

Staff Report 41

APPLICANT:

Pacific Gas and Electric Company

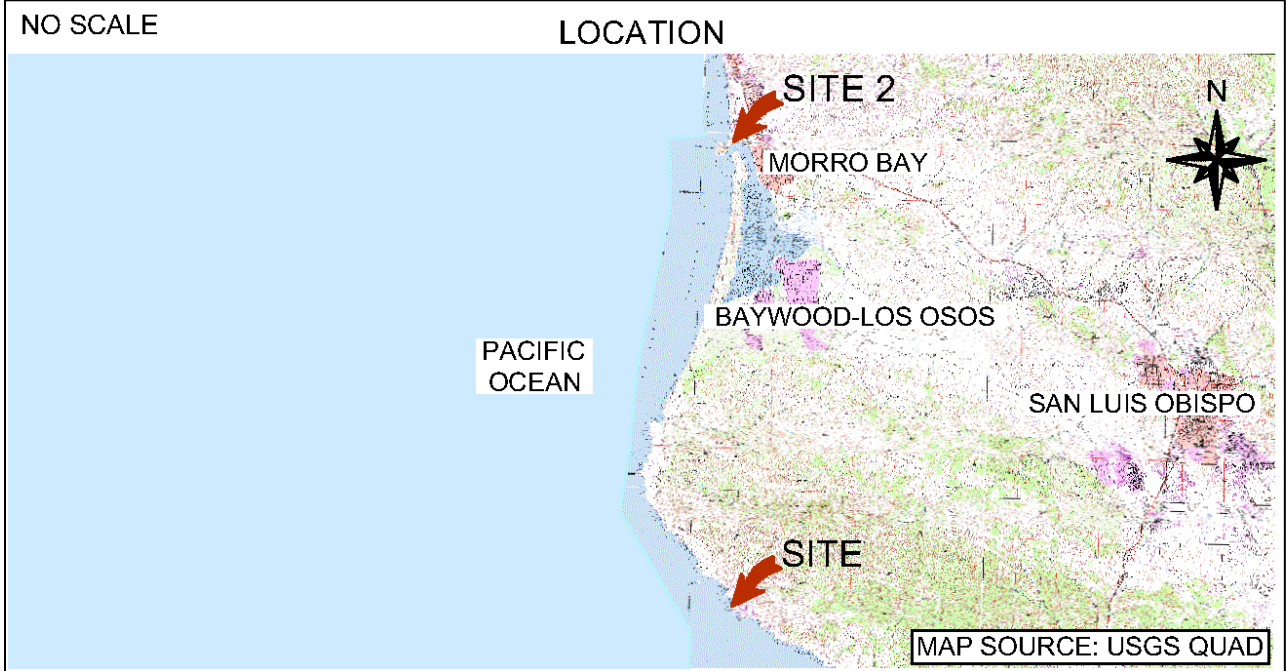
PROPOSED ACTION:

Amendment of Lease.

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in and adjacent to the Pacific Ocean, near Avila Beach and Morro Bay, San Luis Obispo County (as shown in Figure 1).

Figure 1. Location



AUTHORIZED USE:

Use of an existing cooling water discharge channel, water intake structure, breakwaters, boat dock, storage facility, office facilities, intake electrical room, intake maintenance shop, equipment storage pad, and spare tri-bar storage associated with the Diablo Canyon Power Plant (as shown in Figure 2).

