



California Coastal Commission

# COASTAL DEVELOPMENT PERMIT

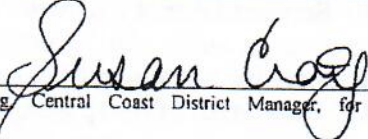
## CDP 3-19-0020 (San Simeon Community Services District)

Issue Date: July 18, 2019

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Coastal development permit (CDP) number 3-19-0020 was approved by the California Coastal Commission on July 11, 2019. CDP 3-19-0020 provides for the after-the-fact recognition and retention of: 1) a riprap revetment fronting the wastewater treatment plant (WWTP) (completed in 1983); 2) replacement of a portion of the ocean outfall pipeline (completed in 1984) and other repairs and replacements to the outfall (completed between 2010-2013); 3) improvements to a pipe support structure across Arroyo del Padre Juan Creek, including placement of riprap at abutments (completed in 1995); 4) full replacement of the pipe support structure (completed in 1999); and 5) other WWTP structural and component upgrades and related development over many years. The approval also includes new riprap augmentation of the revetment fronting the WWTP (adding two feet in height). This project is located on the bluff, beach, and riparian area fronting the San Simeon WWTP at 9245 Balboa Avenue in the unincorporated San Simeon Acres area of North San Luis Obispo County immediately adjacent to Arroyo del Padre Juan Creek (APNs 013-031-028 and 013-031-041) (all as more specifically described in the Commission's CDP file). CDP 3-19-0020 is subject to certain terms and conditions, including the standard and special conditions beginning on page 2 of this CDP.

By my signature below, the CDP is issued on behalf of the California Coastal Commission:

  
Susan Craig, Central Coast District Manager, for John Ainsworth, Executive Director

### Acknowledgement

The undersigned Permittee acknowledges receipt of this coastal development permit and agrees to abide by all terms and conditions thereof. The undersigned Permittee acknowledges that Government Code Section 818.4 (which states in pertinent part that "a public entity is not liable for injury caused by the issuance of any permit") applies to the issuance of this coastal development permit.

\_\_\_\_\_  
Authorized Representative of San Simeon CSD

\_\_\_\_\_  
Date

Please note that this coastal development permit is not valid unless and until a copy of it with the signed acknowledgement has been returned to the California Coastal Commission's Central Coast District Office (14 Cal. Admin. Code Section 13158).

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## Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## Special Conditions

1. **Approved Project.**
  - a. **ATF Development.** This CDP authorizes after-the-fact development consisting of: 1) the placement of over 650 cubic yards of riprap on the beach and fronting the bluffs immediately adjacent to the San Simeon Community Services District's (District's) wastewater treatment plant (WWTP) in 1983 (as described and shown on the plan sheet titled *Site Map* dated June 2016 and dated received in the Coastal Commission's Central Coast District Office on December 23, 2015); 2) the placement of up to 450 cubic yards of riprap along both sides of Arroyo del Padre Juan Creek and improvements to a pipe support structure crossing the creek, both in 1995 (as shown on a plan sheet from John Wallace & Associates dated received in the Central Coast District Office on December 23, 2015); 3) replacement of the entire pipe support structure with a new structure in 1999; 4) replacement of 600 feet of outfall pipe in 1984 and replacement of a 100-foot section of outfall pipe between 2010 and 2013; and 5) other structural and component upgrades and development relating to the WWTP over many years (as described in **Exhibits 4 and 15**).
  - b. **New Development.** This CDP also authorizes: additional riprap atop the existing riprap fronting the bluffs at the WWTP (up to an additional two feet in height) (see **Special Condition 4**); native habitat restoration in Arroyo del Padre Juan Creek (see **Special Condition 6**); public access improvements on the bluff south of Vista Del Mar Avenue (see **Special Condition 7**); an ocean outfall assessment (see **Special Condition 9**); and decommissioning and demolition of the WWTP in the future and restoration of the site (see **Special Condition 10**).

