water discharges;
- Estimation of the construction area and impervious surface area;
- Preparation of a site map and maintenance schedule for BMPs installed during construction designed to reduce or eliminate pollutants after construction is completed (post-construction BMPs);
- Applicable erosion and sedimentation control measures, waste management practices, and spas.

MBGSD construction contractor | X | X |
### Mitigation Measures

<table>
<thead>
<tr>
<th>Implementation, Monitoring, and Reporting Action</th>
<th>Responsibility</th>
<th>Before Construction</th>
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<th>After Construction</th>
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<tbody>
<tr>
<td>A sampling and analysis strategy and sampling schedule for discharge from construction activities.</td>
<td>MBCSD</td>
<td>X</td>
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</table>

3.7.1: The Contractor shall issue a Notice of Intent to comply with the SWMP requirements upon completion of the proposed project. MBCSD also shall prepare a SWMP and monitoring plan, as required by the General Industrial Permit, that identifies sources of pollutants and the measures to be implemented to manage the sources and reduce stormwater pollution and storm water runoff volumes. The SWMP shall include relevant BMPs from the City of Morns Bay's SWPPM and identify the construction site's SWPPM requirements. MBCSD shall demonstrate that the BMPs in the SWMP meet the requirements in the City's SWPPM. MBCSD shall require the Contractor to develop and implement a SWPPM that is consistent with the requirements of the SWPPM. MBCSD shall require the Contractor to implement the SWPPM during construction activities.

3.7.2: MBCSD shall require the Contractor to file a Notice of Intent to comply with the SWMP and incorporate BMPs in the project design specifications to meet the requirements of the SWPPM. MBCSD shall require the Contractor to develop and implement a SWPPM that is consistent with the requirements of the SWPPM. MBCSD shall require the Contractor to implement the SWPPM during construction activities.

3.7.3: To mitigate impacts associated with 100-year flood hazards, MBCSD or the City of Morns Bay shall implement the following measures:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Responsibility</th>
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<tbody>
<tr>
<td>Require design engineer to develop a post-construction SWPPM and incorporate BMPs into the project design specifications to meet the requirements of the SWPPM.</td>
<td>MBCSD X</td>
</tr>
<tr>
<td>Require the Contractor to develop a post-construction SWPPM and incorporate BMPs into the project design specifications to meet the requirements of the SWPPM.</td>
<td>MBCSD X</td>
</tr>
<tr>
<td>Verify BMPs in the post-construction SWPPM in the project file.</td>
<td>MBCSD X</td>
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<tr>
<td>Verify BMPs in the project file.</td>
<td>MBCSD X</td>
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<tr>
<td>• Construct the new WWTP facilities on higher ground. Construction on elevated fill provides the highest level of protection and least amount of operational inconveniences.</td>
<td>Incorporated into project design prior to issuance of building permit.</td>
<td>Before Construction</td>
</tr>
<tr>
<td>• Construct all or part of the new facilities on City owned land to the south of the current site that is already elevated, modeled in the analysis as MB10 through MB12. Construction at this location will have the least adverse flood impact on neighboring properties.</td>
<td>Obtain LOMR prior to issuance of building permit.</td>
<td>During Construction</td>
</tr>
<tr>
<td>• Apply for a Letter of Map Revision (LOMR), including new hydrology and new hydraulic analyses, to document the potential reduction of flood levels relative to the current FIRM. The City floodplain management ordinance and funding agencies require that WWTP improvements be protected from flooding to the level of one foot above the 100-year flood elevation.</td>
<td>Retain copy of LOMR in the project file.</td>
<td>After Construction</td>
</tr>
</tbody>
</table>

### Notes

3.5-1: MBCSD shall require construction contractors to restrict all construction activities to the hours between 7:00 A.M. and 7:00 P.M., Monday through Friday, and between 8:00 A.M. and 7:00 P.M. on Saturday and Sunday.

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<tr>
<td>MBCSD: construction contractor</td>
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3.5-2: To further mitigate pile driving and other extreme noise-generating construction impacts, a set of site-specific noise attenuation measures shall be implemented under the supervision of a qualified acoustical consultant. Those attenuation measures shall include, but not be limited to, the following control strategies:

1. Install temporary plywood noise barriers around the construction site.
2. Implement "quiet" pile-driving technology (such as.

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<td>MBCSD: construction contractor</td>
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MBCSD: an abbreviation for the Metropolitan Sewerage District, which is responsible for the wastewater treatment plant.
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<tr>
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<tbody>
<tr>
<td>3.1-2: If a vibratory compactor is used within 25 feet of any structure, the</td>
<td>- Include mitigation measure in construction contractor specifications.</td>
<td>• Include mitigation measure in construction contractor specifications.</td>
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<tr>
<td>construction contractor shall conduct compaction surveys before vibrating to</td>
<td>- Retain results of survey reports in the project file.</td>
<td>• Retain results of survey reports in the project file.</td>
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<td>prevent potential cracking or settlement and shall include insight as well as</td>
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<td>identifiable locations. All compaction in voyce, loads, and driveways shall</td>
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<td>be documented with sufficient detail for the project file after the construction</td>
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<tr>
<td>is complete.</td>
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<tr>
<td>3.1-3: MIRCPO shall require the construction contractor to contact a regional</td>
<td>- Include mitigation measure in construction contractor specifications.</td>
<td>• Include mitigation measure in construction contractor specifications.</td>
</tr>
<tr>
<td>notification center (e.g., Underground Services Alert or Dig Alert) at least</td>
<td>- Retain results of survey reports in the project file.</td>
<td>• Retain results of survey reports in the project file.</td>
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<tr>
<td>two weeks.</td>
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<tr>
<td>3.1-4: MIRCPO and COWPA shall require the construction contractor to notify</td>
<td>- Include mitigation measure in construction contractor specifications.</td>
<td>• Include mitigation measure in construction contractor specifications.</td>
</tr>
<tr>
<td>their clients of the project.</td>
<td>- Retain results of survey reports in the project file.</td>
<td>• Retain results of survey reports in the project file.</td>
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<tr>
<td>Days prior to initiating any construction activities.</td>
<td>Maintain records of correspondence in the project file.</td>
<td>Monitoring Schedule</td>
<td>Before Construction</td>
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<tr>
<td>Transportation and Traffic</td>
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<tr>
<td>3.11-1: MBCSD shall require the construction contractor to prepare and implement a Traffic Control/Traffic Management Plan to minimize impacts during project construction. The Traffic Control/Traffic Management Plan shall include, but not be limited to, the following measures:</td>
<td></td>
<td>Monitoring Schedule</td>
<td>X</td>
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<tr>
<td>Include mitigation measure in construction contractor specifications.</td>
<td>MBCSD - construction contractor</td>
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<tr>
<td>Maintain records of correspondence with San Luis Coastal Unified School District in the project file.</td>
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<td>- Include a plan to coordinate all construction activities with the San Luis Coastal Unified School District at least two months in advance. The San Luis Coastal Unified School District shall be notified of the timing, location, and duration of construction activities. The implementing agencies shall require the contractor to maintain vehicle, pedestrian, and school bus service during construction through the use of such provisions in the construction contract. The assignment of temporary crossing guards to designated intersections may be needed to enhance pedestrian safety during project construction. Also, the following provisions shall be met:</td>
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<td>- A minimum of two months prior to project construction, the implementing agencies shall coordinate with the San Luis Coastal Unified School District to identify peak circulation periods at the Mira Costa High School (i.e., the arrival and departure of students), and require the contractor to avoid lane closures during these periods.</td>
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<td>- A minimum of two months prior to project construction, the implementing agencies shall coordinate with the San Luis Coastal Unified School District to identify alternatives to their regular routes to school programs. Alternatives for the school bus routing must be available, and other circulation provisions, as part of the Traffic Control/Traffic Management Plan.</td>
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### Cumulative Impacts

<table>
<thead>
<tr>
<th>Mitigation Measure</th>
<th>Responsibility</th>
<th>Before Construction</th>
<th>During Construction</th>
<th>After Construction</th>
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<tr>
<td>4-1: MBCSD shall communicate and coordinate project construction activities with the City agencies. Phasing of project construction shall be coordinated to minimize cumulative impacts to traffic and circulation.</td>
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<td>- Include mitigation measures in construction contractor specifications.</td>
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<td>- Maintain records of correspondence with City agencies in the project file.</td>
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<td>MBCSD; construction contractor</td>
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</table>
APPEAL FROM THE DECISION OR ACTION OF (GOVERNING BODY OR CITY OFFICER):

Planning Commission

APPEAL OF SPECIFIC DECISION OR ACTION:

Denial of CPO-339 and UPD-307 and Failure to recommend EIR Certification

PERMIT TYPES BEING APPEALED (USE PERMIT, COASTAL PERMIT, TENTATIVE SUBDIVISION):

DATE DECISION OR ACTION RENDERED: December 20, 2010

APPELLANT (PLEASE PRINT): Bruce Leonh, Wastewater Treatment Division Manager

SIGNATURE: [Signature]

ADDRESS: 160 Atascadero Road, Morro Bay

TELEPHONE NUMBER: 805-772-6201

GROUNDS FOR THE APPEAL (ATTACH SHEETS AS NECESSARY):

Action of the Planning Commission in not recommending certification of the Final EIR and approval of the Coastal and Use Permits was without merit.

REQUESTED RELIEF OR ACTION:

Certification of the Final EIR and approval of the Use Permit UPD-307 and Coastal Development Permit CPO-339

FOR OFFICE USE ONLY

DATE APPEAL FILED:

ACCEPTED BY:

APPEAL BODY:

DATE OF APPEAL HEARING:

Exhibit B

A-3-MRB-11-001 (MRB WWTP)
Page 115 of 121
ATTACHMENT B

MORRO BAY/CAYCOS WASTEWATER TREATMENT PLANT UPGRADE

PROJECT LOCATION MAP

PROJECT MANAGER
P. K. RENJAL
 pacifico@pacifico.com
(510) 540-1160

PROJECT ENGINEER
JASON WILLIAMS
jwilliams@pacifico.com
(510) 540-1160

PROJECT COORDINATOR
ERIK CLINCH
eclinch@pacifico.com
(510) 540-1160

ATTORNEY
SUSAN DODGE
susandodges@gmail.com
(510) 540-1160

A-3-MRB-11-001 (MRB WWTP)
Page 116 of 121

Exhibit B
A-3-MRB-11-001 (MRB WWTP)
Page 116 of 121
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: California Coastal Commission, Commissioners Nancy Shallenberger and Mark Steven
Mailing Address: 725 Front Street, Suite 3000
City: San Francisco, CA
Zip Code: 94105
Phone: (415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:
   City of Morro Bay

2. Brief description of development being appealed:
   Construct a replacement Morro Bay-Cayucos Wastewater Treatment Plant (and demolish the existing plant) and associated development.

3. Development's location (street address, assessor's parcel no., cross street, etc.):
   160 Atascadero Road, Morro Bay (San Luis Obispo County) APN: 065-331-032, -033 and -034

4. Description of decision being appealed (check one):
   ☒ Approval with special conditions
   ☐ Approval: no special conditions
   ☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MRB-11-001
DATE FILED: January 31, 2011
DISTRICT: Central

RECEIVED
JAN 31 2011
CALIFORNIA COASTAL COMMISSION
CENTRAL COAST AREA

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 1 of 88
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):
   ☒ Planning Director/Zoning Administrator
   ☐ City Council/Board of Supervisors
   ☐ Planning Commission
   ☐ Other

6. Date of local government’s decision: January 11, 2011

7. Local government’s file number (if any): CDP-339 and UPO-207

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary)

a. Name and mailing address of permit applicant:
   City of Morro Bay
   595 Harbor Avenue
   Morro Bay, CA 93442

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at
   the city/county/port hearing(s). Include other parties which you know to be interested and should
   receive notice of this appeal.
   (1) Linda Stedman, 2848 Birch Avenue, Morro Bay, CA 93442
       Sierra Club, Santa Lucia Chapter, P.O. box 15755, San Luis Obispo, CA 93407
       Alex Beattie, 584 Acacia Street, Morro Bay, CA 93442
       Barry & Vivian Irwin, P. O. Box 540, Morro Bay, CA 93442

   (2) Lee U. Johnson, 117 Mindora Street, Morro Bay, CA 93442
       Surfrider Foundation San Luis Obispo Chapter, P.O. Box 1322, San Luis Obispo, CA 93406
       Betty Whittington, 405 Acacia, Morro Bay, CA 93442
       Anne Rawlings, 198 Main Street, Morro Bay, CA 93442

   (3) Roger Ewing, P.O. Box 1322, Morro Bay, CA 93443
       Michael Lucas, 2631 Koa Avenue, Morro Bay, CA 93442

   (4)
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Fort Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signed: [Signature]
Appellant or Agent

Date: 1/28/11

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: __________________________

Date: __________________________

[Signature(s)]
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

[Signature]
Signature of Appellant(s) or Authorized Agent

Date: 1/28/11

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize ____________________________

________ to act as my/our representative and to bind me/us in all matters concerning this appeal.

[Signature]
Signature of Appellant(s)

Date: ____________________________
Attachment A: Appeal Reasons

The City of Morro Bay approved a coastal development permit for the demolition and reconstruction of a new Morro Bay-Cayucos Wastewater Treatment Plant (WWTP) on the existing WWTP site at 160 Atascadero Road in the City of Morro Bay. The approved project includes the demolition of the existing WWTP and the construction of new pump stations, oxidation ditches, clarifiers and other treatment facilities, in addition to the construction of new buildings and roads and the installation of fencing and landscaping. The new WWTP would provide secondary treatment for all effluent discharged through its existing ocean outfall and some tertiary filtration capacity for a peak-season dry weather flow of 1.5 mgd. The project approval is inconsistent with the City’s Local Coastal Program (LCP) policies related to coastal hazard avoidance, public viewed protection, maximizing and optimizing public access and recreational opportunities, protection of archaeological resources, and sustainable public infrastructure requirements.

First, the project site is located in a 100-year flood plain and a tsunami inundation zone directly adjacent to an eroding shoreline where the sea level is rising and in an area subject to seismic hazards. The certified LCP requires new development to be sited and designed to avoid such hazards and LCP Policy 9.03 prohibits all development, including construction, excavation and grading, in the 100-year floodplain. In conflict with these requirements, the approved WWTP would locate new, major public works infrastructure in a highly hazardous area.

Second, the LCP requires the scenic and visual qualities of the coast to be protected and requires development to be sited and designed to protect views to and along the ocean and other coastal areas. The project involves constructing a new WWTP immediately adjacent to multiple significant public recreational access and public viewed areas at and along the coast. The WWTP site is located on Atascadero Road, which is shown in LCP Figure 30 as a street providing scenic views. Views from the dunes looking inland across the site include mountain ridgelines, and views from the road looking towards the coast across the site include Morro Rock. The site is also visible from Highway One, the major north-south access corridor through this section of coastline. The approved development would obstruct and degrade these important public views and does not incorporate adequate landscaping and other measures to adequately screen the new development. Therefore, the project appears to be inconsistent with the LCP policies protecting visual resources.

Third, the project site is directly adjacent to the beach, beach and shoreline access areas, and a visitor-serving recreational vehicle (RV) park. The public access and recreation policies of the LCP and the Coastal Act require public recreational access opportunities to be maximized and oceanfront land to be protected for recreational use. The project would reduce the availability of scarce oceanfront land for potential public recreational purposes, and it could cause adverse impacts to existing public recreational access opportunities due to both construction activities and operation of the new WWTP (e.g., through additional truck traffic and objectionable odors). Therefore, it is not clear that the City-approved project is consistent with the public access and recreation policies of the LCP and the Coastal Act.
Fourth, the project site is located in close proximity to numerous documented archaeological sites and is located within a burial ground of the Salinan Tribe. The LCP requires that such significant archaeological and historic resources be preserved to the greatest extent possible, and requires all available measures, including tax relief and purchase of development rights, in order to avoid development on significant archaeological sites. Therefore, a new WWTP that requires significant ground disturbance and excavation at this location appears to be inconsistent with the LCP in this respect.