Figure 2. Site Map

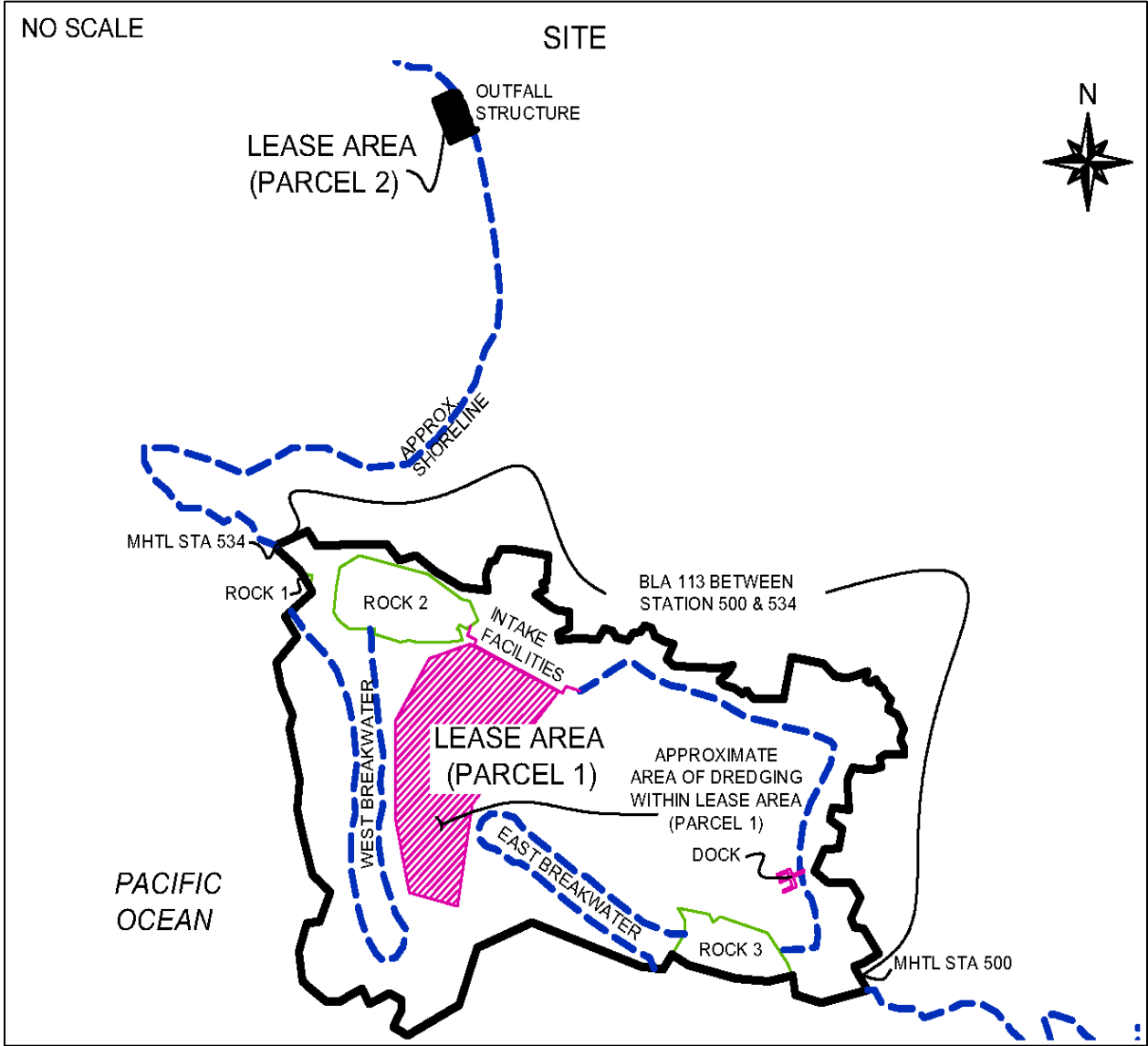