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- c. **Maintenance.** This CDP also authorizes maintenance of the following: the existing and new riprap on the beach and fronting the bluffs at the WWTP until the WWTP is decommissioned and demolished and the site restored, including removal of the riprap (see **Special Condition 5**); the native habitat restoration in Arroyo del Padre Juan Creek (see **Special Condition 6**); and the public access improvements on the bluff south of Vista Del Mar Avenue (see **Special Condition 7**)
- d. **Other Minor Measures.** This CDP also authorizes limited additional measures necessary to address coastal hazards (including as exacerbated by sea level rise) in order to ensure the continuous operation of the WWTP for the duration of the authorized approval to protect water quality and public health, upon determination by the Executive Director that the limited additional measures fall within the scope of authorized development pursuant to this CDP and do not require a CDP amendment. Any such measures shall be the minimum necessary to abate the identified problem.
- e. **Interim Authorization.** By acceptance of this CDP, the Permittee acknowledges and agrees that this approval is an interim authorization (i.e., for up to 10 years, subject to potential extensions, as specified in **Special Condition 2**) for the Approved Project as specified in subsections (a) through (d) above, to allow for the continued operation and function of the District's WWTP over this timeframe to protect the WWTP against erosion and potential water quality and public health impacts, while simultaneously providing the Permittee time to plan for and consider inland alternatives for future wastewater treatment functions, such as WWTP relocation away from existing and future coastal hazards at this low-lying shoreline location. The habitat restoration and public access improvements described in **Special Conditions 6 and 7** are not subject to the 10-year authorization timeframe, and instead are authorized and required permanently.

**2. Duration of Authorization.** The Approved Project identified in **Special Condition 1** is authorized for up to 10 years from the date of approval (i.e., through July 11, 2029, the expiration date of this CDP, subject to potential extension as detailed below), subject to a compliance check-in after five years by the Executive Director (i.e., by July 11, 2024). By acceptance of this CDP, the Permittee acknowledges and agrees that such development authorized pursuant to this CDP is only permitted for up to the next 10 years to provide the Permittee adequate time to secure funding and to plan, develop, consider, and implement a project designed to relocate WWTP functions to an inland site (or sites if functions are broken up into more than one facility location) that minimizes coastal hazard threats (see also **Special Condition 3**). The duration of authorization parameters above do not apply to the habitat restoration and public access components of the project (see **Special Conditions 6 and 7**), which are authorized and required permanently.

The Permittee also acknowledges and agrees that it shall remove the Approved Project in its entirety and restore the affected bluff and creek areas to their pre-development condition or better within one year of cessation of wastewater treatment operations at the Balboa Avenue site, or by expiration of this CDP, whichever comes first. Prior to initiating decommissioning and removal of the WWTP and resultant site restoration activities, the Permittee shall submit a plan for same to the Executive Director for review and approval pursuant to **Special Condition 10**.

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The expiration date of this CDP may only be modified (a) by the Commission via a CDP amendment, or (b) as part of the Executive Director's check-in process below. In the case of a Permittee-proposed CDP amendment, the Commission shall only consider such a request if the Permittee submits a complete CDP amendment request (i.e., including all necessary information identified by the Executive Director as required for filing purposes) to the Commission prior to the expiration date of this CDP (i.e., before July 11, 2029). Any CDP amendment request that includes proposed retention of the Approved Project and WWTP in its current location beyond the expiration date of this CDP may not be accepted for filing without a showing of significant and diligent action taken in furtherance of implementing the approved Coastal Hazards Response Plan (see **Special Condition 3**), and may not just rely on an expectation of long-term operation of the WWTP at the present location beyond the expiration date of this CDP.

The Permittee shall be subject to a five-year check-in with the Executive Director on the status of its CDP compliance efforts following approval of this CDP. In no event later than July 11, 2024, the Permittee shall request a determination from the Executive Director about whether significant and diligent progress has been made by the Permittee on meeting the terms and conditions of this CDP, particularly in furtherance of implementing the Coastal Hazards Response Plan required by **Special Condition 3**. At that time, the Permittee shall submit to the Executive Director documentation that the Executive Director deems necessary or appropriate to evaluate and demonstrate significant and diligent progress in this regard. At a minimum, the documentation shall include the following: (1) evidence of steps taken in compliance with **Special Condition 3**; (2) evidence of public and other outreach undertaken by the Permittee toward CDP compliance; (3) identification of potential alternatives to be considered through this CDP to relocate WWTP functions to an inland site (or sites if functions are broken up into more than one facility location) that minimizes coastal hazard threats; and (4) identification of funding sources. The Executive Director's determinations with respect to whether the Permittee is making significant and diligent progress shall be governed by the following:

- a) **Progress Made and CDP Authorization Continues.** If the Executive Director determines that significant and diligent progress is being made towards such compliance, then the Executive Director shall provide written notification of same to the Permittee, and the remaining five-year authorization specified under this CDP will continue until authorization expiration on July 11, 2029 (potentially subject to additional extension(s) per subsection b. below).
- b) **Progress Made and CDP Expiration Extended.** If the Executive Director determines that significant and diligent progress is being made towards such compliance, but that the Permittee, for good cause, will be not able to relocate WWTP functions to an inland site (or sites if functions are broken up into more than one facility location) by the expiration date of this CDP as contemplated by the Coastal Hazards Response Plan (see **Special Condition 3** below), then the CDP expiration may be extended in five-year increments by the Executive Director up to ten additional years (i.e., to either July 11, 2034, or July 11, 2039), subject to additional Executive Director check-ins every five years following the first check-in by July 11, 2024 (i.e. no later than July 11, 2029 and July 11, 2034 (if applicable)).
- i) **July 11, 2029 Check-In.** The Executive Director five-year check-in by July 11, 2029 for determination that significant and diligent progress is being made, if necessary, shall substantially follow the same process and be governed by the same standards as specified

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above for the first Executive Director five-year check-in by July 11, 2024. At that time, the Permittee shall submit to the Executive Director documentation that the Executive Director deems necessary or appropriate to evaluate and demonstrate significant and diligent progress in this regard. At a minimum, the documentation shall include the following: (1) the Permittee has finalized its Coastal Hazards Response Plan; (2) any environmental/permitting documents or other governmental approvals required with respect to the Coastal Hazards Response Plan are being diligently pursued; (3) identified funding sources are being diligently pursued; and (4) the Permittee has selected an identified preferred alternative to pursue.

- ii) **July 11, 2034 Check-In.** The Executive Director five-year check-in by July 11, 2034 for determination that significant and diligent progress is being made, if applicable, shall substantially follow the same process and be governed by the same standards as specified above for the Executive Director five-year check-ins on July 11, 2024 and July 11, 2029. At that time, the Permittee shall submit to the Executive Director documentation that the Executive Director deems necessary or appropriate to evaluate and demonstrate significant and diligent progress in this regard. At a minimum, the documentation shall include the following: (1) any environmental/permitting documents or other governmental approvals required with respect to the Coastal Hazards Response Plan have been approved and/or material progress has been made with respect to such approvals being pursued in relation to the status at the July 11, 2029 five-year check-in; (2) identified funding sources have been secured and/or material progress has been made with respect to such funding being pursued in relation to the status at the July 11, 2029 five-year check-in; and (3) the Permittee has provided an up-to-date timeline, including benchmarks, with respect to projected implementation of the Coastal Hazards Response Plan.
- iii) If the authorization period of this CDP is still effective by July 11, 2039, but the Permittee, for good cause, will still not be able to relocate WWTP functions to an inland site (or sites if functions are broken up into more than one facility location), the Permittee must submit a CDP amendment application prior to expiration of this CDP to the Commission for consideration of changes to the CDP authorization beyond July 11, 2039.

Any extension of CDP authorization duration past July 11, 2029 shall include assessment of additional project impacts on coastal resources for the additional period of CDP duration, and assessment of additional mitigation if the Executive Director concludes that the original CDP mitigations do not adequately address the additional impacts accruing from the extended CDP authorization duration.

- c) **Progress Not Made and CDP Authorization Suspended.** If the Executive Director concludes at any particular five-year check-in that, based on information submitted as part of the check-in process and/or based on other available evidence, the Permittee is not making significant and diligent progress with respect to compliance with the terms and conditions of this CDP (and, particularly, in furtherance of implementing the Coastal Hazards Response Plan required by **Special Condition 3**), then the Executive Director shall provide written notification of same to the Permittee and this CDP authorization shall be suspended, subject to the right of the Permittee

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to dispute the Executive Director's determination to the Commission for consideration and potential action regarding progress made in terms of compliance with the terms and conditions of this CDP at a public hearing, where the Commission may either: (a) concur with the Executive Director's determination, at which point the Commission may amend the CDP authorization period, potentially subject to new or modified conditions to ensure compliance of the CDP as approved or, if the Commission does not amend the CDP authorization period, upon concurrence with the Executive Director's determination the CDP authorization will be deemed to have expired; or (b) determine that significant and diligent progress is being made towards such compliance, and the remaining five-year authorization specified under this CDP will continue until the next CDP five-year authorization period or CDP expiration, whichever is applicable. If the Permittee does not dispute the Executive Director's determination to the Commission within 30 days of said determination, this CDP authorization will be deemed to have expired. Any Commission extension of the CDP authorization duration past July 11, 2029 shall include an assessment of additional project impacts on coastal resources for the additional period of CDP duration, and an assessment of additional mitigation if the Commission concludes that the original CDP mitigations do not adequately address the additional impacts accruing from the extended CDP authorization duration.