Finally, the project includes a plan for only a small amount of wastewater reclamation. The tertiary treated wastewater produced at the new plant would meet Title 22 standards for disinfected secondary-23 recycled water and could therefore be used for industrial use on-site and for limited off-site purposes such as soil compaction, concrete mixing and dust control. This water could only be used off-site if it is transported using trucks that would utilize the new truck filling station. In addition to these limited uses, the project includes a plan for the future production of .4 mgd of disinfected tertiary recycled water, the highest standard of recycled water, which could be put to a wide range of uses, including agricultural irrigation, groundwater replenishment and residential landscaping. However, as approved, the only way to transport this .4 mgd of higher quality water off-site would be using trucks. No additional infrastructure is included as part of the project and the project does not include any provisions or planning to accommodate future infrastructure that could be used to transport the water, except for through the use of trucks.

The LCP requires the City to pursue water reclamation as part of this WWTP project. Specifically, LCP Policy 3.08(5) says: “Even with delivery of State Water, use of reclaimed water is the City’s second highest priority and remains a productive source of potential conservation for both large and small scale projects, respectively, and as a result, should be pursued when funded by a potential user, required as part of a wastewater plant upgrade or permit condition, or when it is shown as cost effective for City use...” Furthermore, maximum reuse of reclaimed water (both levels of disinfected tertiary treated recycled water) would help the City meet its water supply needs and ensure water supply is available for priority uses as required by the LCP, especially if when State Water is restricted or unavailable. Such reclaimed water could be used for many purposes, including agricultural irrigation inside and outside of the district’s service area, injection wells to maintain and enhance the water quality and biological resources associated with the Chorro and Morro groundwater basins (including as required by LCP Policy 11.17), and for residential and municipal landscaping, among other uses. In fact, LCP Policy 11.17 states: “the biological productivity of the City’s environmentally sensitive habitat areas shall be maintained and, where feasible, restored through maintenance and enhancement of the quantity and quality of Morro and Chorro groundwater basins...” A more comprehensive water reclamation program could help the City carry out this policy by reducing the quantity of water pumped from these basins due to reduced demand, and by potentially allowing for injection wells that would recharge groundwater. More recycled water used in this way correspondingly reduces the need for ocean discharge, promoting other Coastal Act and LCP priorities related to the shoreline area and the area offshore. Therefore, the LCP requires that the new WWTP provide for a meaningful reclaimed water component because the LCP requires: (1) water reclamation to be a part of the WWTP upgrade; (2) water supply to be protected for priority uses; and (3) the quantity of water in the Morro and Chorro groundwater
basins to be enhanced where feasible. As approved, the WWTP does not adequately account for such requirements, and therefore, the approval appears inconsistent with the LCP regarding ensuring sustainable public utilities and infrastructure.

In summary, the approved project appears to be inconsistent with numerous policies of the City's LCP, including policies related to coastal hazards, public access and recreation, public works, and visual and archaeological resources. The City-approved WWTP raises significant LCP conformance questions, including whether a WWTP can be sited at this location at all consistent with the LCP, and it does not appear that the City's approval has adequately addressed the LCP in this respect, including in terms of evaluation of alternatives (including alternative sites) that could avoid LCP inconsistencies and more holistically address Coastal Act and LCP objectives and requirements for such major public utility infrastructure.
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: LINDA STEELE
Mailing Address: 2248 BIRCH AVENUE
City: M O R R O B A Y
Zip Code: 93442
Phone: (805) 771-9254

SECTION II. Decision Being Appealed

1. Name of local port government: 
   CITY OF MORRO BAY

2. Brief description of development being appealed: 
   EIR FOR WASTEWATER TREATMENT PLANT REPLACEMENT

3. Development’s location (street address, assessor’s parcel no., cross street, etc.):
   160 A MA S O N D O R O ROAD, MORRO BAY, CA

4. Description of decision being appealed (check one):
   ☐ Approval; no special conditions
   ☐ Approval with special conditions:
   ☐ Denial

   Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

   TO BE COMPLETED BY COMMISSION:
   APPEAL NO: A-3-MRB-11-001
   DATE FILED: January 31, 2011
   DISTRICT: Central Coast

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 8 of 88
5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator
☒ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision: __________________________

7. Local government's file number (if any): __________________________

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

CITY OF MORRO BAY
575 HARBOR ST
MORRO BAY, CA 93442

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) NUMEROUS MORRO BAY RESIDENTS, ADDRESSES UNKNOWN, WHO SPOKE AGAINST APPROVAL OF THE EIR

(2)

(3)

(4)
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons for appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SEE ATTACHED
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

[Signature]

Date: 

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize ____________________________

to act as my/our representative and to bind me/us in all matters concerning this appeal.

[Signature of Appellant(s)]

Date: 

RECEIVED

JAN 28 2011
CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

Exhibit C
A-3-MRB-11-001 (MRB WWTP) Page 11 of 88
Reasons Supporting This Appeal

The Morro Bay Planning Commission unanimously denied the Draft EIR for this project, citing numerous problems including failure by the City to investigate alternate sites. As the Commissioners questioned the City staff regarding problems with the DEIR and with the project in general, it appeared to many that the City Attorney was trying to stop the questioning because it was raising numerous issues embarrassing to the staff and others involved in the project. The Commissioners declined to stop the questioning, and were later falsely accused of being disrespectful to the staff.

Shortly after the Planning Commission soundly rejected the DEIR, the California Coastal Commission Planner in charge of the case issued a 12-page document identifying numerous serious problems with the DEIR and the project, including the issues raised by the Commission, and the failure of the DEIR and the project to conform to the City's own Local Coastal Plan. Among the major issues noted were many that citizens had been raising for years. These included the fact that the site is located in a tsunami zone, in a floodplain, directly over significant Native American archaeological and burial sites, and in a visitor-serving area. The CCC review noted, as had the Planning Commission, that the City had failed to appropriately investigate alternate sites, and that water reclamation had not been appropriately addressed.

Contrary to what City staff say, the City's water supply is in peril. I have attached a local news article, "Morro Bay's Precarious Water Supply". That article details the water shortage issues, many of which can be confirmed by contacting Charles Rich, of the California SWRCB Water Rights Division. Mr. Rich is closely involved in monitoring the City's use of its Chorro Valley wells.

In addition, the CCC review pointed out the fact that the project is a replacement, not an upgrade. The City staff continue to insist that demolishing the entire plant and building a new one is merely an upgrade of existing facilities. This position has been used as an excuse to avoid addressing issues and requirements related to the construction of new facilities.

Staff and others appear adamant that the plant must be designed by MWH, using outdated technology, and that it must remain in its current location on the beach, dumping effluent into the ocean. They fought "tooth and nail" to drive away a firm (PERC Water) that offered to build a plant for millions of dollars less than MWH and to deliver effluent of the highest quality, ready for reclamation through uses such as irrigation.

Now, the Council has voted to ignore the concerns of residents, the Planning Commission and the CCC staff, and move forward with the existing project. A fascinating development is the sudden insistence of the Council majority and staff that they are merely doing this because they are so concerned about cost and its impact on ratepayers. Residents have pointed out that this appears to be a sham, as the same people have failed to show any concern for costs before, as evidenced by the following:

1. They awarded the plant design contract to MWH, the highest bidder among five qualified well-qualified applicants, in violation of our own Municipal Code.
2. They ignored well-documented issues with MWH overbilling and other malfeasance in Los Choros, New Orleans, and Cape Coral.
3. They fought to avoid giving a hearing to PERC Water, a firm that said it could build us a better plant for much less.
4. They refused to sign non-disclosure agreements to provide basic protection for PERC's intellectual property rights — something standard in industry. This action, along with the fact that

Exhibit C
A-3-MRB-11-001 (MRB WWTP) Page 12 of 88
the DEIR did not address the PERC option, kept the firm from continuing in its bid to get the contract to build the plant.
5. They allowed design of the plant to go forward before the DEIR was even submitted to the CCC for review, causing a tremendous amount of money to be wasted on preparation of a seriously-flawed and essentially-worthless DEIR. This cost ratepayers over $300,000.
6. They hired and have continued to pay Dennis Detzelt and Walsh Associates to manage the project, despite resident concerns, expressed in writing, that standard project management methods and rules were not being followed.
7. They evidently ignored the input of the Coastal Commission staff (received in 2008) regarding information required for the DEIR, and failed to put that information into the document.

At the Council meeting at which the EIR was approved, staff were throwing out numbers to make it appear that costs of moving the plant would be prohibitive. Residents believe that these numbers were manufactured and have little-to-no connection to reality. In fact, even one staff member, Dylan Wade, admitted that it was difficult to assign any numbers since no studies had been done. Yet, this did not stop the staff from claiming that it would be cheaper to keep the plant at the current site. It must be noted that some City staff members have previously been accused of producing "studies" full of invalid information in an effort to support their positions on various issues.

The bottom line, clearly, is that no sensible, reliable cost studies of alternate locations have been done, and no studies have been done of the potential cost benefits of putting the current site to visitor-serving uses. Some residents have asserted that those benefits could be substantial.

Why do they insist that the project must be designed by MWH using outdated technology, and must be at the current site? It has been suggested that one reason is the likelihood that there is considerable illegal infrastructure under the ground at the currently-proposed site, and they do not want it discovered.

It has also been suggested that there is some connection with a very large and as-yet-unrelated development plan for the entire area, and that the WWTP is somehow part of that plan. While this may sound a bit far-fetched, there is considerable evidence to indicate that something significant is going on behind the scenes.

I have attached a map showing an area that the staff targeted for redevelopment in 2009, and a story from a local news magazine, "Mystery in Morro Bay", for your consideration. As you review it, please keep in mind that the WWTP is located in very close proximity to the power plant property, which appears likely to be the "hub" of a major development plan. Perhaps you may be able to decipher some of the clues and find the solution that has thus far eluded concerned residents.

An associated issue is the fact that this is not the first time that the City of Morro Bay has defied the CCC in regards to land in this area. In 2008, the CCC ordered that the Embarcadero Road Extension, which runs along the west side of the power plant property, not be more than 22 feet wide. Three months after this order was given, the City not only widened the road to 42 feet, destroying a considerable amount of ESH, but paved the road with "red rock" and placed an unpermitted storage yard at the end, also in ESH. This violation has been reported to CCC staff, but it appears that no action has been taken to restore the destroyed ESH.

Whatever the reasons that City staff and politicians are so desperate that they will openly defy the CCC in an effort to keep their WWTP project "as-is", this simply cannot be allowed. Please take all actions
necessary to force the City of Morro Bay to abandon its current ill-advised project approach and to build an environmentally-sound and cost-effective WWTP in a more appropriate location.

If there is any possibility that the CCC can take control of the project, I strongly urge you to do so. Many residents believe that it is very clear that those currently in charge do not have the interests of our residents, our visitors, and the environment in mind.
Morro Bay’s Precarious Water Supply

by Kari Olsen

The recently-announced state water cut-backs came as a wake-up call to Morro Bay residents, many of whom had probably never suspected that their water supply was at risk. City government had not fully informed residents about the risk of cutbacks, the potential for loss of State water as a result of natural or manmade disaster, and the full scope of problems with the City’s wells.

Morro Bay receives up to 90% of its drinking water from the state. The city’s dependence on state water has been growing in recent years, despite warnings from concerned residents that over-reliance on state water could put the city in a vulnerable position. The reality of the situation hit home in late 2009, during the annual state water shutdown, and a water emergency was declared by Morro Bay City government.

The emergency constitutes ample evidence that the city badly needs backup water sources to be used when the state is unable to deliver the water that the city has contracted for. Many residents have long believed that City wells were that backup source, but there are serious problems with both the quality and quantity of water available from the wells.

Morro Bay has several sources of drinking water - State water, the city’s Ashurst and Romero well fields in Chorro Valley, the Morro Basin well field, and the City’s desalination plant. However, there are significant problems that restrict the use of the well fields, and the desalination plant, which can supply up to half of the city’s needs when running at full capacity, is expensive to operate.

At the time of the state water shutdown last November, the quality of the water in the Morro Bay’s Ashurst and Morro Basin wells had been deteriorating for many years. Those wells produced water so contaminated that it required cleaning in the desalination plant before it could be distributed to the City’s water customers.

This left well 11A, in the Romero well field near Canet Road, as the only well that could supply water usable without special desalination plant processing to remove contaminants. However, the City could not legally use that well at the time due to State Water Resource Control Board restrictions on use of Chorro Valley wells.

Morro Bay’s path to dependence on state water appears to have begun before state water delivery started in 1997. Prior to that year, the Ashurst and Romero well fields in the Chorro Valley supplied most of the Morro Bay’s needs, supplemented by the Morro Basin wells located near Morro Bay High School. In 1995, things began to change. A number of farmers and environmental groups complained to the SWRCB that Morro Bay was over-pumping and depleting the aquifers. Farmers, whose riparian rights supersede those of the City, complained their wells were not producing. Environmental groups and the California Department of Fish and Game cited damage to wildlife and the estuary.
The SWRCB responded to the complaints by issuing Decision 1633, which supplemented existing restrictions on the total amount of water that Morro Bay's City wells could draw from the ground annually. The decision stated that the wells in the Chorro Valley could not be used when Chorro Creek surface flow, downstream of the wells, was less than 1.4 cubic feet per second. The city was ordered to install stream flow monitoring gauges downstream of the Romero and Ashurst well fields to help ensure that the restrictions were adhered to. The devices were to be installed no later than Jan. 1, 1997.

Meanwhile, more restrictions on the city's ability to use its wells were developing in the form of growing contamination problems in both the Ashurst and Morro Basin well fields. City well test results for the years 1997 through 2000, obtained from the California Department of Public Health, show that nitrate levels in the two well fields were exceeding the maximum contaminant level of 45.0 long before the problem was reported to residents. Excessive nitrates in drinking water have been identified as causing "blue baby syndrome", also known as methemoglobinemia. In addition, studies have provided some evidence that nitrosamine intake may cause cancer in test animals. Conclusive evidence of similar effects in humans has not yet been produced.

In October, 2002, the nitrate level in Morro Basin well 03 was measured at 47.0. A little over a year later, the reported figure was 87.0, and readings over the maximum contaminant level continued through the years. Nearby well 04 showed a similar pattern. The nitrate level in water from well 9, in the Ashurst well field, registered 88.0 in September, 2003, and nitrate levels considerably over the limit were reported frequently in subsequent years. Nitrate levels in nearby well 10 followed a similar pattern. The only well that was consistently clean was 11A, about two miles upstream from the Ashurst wells.

At the same time, coliform bacteria were also detected frequently in the Morro Basin and Ashurst well fields. The extent of the problem is difficult to determine, as it was only the presence or absence of the bacteria that was reported between 1997 and 2008. However, reports for 2009 specified total coliform readings numerically, making it possible to identify the wells with the highest bacteria levels. Well 9 was by far the worst, with a total coliform count over 200 reported three times during the year. This reading has been confirmed by the California Department of Health to be "very high". The long-standing coliform contamination problem does not appear to have ever been reported to residents.

The presence of coliforms in drinking water suggests that there may be disease-causing agents in the water. Chlorine will kill the coliforms, but may not eliminate all of the other disease-causing pathogens present. The pathogens causing illness such as cholera, typhoid fever, and dysentery are most easily killed with chlorine treatment. Cyst-forming protozoa which cause amoebic dysentery and giardiasis are most resistant to chlorine.

Nitrate contamination was finally reported in 2006, when nitrate levels over the maximum contaminant level were found in water delivered to Morro Bay water customers. For several years prior to 2006, the fact that nitrate readings for some of the wells were significantly exceeding the legal limit was not reported in the City's Consumer Confidence Reports, annual
City reports to residents on the quality of water they are supplied. Under the heading, "Well Water", the reports specify the low- and high-end figures for nitrates detected in the wells. In 2003, the figure reported for the high end of the range was 25. However, in that year, the highest well water nitrate figure reported to the California Department of Public Health was 88, the level detected in well 09 in September of that year. In 2004, the Reports indicated that the highest well water nitrate reading was 34, while the highest reading reported to the CDPH was 89. In 2005, the Reports showed a high of 32, while the CDPH data shows a high of 37. Residents pointed out the discrepancies, and subsequent Consumer Confidence Reports have included correct figures for the highest nitrate levels found in the wells.

