

Staff Report 37

LESSEE:

Chevron Environmental Management Company

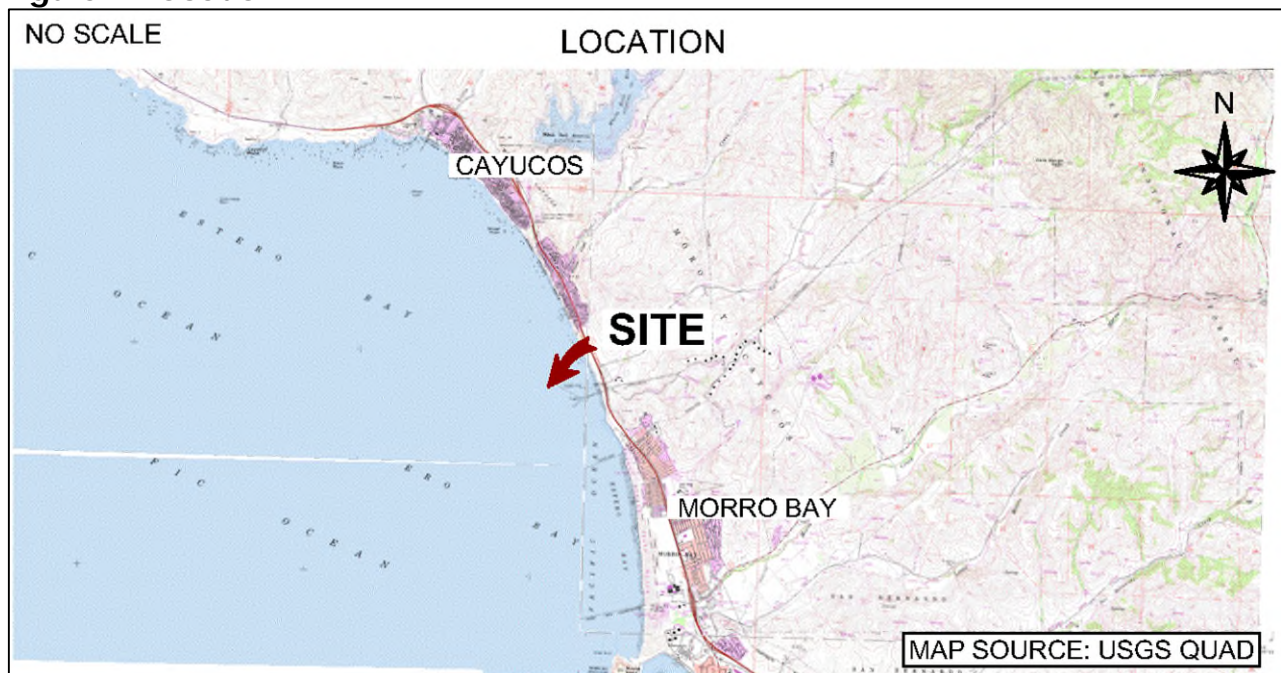
PROPOSED ACTION:

Amendment of General Lease – Industrial Use

AREA, LAND TYPE, AND LOCATION:

2.48 acres, more or less, of sovereign land in the Pacific Ocean, at Estero Bay, near Morro Bay, San Luis Obispo County (as shown in Figure 1).