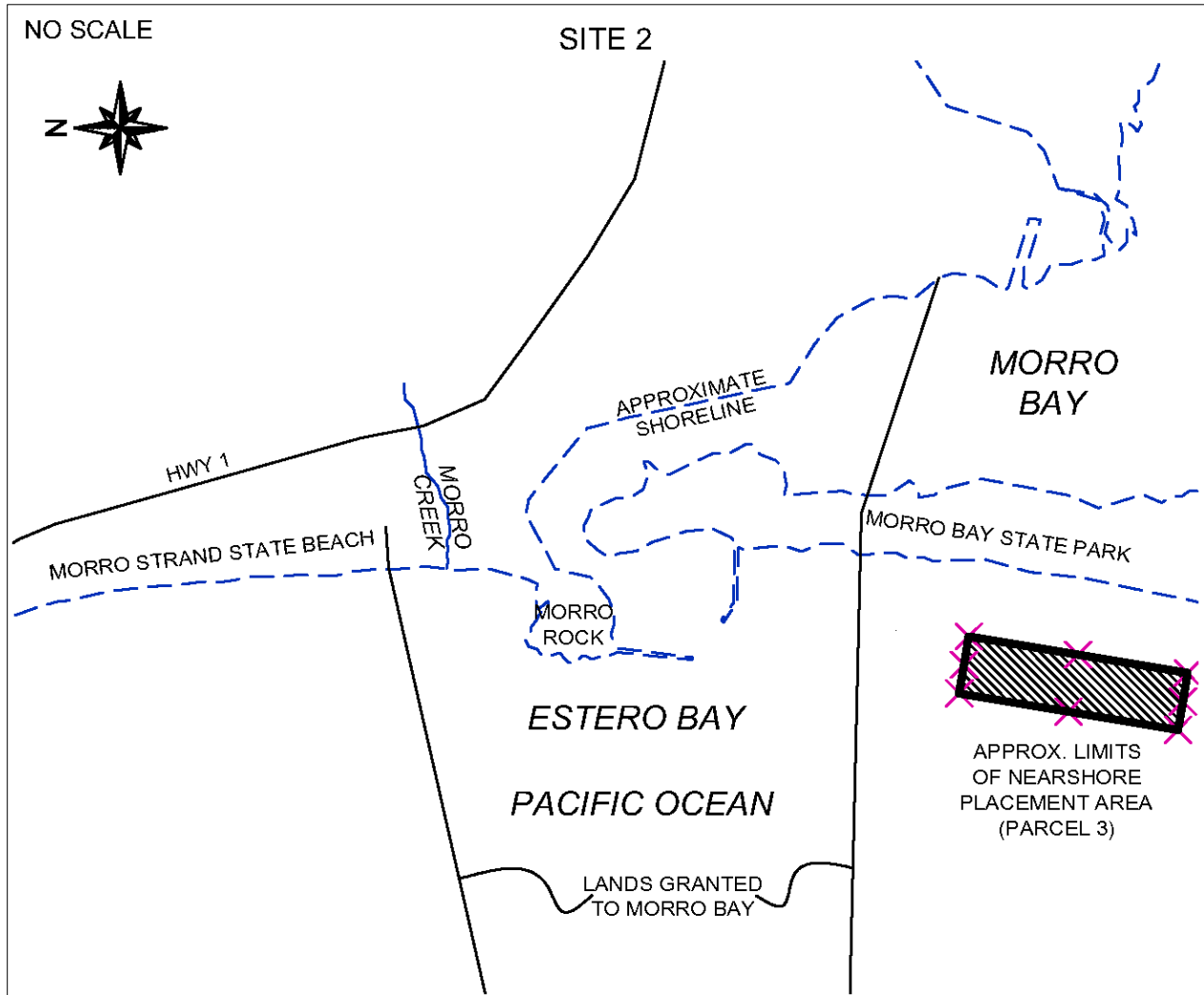