The issue of contaminated well water again came to light in late 2008. Chorro Valley customers of the Morro Bay Water Department learned that, when Chorro Valley wells were pumping, those customers were receiving well water instead of the blended water that was delivered to other City water customers. Morro Bay had been following that procedure because there is just one water line between the Chorro Valley wells and the tank. When well water is flowing toward the tank, blended water from the tank cannot travel in the opposite direction to the Chorro Valley customers.

Some of the customers, aware of the contamination in the Ashurst well field, contacted the California Department of Public Health for assistance. The Department immediately ordered Morro Bay to shut down the well field. A CDPH letter, dated Dec. 2, 2008, stated, "Unfortunately, the Department was unaware the City was potentially delivering non-potable water to approximately eleven connections..." The letter also included the statement that, "The Department is requiring the City to cease the use of the Ashurst wells 8, 9A, 10, 10a and 16." One of the conditions specified for well re-activation was a chlorination plan for the Ashurst wells.

Some of Morro Bay's Chorro Valley water customers have stated that when they complained about the quality of the water they had been receiving, the city's first reaction was a threat to take away their water service. Morro Bay officials have denied that water customers were threatened. However, a city staff proposal to cut off their service is still under consideration. City officials cite the expense of continued service as a major issue. Customers note that without water service, many of their properties would be completely without value, and state that they have documentation that constitutes legal contracts giving them the right to city water. They also state that a return to private wells is not an option until the bacteria and nitrate contamination in the aquifer, evidenced by the results of tests on nearby city wells, is cleaned up.

The source of the well contamination has been a highly contested issue. Morro Bay has commissioned nitrate studies on the Morro Basin and Ashurst well fields, and those studies cite agriculture as the cause. However, some local water activists allege that the studies are flawed. Richard Sadowski and Marie Jo Bruton point out that the nitrate problems in the Morro Basin wells began very suddenly in 2002, with dramatic increases in nitrate levels occurring only in November when the wells were heavily used. They state that the city-commissioned nitrate study presents no possible cause for the suddenness and scope of the increases. They allege that sewage from the Morro Bay's dilapidated sewer lines is the source of the nitrates.
and coliforms in the Morro Basin wells, and state that isotope studies appear to point to sewage, rather than fertilizer as the nitrate source. Others suggest that in the Chorro Valley, the primary source of well contamination is sewage from a local commune. The nitrate study for the Ashurst wells notes that there is an indication that at least one well has been affected by sewage, but holds to the premise that agriculture is the primary culprit.

Well water contamination issues are not the only water-related issues impacting the city at the present time. Morro Bay is being investigated for violating SWRCB Decision 1633, and using the Chorro Valley wells when it was not authorized to do so. The situation was brought to the attention of the SWRCB's Water Rights Division after residents noticed something they believed was odd about the city's July, 2009, stream interference test at the Ashurst well field.

Although the city was not permitted to use the wells when the surface flow of Chorro Creek was under 1.4 cubic feet per second, several persons living near the well field noted that, at the time of the test, the stream around the Ashurst wells was completely dry. Morro Bay water production reports obtained by a resident show that during the test, over 2 million gallons of water were pumped from wells. The water was disposed of in a nearby field. That resident complained to the City Council, and reports that after that, the test was immediately stopped.

The resident report that inquires to the city as to how a stream interference test could be done on a dry stream have gone unanswered. In early 2010, the same resident requested a copy of the consultant's final report on the test and information on its cost. Information provided by Morro Bay indicated that no report existed, and that the total spent on consultants' fees and equipment rental was about $30,000.

John Jones, a Chorro Valley rancher who resides near well 11A, was concerned about the violation of the farmers' riparian rights and filed a complaint with the SWRCB shortly after the July test. An investigation by the SWRCB's Water Rights enforcement agents determined that Morro Bay had never installed the flow monitoring devices ordered in Decision 1633, and had been in violation of the decision since it was issued in 1995.

As the investigation proceeded, persons living near well 11A noted that Morro Bay had not ceased its use of that well, despite the fact that its ongoing violation of the SWRCB decision had been brought to light. The reason soon became clear.

The city had hired the Sacramento law firm of Ellison, Schneider & Harris, L.L.P., to help Morro Bay deal with the SWRCB. On Nov.17, 2009, during the annual State water shutdown, the law firm filed a "Petition for Temporary Urgency Change, permit 20867 (application 24245) Held by the City of Morro Bay". Attachments to the petition included these statements, "These actions are necessary to prevent an emergency because the Romero well is the City's only source of water supply during the scheduled SWP shutdown." and, "The City requires the ability to pump water from the Romero well in order to meet the municipal water demand. The City simply cannot cease diversions at its Romero well without great risk to the health and safety of its citizens."

Further explanation included in the petition attachments clearly shows the seriousness of the
situation: "Until recently the City has relied on desalinated water and diversions from the Morro Creek subterranean stream to meet water demands during the annual SWP shutdown. Unfortunately, since 2006, the City has faced restrictions on its ability to utilize groundwater from both the Morro Creek system and parts of the Chorro Creek system due to nitrate contamination issues. Since 2006, the City has been forced to treat water from the Morro Creek system at its Desalination Facility to deal with nitrate contamination. Unfortunately, this facility has limited capacity and cannot treat enough water to meet the City's water demands. It is also extremely expensive to use the Desalination Facility as a water treatment plant. In 2008, the City approved a project to allow simultaneous groundwater and sea water treatment at the Desalination Facility, but that project is not yet completely operational."

After state water service was restored, Morro Bay withdrew its emergency petition. Then, just a few days after the city stated that the emergency was over, the state water cutback announcement was made, and Morro Bay was forced to return to the Water Rights staff to ask for another waiver to use well 11A.

Local water activists have advised Morro Bay officials that state water is not guaranteed, and could be reduced at any time by the State Water Project. It could be cut off completely due to natural or manmade disaster. The activists warn that by "putting their eggs in one basket", city officials have greatly increased the risk that one day, Morro Bay residents could turn on their taps and find that nothing comes out. Some say this is an exaggeration, but most seem to agree that having reliable backup water sources is absolutely essential, and that at the present time, the city’s water problems are cause for very serious concern.
RESIDENTIAL NEIGHBORHOODS Labeled "BRIGHTED" (THEy ARE NOT). NOTE HOW TARGETED AREAS EXTEND OUT FROM POWER PLANT PROPERTY — TARGET SITE OF "GREEN UNIVERSITY," WHICH IS BELIEVED TO BEA "TROJAN HORSE."
Mystery in Morro Bay - - - We’re Just Wondering

Commentary by Kari Olsen

Unanswered questions have arisen in connection with a proposed project that would completely change the face of Morro Bay. Some residents allege that there are clear indications that something very big is going on behind the scenes. Is it simply coincidence, or is there a connection between a group of situations and events that appear, to some, to be connected? Is a small group of people secretly working to make major changes in the town—changes that may not be welcomed by many of those who live there?

Major Development Proposed

When a small firm, Westpac Energy Group, suddenly appeared on the scene in June, 2009 with well-developed plans and designs for a “green university,” residents were surprised. None recalled being asked if they wanted a huge project that would completely change the face of the town and significantly increase its population. Yet the elaborate presentation, made by Westpac Energy Group president Tom Fee, included detailed designs for a large complex to be built on the Dyneqy power plant property. As reported in a July 8, 2009 New Times article by Patrick Howe, the facility would eventually have 2000 students and 1000 employees, and would include a new hotel, retail offices, a sporting club, a new marina, a convention center, and a new city hall.

Westpac Connections

Some wondered if Fee’s company was affiliated with a San Luis Obispo firm, Westpac Development. According to an August 19, 2008 story in the Aspen Post “… a search of the Securities and Exchange Commission’s EDGAR system revealed that “Westpac, one of Australia and New Zealand’s largest commercial and institutional banks, owns Westpac Investments LLC, which is based in San Luis Obispo.”

According to Howe’s New Times story, “in response to requests for more information by a planning commissioner, Fee said his company has no affiliation to the Westpac Development Corporation that has built and promoted several development projects in San Luis Obispo or any others that share the name.

“Despite the assertion, the companies appear to have numerous ties. For one thing, when a New Times writer called Fee, the office phone had been forwarded to a cell phone of Karl Hamilton, an accountant for Westpac Investments, which is affiliated with Westpac Development Corporation. Asked about the connection, Hamilton repeated that there is no affiliation between the companies but allowed that Fee formerly worked for Westpac Development. She also said a former partner in the energy group did work with the other Westpac companies.”

Westpac California operations are conducted under the umbrella of Westpac Companies whose mission is, according to the firm’s website, “Developing exceptional investment opportunities with a long term objective of optimizing yields while safeguarding capital.” It is noted on the site that the firm employs a total of about 350 people. A list of key officials of the firm names Hamish Marshall, a native

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 21 of 88
of Australia and Vice-President of WestPac Investments, Inc., as "one of the principle partners for WestPac Development Corporation," and states that Marshall "oversees acquisition and financing of properties for development in California, as well as his native country of Australia."

**LNG Offloading Suspicions**

The connection to the Australian Westpac, a conglomerate that, according to its website, serves ten million customers around the world, was of interest to a group of Morro Bay residents who suspected that recent events could indicate a clandestine attempt to bring LNG offloading back to Morro Bay. The group found that the Australian firm had close ties to BHP Billiton, another Australian conglomerate. That firm is reported to be the largest mining company in the world and also has a sizeable oil exploration and drilling operation. The group learned that BHP Billiton was behind several recent failed attempts to establish LNG offloading facilities in California. Further research revealed that several high-level Westpac employees appeared on the list of BHP Billiton corporate officers and directors.

Residents told the City Council of their suspicions that plans for a Morro Bay LNG offloading facility were in progress and made note of the connection between Westpac and BHP Billiton. Shortly thereafter, Fee announced that the name of the firm working on the Green University Project was now EcoBaum.

Among the concerns fueling suspicions that a liquid natural gas (LNG) offloading scheme was in the works was a phone survey of Morro Bay residents to determine how they would feel about LNG offloading coming to Morro Bay. The survey had been conducted about a year prior to the presentation of the Westpac Energy Group/EcoBaum green university plans. In addition, the group of residents had learned that in addition to operating power plants Dynegy, which had reportedly agreed to provide land for the green university project, was also in the business of marketing and exporting "natural gas liquids."

Another reported cause for concern was an attempt to convince the City Council to allow 100-foot industrial tugboats south of Tidelands Park area, an environmentally sensitive area. Local businessman Frank Loving attempted to gain approval to restore the old cannery wharf and use it as a place to berth his industrial tugs. Residents noted that there was no current use for large industrial tugs in the area and speculated that there might be plans to use them in LNG offloading operations. One resident reported being told by a slip fitter that he was working on a project to rig a locally-owned tug for offshore oil operations.

Many residents asserted that Morro Bay's General Plan and Local Coastal Plan clearly indicate that the area south of Tidelands Park is for small recreational boats only. An investigation request was filed with the California Coastal Commission by concerned residents. The residents challenged the City Council's approval of a motion to allow commercial operations in the Bay south of Tidelands Park, alleging that the intent of the motion was clearly to allow berthing of the tugs.

The investigation request alleged that the motion constituted a change to the City's General Plan and Local Coastal Plan, and therefore must be filed with, reviewed and approved by the Coastal Commission. The request stated, in part, "The approved motion is seriously flawed, as it ignores a critical fact: Land and water in the subject area are separately zoned, and are treated differently in the GPLCP. While the GPLCP clearly allows commercial uses on the land in the area, it just as clearly disallows commercial uses in the adjacent, separately zoned harbor. 1. The LAND in Area B is zoned R-1PD and WP/PD above and below the bluff, respectively. These areas allow for clearly-defined, appropriate commercial uses. Conditions a. through e. above apply to the land. However, 2. The
WATER below the tideline – the Bay, is zoned Harbor. With regard to harbor uses, the GP/LCP requires that commercial fishing boats, non-recreational vessels and larger boats be kept north of Beach Street, whereas, the area south of Beach Street is specifically designated for recreational boating and fishing. The approved motion lumps the two together, implying that the fact that commercial development is allowed on the land means that large commercial boats are allowed in the harbor below. This constitutes a change to the GP/LCP.

The issue has not yet been resolved by the Coastal Commission. However, the recent announcement of plans to demolish the cannery wharf appears to indicate a reduced risk that industrial tug could be berthed in the location originally targeted.

Possible Redevelopment Connection

Some Morro Bay residents believe that plans exist for something even bigger than the green university project. They cite the fact that residential areas extending outward from the Dynegy property were targeted in the city's 2008 Redevelopment Feasibility Study. As noted in a May, 2010 story in the Journal, the study was at odds with the recommendations of a financial consulting firm, Management Partners, that was hired to recommend ways to improve Morro Bay’s financial health. The consultants recommended redevelopment of the power plant property, Chevron property, and City-owned harbor properties. Yet, the final study excluded all of those properties, and included only the residential areas. According to statements in the consultants' proposal and in the final study, City staff provided the consultants with an area of interest that included the large tracts of residential properties. Some residents have alleged that the targeting of the adjacent residential areas could be part of a plan for extending the green university development far beyond the boundaries indicated in the Westpac/Ecoban presentations.

Also of concern to some residents are the type of "blight factors" identified in the study, and the general approach to analyzing them. An August, 2010 Journal story reported that, "Morro Bay residents have questioned whether an area can reasonably be considered "blighted" when the alleged "blight indicators" most frequently cited are unpaved or deteriorated walks and driveways, paint-related issues, and inoperable vehicles. In addition, residents allege that the system used by the consultants made it easy to inappropriately categorize a property as exhibiting significant blight problems. For example, the system allows a property cited as having "poor site layout," overgrown shrubs, and chalking paint to be classified as "blighted."

Roadway Widening

In May, 2010, the Journal reported that the Embarcadero Road extension had been widened in violation of an order given by the California Coastal Commission. The story noted that, "In March, 2006, the CCC approved a permit, with special conditions, for the Harborwalk. Conditions included restriction of the Embarcadero Road extension to a maximum width of 22 feet." and, "In June, 2006, three months after the CCC decision was issued, a resident observed heavy equipment on the Embarcadero Road extension and learned that the roadway was being widened and paved with 'red rock.' The resident took photographs of the work in progress. At present, the width of the roadway is approximately 42 feet."

This roadway lies to the west of, and adjacent to the Dynegy power plant property. Some residents have asked if there is a connection between the major widening of a road where one seldom sees more than one car at a time, and the plans for developing the Dynegy property.

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 23 of 88
Wastewater Treatment Plant Site

Some residents have also questioned whether an alleged Morro Bay City staff preference for the current wastewater treatment plant (WWTP) site has any connection to area development plans. The plant site is located in very close proximity to the power plant property where the green university would be built.

The City's Planning Commission recently criticized the Draft Environmental Impact Report for the project because the document did not include appropriate discussion of alternate plant sites. The current site is in a 100-year flood plain, a tsunami zone, and an area containing many Native American artifacts and burials.

Ecobaun's Big Plans for Morro Bay

Material on its website appears to indicate that Ecobaun still has very big plans for Morro Bay. The site describes the planned development as "A new kind of research facility," and discusses the potential for establishing a means to sponsor productive relationships between "like minded institutions."

The site includes a discussion of the harsh competition that traditional power production plants, related industries, and renewable energies are facing. It is noted that the fact that Morro Bay has a close link to the regional energy business that is essential to the project.

Along with its vision for Morro Bay, the Ecobaun site presents information on the project team that has been assembled. With a clear vision, project plans and facility designs, and a project team already assembled, Ecobaun appears ready to begin work.

On one page of the site is the phrase, "Reimagination of Morro Bay." Troubling to some Morro Bay residents is the fact that so much work has been done to "reimagine" their community without any effort to determine the preferences of residents. Also troubling is the suspicion that the work would not have been done unless Ecobaun had received considerable encouragement from people who potentially have the power to make the vision a reality.

The proposed sale of the Dynegy property to the Blackstone Group appears to present a new challenge for the Ecobaun project. After the sale, the property would be turned over to NRG Energy. No public announcements have been made of any discussions with the potential new owners regarding the green university plans.

Can Morro Bay Residents Solve the Mystery?

