

**AGREEMENT FOR GRANT OF EASEMENT IN REAL PROPERTY
FOR THE
MONTEREY BAY SANCTUARY SCENIC TRAIL PROJECT**

This Agreement for Grant of Easement In Real Property For the Monterey Bay Sanctuary Scenic Trail Project ("Agreement") is between the County of Monterey, a political subdivision of the State of California ("GRANTEE"), and Dynegy Moss Landing, LLC, ("GRANTOR"), collectively referred to as, "the parties".

The parties hereby agree as follows:

1. DONATION AND ACCEPTANCE OF EASEMENT:

GRANTOR agrees to grant to GRANTEE, and GRANTEE agrees to accept from GRANTOR, pursuant to the terms and conditions set forth in this Agreement, a permanent easement in real property as shown in **Exhibit "A" – Legal Description** (attached and incorporated by this reference) (the "Easement"). Said Easement shall be conveyed from GRANTOR to GRANTEE in a form substantially similar to the "**Amended and Restated Public Access Easement Deed and Declaration of Restrictions**" set forth in **Exhibit "B"** (attached and incorporated by this reference).

2. CONSIDERATION FOR THIS AGREEMENT:

It is agreed that the Easement conveyed by the document referenced in Paragraph 3 below is being granted without any monetary payment to GRANTOR by the GRANTEE. GRANTOR, having initiated this grant of a permanent easement in real property, has been informed of the right to compensation for the Easement, and hereby waives such right to compensation.

Although, GRANTOR waives any right to compensation, GRANTOR and GRANTEE agree that consideration exists for this Agreement and said Easement by virtue of the fact that the MONTEREY BAY SANCTUARY SCENIC TRAIL PROJECT (hereafter, "Project") will benefit other real property of GRANTOR.

3. DELIVERY OF EASEMENT; COSTS:

The Amended and Restated Public Access Easement Deed and Declaration of Restrictions (**Exhibit "B"**) conveying the Easement shall be executed and delivered by GRANTOR to GRANTEE.

GRANTOR and GRANTEE shall be responsible for their respective costs incurred in this transaction, including any costs incurred for document preparation and review by the parties and their respective attorneys.

4. POSSESSION:

GRANTOR agrees that GRANTEE and its authorized agents and contractors may enter upon the Easement described herein for purposes of performing activities related to and incidental to the construction of the Project only with the permission of GRANTEE and when accompanied by GRANTEE's representative. Additionally, GRANTEE and its authorized agents and contractors must comply with GRANTOR's safety protocols, including, but not limited to the use of personal protection equipment while on GRANTOR's property.

5. USE AND RESPONSIBILITY:

GRANTEE or its assignee is responsible for the maintenance and repair activities of any improvements constructed by GRANTEE within the Easement, including the intended bike and pedestrian path (sometimes referred to as "bike path", and GRANTEE shall accept responsibility for maintaining the Easement.

- A. GRANTEE shall construct, at its sole cost, an eight (8) foot tall masonry wall using masonry stone or blocks, along the bike path in the two (2) locations depicted on **Exhibit C** (attached and incorporated by this reference). The southernmost wall will be approximately 500 feet long (station 75.25 to 80) and the northernmost wall will be approximately 250 feet long (station 86 to 88.5). The two (2) walls will be located:
 - 1. Where the bike path abuts GRANTOR's plant operations at the Units 1 & 2 Intake area(s).
 - 2. Where the bike path abuts the Units 6 & 7 Intake and surge chambers area(s).
- B. GRANTEE shall install an eight (8) foot tall fence, using chain link with slats, along the entire length of the bike path between the masonry walls.
- C. For the safety of the public, and because the bike path travelers (pedestrians and cyclists) and drivers of vehicles crossing the GRANTOR's existing driveways will have sight and visual limitations, GRANTEE shall install, at its sole cost, flashing traffic signals at two (2) locations to warn bike path travelers and drivers of vehicles of vehicular cross traffic using GRANTOR's existing driveways. The flashing traffic signals will be installed at the following locations:
 - 1. On Dolan Road, near State Highway Route 1, at the Units 6 & 7 Intake access road.
 - 2. At the Units 1 & 2 Intake access road.
- D. GRANTEE shall repair or replace, at its sole cost, any of GRANTOR's real or personal property, or facilities, including fencing, underground tunnels, below and above-ground utilities and pipelines, and conduit, damaged by GRANTEE, including, but not limited to GRANTEE'S installation of fencing and operation of construction equipment.

This Section 5 shall survive the recordation of the Amended and Restated Public Access Easement Deed and Declaration of Restrictions.

6. USE AND RECONSTRUCTION OF GRANTOR'S ADJOINING PROPERTY:

GRANTEE and its authorized agents and contractor(s) are hereby restricted from entering GRANTOR's adjoining property located outside the boundaries of the Easement without first entering into a right of entry license agreement with GRANTOR in a form substantially similar to **Exhibit D** (attached and incorporated by this reference). GRANTEE shall coordinate with GRANTOR on a date or dates for entry and GRANTOR may have a representative present. GRANTOR, at its sole discretion, may withhold its consent for entry onto GRANTOR's property outside the boundaries of the Easement. Additionally, GRANTEE and its authorized agents and contractors must comply with GRANTOR's safety protocols, including, but not limited to the use of personal protection equipment while on GRANTOR's property.

This Section 6 shall survive the recordation of the Amended and Restated Public Access Easement Deed and Declaration of Restrictions.

7. LEASE WARRANTY:

GRANTOR warrants there are no oral or written leases on any portion of the Easement exceeding a period of one (1) month.

8. CONSULTATION:

The location of the Easement shall be determined in consultation with Deepwater Desal, LLC for the purpose of coordinating the location and construction of both the bike path and the intake and outfall pipelines and wet well proposed by Deepwater Desal, LLC. GRANTOR reserves the right to request changes to the Easement after consultation with Deepwater Desal, LLC.

9. SEVERABILITY:

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect.

10. GOVERNING LAW:

This Agreement shall be governed by and construed in accordance with the laws of the State of California. Venue of any action concerning this Agreement shall be in the Superior Court of the County of Monterey.

11. PUBLIC PURPOSE:

GRANTEE requires the Easement for the Project. GRANTEE has the right to acquire the Easement through the exercise of its power of eminent domain and has so notified GRANTOR.

12. DISCLOSURES:

GRANTOR discloses the following:

- a. GRANTOR has entered into an agreement with Deepwater Desal, LLC which includes certain rights granted to Deepwater Desal to select a route for an easement for seawater intake and outtake pipelines, and a wet well, which may be located on Dynegy's property and may be located within the boundaries of the Easement.
- b. The bike path will be located in an area which has been reported to contain Native American human remains and artifacts. GRANTEE shall be responsible at its sole cost for compliance with all applicable laws and regulations.
- c. Attached as **Exhibit E** is a California Health and Safety Code section 25359.7 disclosure (attached and incorporated by this reference).

13. AS-IS:

GRANTEE hereby acknowledges, represents, warrants, covenants, and agrees that as a material inducement to GRANTOR to execute and accept this Agreement and in consideration of the performance by GRANTEE of its duties and obligations under this Agreement, the conveyance of the Easement is and will be made on an "as is, where is" basis and the documents executed in connection herewith, and GRANTOR has not made, does not make, and specifically negates and disclaims any representations, warranties or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present, future or otherwise, of, as to, concerning or with respect to the Easement.

14. EXECUTION OF AGREEMENT; INTEGRATED AGREEMENT; WAIVER OF FURTHER CLAIMS BY GRANTOR; BINDING ON HEIRS, ETC.:

This Agreement shall first be executed by GRANTOR and shall be valid only when executed by GRANTEE.

This Agreement, and once executed the Amended and Restated Public Access Easement Deed and Declaration of Restrictions (Exhibit "B"), constitute the complete understanding of the parties hereto regarding the subject matter to which it pertains.

ALL AGREEMENTS FOR THE PERMANENT EASEMENT ARE CONTINGENT UPON THE APPROVAL OF THE COUNTY OF MONTEREY.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the last date opposite the respective signatures below.