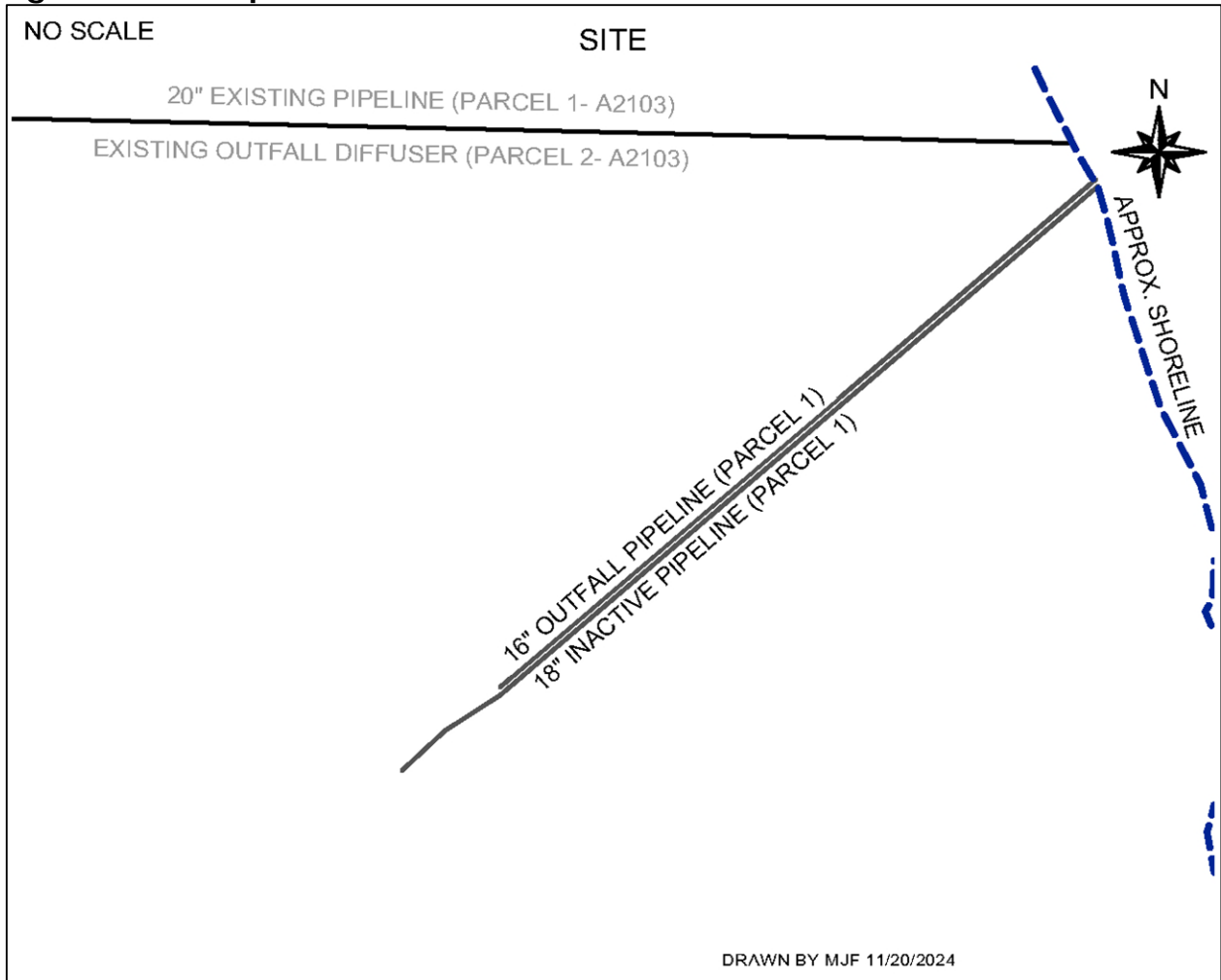
Figure 1. Location



AUTHORIZED USE:

Use and maintenance of two existing pipelines, including one 18-inch-diameter non-operational petroleum transfer pipeline and one active 16-inch-diameter wastewater outfall pipeline (as shown in Figure 2).

Figure 2. 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:

10 years, beginning June 1, 2015.

CONSIDERATION:

\$23,391 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

- Section 1, Term, ending date is amended from May 31, 2025, to May 31, 2030.
- Section 1, Surety Bond or Other Security (which can be a parent guaranty or corporate guaranty) is amended to \$10,775,000.
- Section 2, Special Provisions, is amended to add a provision requiring that no later than December 31, 2027, Lessee shall submit a new Project Execution Plan or an application to assign the lease to another entity. The provision defines Project Execution Plan as a plan provided to the Commission (basically a project description for the purposes of CEQA review) for the removal or other disposition of all existing offshore site improvements associated with the former upland petroleum facility, including, but not limited to the Authorized Improvements identified in Section I- Basic Provisions, except that the improvements previously abandoned in place pursuant to Lease Termination Agreement PRC 2478.1, attached hereto as Exhibit D, need not be addressed in the plan.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

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

PUBLIC TRUST AND STATE'S BEST INTERESTS:

On June 29, 2015, the Commission authorized a General Lease – Industrial Use to the Lessee, for the continued use of three existing pipelines, including two non-operational petroleum transfer pipelines of 20-inch and 18-inch diameters, and one active 16-inch-diameter wastewater outfall pipeline ([Item 73, June 29, 2015](#)). On August 23, 2019, the Commission authorized the acceptance of a partial lease quitclaim deed for the sovereign land occupied by the 20-inch-diameter, non-operational petroleum transfer pipeline, known as Load Line 2 (LL2), upon satisfactory evidence of the transfer of ownership and issuance of a lease to Cayucos Sanitary District (District) ([Item 46, August 23, 2019](#)). Also on August 23, 2019, the Commission authorized Lease 9576, a General Lease – Public Agency Use to the District, thereby completing the transfer of LL2 ([Item 45, August 23, 2019](#)). The lease to Chevron for the two remaining pipelines will expire on May 31, 2025.