Have plans for a complete redesign of Morro Bay been in progress for years, with the participation of an unknown group of locals? Are the issues and events described here simply a set of coincidences, or do some or all of them have a direct connection to the green university project? Is the project even bigger than the one that has been publicly communicated on the Ecobaun website? Why have things gone so far without anyone taking the trouble to ask Morro Bay residents if they want this project? Will the sale of the Dynegy property end the project, or have there been behind-the-scenes discussions with the potential new owners? What can and should residents do now? Whodunit fans are invited to weigh in on this fascinating puzzle.
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Santa Lucia Chapter of the Sierra Club
Mailing Address: PO Box 15755
City: San Luis Obispo
Zip Code: 93406
Phone: (805) 543-8717

SECTION II. Decision Being Appealed

1. Name of local/port government:
   City of Morro Bay

2. Brief description of development being appealed:
   Morro Bay/Cayucos Wastewater Treatment Plant replacement

3. Development's location (street address, assessor's parcel number, cross streets, etc.):
   160 Atascadero Road
   Morro Bay, CA

4. Description of decision being appealed (check one):
   ☑ Approval; no special conditions
   ☐ Approval with special conditions:
   ☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MRB-11-001
DATE FILED: January 31, 2011
DISTRICT: Central Coast

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 25 of 88
5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator
☐ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision: 1-11-11

7. Local government's file number (if any): CPO-339

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

City of Morro Bay, Public Services Department
955 Shasta Avenue
Morro Bay, CA 93442

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Jack McCurdy
P.O. Box 526
Morro Bay, CA 93443

(2) Betty Wohlets
405 Acacia
Morro Bay, CA 93442

(3)

(4)
SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.

- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The lack of necessary information includes an evaluation of the potential for water reclamation and utilisation to fully address the project's hazard issues, including shoreline erosion and sea level rise impacts on water quality, biological, and archaeological resources, public viewshed, recreation and visitor serving access via an evaluation of alternate sites and technologies. Proposed studies of inundation damage are deferred to a future date.

The City has misapplied LCP Policy 5.03 (protection of the facility) as "securing the WWTP's right" to continue at its current location as "coastal dependent" development. By erroneously maintaining that the proposed construction of a new WWTP is merely an upgrade of the existing plant and does not constitute new development, the permit appears to be inconsistent with LCP Policy 5.03 (transient threat) and 9.07 (coastal development in the flood plain), maintains an industrial site in an area water-ward or visitor-serving recreation, lacks sufficient discussion of the viability of the plant from public access points and potential mitigation of such visual pollution impacts, and provides no details of the proposed landscaping plan. By providing no plans for water reclamation infrastructure, the project does not conform with LCP Policy 5.06(3) on the priority of reclaimed water and the County's Lateral Area Plan (Caymans), and thereby also fails to evaluate the benefits of potential elimination of the ocean outfall and project alternatives that would increase water reclamation opportunities.

Having failed to heed the identification of these issues in the DEIR, when pointed out by Coastal staff and the recommendation that the DEIR be revised and resubmitted in order to provide the necessary information on potential impacts and mitigation measures, the City has failed to provide the information needed to evaluate consistency with the LCP and the Coastal Act. For these reasons, the Coastal Commission should assume jurisdiction and deny the CDP.
SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: 1/21/11

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize __________________________

to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: __________________________
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Alex Beatte
Mailing Address: 564 Acacia St.
City: Morro Bay, CA
Zip Code: 93442
Phone: (805) 772-5694

SECTION II. Decision Being Appealed

1. Name of local/port government:
   CITY OF MORRO BAY/CAYUCOS SANITARY DIST.

2. Brief description of development being appealed:
   NEW 1.5 MGD WASTE WATER TREATMENT PLANT
   CPD # 339
   LPO # 307

3. Development's location (street address, assessor's parcel no., cross street, etc.):
   160 Atascadero Dr.
   Morro Bay, CA

4. Description of decision being appealed (check one.):
   ✓ Approval; no special conditions
   □ Approval with special conditions:
   □ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MRB-11-001
DATE FILED: January 31, 2011
DISTRCT: Central Coast

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 29 of 88
5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator
☐ City Council/Board of Supervisors
☐ Planning Commission
☐ Other JRA

6. Date of local government’s decision: __________________________

7. Local government’s file number (if any): __________________________

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
   CITY OF MORRO BAY
   595 HARBOR ST.
   MORRO BAY, CA 93442

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Bob Beal
    564 Acacia St
    Morro Bay, CA 93442

(2) Bill Weatherford
    799 Lusita
    Morro Bay, CA

(3) Nelis Mongin
    221 Polky St.
    Morro Bay, CA

(4) Bob Mellon
    480 Acacia St
    Morro Bay, CA
A. Consideration of Alternatives

Final EIR does not consider a broad range of alternative sites—only one. Building all new facilities presents a unique opportunity to consider other sites. This opportunity may not come along for another 50 years. The city’s and the County’s LCP places a high priority on reclamation. The only alternative site was not evaluated on a comparative basis.

The scoping meetings did not include the fact that all new facilities would be built and hence led to poor citizen response and a very limited scope.

B. Analysis and Location of Plant

1. FEIR did not consider building a proposed plant will not accommodate the same 50% of dwellings that are second homes. If existing homes are occupied at a rate existing homes, if existing homes are occupied at a rate existing homes, then dry weather flow will probably exceed 24 MGD.

2. Plant site on prime vis to serving/recreational land. LCP section 3 gives priority to the use. No study of economic impact of freeing existing site for commercial uses.

3. Hazards due to tectonics issues not level ignored.

4. Located on Indian Noural ground-LCP says avoid.

C. Visual Impacts

No visuals presented. Site is near downtown & major beach area. Visuals of proposed site should have been shown. Adjacent projects 30' above surroundings.

D. Increased heavy truck traffic in front of school.
SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

________________________
Signature of Appellant(s) or Authorized Agent

Date: 1/19/2011

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize ________________________________ to act as my/our representative and to bind me/us in all matters concerning this appeal.

________________________
Signature of Appellant(s)

Date: ________________________________
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Barry and Yvian Brain
Mailing Address: P.O. Box 540
City: Morro Bay
Zip Code: 93442
Phone: 805.771.9310

SECTION II. Decision Being Appealed

1. Name of local/port government:
City of Morro Bay City Council

2. Brief description of development being appealed:
Environmental Impact Report for the construction of a new Waste Water Treatment Plant.

3. Development’s location (street address, assessor’s parcel no., cross street, etc.):
160 Atascadero Road, Morro Bay, CA 93442

4. Description of decision being appealed (check one):
☐ Approval; no special conditions
☐ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MRB-11-001
DATE FILED: January 31, 2011
DISTRICT: Central Coast
5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator
☒ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government’s decision: January 11, 2011

7. Local government’s file number (if any): sCH #2008101138

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Rob Livick, Public Works Director
City of Morro Bay
955 Shasta Street
Morro Bay, CA 93442

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1)

(2)

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See attached 12 page addendum.
SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

[Signature]

Signature of Appellant(s) or Authorized Agent

Date: January 24, 2011

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize

to act as my/our representative and to bind me/us in all matters concerning this appeal.

[Signature]

Signature of Appellant(s)

Date: 

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 36 of 88
California Coastal Commission  
Central Coast District Office  
715 Front Street, Suite 300  
Santa Cruz, CA 95060

January 24, 2011

Subject: Morro Bay-Cayucos Waste Water Treatment Plant Environmental Impact Report Certification by the MB City Council

Dear Mr. Peter Douglas and Staff,

This is the attachment to my Appeal from Coastal Permit Decision of Local Government.

The primary purpose of my comments are to highlight that the DEIR did not adequately apply the California Environmental Quality Act (CEQA) "rule of reason" by providing an analysis of feasible project alternatives at any stand-alone location(s) when considering the impacts of constructing a new Waste Water Treatment Plant (WWTP).

The DEIR sets to accomplish four primary project objectives, which are 1) Comply with secondary treatment standards, 2) Phase out the need for a 301(h) discharge permit, 3) Minimize the flooding impacts at the WWTP and surrounding properties and 4) Accommodate future installations for water reclamation at the Title 22 level.

Simultaneously, the DEIR must comply with section 15126.6(f) of the CEQA Guidelines, which requires a range of feasible alternatives that attain these four project objectives be reviewed in the environmental impact report.

The body of evidence outlined in this letter supports the assertion that a stand-alone site location for the new WWTP is not only feasible, but a stand-alone site location can meet or exceed all four project objectives. A new location can comply with secondary treatment standards. A new location can assist in phasing out the need for a 301(h) discharge permit and can expedite the end of the ocean outfall line. A new location will not only minimize, it will eliminate the flooding impacts at the proposed new WWTP and surrounding area because it will be located elsewhere. A new location site near agriculture will accommodate future water reclamation sooner and more economically than the proposed project.

A stand-alone WWTP can also avoid or substantially lessen many of the significant environmental impacts of the proposed project outlined in the DEIR. In failing to review such a reasonable and feasible alternative, the DEIR is in conflict with section 15126.6(f) of the CEQA Guidelines.

In summary I believe that the EIR for this project fails to accomplish the following:

1. Insufficient Alternatives Analysis  
2. Impacts to Visitor-Serving Resources  
3. Conflicts with Coastal Act Policies  
4. Project is not a Coastal-Dependent Use  
5. Project does not meet the Estero Area Plan  
6. Project has Zoning issues  
7. Visual Impacts & Scenic Corridors  
8. Tsunamis not analyzed
9. Sea Water rise not analyzed
10. Water Reclamation not analyzed
11. Elimination of Composting
12. Odor
13. Cultural Resources
14. Drainage and Flooding
15. Inconsistencies with General Plan

The details of each of these points follow. Please reject this EIR and return it to the applicant requesting one that will properly analyze this very important infrastructure project.

Sincerely,

[Signature]
Barry F. Brazen

Insufficient Alternatives Analysis (Chapter 6)

Quoting the executive summary of the DEIR, "an EIR must describe a range of reasonable alternatives to the proposed project or alternative project locations that could feasibly attain most of the basic project objectives and would avoid or substantially lessen any of the significant environmental impacts to the proposed project" (emphasis added).

The DEIR clearly falls short in analyzing alternative project locations. In fact, no stand-alone project location was analyzed. (Proposed Alternative 3 requires two plant locations and is still dependent on the existing WWTP). The DEIR provides no citations to any recent reports that reviewed project locations east of Highway One, in the community of Cayucos, between Cayucos and Morro Bay, non-City owned properties or properties in the Highway 41 corridor (Morro Valley).

For example, a reasonable and feasible alternative project location would be the Chevron Facility at Toro Creek. This site, conveniently located between the two communities sharing the WWTP, would meet or exceed all four of the primary project objectives, especially the flooding impacts at the current WWTP location. Likewise, sites along Highway 41 in the Morro Valley were analyzed, which again, is a reasonable and feasible location for a WWTP. A WWTP sited in this region could have fewer impacts than the proposed site and would also meet or exceed all four of the primary project objectives.

Proposed Alternative 3 falls short in this analysis since it would require the city to construct "additional wastewater facilities" (pg 6-7) and not a new, stand alone facility. Therefore the impacts at the new location would be additive to impacts at the proposed location. Additionally, diversion would only be 49 to 92 percent of wastewater flows, so all existing impacts at the existing site would remain. It is reasonable to assume a new plant could be constructed at a new project location and be completely independent of the existing WWTP (although the ocean outfall infrastructure may still be utilized) and end all existing impacts at the existing location. Until an analysis of reasonable and feasible alternative project locations is conducted and included in the DEIR, the DEIR should be considered incomplete and unacceptable for finalization.
Impacts to Visitor-Serving Resources

Chapter IV, Section F (2) of the Local Coastal Plan (LCP) discusses resources by planning area and offers ways to improve visitor-serving resources in these specific areas. For the area of the proposed new WWTP, Section F (2) offers the following:

"The intersection west of State Highway One and State Highway 41 also offers the potential for increased visitor-serving uses. This area contains vacant acreage which could be developed into visitor services, particularly motels. When Embarcadero Road is extended to State Highway 41 this will become a secondary entrance to the City. Visitor services currently exist in this area" (emphasis added).

Clearly the LCP envisioned visitor-serving enhancements to this area, and understood that when Embarcadero Road is extended to Highway 41, this will become a very important planning area for the community. Siting a new WWTP in the secondary entrance to the City is poor planning and every effort should be made to avoid this irreversible mistake.

The proposed siting of the new WWTP is also in conflict with LCP Policy 2.01. Policy 2.01 provides that lower-cost housing and recreational facilities for persons or families of low or moderate income shall be protected, encouraged and where feasible, provided. The siting of a new WWTP closer to the Morro Dunes RV Park, which serves as a lower-cost visitor and recreational facility, does not serve to protect this resource because increased visual and odor impacts will have a significant impact on the long term viability and success of this coastal business. The president of the Morro Dunes RV Park submitted letters of concern on both the Notice of Preparation and Revised Notice of Preparation regarding impacts caused by odors and monetary losses incurred by their coastal business.

It is reasonable to assume that siting a new stand-alone plant at a new location would avoid these impacts to visitor-serving enterprises and not be in conflict with LCP Policy 2.01 or Chapter IV Section F (2).

Conflicts with Coastal Act Policies

Section 30221: Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

The proposed project site is suitable for recreational use and these uses are not adequately provided for in the area. Relocating the new facilities to a new stand-alone location and demolishing the existing facilities would provide for enhanced recreational uses in Morro Bay, especially at a prime and scarce oceanfront parcel.

Section 30250 (b): Where feasible, new hazardous industrial development shall be located away from existing developed areas.

The DEIR does not analyze a site located away from existing developed areas, therefore a feasibility determination cannot be made.

Section 30251: The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to
and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Constructing a new WWTP in an area of scenic and visual importance is in conflict with protecting the area as a resource of public importance. A two-story WWTP facility with an altered elevation above the floodplain will not protect views along the ocean and/or scenic coastal areas. Additionally, as outlined in the DEIR, the proposed project significantly alters natural landforms.

Section 30253 (b): Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geological instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

By constructing a new WWTP in a known floodplain, the proposed project simultaneously creates and contributes significantly to erosion and requires construction of protective devices that substantially alters natural landforms.

Section 30266: 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.

The DEIR fails to address if alternative locations are infeasible or more environmentally damaging, fails to justify that an alternative location would adversely affect the public welfare, and fails to demonstrate that adverse environmental effects are mitigated to the maximum extent feasible.

It is reasonable to assume that a stand-alone WWTP site could be constructed and not be in conflict with any of these Coastal Act policies. Until an alternative site analysis is conducted, the proposed project does not comply with these Coastal Act Policies.

Coastal-Dependent Use (Chapter 3.8)

The DEIR asserts that "the General Plan Program LIJ-39.3 and Coastal Land Use Plan Policy 5.03 protects the wastewater facilities at the present location stating that "the Morro Bay Wastewater Treatment facilities shall be protected in their present location since an important operational element, the outfall line, is coastal-dependent" (emphasis added)."

It is clear this provision, by expressly stating "protected in their present location" protects existing facilities in their existing location. The City of Morro Bay is proposing new facilities, in a new location, which means the string of new facilities are not protected as ocean-dependent facilities because they will no longer be in their present location. In fact, the proposed projects call for the demolition of all facilities currently in their existing, present location.
The DEIR enjoys the benefit of coningling the treatment facilities and ocean outfall line while not acknowledging that there is a clear delineation between treatment facilities and an ocean outfall line. The ocean outfall line can be considered protected under the LCP; especially since it is not proposed for demolition. However, the new treatment facilities proposed at the new location are not protected under the LCP. Inaccurately interpreting this land-use provision as a means to avoid alternative project location analysis falls short of CEQA guidelines.

Furthermore, the definition of "Coastal Dependent Development or Use" as found in the City of Morro Bay's zoning ordinance section 17.12.175 is "any development or use which, requires a site on, or adjacent to, the sea to be able to function at all" (emphasis added). Clearly wastewater treatment plants are not ocean dependent. If this were the case, wastewater treatment plants in non-coastal areas would not be able to function at all. However, we know wastewater treatment plants function perfectly fine in all fifty states, most of which do not have an ocean outfall.