GRANTOR

Dynegy Moss Landing, LLC

BY: 
Matthew A. Goering
Vice President

Date: 1-16-20

GRANTEE

County of Monterey

BY: _____
Carl P. Holm
Director
Resource Management Agency

Date: _____

APPROVED AS TO FORM:

Office of the County Counsel
Leslie J. Girard, County Counsel

By: _____
Mary Grace Perry
Deputy County Counsel

Date: _____

Recording Requested by
and when Recorded,
Mail To:

County of Monterey
Resource Management Agency –
Public Works
1441 Schilling Place, Second Floor
Salinas, California 93901

Space above this line for Recorder's use

No recording fee required; this document is exempt from recording fees pursuant to Sections 6103 and 27383 of the California Government Code. This deed is exempt from documentary transfer tax pursuant to Section 11922 of the California Revenue and Taxation Code.

Monterey Bay Sanctuary Scenic Trail Project
Portion of APN: 133-181-009

AMENDED AND RESTATED
PUBLIC ACCESS EASEMENT DEED
AND DECLARATION OF RESTRICTIONS

THIS “AMENDED AND RESTATED PUBLIC ACCESS EASEMENT DEED AND DECLARATION OF RESTRICTIONS” is made by and between Dynegy Moss Landing LLC, (“**Grantor**”) and the County of Monterey (“**Monterey County**” or “**Grantee**”), a political subdivision of the State of California as of the last date opposite the respective signatures.

I. WHEREAS, Grantor is the legal owner of a fee interest of certain real properties located in the County of Monterey, State of California, (the “Property”) described in the attached **Exhibit “A”** – legal description (attached and incorporated by this reference);

II. WHEREAS, all of the Property is located within the coastal zone as defined in Section 30103 of the California Public Resources Code (which code is hereinafter referred to as the “**Public Resources Code**”);

III. WHEREAS, the California Coastal Act of 1976, (hereinafter referred to as the “**Act**”) creates the California Coastal Commission, (the “**Commission**”) and requires that any coastal development permit approved by the Commission or local government as defined in Public Resources Code Section 30109 must be consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public Resources Code;

IV. WHEREAS, Pursuant to the Act, Grantor applied to Monterey County for a permit to undertake development as defined in the Act within the coastal zone of Monterey County;

V. WHEREAS, a coastal development permit (Permit No. PLN 990233) (the “Permit”) was granted on June 28th, 2000, by the Planning Commission in accordance with the provisions of the Findings contained in Combined Development Resolution No. 0037, and attached hereto as **Exhibit B**, and hereby incorporated by reference, subject to the following condition:

23. A ten-foot public easement for the Coastal Trail shall be conveyed to Monterey County over those portions of the property westerly of Highway 1 as shown on Figures 4 and 6 of the certified North Monterey County Land Use Plan. A Public access easement deed shall be submitted to and approved by Director Planning and Building Inspection prior to December 31, 2019. (Planning and Building Inspection Department)

VI. Whereas, the subject property is a parcel located between the first public road and the shoreline, and/or traversed by a trail used for public recreation and access;

VII. WHEREAS, under the policies of Sections 30210 through 30212 and Section 30223 of the California Coastal Act of 1976, public access to the shoreline and along the coast and public access in upland areas is to be maximized, and in all new development projects public access must be provided according to the California Coastal Act and Local Coastal Program;

VIII. WHEREAS, Monterey County found that but for the imposition of the above condition, the proposed development could not be found consistent with the public access policies of Section 30210 through 30212 and Section 30223 of the California Coastal Act of 1976 and; therefore, in the absence of such a condition, a permit could not have been granted;

IX. WHEREAS, Grantor granted Monterey County an easement for the purposes of a public access easement for a Coastal Trail in a document entitled, “Public Access Easement Deed and Declaration of Restrictions” recorded in the Official Records of the Monterey County Recorder as Document No. 200205287 on June 4, 2002;

X. WHEREAS, Monterey County has requested that portions of the easement granted to Monterey County be relocated or expanded to accommodate the current design for the Monterey Bay Sanctuary Scenic Trail Project;

XI. WHEREAS, Grantor has agreed to expand the existing easement and relocate portions of the existing easement by entering into this “Amended and Restated Public Access Easement Deed and Declaration of Restrictions”; and

XII. WHEREAS, by entering into this Agreement, the Parties intend to amend and restate the earlier “Public Access Easement Deed and Declaration of Restrictions” recorded in the Official Records of the Monterey County Recorder as Document No. 200205287 on June 4, 2002.

NOW, THEREFORE, in consideration of the granting of Permit No. PLN 990233 to Grantor by Monterey County, Grantor hereby grants and conveys unto the People of the State of California and Monterey County a nonexclusive easement in perpetuity for the purposes of a public

access easement for the portion of the Monterey Bay Sanctuary Scenic Trail Project located on the Property described and depicted in **Exhibit C – Legal Description** (attached and incorporated by this reference) (hereafter, the “**Public Access Easement**” or “access way”). The Public Access Easement, a dedicated access way, shall not be required or permitted to be opened to public use until Monterey County, or another public agency or private non-profit association qualified to hold easements and acceptable to the Monterey County Board of Supervisors, agrees to accept responsibility for maintenance and liability of the access way.

1. Amended and Restated Agreement. This “AMENDED AND RESTATED PUBLIC ACCESS EASEMENT DEED AND DECLARATION OF RESTRICTIONS” amends and restates, and thereby supersedes in their entirety, all previously-executed and previously-recorded agreements concerning the Public Access Easement, including the “Public Access Easement Deed and Declaration of Restrictions” recorded in the Official Records of the Monterey County Recorder as Document No. 200205287 on June 4, 2002. By entering into this “AMENDED AND RESTATED PUBLIC ACCESS EASEMENT DEED AND DECLARATION OF RESTRICTIONS”, the parties terminate, and simultaneously supersede the “Public Access Easement Deed and Declaration of Restrictions” recorded in the Official Records of the Monterey County Recorder as Document No. 200205287 on June 4, 2002.

2. BENEFIT AND BURDEN. This Public Access Easement shall run with and burden the Property and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be effective limitations on the use of the property from the date of recordation of this “AMENDED AND RESTATED PUBLIC ACCESS EASEMENT DEED AND DECLARATION OF RESTRICTIONS” and shall bind the Grantor and all successors and assigns. This Public Access Easement shall benefit the State of California and the County of Monterey.

3. DECLARATION OF RESTRICTIONS. This Public Access Easement shall not be used or construed to allow anyone, prior to the acceptance of the “AMENDED AND RESTATED PUBLIC ACCESS EASEMENT DEED AND DECLARATION OF RESTRICTIONS” by appropriate action of the Board of Supervisors, to interfere with any rights of public access acquired through use which may exist on the Property.

4. STATE OF CALIFORNIA ROADWAY EASEMENT. Grantee acknowledges that Grantor has granted a perpetual, non-exclusive right of way easement (the “**Roadway Easement**”), a copy of which is attached as **Exhibit D** and incorporated herein, to the State of California, acting by and through the Department of Transportation (“**CalTrans**”) for road purposes in, to and over a portion of the area of the Property and a portion of the Public Access Easement. The Roadway Easement covers the portion of the Public Access Easement that is immediately adjacent to and parallel with the western boundary of State Highway 1. It is acknowledged that the Public Access Easement may be impacted by the Roadway Easement. Grantee further acknowledges and agrees that the development, expansion, relocation, design and construction of the Coastal Trail in the Public Access Easement may be impacted by the development, expansion, relocation, design and construction of a road or highway consistent with the rights granted to Caltrans in the Roadway Easement, and Grantee shall cooperate with Caltrans with respect to the development, expansion, relocation, design, and construction of the road or

highway as it relates to the development, expansion, relocation, design, and construction of the Coastal Trail.

5. USE RESPONSIBILITY.

(a) Grantee acknowledges the existence of subterranean tunnels, pipelines, utilities, and other structures located beneath the Public Access Easement that are presently utilized by Grantor and agrees that the grant of the Public Access Easement is subject to Grantor's right to continue to use, maintain, replace, relocate, and install new subterranean tunnels, pipelines, utilities, and other structures located beneath the Public Access Easement. Grantor reserves the right to install new pipelines and utilities, and subterranean tunnels within the Public Access Easement. Grantee agrees that the use of the Public Access Easement by Grantee shall at no time and in no way interfere with the operations of Grantor and its use of said structures or the Public Access Easement.