The two retained pipelines include an approximately 2,800-foot long 16-inch-diameter pipeline that is used for a wastewater outfall and is subject to an National Pollutant Discharge Elimination System (NPDES) permit issued by the Central Coast Regional Water Quality Control Board, and an approximately 3,200-foot long 18-inch-diameter pipeline, known as Load Line 1 (LL1), that was previously used to transfer petroleum products between vessels and the upland Estero Marine Terminal facility (Facility) but is now non-operational.

The wastewater outfall pipeline was originally constructed in 1929 and extends approximately 2,800 feet on sovereign land. The wastewater outfall pipeline conveyed treated water from the Facility. The pipeline varies in burial depth from between three to six feet on the beach segment to 13 feet along the surf zone segment and ends at the offshore segment between three and four feet deep. The pipeline terminates with a diffuser that is approximately 20 feet long.

LL1 was originally constructed in 1961 and extends approximately 3,200 feet on sovereign land. LL1 was pigged¹ and flushed in 1999 and again in 2020. LL1 was used to convey petroleum products between vessels and the Facility. The beach segment of LL1 runs parallel to the wastewater pipeline for approximately 15 feet. According to 2013 burial depth surveys, LL1 is buried approximately seven to ten feet below the beach dunes and approximately five feet below where it crosses the beach. The burial depth of the surf zone segment ranges from two to thirteen feet to the top of the pipe. The pipeline ends at the offshore segment in approximately 48 feet of water and is buried about two to three feet.

On June 14, 1999, the Commission authorized the issuance of Lease Termination Agreement PRC 2478 to Chevron to allow it to abandon in place other improvements associated with the upland facility, including two 8-inch-diameter submerged pipelines, one 12-inch-diameter pipeline, three anchors, and two submerged telephone cables ([Item 40, June 14, 1999](#)).

The Lessee is now applying for an amendment to the lease to authorize extending the lease term for five years to allow time for the sale of the private upland property and the two remaining pipelines or, should the sale not proceed, to allow time to prepare documentation supporting the proposed final dispositions of those

¹ Pigging is a process in which a device is moved through the inside of the pipeline in order to clean and/or monitor its condition.

pipelines. These two paths will occur in tandem with one or the other being submitted to the Commission for future action on or before December 31, 2027.

To protect the State from the potential financial burden of removing the pipelines at some future date, the lease amendment includes the revision and increase of the existing \$50,000 surety bond provision to \$10,775,000 to cover the Lessee's obligations under the lease, including but not limited to the potential removal of the two pipelines. The Commission will have the option to call on the bond if the Lessee fails to decommission the conduits on State property upon lease termination or expiration. The proposed surety amount, in the form of a parent guarantee, is set at \$10,775,000. This is based on a recently prepared cost estimate for the removal and disposal of the pipeline structures from sovereign land and costs associated with CEQA compliance. The Lessee must provide the Lessor with the parent guarantee within 60 days of the Lessor's lease amendment approval.

The pipelines for the Facility have existed for over 60 years. The proposed lease amendment contains revised special lease provisions that provide for the Commission's continuing supervisory control over the Public Trust lands leased to the Lessee. Additionally, the existing bond has been increased to cover the cost of removing the authorized improvements. The proposed lease term extension to May 31, 2030, does not alienate the State's fee simple interest, and does not grant the lessee exclusive rights to the lease premises. 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.

CLIMATE CHANGE:

Climate change impacts, including sea level rise, storm events, and beach erosion may impact the subject pipelines within the lease area.

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: Table 19, State of California Sea-Level Rise Guidance: 2018 Update

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

As stated in the [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 and near coastal areas. In tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Beaches, coastal landscapes, and near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater beach or bank erosion than previously experienced.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area to higher flood risks, comprised of greater total water levels for longer periods of time. The lease area contains two buried pipelines extending from the upland property to the offshore lease area. As fixed structures, the pipelines may need increased maintenance due to increased flood exposure and more frequent storm events, which will increase the structures' exposure to inundation, erosion, and wave action. The sections of the pipelines within the surf zone and beach zone segments may be at higher risk of erosion and exposure from wave action. Any future construction or activities on State land would require a separate authorization from the Commission.

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

CONCLUSION:

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 proposed lease term extension; 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 has no right to occupy the lease premises beyond May 31, 2025. 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 “Committing to Collaborative Leadership” Strategic Focus Areas of the Commission’s 2021- 2025 Strategic Plan.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15061 and California Code of Regulations, title 2, section 2905.

APPROVAL OBTAINED:

- Central Coast Regional Water Quality Control Board

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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 foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize the amendment of Lease Number 8100, a General Lease – Industrial Use, effective April 2, 2025, to extend the lease term to May 31, 2030; amend the bond or other security to \$10,775,000; and modify the Lease Special Provisions substantially in the form described in the Amendment and the “Proposed Amendment” portion of this Staff Report, concerning the lands described in Figure 2 (for reference purposes only); all other terms and conditions of the lease will remain in effect without amendment.