Additionally, the coastal community of Los Osos, a few miles to the south and located adjacent to the Morro Bay estuary, received a Coastal Development Permit from the California Coastal Commission in 2010 for the construction of a new wastewater treatment facility that did not require ocean outfall or any other ocean dependent facilities. Additionally, communities such as Scott's Valley in Santa Cruz County, operate wastewater treatment facilities while utilizing an ocean outfall line over six miles away from the treatment plant site. The example of Scott's Valley demonstrates that a wastewater treatment plant with an ocean outfall line is a use which does not require a site on, or adjacent to, the sea to be able to function at all.

The DEIR declares throughout the document that the existing facilities are protected in their present location and it is implied that additional site analysis is not necessary because of this provision. However, as outlined above, a site adjacent to the coast is not required in order to have functioning new WWTP facilities. Additionally, locating away from the coast and closer to beneficial reuse options would expedite the implementation of water reclamation and ultimately the end of the ocean outfall infrastructure.

Estero Area Plan

The County of San Luis Obispo's Estero Area Plan, revised in 2009, discusses the implementation of programs related to the WWTP facilities. None of the following programs are being considered with the development of a new WWTP, even though implementation date for all programs is targeted for 2010 (Table 3-11).

Chapter III, Section B (1) states:

Wastewater Recycling, Sewage disposal agencies should work with the County Public Works and Health Departments and the Regional Water Quality Control Board to develop a program to find alternative uses for treated wastewater, such as irrigation (e.g. on agricultural lands and the Morro Bay Golf Course), groundwater recharge, and environmental enhancement.

Chapter III, Section A (9) states:

Agricultural Water Supplies. Maintain the quantity and quality of ground water resources currently consumed by production agriculture. Where sources of adequate wastewater quality are available, develop a program with appropriate agencies to use treated wastewater for irrigation.
Chapter III, Section A (10) states:

Water Management – Chorro & Morro Basins: The county and city of Morro Bay should jointly develop a groundwater management program that results in cooperative planning among affected agencies. The program should encourage better recharge through use of percolation basins and consider drifting of new wells and changing the frequency of well pumping.

Since Cayucos is an unincorporated community within the County of San Luis Obispo, the standard of review for this project includes the Estero Area Plan. The implementation of these programs must be considered in this DEIR.

Cumulatively, these programs clearly suggest the intent of developing wastewater reuse facilities in 2010. The development of a new WWTP presents the most convenient opportunity ever to implement these programs. The city of Morro Bay and Cayucos have provided no discussion in the DEIR on how this project accomplishes these programs. Additionally the city of Morro Bay and Cayucos have provided no discussion on determining if the proposed project is the most practical project to implement these programs.

Alternatively, the siting of the new WWTP facilities, in or adjacent to agricultural production, and outside of the city limits of Morro Bay, but within the unincorporated area of the County of San Luis Obispo, is a feasible alternative and will accomplish all three Estero Area Plan programs in a timelier, more efficient, and more economical manner. However, since the DEIR does not consider the programs and policies within the framework of the Estero Area Plan, including a sufficient alternatives analysis of sites within the Estero Area, the DEIR is incomplete and cannot be certified.

Zoning Issues (Chapter 3.8)

The proposed location for the new WWTP is zoned Light Industrial (M-1), with Planned Development (PD) and interim use (I) overlaid. Section 17.24.140 and Table 17.24.140 of the City’s zoning ordinance describe allowable uses in the M-1 district. The M-1 district provides that “manufacturing and other industries can locate and operate, while maintaining an environment minimizing offensive or objectionable noise, dust, odor or other nuisances, all well designed and properly landscaped.” Since odor is clearly not minimized at a WWTP, and Table 17.24.140 of the zoning ordinance does not list a WWTP as an allowable use, I fail to understand how the City of Morro Bay believes a WWTP can be sited in the M-1 district.

However, section 17.24.150 of the City’s zoning ordinance defines the M-2 district as Coastal-Dependent Industrial. Table 17.24.150 provides that wastewater treatment facilities are an allowable use in this district. I am unclear as to how the City of Morro Bay can both claim this is a coastal-dependent use, yet propose to site the facility in a non-coastal dependent zoning district. If the City adamantly maintains that these facilities are coastal dependent, then the City is required to analyze and provide CEQA review of a site located in an M-2 zoning district.

Additionally, the County of San Luis Obispo’s Estero Area Plan allows for the siting of new WWTP facilities on agricultural land. This would allow the siting of the new WWTP facilities on agricultural land in the Morre Valley or at the Chevron site, which will convert to agricultural land once the in-progress site remediation is completed.
Visual Impacts & Scenic Corridors (Chapter 3.1)

Policy 12.01 - This policy states that scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted developed shall be sited and designed to protect views to and along the ocean and scenic coastal areas and minimize the alteration of natural land forms.

The proposed project, which sites new WWTP facilities in a coastal area, does not protect the scenic or visual qualities of this coastal area. Siting new WWTP facilities in this coastal area, which requires major alteration of the existing natural land forms, is in clear conflict with this policy.

Policy 12.11 - This policy states that industrial development shall be sited and designed in areas specifically designated in the Land Use Plan to protect views to and along the ocean and scenic coastal areas and to minimize land alterations. Due to the floodplain issues at the project location, the project will require significant land alterations. Additionally, since the new proposed WWTP facilities are not protected (only the existing facilities are), the project cannot be sited along the ocean in a scenic coastal area because it does not protect views.

Policy VR-1 of the Visual Resources and Scenic Highway Element states that the city will establish a system of scenic roadways and a set of mechanisms to protect their scenic views. The objective of this policy is to enhance, protect and preserve the existing visual resources of Morro Bay.

The siting of new WWTP facilities along a designated street that provides a view (Figure VR-1) does not serve to enhance the visual resources of Morro Bay. Figure VR-2 reveals that the proposed WWTP facilities are near two designated "excellent views" and one "good view". These views are impacted by the existing WWTP facilities and would be enhanced and protected if the new WWTP facilities were located elsewhere.

Tsunamis (Chapter 3.7)

The DEIR fails to discuss impacts that may arise from tsunamis, and with the proposed project located within the county’s tsunami inundation area, further analysis is needed to either discuss the impacts of locating a new WWTP within a tsunami inundation area or to explore WWTP locations outside of this area. It is reasonable to assume a WWTP location east of Highway One could be outside of the tsunami inundation area or additionally protected by the physical barrier of Highway One. Until this analysis is conducted, the siting of a new WWTP in the current proposed location is in conflict with Local Coastal Plan Section X C. 2 (c) 2 "Hazard Issues – Tsunami". The project is inconsistent with policies of this section, most noticeably the need to comply with the City’s Seismic, Safety & Safety Elements. The proposed project fails to address policies 2 and 3, which are:

2.0 Ensure that new development within the City's jurisdiction is designed to withstand natural and man-made hazards to acceptable levels of risk.

3.0 Regulate land use in areas of significant potential hazards.

Additionally, the DEIR incorrectly represents the nature of the work. In Chapter 3.7-20, the DEIR states "the proposed project is an upgrade to the existing wastewater treatment plant that already is at risk of inundation by tsunami. The proposed project would not affect or change this existing condition". However, the project is described in the Executive Summary (ES-4) to "replace the
existing WWTP with new upgraded facilities and would demolish existing facilities" (emphasis added).

In fact, as shown in Figure 2.2 of the DEIR, the site layout of the proposed treatment works is located to the south of the existing treatment works. Figure 2.2 clearly shows that the proposed project is not "an upgrade to the existing wastewater treatment plant", since the new facilities are being located south of the existing facilities and the existing facilities are being demolished. The City acknowledges it is not simply upgraded existing facilities throughout the DEIR by consistently referring to the project as "new treatment facilities" and not "upgraded treatment facilities". The project is the construction of a new WWTP and the demolition of an existing treatment plant. Once we understand the true scope of the proposed project, and combined with the misinterpretation of General Plan Program LU-39.3 and Coastal Land Use Plan Policy 5.03, which do not protect the new treatment works, it is obvious the DEIR should have analyzed a stand-alone new WWTP in a new location.

Sea Water Rise (Not Analyzed)

The DEIR does not address impacts associated from seawater rise. This is extremely problematic since the proposed site is located approximately 800 feet from the ocean and at an elevation of roughly 20 feet. Seawater rise is an unfortunate global phenomenon that is being addressed by communities throughout the world. It is appropriate to understand the impacts of seawater rise and how they would impact the siting of the proposed new WWTP facilities. This analysis needs to be evaluated in the DEIR.

It is also important to note that a recent and similar wastewater project developed near the proposed project, which is the Los Osos Wastewater Project, sited their wastewater treatment plant a significant distance from the coast and at a higher elevation. Additionally, collection system pipes near the shore of Morro Bay were conditioned to be sealed as to prevent seawater from infiltrating the system that may result from seawater rise.

It is reasonable to assume a new plant, located at either a higher elevation, east of the Highway One physical barrier, or further from the coast would not be as impacted by seawater rise. However, this analysis was never conducted.

Water Reclamation (Not Analyzed)

In their Notice of Preparation letter, dated December 8, 2008, the California Coastal Commission requested that the DEIR should "identify a suite of potential beneficial uses for this treated water along with any additional infrastructure and processes that would be needed to reclaim this potential source of water relative to various alternative beneficial uses".

However, the DEIR falls short in providing this analysis. It is unfortunate the DEIR ignores the request of the Coastal Commission, because the Coastal Commission recently set a new standard for coastal wastewater treatment facilities when it unanimously approved the Coastal Development Permit for the Los Osos Wastewater Project (LOWWP). The LOWWP provides Title 22 tertiary water, 100% beneficial reuse and no ocean outfall. The protection and enhancement of coastal water resources is an important issue, and the proposed project falls short of addressing these issues.
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The DEIR does not address impacts associated from seawater rise. This is extremely problematic since the proposed site is located approximately 800 feet from the ocean and at an elevation of roughly 20 feet. Seawater rise is an unfortunate global phenomenon that is being addressed by communities throughout the world. It is appropriate to understand the impacts of seawater rise and how they would impact the siting of the proposed new WWTP facilities. This analysis needs to be evaluated in the DEIR.

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It is reasonable to assume a new plant, located at either a higher elevation, east of the Highway One physical barrier, or further from the coast would not be as impacted by seawater rise. However, this analysis was never conducted.

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However, the DEIR falls short in providing this analysis. It is unfortunate the DEIR ignores the request of the Coastal Commission, because the Coastal Commission recently set a new standard for coastal wastewater treatment facilities when it unanimously approved the Coastal Development Permit for the Los Osos Wastewater Project (LOWWP). The LOWWP provides Title 22 tertiary water, 100% beneficial reuse and no ocean outfall. The protection and enhancement of coastal water resources is an important issue, and the proposed project falls short of addressing these issues.
The City’s Water Management Plan, adopted and made part of the Local Coastal Plan, states the following regarding reclaimed water:

- Even with the delivery of State Water, use of reclaimed water is the City’s second highest priority and remains a productive source of potential conservation for both large and small scale projects
- Required as part of a wastewater plant upgrade or permit condition or when it is shown as cost-effective for City use (Chapter V page 92)

It is extremely problematic that the DEIR does not address these requirements of the LCP. First, the LCP has determined that reclaimed water is the City’s second highest priority. However, with this proposed project, the opportunity arises to develop potential beneficial reuse infrastructure and processes. Unfortunately, they are not considered in the DEIR. Additionally, it is reasonable to assume that a new stand-alone facility sited closer to beneficial reuse opportunities in and around Cayucos and Morro Bay would facilitate development of water reclamation infrastructure and opportunities. Such opportunities include, but are not limited to agricultural reuse, urban irrigation, residential re-use (purple pipes), constructed wetlands, disinfected leach fields and spray fields within the water basin (especially the Highway 41 corridor).

Secondly, and more importantly, the LCP is clear that reclaimed water will be required as part of a permit condition of a plant upgrade. The DEIR does not incorporate this into the project, so therefore the proposed project is deficient and cannot be permitted.

A 1999 study by Carollo Engineers, entitled Cayucos/Morro Bay Comprehensive Recycled Water Study. (Study) states that “In conclusion, the viable reuse projects developed in this report are implementable and do not have any identifiable fatal flaws.” (page 9-4) It is important to note that the Study determined, and put the city on notice, that beneficial reuse could have been implemented since 1999. However the DEIR does not consider implementation of these viable reuse options. The City has known since 1999 that viable reuse projects exist, yet appear to be developing a project in conflict with these findings and in conflict with Chapter Five of the City’s Local Coastal Plan.

It is also important to note that the Study did not consider agricultural users in the Morro Valley. The Study, which is 11 years old, only considered reuse around the existing WWTP facilities. With the proposed project demolishing the existing WWTP facilities reviewed in the Study, the reader of the DEIR cannot conclude if new facilities, built at a new location closer to the agricultural users, would provide additional reuse opportunities.

The DEIR cannot be certified until the 1999 Recycled Water Study is updated and analyses the potential benefits of siting a WWTP facility in a new location which would enhance beneficial reuse more than the proposed WWTP site.

Composting (Chapters 3.10 & 3.11)

The existing composting facilities are not proposed as part of the new WWTP. This is mainly due to size constraints of the new WWTP location, which cannot accommodate the facilities. Under the new proposal, 100% of the biosolids will be hauled to Kern County.

Chapter 3.10 states that the loss of in-site composting will result in an increase from approximately 165 – 226 dry metric tons of biosolids to approximately 2,800 – 3,500 wet tons of unclassified...
judge. This is over a 1,000% increase in sludge production that will now be hauled to landfills. The DEIR incorrectly states that this is a less than significant impact. The DEIR does not discuss how these new biosolids will be stored, what safeguards will be in place to prevent spills or what impacts they may have to the existing area, especially the school and visitor-serving uses. It is reasonable to assume an alternative stand-alone site without the limited site restrictions of the proposed location, could allow for the continued use of on-site composting and not impact landfills as much as the proposed project.

Chapter 3.11 reveals that the loss of on-site composting will result in up to 18 truck trips per week in order to provide for offsite disposal. No baseline for current truck trips is provided to determine what level of impact this presents. No greenhouse gas analysis is provided to determine what level of impact this presents.

The DEIR states that the new facility will be a significant impact if the project "substantially increases hazards due to a design feature or incompatible uses". The DEIR concludes that the new, proposed WWTP site is impacted by size other restrictions. Thus this flaw in size has resulted in a design feature that has caused composting to be eliminated. The significant impacts associated with this change need to be fully evaluated in the DEIR.

Odor (Section 3.2)

The existing location of the WWTP has a long history of odor impacts at and around the surrounding plant location. The existing location is surrounded by commercial/visitor-serving land use zones and school land use zones. The odor arising from the existing WWTP has had significant impacts to the Morro Bay High School (see letter in Appendix A-1 from San Luis Coastal Unified School District), to the Morro Dunes RV Park (see letter in Appendix A-1 from Morro Dunes), and at Lila Keiser Sports Park which is the official field for Morro Bay Little League, Estero Bay Youth Soccer, Girls’ Softball and organized recreational softball. These are the only baseball/softball facilities in Morro Bay and they are highly utilized.

Even though the new WWTP facilities are being proposed closer to Lila Keiser Park and Morro Dunes RV Park, the DEIR concludes that the odor impact (Impact 3.2-4) will be mitigated to less than significant by revising the Odor Impact Minimization Plan (OIMP). The DEIR does not indicate what revisions to the OIMP will assist in making the new WWTP odors less offensive, and leaves the reader wondering if said revisions will be successful.

The only known mitigation measure for odors is to site the new WWTP away from existing development, especially schools and commercial/visitor-serving. However, the DEIR does not analyze this alternative even though it is reasonable to assume such a location would have less impacts than the proposed site.

Cultural Resources (Chapter 3.4)

Policy 4.0 of the LCP states that "where necessary significant archeological and historic resources shall be preserved to the greatest extent possible both on public and privately held lands". The DEIR reveals that nine prehistoric archeological sites have been recorded within 0.5 miles of the project area. Numerous sites contained human remains and one is believed to be "an extensive village site along Morro Creek" (pg. 3.4-15).
It is clear the area located at, and around, the proposed project site contain significant archeological resources. The LCP requires that these resources shall be preserved to the greatest extent possible, which ideally is to not disturb the resources at all. The only way to not disturb these resources would be to construct the new WWTP facilities at a location that did not contain significant archeological resources. However, the DEIR did not analyze such a site. In order to be in compliance with this LCP policy, the DEIR needs to provide this level of review.