(b) Upon the Public Access Easement being opened for public use by Order of the Monterey County Board of Supervisors, Grantee or its assignee shall comply with all requirements of law, ordinance, statute and regulation, including without limitation, environmental laws, applicable to or affecting the use of the Public Access Easement. Once ordered open for public use, Grantee or its assignee shall perform any and all maintenance and repair activities in, or and about the Public Access Easement, facilitated or as a result of Grantee's use thereof; provided, however, that Grantor shall perform maintenance and repair activities with respect to Grantor's subterranean tunnels, pipelines and other structures located beneath the Public Access Easement that are presently utilized by Grantor and Grantee shall have no maintenance or repair responsibilities with respect to such subterranean structures.

(c) Grantee acknowledges and agrees that the grant of the Public Access Easement is subject to Grantor's right to reasonable access to the Property by traversing the Public Access Easement. Grantee agrees that the use of the Public Access Easement by Grantee shall at no time and in no way interfere with Grantor's reasonable access to the Property on either side of the Public Access Easement. Grantor reserves the right to maintain, replace, or relocate the existing vehicular and pedestrian paths, and to construct new vehicular and pedestrian paths across the Public Access Easement.

(d) Grantee acknowledges and agrees, at its sole cost, to comply with the Land Use Covenant and Agreement Environmental Restrictions by and between Dynegy Moss Landing, LLC and the Department of Toxic Substances Control recorded in the Official Records of the Monterey County Recorder as Document No. 2014017026 on April 16, 2014.

(e) Grantee acknowledges the Declaration of Covenants, Conditions and Environmental Restrictions recorded in the Official Records of the Monterey County Recorder as Document No. 9843405 on July 2, 1998, and Grantee assumes responsibility for determining if Grantee's intended use of the Public Access Easement is an allowed development or use, and to obtain consent from the appropriate authority if required.

6. ADDITIONAL TERMS, CONDITION, AND LIMITATIONS. Prior to the opening of the access way for public use, the Grantee, in consultation with the Grantor, may record

additional reasonable terms, conditions, and limitations on the use of the subject property in order to assure that this easement for public access is effectuated.

7. CONSTRUCTION OF VALIDITY. If any provision of these restrictions is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

8. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this “AMENDED AND RESTATED PUBLIC ACCESS EASEMENT DEED AND DECLARATION OF RESTRICTIONS” shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

9. HOLD HARMLESS. The Grantor agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless Grantee or its agents, officers and employees from any claim, action or proceeding against the Grantee or its agents, officers or employees to attack, set aside, void or annul Permit No. PLN 990233, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The Grantor will reimburse the Grantee for any court costs and attorney’s fees which the Grantee may be required by a court to pay as a result of such action. Grantee may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever, occurs first and as applicable. The Grantee shall promptly notify the Grantor of any such claim, action or proceeding and the Grantee shall cooperate fully in the defense thereof. If the Grantee fails to promptly notify the Grantor of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the Grantor shall not thereafter be responsible to defend, indemnify or hold the Grantee harmless.

10. ABANDONMENT. The Grantee may not abandon this Public Access Easement, but must instead offer or assign it to other public agencies or private non-profit associations acceptable to the Board of Supervisors.

11. TITLE. This “AMENDED AND RESTATED PUBLIC ACCESS EASEMENT DEED AND DECLARATION OF RESTRICTIONS” terminates and simultaneously supersedes the “Public Access Easement Deed and Declaration of Restrictions” recorded in the Official Records of the Monterey County Recorder as Document No. 200205287 on June 4, 2002. With the exception of Document No. 200205287 recorded on June 4, 2002, the parties understand and agree that this “AMENDED AND RESTATED PUBLIC ACCESS EASEMENT DEED AND DECLARATION OF RESTRICTIONS” is made subject to all existing agreements recorded in the Official Records of the Monterey County Recorder which may affect said real property.

GRANTOR:
DYNEGY MOSS LANDING, LLC

Dated:

By: 
Matthew A. Goering
Vice President

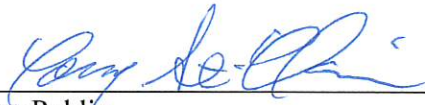
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF TEXAS
COUNTY OF DALLAS

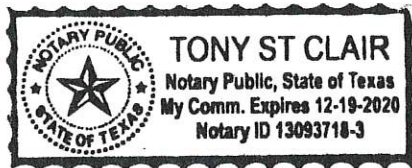
On January 16, 2020, before me, Tony St. Clair,
Notary Public, personally appeared MATTHEW A. GOERING, Vice President of Dynegy Moss Landing, LLC, a Delaware limited liability company, on behalf of said company in the capacity therein stated who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Notary Public

[SEAL]



AMENDED EASEMENT**EXHIBIT 'A'****AMENDED AND RESTATED PUBLIC ACCESS EASEMENT
AND DECLARATIONS OF RESTRICTIONS
LEGAL DESCRIPTION**

An easement for Bike Path purposes within Parcel B as depicted in that certain Parcel Map entitled "Parcel Map PLN 970371" filed on June 22, 1998 in Volume 20 of Parcel Maps, Page 64, Monterey County and more particularly described as followed:

BEGINNING at the northwest corner of said Parcel B, also being on the westerly right-of-way line of California State Highway No. 1 and on a 3460.19 foot radius curve; thence from the **POINT OF BEGINNING**, along said westerly right-of-way line, from which a radial line bears North 75°08'04" East, along the arc of said curve to the right, an arc distance of 11.21 feet, through a central angle of 00°11'08" to a point on a 105.00 foot radius non-tangent curve;

Thence leaving said westerly right-of-way line and entering into said Parcel B the following eight (8) arcs, courses and distances:

1. from a radial line which bears South 65°52'48" East, along the arc of said curve to the right, an arc distance of 13.53 feet, through a central angle of 07°23'03" to a point on a 95.00 foot radius reverse curve;
2. along the arc of said curve to the left, an arc distance of 37.12 feet, through a central angle of 22°23'11";
3. South 09°07'04" West, a distance of 250.25 feet to a point on a 58.00 foot radius tangent curve;
4. along the arc of said curve to the left, an arc distance of 64.55 feet, through a central angle of 63°46'13";
5. South 54°39'09" East, a distance of 29.29 feet to a point on a 58.00 foot radius tangent curve;
6. along the arc of said curve to the left, an arc distance of 25.83 feet, through a central angle of 25°31'05";
7. South 80°10'14" East, a distance of 18.36 feet to a point on a 77.00 foot radius non-tangent curve;

8. from a radial line which bears North $09^{\circ}47'14''$ East, along the arc of said curve to the right, an arc distance of 62.95 feet, through a central angle of $46^{\circ}50'28''$ to a point on a 3460.19 foot radius non-tangent curve, also being said westerly right-of-way line;

Thence continuing along the said westerly right of way the following three (3) arcs, courses and distances;

1. from a radial line which bears North $82^{\circ}18'19''$ East, along the said curve to the right an arc distance of 748.96 feet, through a central angle of $12^{\circ}24'06''$;
2. South $04^{\circ}42'25''$ West, a distance of 378.17 feet;
3. South $04^{\circ}42'15''$ West, a distance of 5.47 feet to a point on the southerly line of said Parcel B;

Thence leaving said westerly right-of-way line and continuing along said southerly line, North $71^{\circ}58'21''$ West, a distance of 37.31 feet;

Thence leaving said southerly line and entering into said Parcel B the following thirteen (13) arcs, courses and distances;