**3. Coastal Hazards Response Plan.** WITHIN THREE YEARS OF THE DATE OF THE APPROVAL OF THIS CDP (i.e., no later than July 11, 2022), the Permittee shall submit two copies of a Coastal Hazards Response Plan to the Executive Director for review and approval. The Response Plan shall be developed in coordination with appropriate staff and agencies at San Luis Obispo County, the Regional Water Quality Control Board, and any other relevant agencies with authority over the development to propose a new and/or relocated WWTP and/or associated wastewater functions. The Response Plan shall build upon the work completed to date as described in the document titled *Alternatives Analysis for Relocation of the San Simeon Community Services District Wastewater Treatment Plant* (dated April 18, 2008 and received in the Coastal Commission's Central Coast District Office on December 23, 2015) and the document titled *San Simeon Community Services District Estimated WWTP Life Expectancy Analysis* (dated August 18, 2016 and dated received in the Central Coast District Office on August 29, 2016). The Response Plan shall provide a clear long-term plan for providing necessary wastewater treatment functions at an inland location or locations that are not subject to the significant coastal hazards threatening the existing WWTP as identified in the Commission-adopted findings for this CDP.

The Response Plan shall, at a minimum, identify a preferred inland site or sites for District wastewater treatment functions, including evaluating alternative wastewater treatment options in-lieu of building a new inland WWTP (including the construction of an inland package plant or plants, the possibility of combining services with other nearby existing WWTPs, and similar alternatives), and shall provide details regarding the mechanisms, costs, funding options, and timing for potential relocation and for full restoration of the existing WWTP site. Expected costs to purchase land for a relocated plant, to decommission the existing plant and to restore the site, to upgrade any relocated wastewater treatment functions to include water recycling (including addressing the potential for joint satellite facilities and/or collaborations with nearby communities and wastewater service providers for water recycling) must be included. The Response Plan shall provide a detailed evaluation of whether the use of the WWTP outfall

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can be eliminated and the outfall removed as part of moving wastewater functions to a more inland location. Any costs associated with new and/or upgraded outfall pipelines, pumps, and/or lift stations deemed necessary (including rerouting of sewer pipes to a relocated plant, etc.) shall also be included. The Response Plan shall include a timeline of potential major relocation events, including expected timeframes for land acquisition, planning, permitting, design, construction and eventual operation of a relocated plant or alternative wastewater treatment solutions that avoid the significant coastal hazards that threaten the existing WWTP as identified in the Commission-adopted findings for this CDP. Extension to the three-year deadline for submittal of the Coastal Hazards Response Plan may be granted by the Executive Director for good cause, but in no event may it be extended beyond the five-year compliance check-in required by **Special Condition 2**.

**4. Additional Riprap Installation Plan.** PRIOR TO INSTALLATION OF ADDITIONAL RIPRAP as authorized by **Special Condition 1(b)**, the Permittee shall submit two copies of a Riprap Installation Plan to the Executive Director for review and approval. The Plan shall provide for the placement of additional riprap along the exposed fill areas located between the top of the existing riprap revetment and the existing WWTP perimeter wall to an elevation of approximately 22.5 to 23.0 feet, as shown on **Exhibit 4**. The Plan shall provide for this additional riprap to be installed as soon as possible following approval of the Plan by the Executive Director and shall describe all aspects of the riprap construction methodology (e.g., riprap to be used (which may include riprap that has migrated seaward from the existing revetment); minor changes to the existing revetment if required to account for the placement of the additional riprap; machinery to be used; construction staging areas; time and duration of construction; construction access (e.g., from the area of the WWTP itself or from the beach); etc.). All riprap installation activities shall be subject to a Construction Plan, which shall, at a minimum, include the following:

- a. **Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the fullest extent feasible in order to have the least impact on public access, beach and creek habitat, and ocean resources, including by using inland areas for staging and storing construction equipment and materials as feasible.
- b. **Construction Methods.** The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from public recreational use and habitat areas (including using unobtrusive fencing or equivalent measures to delineate construction areas), and including verification that equipment operation and equipment and material storage will not significantly degrade public views during construction to the maximum extent feasible.
- c. **Construction BMPs.** The Construction Plan shall identify the type and location of all erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including at a minimum the following: (1) silt fences, straw wattles, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging to the ocean; (2) equipment washing, refueling, and/or servicing shall take place at least 50 feet from the bluff edge, and all

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construction equipment shall be inspected and maintained at an offsite location to prevent leaks and spills of hazardous materials at the project site; (3) the construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain, including covering exposed piles of soil and wastes; dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site); and (4) all erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.

- d. **Construction Site Documents.** The Construction Plan shall provide that copies of the signed CDP and the approved Construction Plan shall be maintained in a conspicuous location at the construction job site at all times, and that such copies shall be available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.
- e. **Construction Manager.** The Construction Plan shall provide that a construction manager be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that the construction manager's contact information (i.e., address, phone numbers, email, etc.) including, at a minimum, a telephone number and email that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas (while minimizing public view impacts), along with an indication that the construction manager should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction manager shall record the name and contact information (i.e., address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry. All complaints and inquiries shall be documented, including any actions taken by the construction manager in response, and shall be provided to the Executive Director at least monthly during all construction.

**5. Riprap Revetment and Pipe Structure - Monitoring, Repair and Maintenance.** The Permittee shall ensure that the condition and performance of the approved riprap revetment (which is located on the seaward and creek sides of the WWTP's vertical containment wall) and the pipe support structure (located in and above Arroyo del Juan Padre Creek) (both authorized by **Special Conditions 1 and 2**) must be regularly monitored by a licensed civil engineer with experience in coastal structures and processes. Such monitoring evaluation shall at a minimum address whether any significant weathering or damage has occurred that would adversely impact future performance of these structures, and identify any structural damage requiring repair to maintain the as-built project in its approved and/or required state for the duration of the authorization. A monitoring report prepared by a licensed civil engineer with experience in coastal structures and processes, and covering the above-described evaluations, shall be submitted to the Executive Director for review and approval at least every five years from the date of approval (i.e., by July 11, 2024, July 11, 2029, and additional periodic terms should the expiration date of this CDP be extended as described in **Special Condition 2**). The monitoring report shall provide for



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evaluation of the condition and performance of the revetment and the pipe support structure, and shall recommend any necessary maintenance, repair, changes or modifications.

This CDP authorizes revetment and pipe support structure repair and maintenance as described in this special condition. The Permittee acknowledges and agrees to: (a) maintain the approved revetment and the pipe support structure in a structurally sound manner and in their approved states; (b) retrieve and restack any portion of the permitted revetment or related improvements that become displaced or otherwise substantially impair beach access and recreation; and (c) annually or more often inspect the revetment and the pipe support structure for signs of failure and, with respect to the revetment, any displaced riprap. Any such repair- or maintenance-oriented development associated with the approved riprap revetment and pipe support structure shall be subject to the following:

- a. **Repair and Maintenance.** "Repair" and "Maintenance," as it is understood in this special condition, means development that would otherwise require a CDP whose purpose is to bring the condition of the overall permitted riprap revetment and the pipe support structure into conformance with its approved configuration, including retrieval of any riprap that may be displaced from the approved configuration.
- b. **Other Agency Approvals.** The Permittee acknowledges that this repair and maintenance condition does not obviate the need to obtain authorizations from other agencies for any future maintenance and/or repair episodes.
- c. **Repair and Maintenance Notification.** At least 30 days prior to commencing any repair and/or maintenance event, the Permittee shall notify, in writing, planning staff of the Coastal Commission's Central Coast District Office. The notification shall include: a detailed description of the repair and/or maintenance event proposed; any plans, engineering and/or geology reports describing the event; a construction plan that complies with all aspects of the approved riprap construction plan (see **Special Condition 4**); identification of a construction manager and his/her contact information (i.e., email, phone numbers, etc.) as described above (see **Special Condition 4(e)**); other agency authorizations; and any other supporting documentation (as necessary) describing the repair and/or maintenance event. The repair and/or maintenance event shall not commence until and unless the Permittee has been informed by planning staff of the Coastal Commission's Central Coast District Office that the repair and/or maintenance event complies with this CDP. If the Permittee has not been given a verbal response or sent a written response within 30 days of the notification being received in the Central Coast District Office, the repair and/or maintenance event shall be authorized as if planning staff affirmatively indicated that the event complies with this CDP. The notification shall clearly indicate that the repair and/or maintenance event is proposed pursuant to this CDP, and that the lack of a response to the notification within 30 days constitutes approval of it as specified in this CDP. Absence of such description in the notification shall negate the automatic approval provisions of this condition.
- d. **Emergency.** In the event of an emergency requiring immediate maintenance, the notification of such an emergency episode shall be made as soon as possible, and shall (in addition to the foregoing information) clearly describe the nature of the emergency. Nothing in this condition shall serve to waive any Permittee rights that may exist in cases of emergency pursuant to