Figure 3. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

14 years, beginning June 28, 2016, and ending October 31, 2030.

CONSIDERATION:

\$279,450 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Section 1, Land Use or Purpose is amended to include one-time maintenance dredging of approximately 70,000 cubic yards within the Diablo Canyon intake cove and deposition of dredged material offshore of Morro Bay State Park.
- Add Exhibit A-1, Land Description to the lease. The existing Exhibit A, Land Description remains part of the lease without amendment.
- Add Exhibit B-1, Site and Location Map to the lease. The existing Exhibit B, Site and Location Map remains part of the lease without amendment.
- Amend Section 2, Special Provisions, to include the following additional provisions:
 - Lessee shall safely conduct all dredging and disposal operations in accordance with accepted dredging and disposal methods and practices then in effect and with due regard for the protection of life and property and preservation of the environment.
 - In performing the dredging, the Lessee will abide by contemporary Best Management Practices to control turbidity to protect marine resources and habitats from excessive siltation in the general vicinity of the project.
 - Lessee acknowledges that material dredged from the Lease Premises is the property of the State of California and may not be sold, and that Lessee is not authorized to dredge for purposes of commercial resale, environmental mitigation credits, or other private benefit without Lessor's prior written consent.
 - Lessee shall provide archaeological and Native American monitors during dredging, consistent with the monitoring measures and procedures described in the Cultural Resources Treatment and Monitoring Plan. Such plan will be reviewed in collaboration between Lessor's staff and California Coastal Commission staff.
 - Artifacts collected from the Lease Premises shall remain State property until further action by the Lessor's Executive Officer. All Native American artifacts must be treated and stored in a culturally sensitive manner. Lessee will provide Lessor with a list of all artifacts collected on the Lease Premises which have not already been transferred by Lessor. Such list will state whether each artifact was gathered from a site that was California Register of Historical Resources (CRHR) or National Register of Historic Places (NRHP) eligible or

whether it is considered a “unique archaeological resource”. For collected artifacts, Lessee will request permission from Lessor to transfer all artifacts collected to a culturally affiliated Tribe or Tribes. After receiving written permission from Lessor’s Executive Officer, such artifacts will be transferred within 45 days. Such artifacts shall be curated at no cost to the State.

- o If Special Condition 8(e) of Coastal Development Permit (CDP), Application No. 9-23-0599, concerning significant discoveries of cultural resources and their treatment methods, is triggered, Lessee shall coordinate with Lessor’s staff to address the unanticipated discovery of tribal cultural resources during dredging activities, including:
 - a. Resolving conflicts, if any, between a treatment method(s) preferred by the affected Native American tribe(s) and the CDP-required Cultural Resources Treatment and Monitoring Plan.
 - b. Resolving conflicts, if any, between the provisions of this lease and the CDP-required Cultural Resources Treatment and Monitoring Plan.

All other terms and conditions of the lease to remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6301, 6303, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On June 28, 2016, the Commission authorized termination of Lease Nos. PRC 4307.1 a General Lease – Right-of-Way Use, and PRC 4449.1, a General Lease – Industrial Use, and issuance of a General Lease – Industrial Use, Lease No. PRC 9347.1, to Pacific Gas and Electric Company (PG&E) for use of an existing cooling water discharge channel, water intake structure, breakwaters, and associated infrastructure at the Diablo Canyon Power Plant (DCPP) ([Item 96, June 28, 2016](#)).

Most recently, on June 5, 2023, the Commission authorized an amendment to the lease to extend the lease term to October 31, 2030 ([Item 90, June 5, 2023](#)). The lease will expire on October 31, 2030.

PG&E has submitted an application requesting an amendment to the lease to perform one-time maintenance dredging within the intake cove at DCPP. The

intake structure is a vital component of DCP. Seawater is drawn into the intake structure, where it passes through a series of bar racks, screens, and water tunnels, and then enters the DCP where it is used to absorb heat from the reactors and carry the heat to the steam generators. Over time, sand and other sediment have built up at the entrance of the intake structure, in front of the base of the structure's bar racks, which could inundate the intake structure and potentially pose a threat to the reliable and safe operation of DCP.