Drainage and Flooding (Chapter 3.7)

By not evaluating a stand-alone WWTP, the proposed project is inconsistent with numerous LCP policies relating to drainage and flooding.

Policy 9.02 - This policy requires that new development shall ensure structural stability while not creating or contributing to erosion or geologic instability or destruction to the surrounding area. Impact 3.7.3 acknowledges that the proposed project will alter the drainage pattern of the project site and floodplain. The mitigation measures do not address impacts to the surrounding area and what adaptive monitoring measures will be in place to adequately mitigate this impact. It is reasonable to assume a new stand-alone treatment plant location would not be inconsistent with Policy 9.02 or even have floodplain issues at all.

Policy 9.03 - This policy prohibits development within the 100-year floodplain unless off-setting improvements in accordance with the HUB regulations are implemented. Additionally, development shall include finished floor elevations two feet above the 100 year flood elevation. Mitigation measure 3.7-4 is inconsistent with Policy 9.03 because it proposes to build structures at least one foot above the base flood elevation. The Policy requires the elevations to be two feet above. This elevation requirement needs to be analyzed in the DEIR to ensure the new WWTP facility can be built without impacting visual resources.

Policy 9.05 - This policy states “Plans for development shall minimize cut and fill operations. Plans showing excessive cutting and filling shall be modified or denied if it is determined that the development could be carried out with less alteration of the natural terrain.” Section 2.5.3 of the DEIR discusses the significant amount of excavation and fill required at the proposed site in order to construct new WWTP facilities. Policy 9.05 demands that projects shall be modified or denied if the development could be implemented elsewhere with less impacts. Without the benefits of a stand-alone WWTP location being analyzed, especially a site with less or no floodplain issues, the DEIR does not provide adequate review in order to determine if the proposed project is consistent with Policy 9.05.

Policy 9.06 - Requires that “all development shall be designed to fit the site...so that grading and other site preparation is kept to an absolute minimum”. Due to the known issues at the proposed site, excessive grading and site elevation is required. It is reasonable to assume that a stand-alone WWTP could keep grading and other site preparation at an absolute minimum, however the DEIR never conducts this analysis.

Policy 9.06 also states that “areas of the site which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall remain in project open space”. The entire project site is not suited for development because of known hazards to soil, geologic, flood, erosion and other hazards (tsunamis and sea water rise), yet the City insists on siting the new WWTP facilities at this location. It is reasonable to assume a stand-alone WWTP could be constructed which is consistent with policy 9.06.
Inconsistencies with General Plan

The City of Morro Bay's General Plan lists potential development for Planning Area 5, the proposed site of the new WWTP. The potential development includes increased commercial fishing, increased energy development-related uses, increased commercial fishing, and some potential for increase in commercial visitor-serving. Extension of the State Highway 41 and Embarcadero Road is possible, and would be enhanced with the implementation of the Waterfront Master Plan, adopted in 1994, which envisioned a redevelopment of this area with an extension of Embarcadero Road and bridge over Morro Creek. This bridge and road extension would enhance the recreational and commercial visitor-serving uses of this area. Siting of a new WWTP is not listed as a desired potential development use in the General Plan.

Conclusion

Individually, the inconsistencies, omissions and misinterpretations of the various planning documents warrant further analysis and review. However, when taken cumulatively, these inconsistencies, omissions and misinterpretations are extremely alarming. It is clear the project scope changed when the project morphed from an upgrade to construction of new WWTP facilities. However, the standard of review by the city of Morro Bay and Cayucos did not.

When constructing new WWTP facilities, the city of Morro Bay and Cayucos cannot pick and choose the policies they wish to abide by. The city of Morro Bay and Cayucos must take into account all relevant policies, many of which were omitted from the BEIR. When considered cumulatively, as outlined in this letter, it is clear the policies in existence are guiding the city of Morro Bay and Cayucos to construct a new WWTP away from the coast and appropriately sized near beneficial reuse of which should be implemented upon project initiation.
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Lee U. Johnson
Mailing Address: 117 Missodo Street
City: Morro Bay
Zip Code: 93442
Phone: 805-305-3492

SECTION II. Decision Being Appealed

1. Name of local/port government:
   City of Morro Bay City Council

2. Brief description of development being appealed:
   Coastal Development Permit No. CPO-339 issued by the City of Morro Bay for the construction of a new Wastewater Treatment Plant.

3. Development's location (street address, assessor's parcel no., cross street, etc.):
   160 Atascadero Road, Morro Bay, CA 93442
   Cross Street: Embacadero

4. Description of decision being appealed (check one):
   ☒ Approval; no special conditions
   □ Approval with special conditions:
   □ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MRB-11-001
DATE FILED: January 31, 2011
DISTRICT: Central Coast

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 50 of 88
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):
   ☒ City Council/Board of Supervisors
   ☐ Planning Director/Zoning Administrator
   ☐ Planning Commission
   ☐ Other

6. Date of local government’s decision: January 11, 2011

7. Local government’s file number (if any): SCH #2008101138

SECTION III. Identification of Other Interested Parties

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

   Rob Livick, Public Works Director
   City of Morro Bay
   955 Shasta Street
   Morro Bay, CA 93442

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

   (1)

   (2)

   (3)

   (4)
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See Attachment A.
Section V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Signature of Appellant(s) or Authorized Agent

Date: January 26, 2011

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize ____________________________________________

to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: ______________________________
Attachment A

This attachment provides the basis for my appeal of Coastal Development Permit No. CDP-339. The City of Morro Bay's approval of CDP-339 is in conflict with numerous Coastal Act and Local Coastal Programs (LCP), as outlined below.

I have requested at multiple public meetings before the Planning Commission and City Council that an alternative site study be conducted to determine if the proposed site is the most environmentally superior site to construct a new wastewater treatment plant (WWTP). I do not believe the siting of a new WWTP at this oceanfront location is the best use of the City's economic, environmental or coastal resources. The LCP provides significant protection of the City's coastal resources, and when the new WWTP is held to these guidelines, it is clear the City of Morro Bay has failed to evaluate alternative site locations which may have less environmental impacts than the proposed site.

I urge the Coastal Commission to find substantial issue with the proposed project and require the City of Morro Bay conduct an alternatives analysis to determine if a more feasible site exists either within city limits or the unincorporated area around the community of Cayucos.

Conflicts with Morro Bay LCP

LCP Policy 2.01 - Provides that lower-cost visitor and recreational facilities for persons or families of low or moderate income shall be protected, encouraged and where feasible, provided. The siting of a new WWTP closer to a highly utilized RV Park, which is a lower-cost visitor and recreational facility, does not serve to protect this resource. Enjoyment of the beach is free, and the siting of a new plant along the oceanfront also impacts these visitors and recreational users.

LCP Policy 4.01 - States "where necessary significant archeological and historic resources shall be preserved to the greatest extent possible both on public and privately held lands". It has been confirmed that nine prehistoric archeological sites are within 0.5 miles of the proposed project. The City has not met the expectation of this policy because they have not evaluated alternative sites which may allow for the City to avoid impacts to cultural resources.

Chapter IV, Section F (2) - States "the intersection west of State Highway One and State Highway 41 also offers the potential for increased visitor-serving uses. This area contains vacant acreage which could be developed into visitor services, particularly motels. When Embarcadero Road is connected to State Highway 41 this will become a secondary entrance to the City. Visitor services currently exist in this area." The LCP anticipated visitor-serving enhancements to the area of the proposed WWTP, and provided guidance for when Embarcadero Road is extended to Highway 41. This area remains an important planning area for the community which is in transition. The siting of a new WWTP is in conflict with the goal of this section which is to improve and increase visitor-serving uses.

LCP Policy 5.03 - States "the Morro Bay Wastewater Treatment facilities shall be protected in their present location since an important operational element, the outfall line, is coastal-dependent". Had the City simply been proposing an upgrade to existing facilities in their present location, this Policy may have been applicable. However, the City is proposing new WWTP facilities in a new location with complete demolition of the existing facilities in their present location, therefore making the existing facilities in their present location no longer subject to this policy. The City has not proposed to move their outfall line, and in fact, the outfall line can remain operational even if the WWTP facilities are located at another location.

LCP Chapter V, Page 92 - The LCP incorporated the City's Water Management Plan with the following guidance for reclaimed water:

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Attachment A

- Even with the delivery of State Water, use of reclaimed water is the City's second highest priority and remains a productive source of potential conservation for both large and small scale projects
- Required as part of a wastewater plant upgrade or permit condition or when it is shown as cost effective for City use

The City's proposed project is in conflict with the LCP because the project has not made reclaimed water a requirement of the project. The proposed project does provide limited reuse on-site, but the expectation of the LCP is that reclaimed water will become the second priority of the City. Clearly the proposed project does not meet the expectations outlined in the LCP. Additionally, during City Council and Planning Commission deliberations, it was apparent that the proposed site may not be able to accommodate reclamation facilities. The City should be required to demonstrate how the proposed site can meet the expectations of the LCP without further impacted coastal resources. A larger site, closer to reclamation end-users located in Cayucos and Morro Bay, may help meet these expectations in a more efficient, environmentally friendly and economical manner.

LCP Policy 9.05 - States "plans for development shall minimize cut and fill operations. Plans showing excessive cutting and filling shall be modified or denied if it is determined that the development could be carried out with less alteration of the natural terrain. " The City has not adequately reviewed alternative sites and determined if the proposed development could be carried out at an alternative site with less alteration of the natural terrain. Due to the significant site constraints of the proposed project, an alternative site may meet the expectations of this policy in a more efficient, environmentally friendly and economical manner.

Policy VR-1 [Visual Resources and Scenic Highway Element] - Requires the City to establish a system of scenic roadways and a set of mechanisms to protect their scenic views. This policy helps enhance, protect and preserve the existing visual resources of Morro Bay. The proposed WWTP facilities are located next to two designated "excellent views" and one "good view" roadways. The siting of a new WWTP at this location does not preserve or enhance the existing visual resources of Morro Bay. This section of coastline is in transition (see Chapter IV, Section F (2)) and the enhancement of this area by relocating the proposed treatment plant is consistent with LCP policies.

LCP Section X C. 2 (c) 2 Hazard Issues Tsunamis - The City's proposed project does not meet Policy 2.0 and 3.0.

2.0 Ensure that new development within the City’s jurisdiction is designed to withstand natural and man-made hazards to acceptable levels of risk.

3.0 Regulate land use in areas of significant potential hazards.

Policy 12.01 - Requires scenic and visual qualities of coastal areas be considered and protected as a resource of public importance. Permitted developed shall be sited and designed to protect views to and along the ocean and scenic coastal areas and minimize the alteration of natural land forms. The proposed project, specifically the two-story cinder block operational building and large cement oxidation ditches on raised foundations, present impacts to scenic and visual resources within the area and are in conflict with this Policy. These impacts could be avoided at an alternative location.

Conflicts with Coastal Act Policies

Section 30250 (b): Where feasible, new hazardous industrial development shall be located away from existing developed areas. The City did not analyze any sites located away from existing developed areas, therefore a feasibility determination cannot be made.

- 2 -
Section 30251: The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be situated and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting. The proposed project requires a two-story WWTP facility on an elevated footprint above the floodplain. The existing WWTP facility is one-story. A two-story WWTP facility is unnecessary from an operational standpoint, and is only being proposed due to extreme site restrictions, which will impair views to and along the ocean and scenic coastal areas.

Section 30253 (b): Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geological instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The proposed WWTP is located in a floodplain and the required elevated pads to remove the facilities from the floodplain create and contribute significantly to erosion and requires construction of protective devices that substantially alter natural landforms. It was never determined if a superior site exists that would not require such severe site re-engineering.

Insufficient Standard of Review - Estero Area Plan

The unincorporated community of Cayucos is serviced by the proposed WWTP. Cayucos is under the jurisdiction of San Luis Obispo County’s Estero Area Plan (EAP). The following programs are highlighted in the EAP and relevant to the proposed WWTP. The implementation of these programs should be a component of the proposed WWTP.

Chapter III, Section B (1) Wastewater Recycling. Sewage disposal agencies should work with the County Public Works and Health Departments and the Regional Water Quality Control Board to develop a program to find alternative uses for treated wastewater, such as irrigation (e.g., on agricultural lands and the Morro Bay Golf Course), groundwater recharge, and environmental enhancement.

Chapter III, Section A (9) Agricultural Water Supplies. Maintain the quantity and quality of ground water resources currently consumed by production agriculture. Where sources of adequate wastewater quality are available, develop a program with appropriate agencies to use treated wastewater for irrigation.

Chapter III, Section A (10) Water Management - Chorro & Morro Basins. The county and city of Morro Bay should jointly develop a groundwater management program that results in cooperative planning among affected agencies. The program should encourage better recharge through use of percolation basins and consider drilling of new wells and changing the frequency of well pumping.
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Surfrider Foundation San Luis Obispo Chapter (Jeff Piemani, Chair)
Mailing Address: P.O. Box 13222 San Luis Obispo, CA 93405
City: San Luis Obispo, CA
Zip Code: 93406
Phone: 805-709-1905

SECTION II. Decision Being Appealed

1. Name of local/port government:
   City of Morro Bay

2. Brief description of development being appealed:
   Morro Bay - Cayucos Wastewater Treatment Plant Upgrade, SCH No. 2008101138
   The proposed project would provide full secondary treatment for all effluent discharged through its ocean outfall
   and provide tertiary filtration capacity. The WWTP is located in the coastal zone and is adjacent to Morro Dunes
   R.V. Park and Trailer Storage, Morro Bay High School, Morro Creek, the City of Morro Bay Corporation Yard,
   and Hanson Heidelberg Cement Group (cement plant).
   Development's location (street address, assessor's parcel no., cross street, etc.): The proposed project would
   be located at 160 Atascadero Road in the City of Morro Bay in San Luis Obispo County.

4. Description of decision being appealed (check one;):
   □ Approval; no special conditions
   ☒ Approval with special conditions:
   □ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be
appealed unless the development is a major energy or public works project. Denial
decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MRB-11-001
DATE FILED: January 11, 2011
DISTRICT: central Coast

Exhibit C
A-3-MRB-11-001 (MRB WWTP) Page 57 of 88
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator
☑ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government’s decision: January 11, 2011

7. Local government’s file number (if any): Coastal Development Permit CP0-339

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
   [Address information]

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Sierra Club Santa Lucia Chapter (attn: Andrew Christie) P.O. Box 15755 San Luis Obispo, CA 93406

(2) Barry Brust P.O. Box 540 Morro Bay, CA 93442

(3) Linde Owen 1935 10th St B Los Osos, CA 93402

(4) Barry Winholz 405 Acacia St Morro Bay, CA 93442
(5) Jack McCurdy 989 Balboa St. Morro Bay, CA 93442
(6) Steve Henning 136 Ocean Front Ave. Cayucos, CA 93430
(7) Richard Sadowski 490 Java St. Morro Bay, CA 93442
(8) Dana Putnam P.O. Box 181 Morro Bay, CA 93442
(9) Julie Tucker 1251 6th St. Los Osos, CA 93402

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 58 of 88
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons for appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The project as proposed does not comply with the City of Morro Bay's certified LCP or relevant Coastal Act Policies. Of particular concern are the inconsistencies with the California Coastal Act and City of Morro Bay Local Coastal Plan policies pertaining to siting of development in the coastal zone. These laws and policies address steps necessary to avoid hazards such as tsunamis, wave runup and coastal erosion (i.e. LCP Policies 9.01, 9.02, 9.03, and 9.06; Coastal Act § 30253(1), (2), and (5)).

Arguably, because of failure to comply with the aforementioned policies, the project is also inconsistent with Coastal Act § 30250, 30231 and 30240(b), which protect marine resources, water quality, and recreational land uses. These coastal resources would be jeopardized if the wastewater treatment plant were to experience failure/polls due to exposure to coastal hazards and improper plant siting.

The LCP and Coastal Act also require that development in the coastal zone prioritize coastal dependent uses (Coastal Act § 30255 and LCP Policy 0.1 which adopts Coastal Act § 30255 as guiding policy). Although the ocean outfall could be considered coastal dependent (however, with maximization of wastewater reuse it is arguable whether the ocean outfall is even needed), the treatment facilities are not. The outfall pipe could be routed to connect with a wastewater treatment plant located inland.
SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

[Signature]

Signature of Appellant(s) or Authorized Agent

Date: 1/29/2011

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize

to act as my/our representative and to bind me/us in all matters concerning this appeal.