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Coastal Act Section 30611, Coastal Act Section 30624, and Subchapter 4 of Chapter 5 of Title 14, Division 5.5, of the California Code of Regulations (Permits for Approval of Emergency Work).

- e. **Non-compliance Proviso.** If the Permittee is not in compliance with any of the conditions of this CDP, or is in violation of the permitting requirements of the Coastal Act otherwise related to the WWTP site, at the time that a repair and/or maintenance event is proposed, then the repair and/or maintenance event that might otherwise be allowed by the terms of this future repair and maintenance condition may not be allowed by this condition, subject to determination by the Executive Director. Any proposed repair and/or maintenance event that planning staff of the Coastal Commission's Central Coast District Office determines to not be in compliance with this CDP shall require a CDP amendment or a new CDP.
- f. **Duration and Scope of Covered Revetment Repair and Maintenance.** Future revetment and pipe support structure repair and maintenance under this CDP is allowed subject to the above terms throughout the duration of the authorization (see **Special Condition 2**). The Permittee shall maintain the approved revetment and the pipe support structure in their approved state during the period of authorization.

**6. Creek Enhancement.** NO LATER THAN ONE YEAR FROM THE APPROVAL OF THIS CDP (i.e., no later than July 11, 2020), the Permittee shall submit two copies of a Creek Enhancement Plan to the Executive Director for review and approval. The Plan shall provide for: a) the removal of all invasive ice plant and *Myoporum* and other nonnative species in the portions of Arroyo del Padre Juan Creek that are in the vicinity of the buried riprap (i.e., in the creek, along the creek bank, and in the creek floodplain, as roughly shown in yellow and green in **Exhibit 9**); and b) restoration of this area through the planting of appropriate native vegetation designed to increase the biological productivity and native species richness of the creek environment. The Permittee shall provide plans and photos of the project area for where the removal and restoration shall occur, and a timeline for when this work shall occur. Other requisite plan elements include a description of the methods of nonnative plant removal and restoration planting, identification of an appropriate reference site and sampling scheme for derivation of the restoration plant palette, as well as a description of the source of plant materials to be used in the restoration, and a list of specific, measurable performance criteria to be achieved. Regular monitoring and provisions for remedial action to occur over the continued life of the Approved Project (such as replanting as necessary based on a failure to achieve performance criteria) shall be identified to ensure restoration success, as well as a timeline for reporting monitoring findings to the Executive Director. The Plan shall provide for this restoration being completed according to the provisions of the approved Creek Enhancement Plan within two years of the approval of this CDP (i.e., by July 11, 2021). Extension to the restoration completion deadline may be granted by the Executive Director for good cause.

**7. Public Access Overlook.** NO LATER THAN ONE YEAR FROM APPROVAL OF THIS CDP (i.e., no later than July 11, 2020), the Permittee shall submit two copies of a Public Access Overlook Plan to the Executive Director for review and approval. The Overlook Plan shall provide a public access overlook on State Parks' property (subject to State Park's concurrence) on the blufftop overlooking the ocean in the vicinity of the intersection of Balboa Avenue and Vista Del Mar Avenue, with a connecting