PG&E proposes a one-time dredging event within the intake cove. Approximately 70,000 cubic yards (CY) of material would be removed. Mobilization, dredging, and demobilization will take up to three months. A suction dredge barge will be staged within the intake cove and transport material via a floating dredge pipeline to scow barges and tugs located outside of the intake cove. Dredged material would then be transported to the offshore disposal site. Dredging activity will commence once all authorizations are obtained; and depending on weather, wave action, and equipment availability.

The use of an environmental clam shell dredge may also be utilized if the hydraulic suction dredge is not as effective as anticipated. The environmental clamshell bucket allows for a more controlled dredging operation than standard clam shell dredging and fully encloses material within the bucket to minimize turbidity. The environmental clam shell dredge would require a scow secured to the dredge barge in the intake cove where material would be placed into the scow until full, at which time it would be transported via tug to the disposal site.

The disposition or disposal of dredged material would occur at a United States Army Corps of Engineers Nearshore Placement Area location, south of the entrance to Morro Bay and offshore of Morro Bay State Park.

CLIMATE CHANGE:

Climate change impacts, including sea level rise, more frequent and intense storm events, and increased flooding and erosion, affect open coastal areas in California. The lease area is located in San Luis Obispo County, in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea level rise.

The California Ocean Protection Council updated the *State of California Sea-Level Rise Guidance* in 2018 to provide a synthesis of the best available science on sea level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on

both current emission trajectories and the lease location and structures. The Port San Luis tide gauge was used for the projected sea level rise scenario for the lease area as listed in Table 1.

Table 1. Projected Sea Level Rise for Port San Luis

Year	Projection (feet)
2030	0.7
2040	1.2
2050	1.8
2100	6.7

Source: [State of California Sea-Level Rise Guidance: 2018 Update](#)

Note: Projections are with respect to a 1991 to 2009 baseline.

As stated in [Safeguarding California Plan: 2018 Update](#) (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea level rise). The combination of these conditions will likely result in increased wave run up, storm surge, and flooding in coastal areas. Climate change and sea level rise will further influence coastal areas by changing erosion and sedimentation rates as beaches and coastal landscapes are exposed to increased wave force. Sediment accretion in the intake cove has increased in recent years, potentially because of severe winter storms and landslides on the Big Sur coast, north of DCP, that have increased the amount of sediment within the regional littoral system.

Although future sea level rise may result in increased wave action in the cove over time due to waves overtopping the surrounding Breakwaters, the proposed dredging would be conducted under current conditions and would not be affected by the conditions noted above.

Regular monitoring and maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to the effects of climate change, including sea level rise.

TRIBAL CONSULTATION

In keeping with the Commission’s Strategic Plan, Environmental Justice Policy, and Tribal Consultation policy which stress the importance of early, frequent, and meaningful engagement with tribal governments, Commission staff prepared a joint tribal consultation letter with the California Coastal Commission (CCC). The

consultation letters were sent to 11 individuals representing eight Tribes. The letters included information about the proposed dredging project and offered the opportunity for formal and informal consultation. Chair Mona Tucker from the yak tityu tityu yak tithin Northern Chumash Tribe responded to staff's letter with concerns about the dredge sand being placed onshore which could cause damage to the fragile and culturally intense Diablo Lands. Chair Tucker recommended taking the sediment to an underwater site, as long as it does not harm marine life or marine habitat. Chair Tucker also expressed disagreement with the following statement within PG&E's application materials, specifically the text in bold print "The Project is within the Rancho Cañada De Los Osos Y Pecho Y Islay Archaeological District, which is eligible to be listed on the National Register of Historic Places. The District contains 106 cultural resources, of which a single resource, CA-SLO-1163, has been recorded within the Intake Cove. It was first described as a 254-square-meter, short-term residence located on the northwest corner of the Intake Cove (Caruso et al. 1986). **The site is now considered to be destroyed**, possibly by the construction of the DCP or by cliff erosion (Enright 2023) ...". Chair Tucker stated that "Much may be destroyed but no one can say with 100% certainty that all is destroyed." Staff responded to Chair Tucker that her comments would be considered when reviewing future projects in the Diablo Canyon area. Additionally, staff responded that the dredged material would be placed in the ocean, roughly 2,000 feet offshore beyond the surf zone and that the material would not be placed on or near sensitive habitat.