1. North $17^{\circ}19'51''$ East, a distance of 92.48 feet to a point on a 185.00 foot radius tangent curve;
2. along the arc of said curve to the left, an arc distance of 38.46 feet, through a central angle of $11^{\circ}54'37''$;
3. North $05^{\circ}25'14''$ East, a distance of 215.86 feet to a point on a 1985.00 foot radius tangent curve;
4. along the arc of said curve to the left, an arc distance of 201.55 feet; through a central angle of $05^{\circ}49'03''$;
5. ps North $00^{\circ}23'49''$ West, a distance of 292.27 feet to a point on a 297.00 foot radius tangent curve;
6. along the arc of said curve to the left, an arc a distance of 26.22 feet; through a central angle of $05^{\circ}03'30''$;
7. North $05^{\circ}27'19''$ West, a distance of 221.59 feet to a point on a 57.00 foot radius tangent curve;
8. along the arc of said curve to the left, an arc distance of 74.33 feet, through a central angle of $74^{\circ}42'55''$,

9. North 80°10'14" West, a distance of 18.42 feet to a point on a 78.00 foot radius tangent curve;
10. along the arc of said curve to the right, an arc distance of 34.74 feet, through a central angle of 25°31'05";
11. North 54°39'09" West, a distance of 29.29 feet to a point on a 78.00 foot radius tangent curve;
12. along the arc of said curve to the right, an arc distance of 86.81 feet, through a central angle of 63°46'13",
13. North 09°07'04" East, a distance of 166.85 feet to a point on the westerly line of said Parcel B;

Thence continuing along the said westerly line, North 19°49'10" East, a distance of 145.16 feet to the **POINT OF BEGINNING**.

Containing 23,769 square feet or 0.55 acres of land, more or less.

See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 4, NAD 83, as measured between Caltrans monument designated "TOWILL 18" and Caltrans monument designated "PM-97.22". Said bearing is North 00° 25' 12" West. Distances shown are ground based.

August 1, 2014

END OF DESCRIPTION

Michael E. Long P.L.S. 6815
Expires September 30, 2020

Date: 11/6/19

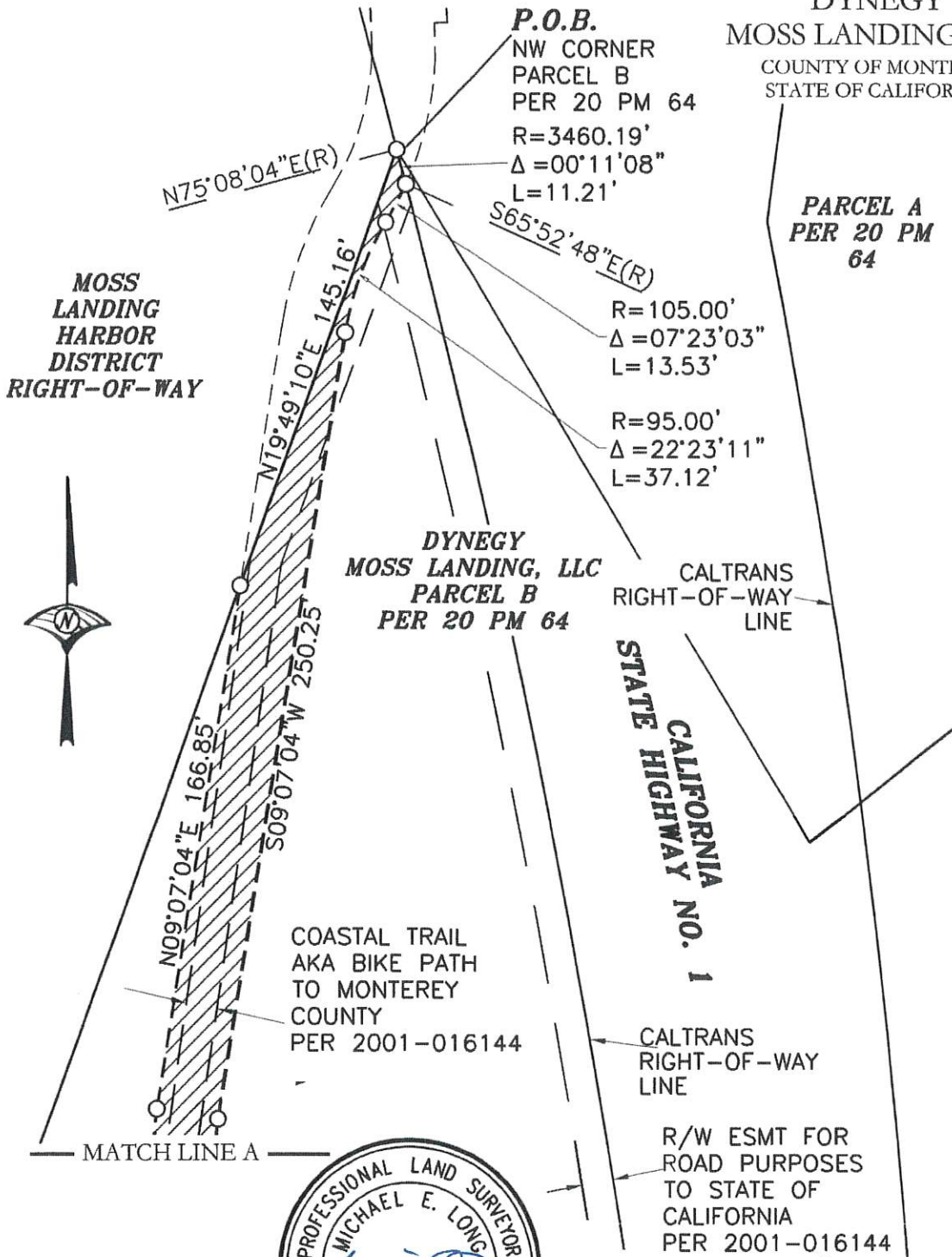


PREPARED BY WOOD RODGERS, INC.
SACRAMENTO, CALIFORNIA

EXHIBIT A-1

PLAT TO ACCOMPANY
DESCRIPTION

BIKE TRAIL EASEMENT
WITHIN LANDS OF
DYNEGY
MOSS LANDING, LLC
COUNTY OF MONTEREY
STATE OF CALIFORNIA



SEE DESCRIPTION FOR
COURSE INFORMATION

SCALE: 1"=50'

WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS

3301 C St, Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767

AUGUST 1, 2014 8091.010 SHEET 1 OF 4

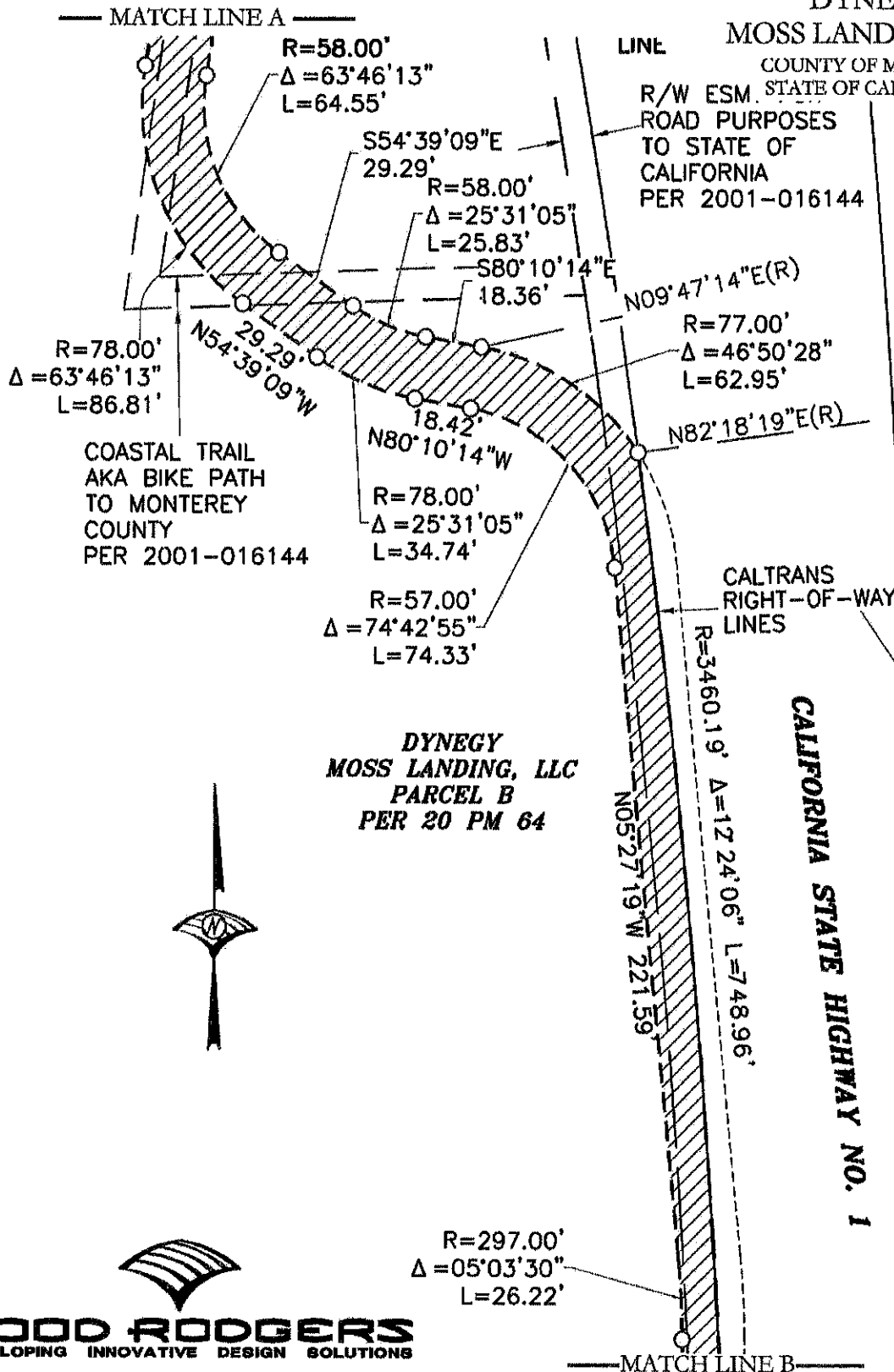
EXHIBIT A-1

PLAT TO ACCOMPANY
DESCRIPTION

**BIKE TRAIL EASEMENT
WITHIN LANDS OF
DYNEGY**

MOSS LANDING, LLC

COUNTY OF MONTEREY
STATE OF CALIFORNIA



WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS

3301 C St, Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767

AUGUST 1, 2014 8091.010 SHEET 2 OF 4

SCALE: 1"=50'

SEE DESCRIPTION FOR
COURSE INFORMATION

EXHIBIT A-1

PLAT TO ACCOMPANY
DESCRIPTION

BIKE TRAIL EASEMENT
WITHIN LANDS OF
DYNEGY
MOSS LANDING, LLC
COUNTY OF MONTEREY
STATE OF CALIFORNIA

WESTERLY LINE
PARCEL B
PER 20 PM 64
CALTRANS
RIGHT-OF-WAY

MATCH LINE C

WESTERLY LINE
PARCEL B
PER 20 PM 64
CALTRANS
RIGHT-OF-WAY

DYNEGY
MOSS LANDING, LLC
PARCEL B
PER 20 PM 64

DYNEGY
MOSS LANDING, LLC
PARCEL B
PER 20 PM 64

COASTAL TRAIL
AKA BIKE PATH
TO MONTEREY
COUNTY
PER 2001-016144

COASTAL TRAIL
AKA BIKE PATH
TO MONTEREY
COUNTY
PER 2001-016144

R/W ESMT FOR
ROAD PURPOSES
TO STATE OF
CALIFORNIA
PER 2001-016144

R/W ESMT FOR
ROAD PURPOSES
TO STATE OF
CALIFORNIA
PER 2001-016144

R=1985.00'
 $\Delta = 05^{\circ}49'03''$
L=201.55'

R=185.00'
 $\Delta = 11^{\circ}54'37''$
L=38.46'

N00°23'49"W 292.27'
R=3460.19' $\Delta = 12^{\circ}24'06''$ L=748.96'

N05°25'14"E 215.86'
S04°42'25"W 378.17'

CALIFORNIA
STATE HIGHWAY NO. 1

CALIFORNIA
STATE HIGHWAY NO. 1



MATCH LINE D

SEE DESCRIPTION FOR
COURSE INFORMATION

SCALE: 1"=50'



WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS

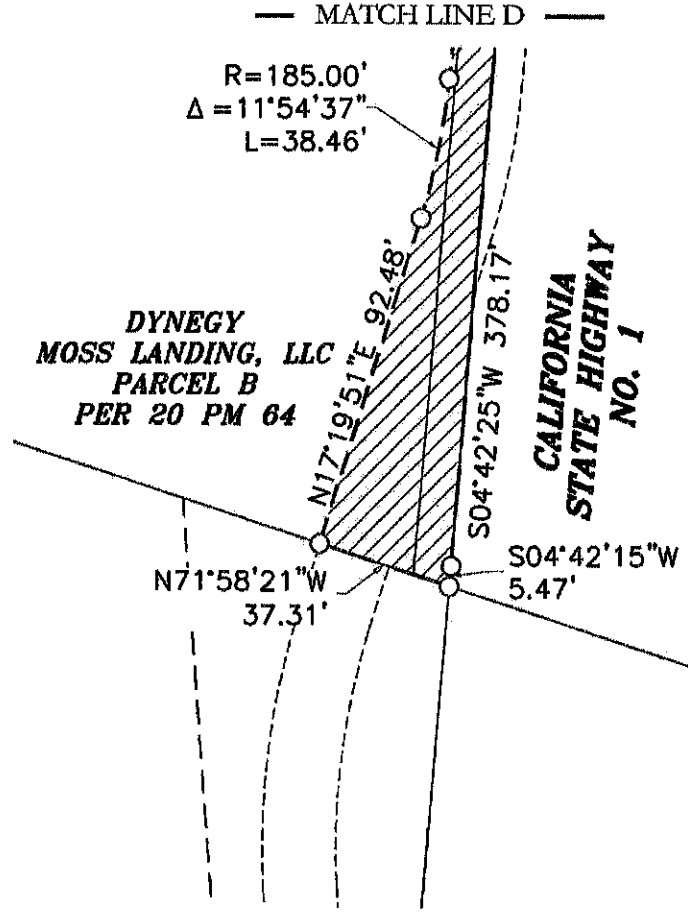
3301 C St, Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767

AUGUST 1, 2014 8091.010 SHEET 3 OF 4

EXHIBIT A-1

PLAT TO ACCOMPANY
DESCRIPTION

BIKE TRAIL EASEMENT
WITHIN LANDS OF
DYNEGY
MOSS LANDING, LLC
COUNTY OF MONTEREY
STATE OF CALIFORNIA



SCALE: 1"=50'

SEE DESCRIPTION FOR
COURSE INFORMATION



WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS

3301 C St, Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767

AUGUST 1, 2014 8091.010 SHEET 4 OF 4

GRANTEE:
County of Monterey

BY: _____
Carl P. Holm, Director
Resource Management Agency

Dated: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF MONTEREY

On _____, 2020, before me, _____,
Notary Public, personally appeared _____, who proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

***I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.***

WITNESS my hand and official seal.

Notary Public

[SEAL]

CERTIFICATE OF ACCEPTANCE AND CONSENT TO RECORDATION

This is to certify that the interest in real property conveyed by the "AMENDED AND RESTATED PUBLIC ACCESS EASEMENT DEED AND DECLARATION OF RESTRICTIONS" from Dynegy Moss Landing, LLC to the County of Monterey, a political subdivision of the State of California is hereby accepted by order of the Board of Supervisors on _____, 2020 (or by the undersigned officer or agent on behalf of the County of Monterey pursuant to authority conferred by resolution of the Board of Supervisors adopted on _____) and the County of Monterey consents to recordation thereof by its duly authorized officer.