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path (at least 4 feet wide) back to the intersection (see **page 6 of Exhibit 12**). All such development shall be sited and designed to blend seamlessly into the natural environment and to protect public views, including through use of natural materials (e.g., decomposed granite paths, wood materials otherwise, etc.). The overlook shall include at least one bench and one picnic table, at least one public access directional sign at the intersection of Balboa Avenue and Vista Del Mar Avenue, and may include one educational interpretive sign at the overlook itself. Sign details showing the location, materials, design, and text of all public access signs shall be provided as part of the Overlook Plan. The signs shall be designed so as to provide clear information without impacting public views and site character. The directional sign shall include the Commission's access program "feet and wave" logo and the California Coastal Trail logo. Construction on the overlook shall commence immediately upon approval of the Overlook Plan by the Executive Director. The path and overlook area and all related amenities shall be available to the general public free of charge, and shall be maintained in their approved state by the Permittee in perpetuity consistent with the terms and conditions of this CDP. The Plan shall provide for overlook construction and availability to the public according to the provisions of the approved Public Access Overlook Plan within two years of the approval of this CDP (i.e., by July 11, 2021). Extension to the construction/public availability deadline may be granted by the Executive Director for good cause.

**8. Ocean Outfall Mitigation Fee.** WITHIN SIX MONTHS OF THE DATE OF THE APPROVAL OF THIS CDP (i.e., no later than January 11, 2020), the Permittee shall compensate for ocean substrate habitat impacts resulting from placement of the outfall through payment of a \$3,141.43 mitigation fee to the Regents of the University of California on behalf of the UC Davis Wildlife Health Center. The mitigation fee shall be used by the SeaDoc Society, a marine ecosystem health program of the UC Davis Wildlife Health Center, to remove lost fishing gear offshore of the central coast of California as part of its "California Lost Fishing Gear Recovery Project" in accordance with the terms and conditions of a Memorandum of Agreement (Agreement) (see draft of Agreement in **Exhibit 19**) between the California Coastal Commission and the Regents of the University of California on behalf of the Wildlife Health Center. If the Executive Director determines that the UC Davis Wildlife Health Center is not carrying out the ocean substrate impact mitigation project in accordance with the terms and conditions of the Agreement, the Executive Director shall require transfer of any mitigation fee funds remaining at the time of such determination to an alternative entity to implement an alternative ocean substrate mitigation project acceptable to the Executive Director.

**9. Ocean Outfall Assessment Plan.** WITHIN SIX MONTHS OF THE DATE OF THE APPROVAL OF THIS CDP (i.e., no later than January 11, 2020), the Permittee shall submit two copies of an Outfall Integrity Assessment Plan to the Executive Director for review and approval. The Assessment Plan shall include a procedure for undertaking a complete inspection of the existing outfall line from the WWTP connection point to the outfall line's termination point in the ocean to assess whether the outfall is leaking or is in danger of leaking or having any type of failure. The Permittee shall undertake the outfall line assessment consistent with the approved Assessment Plan. If the assessment shows that the outfall line is leaking, or that the diffusers are not functioning as designed, or that portions of the outfall are at risk of failing, the Permittee shall submit a complete CDP amendment request within 30 days to address the compromised condition of the outfall line.

**10. WWTP Site Restoration Plan and Dedication.** The Permittee shall decommission and remove the

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WWTP and all related development in its entirety, and shall restore the affected blufftop, bluff and creek areas (shown in **Exhibit 3**) to their natural conditions (through re-contouring as necessary, and nonnative and invasive plant removal and via the planting of appropriate native plant species in the creek (pursuant to the requirements of **Special Condition 6**) within one year of cessation of wastewater treatment operations at the Balboa Avenue site (see **Special Condition 2**). Prior to initiating decommissioning and removal of the WWTP and resultant restoration activities, the Permittee shall submit a Plan for same to the Executive Director for review and approval. The Plan shall include removal of all WWTP components and infrastructure from the WWTP site itself, from any public or non-public right-of-way, and from any other adjacent impacted properties, including the creek (subject to property owner consent). The Plan shall include a description of the methods of nonnative plant and/or invasive plant removal and will describe the methods that will be used to restore the WWTP site to a safe and level configuration that roughly matches the surrounding areas.

**WITHIN THREE MONTHS OF EXECUTIVE DIRECTOR APPROVAL OF THE WWTP SITE RESTORATION PLAN**, the Permittee shall also execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate a fee interest to the restored WWTP site (comprised of the parcels designated as APNs 013-031-028, -041, and -046<sup>1</sup> as shown on **Exhibit 21** hereto) to a public agency or private entity approved by the Executive Director for open space conservation and public park purposes in perpetuity. No development, as defined in Section 30106 of the Coastal Act, shall occur within the restored WWTP site except for development related to parks and open space purposes, which may include, but is not limited to, the construction of trails, stairways, benches, bicycle racks, picnic tables, trash and recycling receptacles, signage, and planting and maintenance of native non-invasive drought-tolerant vegetation, in each case consistent with the Site Restoration Plan. The document shall provide that the offer shall not be used or construed to allow anyone to interfere with any rights of public access which may exist on the WWTP site.