In coordination with CCC staff Commission staff also consulted with the Santa Ynez Band of Chumash Indians (Santa Ynez Band) on the originally proposed project on September 28, 2023. The Santa Ynez Band voiced concerns about the potential for tribal cultural resources to have fallen into the cove and potentially be present in the area of dredging. The Santa Ynez Band requested more information on cultural resource monitoring during dredging. PG&E responded that dredging operations would be continually monitored and if previously unknown cultural resources are identified during dredging operations, all activity would cease in the area of the find and the find would be documented. PG&E stated that if dredging equipment clogged, any material removed would be inspected by monitors. Commission staff notified the Santa Ynez Band of the postponement and agreed to reengage once a revised CDP application was received. The Tribe was notified that PG&E had submitted a revised CDP application on January 29, 2024, and staff met with the Tribe on February 27, 2024. During that meeting, the Santa Ynez Band reiterated its concerns about the presence of cultural resources within the area proposed to be

dredged and requested that tribal monitors be present during the dredging activity. Commission staff's recommendation includes a lease provision requiring PG&E to notify all culturally affiliated Tribes at least 7 days prior to the start of work and accommodate Native American monitors during dredging and dredged material placement activities if requested by any culturally affiliated Tribe.

CONCLUSION:

The intake structure directly supports operations at DCPD and is a critical component that keeps DCPD safely operating. If properly maintained, the facilities will continue to support a critical public service of supplying electricity to the California grid system.

The lease requires the lessee to insure and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent.

For all the reasons above, staff believes the issuance of this lease amendment will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the amendment, the Applicant could not dredge within the intake cove. The lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Leading Climate Activism," "Meeting Evolving Public Trust Needs," and "Partnering with Sovereign Tribal Governments and Communities" Strategic Focus Areas of the Commission's 2021- 2025 Strategic Plan.
3. The California Coastal Commission prepared an environmental document pursuant to its certified regulatory program (Cal. Code Regs., tit. 14, § 15251, subd. (c)), and granted Permit No. 9-23-0599 for this project on March 14, 2024.

Staff has reviewed the document and determined that the conditions, as specified in California Code of Regulations, title 14, section 15253, subdivision

(b), have been met for the Commission to use this document for its compliance with the California Environmental Quality Act (CEQA).

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. It is staff's opinion that the project, as proposed, is consistent with its use classification.

APPROVALS OBTAINED:

- California Coastal Commission
- Central Coast Regional Water Quality Control Board
- U.S. Army Corps of Engineers

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that California Coastal Commission (CCC) Permit No. 9-23-0599 (the environmental document), prepared for this project and adopted on March 14, 2024, by the CCC pursuant to its certified regulatory program (Cal. Code Regs., tit. 14, § 15251, subd. (c)), is a substitute document as provided by California Code of Regulations, title 14, section 15253, subdivision (a), and that the Commission has reviewed and considered the information therein.

Find that the conditions described in California Code of Regulations, title 14, section 15253, subdivision (b), have been met for the Commission, acting as a responsible agency, to use the environmental document to comply with the requirements of the CEQA. (Cal. Code Regs., tit. 14, § 15096.)

Determine that the project, as approved, will not have a significant effect on the environment.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease amendment will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the lease; and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize the amendment of Lease Number 9347, a General Lease – Industrial Use, effective April 4, 2024, for one-time maintenance dredging of approximately 70,000 cubic yards within the Diablo Canyon Power Plant intake cove and deposition of dredged material offshore of Morro Bay State Park; all other terms and conditions of the lease will remain in effect without amendment.