Dated: _____

Carl P. Holm
Director
Resource Management Agency

APPROVED AS TO FORM:
Office of the County Counsel
Leslie J. Girard, County Counsel

By: _____
Mary Grace Perry
Deputy County Counsel

Date: _____

SCENIC TRAIL AGREEMENT

EXHIBIT 'A'

AMENDED AND RESTATED PUBLIC ACCESS EASEMENT AND DECLARATIONS OF RESTRICTIONS LEGAL DESCRIPTION

An easement for Bike Path purposes within Parcel B as depicted in that certain Parcel Map entitled "Parcel Map PLN 970371" filed on June 22, 1998 in Volume 20 of Parcel Maps, Page 64, Monterey County and more particularly described as followed:

BEGINNING at the northwest corner of said Parcel B, also being on the westerly right-of-way line of California State Highway No. 1 and on a 3460.19 foot radius curve; thence from the **POINT OF BEGINNING**, along said westerly right-of-way line, from which a radial line bears North 75°08'04" East, along the arc of said curve to the right, an arc distance of 11.21 feet, through a central angle of 00°11'08" to a point on a 105.00 foot radius non-tangent curve;

Thence leaving said westerly right-of-way line and entering into said Parcel B the following eight (8) arcs, courses and distances:

1. from a radial line which bears South 65°52'48" East, along the arc of said curve to the right, an arc distance of 13.53 feet, through a central angle of 07°23'03" to a point on a 95.00 foot radius reverse curve;
2. along the arc of said curve to the left, an arc distance of 37.12 feet, through a central angle of 22°23'11";
3. South 09°07'04" West, a distance of 250.25 feet to a point on a 58.00 foot radius tangent curve;
4. along the arc of said curve to the left, an arc distance of 64.55 feet, through a central angle of 63°46'13";
5. South 54°39'09" East, a distance of 29.29 feet to a point on a 58.00 foot radius tangent curve;
6. along the arc of said curve to the left, an arc distance of 25.83 feet, through a central angle of 25°31'05";
7. South 80°10'14" East, a distance of 18.36 feet to a point on a 77.00 foot radius non-tangent curve;

8. from a radial line which bears North 09°47'14" East, along the arc of said curve to the right, an arc distance of 62.95 feet, through a central angle of 46°50'28" to a point on a 3460.19 foot radius non-tangent curve, also being said westerly right-of-way line;

Thence continuing along the said westerly right of way the following three (3) arcs, courses and distances;

1. from a radial line which bears North 82°18'19" East, along the said curve to the right an arc distance of 748.96 feet, through a central angle of 12°24'06";
2. South 04°42'25" West, a distance of 378.17 feet;
3. South 04°42'15" West, a distance of 5.47 feet to a point on the southerly line of said Parcel B;

Thence leaving said westerly right-of-way line and continuing along said southerly line, North 71°58'21" West, a distance of 37.31 feet;

Thence leaving said southerly line and entering into said Parcel B the following thirteen (13) arcs, courses and distances;

1. North 17°19'51" East, a distance of 92.48 feet to a point on a 185.00 foot radius tangent curve;
2. along the arc of said curve to the left, an arc distance of 38.46 feet, through a central angle of 11°54'37";
3. North 05°25'14" East, a distance of 215.86 feet to a point on a 1985.00 foot radius tangent curve;
4. along the arc of said curve to the left, an arc distance of 201.55 feet; through a central angle of 05°49'03";
5. ps North 00°23'49" West, a distance of 292.27 feet to a point on a 297.00 foot radius tangent curve;
6. along the arc of said curve to the left, an arc a distance of 26.22 feet; through a central angle of 05°03'30";
7. North 05°27'19" West, a distance of 221.59 feet to a point on a 57.00 foot radius tangent curve;
8. along the arc of said curve to the left, an arc distance of 74.33 feet, through a central angle of 74°42'55",

9. North 80°10'14" West, a distance of 18.42 feet to a point on a 78.00 foot radius tangent curve;
10. along the arc of said curve to the right, an arc distance of 34.74 feet, through a central angle of 25°31'05";
11. North 54°39'09" West, a distance of 29.29 feet to a point on a 78.00 foot radius tangent curve;
12. along the arc of said curve to the right, an arc distance of 86.81 feet, through a central angle of 63°46'13",
13. North 09°07'04" East, a distance of 166.85 feet to a point on the westerly line of said Parcel B;

Thence continuing along the said westerly line, North 19°49'10" East, a distance of 145.16 feet to the **POINT OF BEGINNING**.

Containing 23,769 square feet or 0.55 acres of land, more or less.

See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.

The Basis of Bearings for this description is the California State Plane Coordinate System, Zone 4, NAD 83, as measured between Caltrans monument designated "TOWILL 18" and Caltrans monument designated "PM-97.22". Said bearing is North 00° 25' 12" West. Distances shown are ground based.

August 1, 2014

END OF DESCRIPTION

Michael E. Long P.L.S. 6815
Expires September 30, 2020

Date: 11/6/19

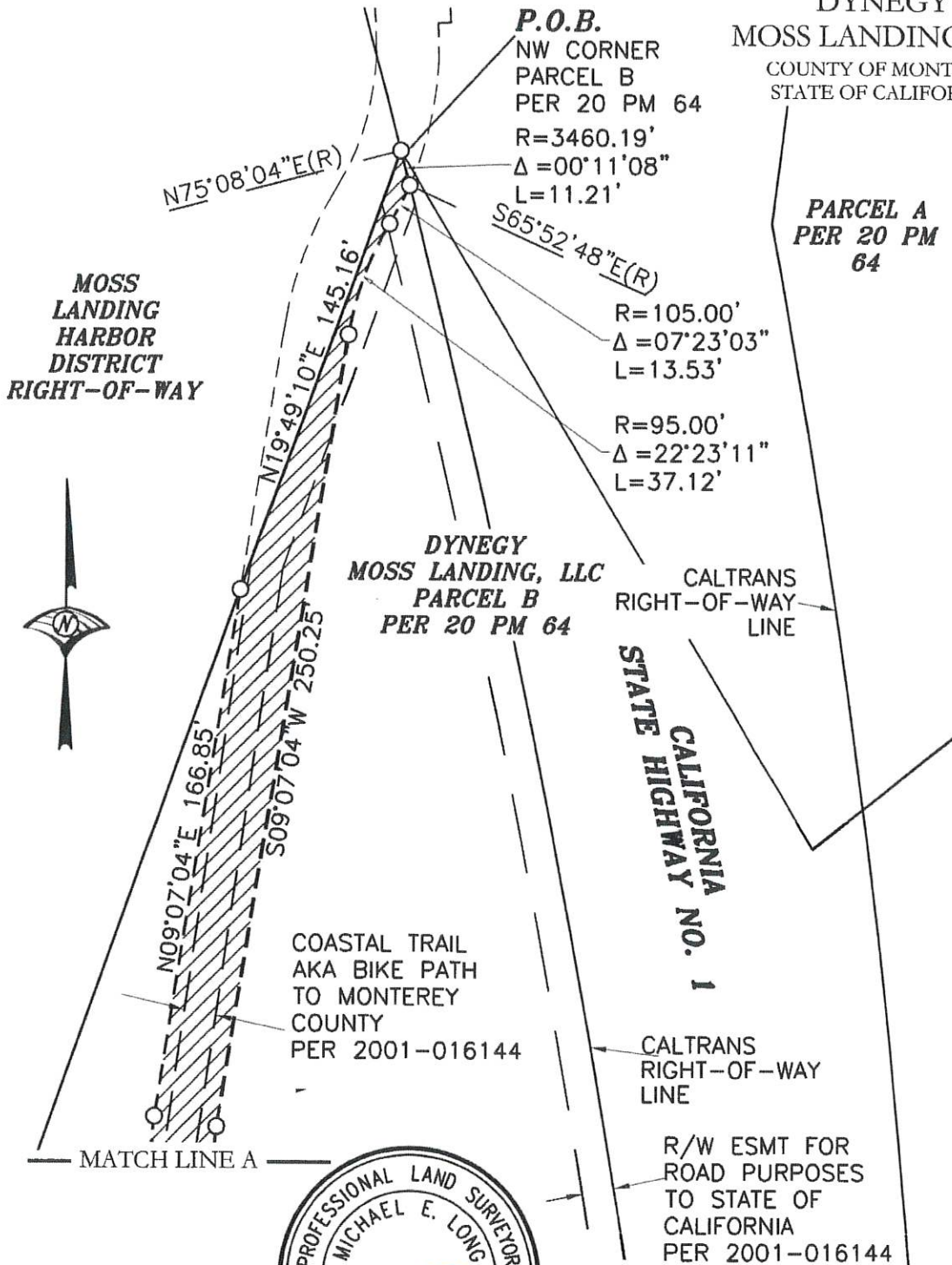


PREPARED BY WOOD RODGERS, INC.
SACRAMENTO, CALIFORNIA

EXHIBIT A-1

PLAT TO ACCOMPANY
DESCRIPTION

BIKE TRAIL EASEMENT
WITHIN LANDS OF
DYNEGY
MOSS LANDING, LLC
COUNTY OF MONTEREY
STATE OF CALIFORNIA



SEE DESCRIPTION FOR
COURSE INFORMATION

SCALE: 1"=50'

WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS

3301 C St, Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767

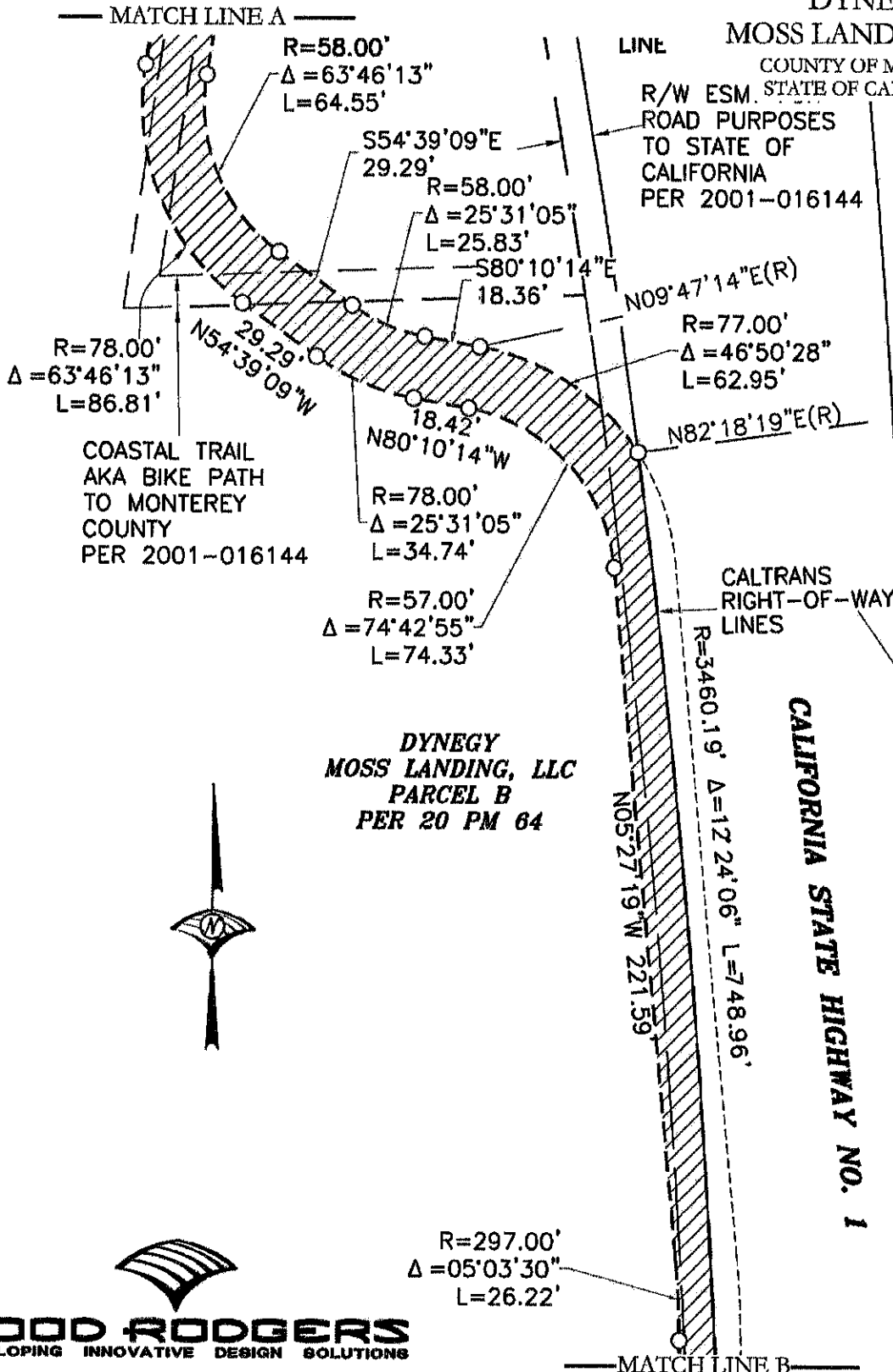
AUGUST 1, 2014 8091.010 SHEET 1 OF 4

EXHIBIT A-1

PLAT TO ACCOMPANY
DESCRIPTION

**BIKE TRAIL EASEMENT
WITHIN LANDS OF
DYNEGY
MOSS LANDING, LLC**

COUNTY OF MONTEREY
STATE OF CALIFORNIA



R/W ESM.
ROAD PURPOSES
TO STATE OF
CALIFORNIA
PER 2001-016144



WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS
3301 C St, Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767
AUGUST 1, 2014 8091.010 SHEET 2 OF 4

SCALE: 1"=50'

SEE DESCRIPTION FOR
COURSE INFORMATION

EXHIBIT A-1

PLAT TO ACCOMPANY
DESCRIPTION

BIKE TRAIL EASEMENT
WITHIN LANDS OF
DYNEGY
MOSS LANDING, LLC
COUNTY OF MONTEREY
STATE OF CALIFORNIA

WESTERLY LINE
PARCEL B
PER 20 PM 64
CALTRANS
RIGHT-OF-WAY

—MATCH LINE C—

**DYNEGY
MOSS LANDING, LLC
PARCEL B
PER 20 PM 64**

WESTERLY LINE
PARCEL B
PER 20 PM 64
CALTRANS
RIGHT-OF-WAY

**DYNEGY
MOSS LANDING, LLC
PARCEL B
PER 20 PM 64**

COASTAL TRAIL
AKA BIKE PATH
TO MONTEREY
COUNTY
PER 2001-016144

R/W ESMT FOR
ROAD PURPOSES
TO STATE OF
CALIFORNIA
PER 2001-016144

COASTAL TRAIL
AKA BIKE PATH
TO MONTEREY
COUNTY
PER 2001-016144
R/W ESMT FOR
ROAD PURPOSES
TO STATE OF
CALIFORNIA
PER 2001-016144

R=185.00'
Δ=11°54'37"
L=38.46'

R=1985.00'
Δ=05°49'03"
L=201.55'

SEE DESCRIPTION FOR
COURSE INFORMATION

SCALE: 1"=50'