The recorded document shall include legal descriptions of the entire WWTP site being dedicated (i.e., APNs 013-031-028, -041, and -046 as shown on **Exhibit 21**), and corresponding graphic depictions prepared by a licensed surveyor based on an onsite inspection. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

The offer to dedicate shall run with the land in favor of the People of the State of California, binding successors and assigns of the Permittee or landowner in perpetuity, and shall be irrevocable for a period of 21 years, such period running from the date of recording, and indicate that the restrictions on the use of the land shall be in effect upon the existing WWTP permanently ceasing operations, and remain as covenants, conditions and restrictions running with the land in perpetuity, notwithstanding any revocation of the offer.

**11. Assumption of Risk, Waiver of Liability, and Indemnity Agreement.** By acceptance of this CDP, the Permittee acknowledges and agrees on behalf of itself and all successors and assigns:

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<sup>1</sup> APN 013-031-46 is the upcoast-most portion of the Balboa Avenue right-of-way. This portion of the right-of-way is owned by the District.

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- a. **Coastal Hazards.** That the site is subject to extreme coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, coastal flooding, landslides, bluff and geologic instability, and the interaction of same;
- b. **Assume Risks.** To assume the risks to the Permittee and the property that is the subject of this CDP of injury and damage from such hazards in connection with this permitted development;
- c. **30235 Waiver.** To waive any rights that the Permittee may have under Coastal Act Section 30235, the San Luis Obispo County LCP, or other applicable laws, to shoreline armoring beyond what is recognized in this CDP to protect the existing WWTP and development authorized by this CDP for the limited duration of 10 years (potentially subject to additional extension per **Special Condition 2**);
- d. **Waive Liability.** To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards;
- e. **Indemnification.** To indemnify and hold harmless the Coastal Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and,
- f. **Property Owner Responsible.** That any adverse effects to property caused by the Approved Project shall be fully the responsibility of the property owner.

**12. Future Permitting.** All future proposed development related to this CDP and/or this site (including any repair, maintenance, or improvements that might otherwise not require a CDP) shall require a new CDP or a CDP amendment that is processed through the Coastal Commission, unless the Executive Director determines a CDP or CDP amendment is not legally required.

**13. Landowner Authorization.** WITHIN 90 DAYS OF ISSUANCE OF THE CDP, the Permittee shall submit written evidence from adjacent property owners agreeing that they have authorized the Applicant to retain development authorized by this CDP on their property. Such written evidence to authorize riprap retention at 9231 Balboa Avenue shall be provided by all owners of property at this address whose authorization is not already included in **Exhibit 13**, or from an authorized representative of any homeowners' association at this address. Written evidence to authorize retention of riprap and the portion of the pipe support structure located on Cavalier Acres, Inc. property shall be provided by an authorized representative of Cavalier Acres, Inc.

**14. Other Authorizations.** WITHIN 90 DAYS OF ISSUANCE OF THE CDP, the Permittee shall provide to the Executive Director written documentation of authorizations from the Regional Water Quality Control Board, the California State Lands Commission and the U.S. Army Corps of Engineers, or evidence that no such authorizations are required. The Permittee shall inform the Executive Director of any changes to the project required by any other such authorizations. Any such changes shall not be

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incorporated into the project until the Permittee obtains a Commission amendment to this CDP, unless the Executive Director determines that no amendment is legally required.

**15. Minor Changes.** The Permittee shall undertake development in conformance with the terms and conditions of this CDP, including with respect to all Executive Director-approved plans and other materials, which shall also be enforceable components of this CDP. Any proposed project changes, including in terms of changes to identified requirements in each condition, shall either (a) require a CDP amendment, or (b) if the Executive Director determines that no amendment is legally required, then such changes may be allowed by the Executive Director if such changes: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources.

**16. Liability for Costs and Attorneys' Fees.** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and/or (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission and/or its officers, employees, agents, successors and assigns challenging the approval or issuance of this CDP, the interpretation and/or enforcement of the CDP conditions, or any other matter related to this CDP. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission and/or its officers, employees, agents, successors and assigns.