[Signature]

Signature of Appellant(s)

Date:

Exhibit C
A-3-MRB-11-001 (MRB WWTP) Page 60 of 88
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Betty Whellette, Anne Reeves, Roger Ewing
Mailing Address: 405 Aquila
City: Morro Bay
Zip Code: 93442
Phone: 805-772-5912

SECTION II. Decision Being Appealed

1. Name of local/port government:
City of Morro Bay

2. Brief description of development being appealed:
Conditional Use Permit and Coastal Development Permit for the Morro Bay-Central Coast wastewater treatment plan.

3. Development's location (street address, assessor's parcel no., cross street, etc.):
Atmospheric Road, western side.

4. Description of decision being appealed (check one):
□ Approval; no special conditions
□ Approval with special conditions:
□ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MRB-11-001
DATE FILED: January 31, 2011
DISTRICT: Central Coast

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 61 of 88
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):
   ☐ Planning Director/Zoning Administrator
   ☐ City Council/Board of Supervisors
   ☐ Planning Commission
   ☐ Other

6. Date of local government's decision: January 11, 2013

7. Local government’s file number (if any): CFO-339 and UFO-307

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

   City of Morro Bay, 391 Harbor Street, Morro Bay, CA 93443

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

   (1) Dana Putnam
       2752 Emerit Circle
       Morro Bay, CA 93442

   (2) Joey Racano
       Las Osos, CA 93402

   (3) Robert Stallard

   (4) Robert Doerr
       340 Armanda
       Morro Bay, CA 93442

(continued)
b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

5. Alex Beattie, 564 Acacia, Morro Bay, CA 93442
6. Barry Brannin, Morro Bay, CA 93442
7. Andrew Christie, 1710 Stuart, Cambria, CA
8. Piper Reilly, Los Osos, CA 93402
9. Dorothy Cutter, 290 Cypress, Morro Bay, CA 93442
10. Barbara Doerr, 340 Arcadia, Morro Bay, CA 93442
11. Linde Owen, Los Osos, CA 93402
12. Jack McCurdy, 901 Morro Bay Blvd, Morro Bay, CA 93442
13. Julie Tucker, Los Osos, CA 93402
14. Steve Hennigh, 137 N. Ocean Ave., Cayucos, CA
15. Bill Weatherford, 799 Luisita, Morro Bay, CA 93442
16. Jat Romanazzi, Cayucos, CA 93430
17. Lee Johnson,
18. Richard Margetson, Cayucos, CA 93430
19. Richard Sadzowski, 490 Java, Morro Bay, CA 93442
20. Barbara Jo Osborne, 336 Main, Morro Bay, CA 93442
21. Nancy Best, 450 Fairview, Morro Bay, CA 93442
22. John Barta, 1240 Scott, Morro Bay, CA 93442
23. James Hayes, City of Morro Bay, 595 Harbor Ave, Morro Bay, CA 93443
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Pun Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

1. HAZARDS. In LCP chapter X, Figure 22 (100 Year Floodplain Map), Figure 23 (Ground Shaking Map), and Figure 24 (Liquefaction Potential Map) identify the site of the proposed project located in three hazard areas. There are no maps for tsunami or sea level rise. The project as proposed is to bring in fill for a 5-acre, sew from the ground-up, wastewater treatment plant to raise the natural grade to address the flood plate issue raised by FEMA. This may address flooding, but not the other 4 natural hazards. It has not yet been revealed to the public whether FEMA accepts the fill proposal. The project as proposed does not mitigate the other natural hazards nor offers serious evaluations of other sites without these constraints. Therefore, the project as proposed is inconsistent with the following LCP policies:

Policy 9.01. All new development located within areas subject to natural hazards from geologic, flood and fire conditions, shall be located so as to minimize risks to life and property.

Policy 9.02. All new development shall ensure structural stability while not creating nor contributing to erosion or geological instability or destruction of the site or surrounding area.

Policy 9.03. All development, including construction, excavation and grading, except for flood control projects and agricultural uses shall be prohibited in the 100-year floodplain areas unless off-setting improvements in accordance with the HUD regulations are required. Development within the floodplain shall not cause further stream channelization, alignment modifications or loss of riparian habitat value consistent with Section 30236 of the Coastal Act...The heights of permitted development shall be compatible with the character of the surrounding area and not conflict with scenic and visual qualities.

Policy 9.05. Plans for development shall minimize cut and fill operations. Plans showing excess cutting and filling shall be modified or denied if it is determined that the development could be carried out with less alteration of the natural terrain.

Policy 9.06. All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. To accomplish this, structures shall be built to existing natural grade whenever possible.

Policy 9.18. Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing developments. (2)
(3) development where the primary function is the improvement of fish and wildlife habitat.

I agree with the City's planning commission that this project is new development. The submitted proposal says it is not. Whichever way the CCC decides on this issue, the policies identified above address both kinds of development, making the project inconsistent with the LCP.

2. COASTAL-DEPENDENT? The second critical question that must be decided by the CCC is whether this project is coastal dependent or not. I agree with numerous Public Comments that offer ample information regarding state-of-the-art technologies (i.e., undergrounding) and alternative locations (i.e., power plant, Little Morro Creek). However, analysis of alternative technology and alternative siting is deficient, so it is inconclusive whether the WWTP can be coastal-independent. If it can be, then the following policies no longer apply:

LCP VII, Policy 5.03. The Morro Bay Wastewater Treatment facilities shall be protected in their present location since an important operational element, the outfall line, is coastal-dependent.

LCP XI, Policy 10.09. Construction of shoreline structures that would substantially alter existing landforms is limited to projects necessary for: (C) other coastal-dependent uses.

There is an ESH across the street, visitor serving RV parks adjacent and across the street, and a significant archeological resource in close proximity. If the proposed project moved or used other technologies, impacts to these resources could require less or no mitigation of the following policies:

LCP VI, Policy 4.01. Where necessary significant archeological and historic resources shall be preserved to the greatest extent possible on both public and privately held lands.

LCP XII, Policy 11.05. Prior to issuance of a coastal development permit... or projects on parcels within 250 feet of all designated areas (except wetlands where projects on parcels within 1000 feet is the criterion), or projects having the potential to affect an environmentally sensitive habitat area must be found to be in conformity with the applicable habitat protection policies of the LCP....

Policy 11.19. ...New development adjacent to wetlands shall not result in adverse impacts due to addition sediment, runoff, noise, and other disturbances.

Figure 9 (Recreational Activity Inventory) Designated pleasure walking and jogging across the street from the proposed site would be enhanced.

LCP III, Policy 1.92. No unrelated development shall be permitted in public-owned recreational areas except energy conduits and pipelines and other necessary ancillary equipment and related fixtures to serve coastal dependent industrial uses when no alternative route or location is feasible.

LCP IV, Policy 2.01. Lower-cost visitor and recreation facilities for persons and families of low or moderate income shall be protected, encouraged, and where feasible, provided. Developments providing public recreational opportunities are preferred.

3. VISUAL RESOURCES. LCP Chapter XIII Figure 30 (Scenic Views) marks the street in front of the proposed site as a street providing views, and pages 200-207 list the criteria for assessing natural and urban views. Due to the proposed location (on the beach) and proposed maximum height (30') of the
fill (S-7), the project as proposed will literally stick out as a sore thumb. There are no other structures over one-story within thousands of feet. Therefore, the project as proposed is inconsistent with the following LCP policies:

Policy 12.31. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic and coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of the surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated on Figure 31, shall be subordinate to the character of its setting.

Policy 12.11. Industrial development shall be sited and designed in areas specifically designated in the Land Use Plan to protect views to and along the ocean and scenic coastal areas, to minimize land alteration, to be visibly compatible with the character of the surrounding areas, and where feasible, shall include measures to restore and enhance visually degraded areas. In addition, industrial development shall be subordinate to the character of the setting.

4. THREE OTHER CONTROVERSIAL ISSUES.

(1) Whether the correct flow has been ascertained, LCP V, Policy 3.06 states: The City will continue a program of providing wastewater treatment facilities to accommodate the build-out population of 12,195, determined to be the build-out figure in Coastal Development Permit No. 406-01 which permitted further expansion of the wastewater treatment facilities to 2.4 mgd.

(2) Whether reclamation should be required, the following two policies show precedence: Policy 3.08: Should the City be relieved of its mandate to participate in State Water by a subsequent vote of the people, then the following programs would be pursued:
Upgrade a portion of the wastewater effluent (100-200 AF) to tertiary treatment and build pipelines to distribute to schools, parks, and for farms for irrigation. All available options should be investigated as possible sources for water reclamation.

Policy 6.06. The City shall participate in the efforts of the Coastal Conservancy or other public agencies to implement agricultural enhancement programs. These programs may include but are not limited to: (4) assistance programs (water subsidies, recycling methods, fencing and other buffers, and low-cost agricultural loans.)

(3) Whether this is the highest and best use of Public Trust Lands, LCP III, Figure 7, shows the proposed site is on Tidelands Grant Lands.
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/or knowledge.

Roger Levine  
ROGER LEVINE  
Jan. 28, 2011

Signature of Appellant(s) & Authorized Agent

Date: January 28, 2011

Note: If signed by agent, appellant(s) must also sign below.

Section 5j. Agent Authorization

Anne J. Reener  
198 Main St.  
Hermosa Beach, CA

I/We hereby authorize to act as my/or representative and to bind me/us in all matters concerning this appeal.

______________________________
Signature of Appellant(s)

Date: __________________________
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Michael Lemos
Mailing Address: 2537 Ken Avenue
City: Morro Bay
Zip Code: 93442
Phone: [805] 776-1790

SECTION II. Decision Being Appealed

1. Name of local/port government:
   City of Morro Bay

2. Brief description of development being appealed:
   Morro Bay- Cayucos Sanitary District Waste Water Treatment Plant Upgrade

3. Development's location (street address, assessor's parcel no., cross street, etc.):
   160 Atascadero Road, Morro Bay

4. Description of decision being appealed (check one.):
   ☒ Approval; no special conditions
   ☐ Approval with special conditions
   ☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MRB-11-001
DATE FILED: January 31, 2011
DISTRICT: Central Coast

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 68 of 88

RECEIVED
JAN 3 1 2011
CALIFORNIA COASTAL COMMISSION
CENTRAL COAST AREA
PEOPLE TO BE NOTICED
(1) Nancy Bost, 450 Fairview, Morro Bay, CA 93442

(2) Alex Beattie, 504 Arasie, Morro Bay, CA 93442

(3) Andrew Christia, 1710 Stuart, Cambria, CA

(4) Dorothy Cutter, 290 Cypress, Morro Bay, CA 93442

(5) Barbera and Rob Dorr, 340 Arcadia, Morro Bay, CA 93442

(6) Roger Swingle, P.O. Box 1323, Morro Bay, CA 93443
(7) Steve Hennigh, 137 N. Ocean Ave., Cayucos, CA 93430
(8) Gerald Lohr, 2335 Notmeg Avenue, Morro Bay, CA 93442
(9) Jack McCurdy, 901 Morro Bay Blvd. Morro Bay, CA 93442
(10) Barbara Jo Osborn, 336 Main, Morro Bay, CA 93442
(11) Dana Putnam, 2252 Emerald Circle, Morro Bay, CA 93442
(12) Anne Reeves, 198 Main, Morro Bay, CA 93442
(13) Richard Sadowski, 490 Java, Morro Bay, CA 93442
(14) Bill Weatherford, 799 Luisita, Morro Bay, CA 93442
(15) Betty Winbelsz, 405 Acacia, Morro Bay, CA 93442
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plans, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons for appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Please see attached six page letter dated January 30, 2011 with specific LCP and Coastal Act references.

As a summary I offer the following: the City Council action was based upon numerous instances where EIR information may be incorrect, in conflict with multiple LCP and Coastal Act provisions, and/or based on flawed arguments. In particular:

1. The requisite alternatives for an EIR never explore the conceptual ideas that an ocean outfall is unnecessary, that a stand alone technology on an alternative inland site differently and successfully mitigates flood, liquefaction, and tsunami hazards, and that an alternative site might free up the current beach block site for other uses that are City goals articulated in the LCP and Coastal Act: low cost and low impact visitor-serving accommodation, active or passive recreation or open space.

2. The project as approved does not successfully mitigate the potential hazards of flood and spills or back-up due to operational and access issues of the project being an island in a broader flood zone, impacting emergency access.

3. The project as approved does not adequately anticipate or document the visual impacts of the work on existing neighboring uses: a high school, several rv parks, the beach, or future access routes planned from the Escondido area for walkers and bikers. The EIR rationalizes unnecessary bulk and height via underlying industrial zoning vs visual impact on a highly visible beach bluff in proximity to several ESFA designations.

4. The project as approved may have serious flaws with capacity due to use of historic flow vs. issues of demographic change and current occupant capacity of existing housing stock.

5. The current plan does not articulate subsequent expansion, additional technologies for potential expansion of water reclamation, or adequately anticipate future use needs, all of which are exacerbated by the limited site size due to chosen method of flood plain mitigation.

6. The current plan does not address issues of degraded aquifers important to future City water needs and has no concurrent plan for tertiary treated water use.

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 71 of 88
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

[Signature]

Date: [Signature Date]

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize

to act as my/our representative and to bind me/us in all matters concerning this appeal.

[Signature of Appellant(s)]

Date: 

[Signature Date]
I am a resident of Monk's Bay since 2001, a registered architect in the state of Maryland since 1984, Professor of Architecture at California Polytechnic State University, San Luis Obispo, and former Monk’s Bay Planning Commissioner, 2007-2011. I was a member of the Monk’s Bay Planning Commission when the Draft Environmental Impact Report and Final Environmental Impact Report for the Monk’s Bay-Esopus WWTP were developed. I was part of the 4.0 unanimous Monk’s Bay Planning Commission vote recommending that the Monk’s Bay City Council approve the project as currently configured and refer without additional study. I am opposing the Monk’s Bay City Council decision to grant the coastal permit to you as a result of what I feel are flaws in the EIR and in the concept plan that are not in concert with our Local Coastal Plan, and California Coastal Act as outlined below.

I begin by saying my concerns for the consistent site and plant concept when the site was developed, after four years of engineered study, to be in the 1989-2003 period. I testified at that time in September, 2009 to the Monk’s Bay- Esopus Joint Sanitary Commission, along with over twenty other citizens, but the site was inappropriate due to two previous primary sewer breaches that formed a ellipse of the natural local exposure of the site. The first, in the 1970’s, was referred to me by a local historian whose family resided in the area, Roger Claxton, who is a site that redirected a storm from its terminus into a bayou at the north end of Monk’s Bay to be current ocean outfall, and further, past the down slope sand spit that separates Monk’s Bay from the ocean and the ocean became beached off to a storm in the 1984. The early breach is witnessed by the original condition of Monk’s Creek as noted in several topographic surveys from the late 1900s. The evidence of the second breach is in numerous photographs from that era. The EIR also documents other troubling flooding instances in the city history.

My subsequent comments and questions concerning the concept project described in the draft EIR are documented in the final EIR on eight pages of my letter to Mr. Rob Levine (February 9, 2012) and seventeen pages of responses (pages x-18 to x-35). I also note many of my concerns noted there below (page 7 of the subsequent Coastal Commission Staff letter in regard to major new infrastructure placed in jeopardy of natural disaster and other issues.

I look forward to your decision on whether these issues rise to level of being 'substantiated."

Respectfully,
Michael Lucas

Below are what in my opinion are variances from the inter and intent of our Local Coastal Plan in their order within the LCP document.

Chapter I, Introduction
Area Designation and Webster Rock [p. 14]
Wlater (Dredg) is noted as existing use; similar "Potential Development" is noted as increases... in recreational uses and some potential for increase in commercial visitor-serving uses, and "Major Coastal Issues" are among others, shoreline access.

Chapter III, Coastal Access
B.1.1.3. "...does not include (g) improvements to any structures which do not change the intensity of use, which do not increase the height, or bulk or the structure by more than 10%, which do not block access public access, and which are not result in a seaward encroachment by the structure.

Discussion: Clearly the proposed new construction is higher than existing, utilizes the full breadth of the site in it's connectional plans, expands and encroaches on current other use to the east, and in fact the proposed plan, moves the new above ground footprint and mass of treatment plant closer to the ocean. As noted except the incoming flow piping, and utility piping's remained, and the entire facility is new construction, it is 'new'.

Chapter III, B.1. reference to California Coastal Act Section 9013, also reference to Chapter IV, R1
Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Discussion: By designating an illegal infrastructure use to the site without due diligence on alternatives, the alternative uses for the site, their potential lower environmental impacts and benefits to the City are not weighed in the analysis. In this case, the adjacent use and several nearby uses are recreational vehicle parks, which offer expanded coastal and official access. Those suggest the viability of the site for such use, without unnecessarily invading wholesale destruction of structures, deep excavations disturbing cultural resources, and permanent hardening of structures that require mounds and fill altering the visual character of the area. In fact, such 'low intensity development could be seen as an enhancement, a visual character of the site.
Discussion: These cases clearly articulate the existing WWTP site is subject to all three major hazards under the seismic heading in the EIR. The mitigation implemented for ground shaking in the EIR is a structure and civil engineering in entirely codes. Virtually no alternative to structural and civil engineering mitigation for ground shaking may exist within the City's water or sewer areas. Geologic recent and Figure 24 shows a mitigation method, mitigation review, and civil engineering design. However, the alternative to engineered mitigation for liquefaction was explored or encountered, such an alternative site without geologic conditions as subject to liquefaction. No mitigation mitigation was deemed necessary in the EIR beyond references to the City's disaster response for a tsunami, noting that the selected new construction site was never tsunami-mitigated for tsunami at all protection for the plant itself. No alternative tsunami mitigation was explored or examined, including an alternative site without the tsunami hazard due to elevation or distance from shore.

Chapter XII, Environmentally Sensitive Habitat Areas

Chapter XII references California Coastal Act Section 30625. [also referenced in Chapter V, step 4]

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

Chapter XII references California Coastal Act Section 30625. [also referenced in Chapter V, step 4 and Chapter VIII 8.4.2]

(a) Finding that certain sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on these resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be slated and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuity of those habitat and recreation areas.

Figure 28 Environmentally Sensitive Habitat Areas

Policy 11.8.6. Development in areas adjacent to BSHAs and parks and recreation areas shall be slated and designed to prevent impacts that would significantly degrade such areas, and shall maintain the habitat functional capacity.

Policy 11.8.6.1. New development adjacent to wetlands shall not result in adverse impacts due to additional sediment, turbidity, noise, and other disturbances.

Discussion: The EIR extensively discusses the existing WWTP site and new construction elevated site as "suitable" due to zoning designation, but is significant to the Little Creek ESHA, one of the largest ESAs in the City. It is critical to not lapse into this form for this condition. The project concept and the EIR do not address the south boundary of the new construction and elevated portion, so it is not possible to attempt an understanding if the ESA's are adequately maintained, although the bids that themond state unaffiliated with the ESHA is a possibility. No attempt has been made in any document to provide unaffiliated or restore the ESHA or return any part of the area to prior conditions.

Chapter XII Visual Resources

Chapter XII references California Coastal Act Section 30625

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitting development shall be slated and designed to protect views to and about the oceans and coastal areas, to maintain the natural and scenic visual area, and, where feasible, to restore and enhance visual quality of visually degraded areas. New development in highly scenic areas such as those designated in the Coastal Community Preservation and Management Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of the area.

C. Assessment of Scenic Values, "...because man-made visual quality and natural visual quality are aesthetically pleasing and desirable in different ways, urban views are evaluated under different criteria than natural views. The criteria for assessing views of the urban environment includes such things as:

(a) the enhancement of the City's character through use of building materials and scale of the structure.

(b) the compatibility with surrounding structures.

(c) the compatibility with the natural features of the area.

(d) the preservation of public views.

(e) the enhancement and definition of the City's image.

(f) the unobstructed views of the City's image.

Figure 29 Scenic Views

The site is located in a physical setting with spectacular visual qualities. The visual resources serve as valuable assets to both City residents and visitors...

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(e) the enhancement and definition of the City's image.

(f) the unobstructed views of the City's image.

Figure 29 Scenic Views

The site is located in a physical setting with spectacular visual qualities. The visual resources serve as valuable assets to both City residents and visitors...
Policy 10.14. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be such as designed to project views to and along the ocean and scenic and coastal areas, to minimize the intrusion of natural land forms, to be visually compatible with the character of the surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in scenic areas such as those designated on Figure 31, shall be subordinate to the character of the setting.

Policy 10.15. Permitted development shall be set and designed to project views to and along the ocean and scenic coastal areas, to minimize land alteration, to be strictly compatible with the character of the surrounding areas, and where feasible, shall include measures to restore and enhance visual degraded areas. In addition, industrial development shall be subordinate to the character of the setting.

Discussion: The BPA consistently avoided seabirds and visual impacts only adjacent beach, visitor serving commercial RV parks, beach access public-sloops and high school among other necessary properties, due to the site being zoned as an industrial use. The location, while industrial, is feet from a city center public beach, adjacent to a protected creek ESHA, and is along Alviso-Mendell, the end of mercantile scenic Highway 45 where a crossing highway is a few hundred feet away. The WWTP is creating as neighbors two successors to cities, Miyata Bay High School (a school in a residential pop. area approximately 450 in a 43-acre accomplish area), a planned community currently under development, and both sides of Little Levee Park. The new two-story industrial construction, released on the new adjacent area for the west of ESHT, will be multiple miles of sawgrass, including adjacent roads, and the north extent of the Terramontie, that accesses another public beach parking area. The BPA visual analysis is highly visible, with more impacted views is the site located on the skyline. A line of two row structure is included, running east-west across the creek area site. Event heights are capped as still under review, as it is a concept plan, but it was very obvious in the BPA public discussion by Miyata Bay Planning Staff, Blended view could be seen in a height even taller than shown due to the industrial zone boundaries. While some of the new building heights are determined by equipment size or maintenance or service vehicles. The western part of the site, the administration building is approximately still a show, when compared to feasibility used throughout the BPA as comparative size (for example, the Irvine Beach WWTP). The staging engines also are not allowed or should be controlled or allowed to the increased visual impact. No lighting studies to date have been done to show the visual impact of service or security lighting at night or right.

Below are additional concerns relative to California Coastal Act sections that may be applicable, with emphasis provided by me:

1. Coastal-dependent industries shall be considered to locate or expand within a coastal area and shall be permitted reasonable long-term growth consistent with its division. However, where new or expanded coastal-dependent industries cannot reasonably be contemporaneous with other policies of this division, they may nonetheless be permitted in accordance with this section and Sections 30291 and 30292 if (1) alternative locations are affordable or more environmentally damaging; (2) to do otherwise would adversely affect the public welfare; and (3) adverse environmental effects are mitigated to the minimum extent feasible.

Discussion: At face value the proposed WWTP is new construction on a newly created site. At a minimum, the proposal is to expand a small facility and in essence of the existing plant, with insignificant components across the site area. One of the points raised by many of the WWTP Planning Commission hearings was a lack of a thorough analysis. The section requires alternative sites to be shown as affordable, and that existing sites be mitigated to a minimum extent allowable, not simply mitigated to less significant. Therefore the natural hazards are not fundamentally mitigated, but merely optimized as less ‘significant’, places significant infrastructure feasibility at risk, adversely affecting the public welfare. An alternative site-alternate site and plan that can mitigate floodwater potential mitigating impacts of color and visual impact from a beach block building, higher energy, truck traffic, and pollution, agency of high school to hazardous substances, and ocean architectural conflict.

2. Coastal-use permits, in whole or in part, within the coastal zone shall prepare a local coastal program for that portion of the coastal zone that will be impacted. However, any local government may request, in writing, the commission to prepare a local coastal program, or a portion thereof. For the local government, local coastal program prepared pursuant to this section shall contain a reasonable public access component to ensure that maximum public access to the coast and tidelands recreation area is provided.

Discussion: by a lack of study of alternative sites and non-coastal related technologies, the spirit of this section is violated relative to the benefit of the coastal site for different visitor serving as other recreational or coastal dependent uses.

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 78 of 88
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please review attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Steve Harrigh
Mailing Address: 136 Ocean Front
City: Cayucos, CA 93430
Zip Code: 93430
Phone: 831-427-9877

SECTION II. Decision Being Appealed

1. Name of local/port government:
Moro Bay City

2. Brief description of development being appealed:
Whale Miter Treatment Plant

3. Development's location (street address, assessor's parcel no., cross street, etc.):
160 Marine Drive

4. Description of decision being appealed (check one):
☐ Approval; no special conditions
☐ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-MRB-11-001
DATE FILED: January 31, 2011
DISTRICT: Central Coast

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 79 of 88
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):
   □ Planning Director/Zoning Administrator
   ✗ City Council/Board of Supervisors
   □ Planning Commission
   □ Other

6. Date of local government's decision: __1/19/11__

7. Local government's file number (if any):

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
   
   (Mona Bay City Hall
   595 Harbor
   Mona Bay, LA 93442

b. Names and mailing addresses of all other parties who testified (either verbally or in writing) at the city/county hearing(s). Include other parties which you know to be interested and who should receive notice of this appeal.

(1) 

N/A 

(2) 

(3) 

(4) 

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 80 of 88
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Arc. Please review the appeal information sheet for assistance in completing this section.
- State brief your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements to which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the Staff and/or Commission to support the appeal request.

See Attached written appeal.
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

[Signature]

Date: 1-31-11

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize ________________________________

to act as my/our representative and to bind me/us in all matters concerning this appeal.

______________________________
Signature of Appellant(s)

Date: ___________________________
To: California Coastal Commission

From: Steve Hennigh
Good Clean Fun Inc.
136 Ocean Front
Cayucos, California 93430
805 995 1993 ph.
805 995 1473 fax

Dear Commission,

This is a formal appeal to the commission to oppose the Morro Bay Waste Water Treatment Plant Environmental Impact Report and general plan to build this project in their proposed location. Not only has it been clearly stated this is a “new development” and not a rebuild of the existing plant. Therefor it “has to” be more clear and precise on “WHY” this is the best location for this Waste Water Treatment Plant to be built in this highly sensitive Beach location. But also the current board of directors has been negligent in it’s process and very incomplete in it’s findings. I have been attending publicly held meetings for the past several years and have asked many questions and stated many points of concern during public comment times. So, Steve Hennigh, should be on the records and completely within his rights to appeal this project.

A little about myself and why I got involved. I have owned and operated a water-sports / recreational business on the waterfront in Cayucos for 35 years. I am a docent to the Estero Bluffs. I operate eco kayak tours, lessons, and rentals. I also have built a large part of my business around Surfing, my life’s passion, and the Stand Up Paddle Boarding for all the years of my business. This has been a great privilege to be right on the water front all these years with minimal sewage spills. I also own the beach front commercial property right here ’n Cayucos were my business is located and operates. This location is less than 5 miles from this WWTP proposed site in Morro Bay. Myself and my family are active watermen and as you can see, we have a vested interest in the local environment. I would suffer great financial hardship if a spill or natural disaster took this plant out. You can only imagine the hardships of business when the beach is closed. This is why I am involved.

I was given the opportunity to ask in writing the concerns I have with the project and was told they would be addressed in the...
Environmental Impact Report. These were poorly covered in their EIR and should be addressed thoroughly by the Coastal Commission. It would be a tragedy to allow this project to go forward with the lack of information and proof this is the site to build on. This waterfront site has potential to be a Tsunami disaster beyond anyone's clear findings. It's location in a "flood plane" alone is of tremendous concern. The lack of acknowledgment for "valuable recreational use" is also of great legal liability. It reduces Public Access and Recreation in many ways both on land and in the water. A "spill" or Tsunami would be catastrophic. It's currently located in a "100" year flood plane, existing some 60 years with minimal spillage. A flood is inevitable in the next 30 to 40 years according to scientific study. This alone would cut off or eliminate public access when (not if) it happens. Section 30221 protects oceanfront land for recreational use. This site is not in accordance with this rule. Section 30223 reserves upland coastal areas for public recreational use and it's clear this is not being considered. Any disaster would cut off and impair public access.

Morro Bay Waste Water Treatment Plant is clearly not looking for alternative sites. Only "One" other site was considered and flooding and Tsunami's were not discussed in, it's consideration. Only high costs and financial reasons why not to build at Chorro Basin. The commission clearly stated to consider "alternative sites" plural or several. Not just one and barely talk about it. Morro Bay WWTP was asked to be more explanatory on their Tsunami evacuation plan by the public, the commission, and myself. This has never happened. Section 9.01 requires "New Development" to locate to minimize risk. Risk has not been clearly covered and this site should not be allowed to happen. Many alternative sites are there and have been suggested to the Board. The Morro Bay Planning commission hired has been ignored with their findings and were threatened to be fired with their results. The appeal process has started. Thank you very much for taking the time to listen and consider my appeal. I am not a politician or statesman that can write without fault. I am a concerned local businessman and tax payer who will be doing my part to pay for this new Waste Water Treatment Plant. Please consider my appeal.

Respectfully,

Steve Pennigh
Good Clean Fun Inc.
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I
Appellant(s)

Name: [Redacted]
Mailing Address: 1800 Atascadero Road
City: Horse Bay, CA
Zip Code: 93442
Phone: 805-792-1014 805-792-7919 805-215-3507

SECTION II
Decision Being Appealed

1. Name of local/port government:
   [Redacted]

2. Brief description of development being appealed:
   [Redacted]

3. Development’s location (street address, assessor’s parcel no., cross street, etc.):
   [Redacted]

4. Description of decision being appealed (check one):
   [Redacted]

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO.: A-3-MRB-11-001
DATE FILED: January 31, 2011
DISTRICT: Central Coast

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 85 of 88
5. Decision being appealed was made by (check one):

☐ Planning Director/Zoning Administrator
☐ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision: ☑ Tuesday, January 11, 2011

7. Local government's file number (if any): ☑ U/A

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

☑ Mr. & Mrs. Robert Staller
35430 San Antonio Road
Morro Bay, CA 93442

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/protest hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

1. Mr. & Mrs. Mike Armstrong

2. Mr. & Mrs. Jim Stanley

3. Mr. & Mrs. Lauri Hather

4. Mr. Tyson Davis  

5. Mr. Louise Goodman

6. Mr. & Mrs. Don Deming

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 86 of 88
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Part II)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for the appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reason the decision warrants a new hearing. (Use additional pages or reference.)
- This need not be a complete or exhaustive statement of your reasons for appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff advisory Commission to support the appeal request.

1. For all the objections set forth in the Coastal Commission Staff Report and EIR.
2. For all the objections set forth in the Hoovers Bay Planning Commission's submission to the Hoovers Bay City Council.
3. No provision for water reclamation for agriculture.
4. Finding by the City of New Orleans regarding their decision to summarily terminate their contracts with MWIT for civil and criminal crimes in connection with their contractual obligations re contract negotiation and recovery work taken on the Katrina disaster.
5. Pending suit by CAPS CORAL, FLORIDA vs. MWIT MARKS, INC. for breaching access to Record in order to complete an audit started in 2009; this in regards to a $1 billion water and sewer project.
6. Additional red flags for consideration:
   a) Unsuitable location vulnerable to tsunami, rising ocean levels below the 100 year floodplain.
   b) Site would require location on higher ground adjacent to the Dynergy Power Plant abandoned tract from slated for demolition need to the present project.
   c) Chico Creek, Tomo Creek, and/or upper Hercules Creek delta as alternative locations.
   d) California Coastal Commission must be made aware of the present flood and drainage obligations of the State Water Resources Control Board and/or County Sanitation District 19, Townsend, and Associates who were appointed as Local Municipal Management for the proposed upgrade water treatment by MWIT.
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

[Signature]

Signature of Appellant(s) or Authorized Agent

Date: 1/31/2011

Notes: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize

to act as my/our representative and to bind me/us in all matters concerning this appeal.

[Signature]

Signature of Appellant(s)

Date: 

Exhibit C
A-3-MRB-11-001 (MRB WWTP)
Page 88 of 88