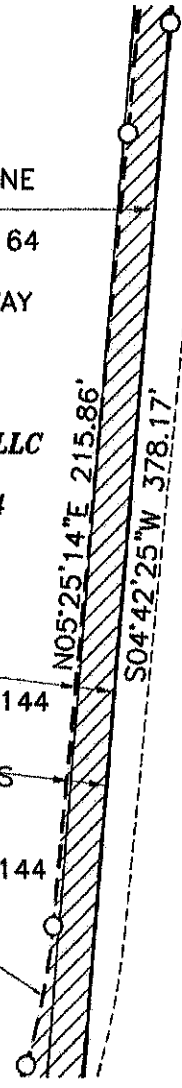
—MATCH LINE C—



WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS

3301 C St, Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767

AUGUST 1, 2014 8091.010 SHEET 3 OF 4



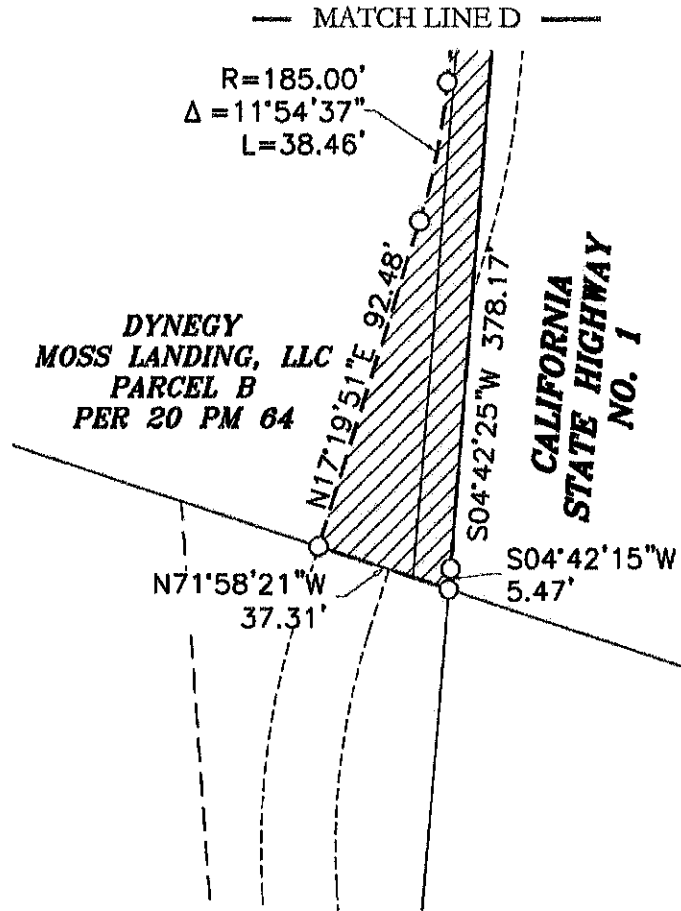
CALIFORNIA
STATE HIGHWAY NO. 1

CALIFORNIA
STATE HIGHWAY NO. 1

EXHIBIT A-1

PLAT TO ACCOMPANY
DESCRIPTION

BIKE TRAIL EASEMENT
WITHIN LANDS OF
DYNEGY
MOSS LANDING, LLC
COUNTY OF MONTEREY
STATE OF CALIFORNIA



SCALE: 1"=50'

SEE DESCRIPTION FOR
COURSE INFORMATION



WOOD RODGERS
DEVELOPING INNOVATIVE DESIGN SOLUTIONS

3301 C St, Bldg. 100-B Tel 916.341.7760
Sacramento, CA 95816 Fax 916.341.7767

AUGUST 1, 2014 8091.010 SHEET 4 OF 4

**AMENDED EASEMENT DEED
EXHIBIT B**

Exhibit B

**PLANNING COMMISSION
COUNTY OF MONTEREY, STATE OF CALIFORNIA**

RESOLUTION NO. 00037

A. P. # 133-171-003 AND 133-181-011

FINDINGS AND DECISION

In the matter of the application of
Duke Energy (990233)

WHEREAS: The Planning Commission, pursuant to regulations established by local ordinance and state law, has considered, at public hearing, a Combined Development Permit, located 12 miles northwest of Salinas, California, in Monterey County at the intersection of Highway 1 and Dolan Road, east of the Moss Landing Harbor and south of the Elkhorn Slough in the North Monterey area of the Coastal Zone, came on regularly for hearing before the Planning Commission on June 28, 2000.

WHEREAS: Said proposal includes:

- 1) Amendment to the Moss Landing Power Plant Master Plan, and
- 2) Coastal Development Permit for removing 19 Moss Landing Power Plant oil tanks, and
- 3) Grading (approximately 150,000 cubic yards), and
- 4) Site restoration

WHEREAS: Said Planning Commission, having considered the application and the evidence presented relating thereto,

FINDINGS OF FACT

1. FINDING: The Combined Development Permit includes: an Amendment to the Moss Landing Power Plant Master Plan; and, a Coastal Development Permit for removing 19 Moss Landing Power Plant oil tanks, Grading (approximately 150,000 on 74 acres) and site restoration. The parcel is located 12 miles northwest of Salinas, California, in Monterey County at the intersection of Highway 1 and Dolan Road, east of the Moss Landing Harbor and south of the Elkhorn Slough (Assessor's Parcel Number(s) 133-171-003 and 133-181-011), in the North Monterey County area of the Coastal Zone. The proposed project is consistent with County ordinances and land use regulations and is subject to the terms and conditions of this Coastal Development Permit. Neither the uses nor the construction allowed by this permit shall commence unless, and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. The project area is approximately 239 acres zoned Heavy Industrial, "HI (CZ)". The project as described with the accompanying materials contained in the application file, and as conditioned, is consistent with the plans, policies, requirements and standards of the North County Local Coastal Program, the North County Coastal Implementation Plan (Part 2) and the Monterey County Coastal Zoning Ordinance (Title 20).

EVIDENCE: Staff reviewed the project as contained in the application and accompanying materials for consistency with:

- 1) The certified North Monterey County Land Use Plan;
- 2) Chapter 20.146 of the Monterey County Coastal Implementation Plan (Part 2)-Regulations for Development in the North County Land Use Plan Area; and
- 3) The certified Monterey County Coastal Implementation Plan (Part 1)-Regulations for Public/Quasi-Public Zoning Districts or "HI (CZ)" Districts.

EVIDENCE: Plans and materials contained in File No. PLN990233.

EVIDENCE: The North Monterey County Land Use Advisory Committee recommended approval of the project with a vote of 6 to 0 on October 18, 1999.

EVIDENCE: The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Division, Parks and Recreation Department, Monterey Bay Unified Air Pollution Control District (MBUAPCD) and North County Fire District. There has been no indication from these agencies that the site is not suitable for the proposed development. Necessary public facilities are available to the project site. Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property. The Initial Study demonstrates that no physical or environmental constraints exist that would indicate the site is not suitable for the proposed development. Each agency has recommended conditions for improvements.

EVIDENCE: Written and verbal public testimony submitted at public hearings before the Monterey County Planning Commission.

EVIDENCE: Other evidence as needed such as visual impacts, geological report, biological report, tree removal, slope issues, contained in the Initial Study.

EVIDENCE: The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development, found in the project file (PLN990233).

EVIDENCE: The on-site inspection by the project planner on April 14, 2000 to verify that the proposed project complies with the North Monterey County Area Coastal Implementation Plan (Part 2).

EVIDENCE: Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property.

EVIDENCE: The recommended conditions regarding landscaping have been applied to eliminate increased erosion as required in Chapter 20.144.040 of the adopted and certified Monterey Coastal Implementation Plan (Part 2), and Policy 26.1.20 of the Monterey County General Plan.

EVIDENCE: A ten-foot public access easement for the Coastal Trail is required as a condition of approval for a Coastal Development Permit for this project.

EVIDENCE: The Master Plan amendment includes the Tank Farm Demolition Project.

2. FINDING: The project is consistent with the Archaeological Resources Development Standards of the Implementation Plan (Part 2). Pursuant to Section 20.144.110, the project required an archaeological report because the project site is located in a high archaeological sensitive area.

EVIDENCE: An Archaeological Report prepared by M. Doane and G. Breschini, 1999, concluded that the site contains evidence of significant archaeological resources. However the project area is not within the cultural resource area. Nevertheless, a condition, number 64 was included as a mitigation in the event that cultural, archaeological, historical or paleontological

resources are uncovered at the site during the tank demolition.

EVIDENCE: Plans and materials contained in File No. PLN990233.

3. FINDING: The project is consistent with the Visual Resource Development Standards of the Implementation Plan (Part 2). Pursuant to Section 20.144.030, the project was evaluated in terms of the impact on the Highway 1 viewshed, a designated scenic highway, and no significant visual impacts were identified in the context of the existing operation.

EVIDENCE: A site inspection conducted by the project planner on April 14, 2000.

EVIDENCE: Plans and materials contained in File No. PLN990233.

EVIDENCE: The Land Use Advisory voted 6-0 in favor of the proposed projects.

4. FINDING: The site is suitable for the use proposed.

EVIDENCE: There has been no testimony received either written or oral, during the course of public hearings to indicate that the site is not suitable for the project. Necessary public facilities are available for the use proposed. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Monterey Bay Unified Air Pollution Control District (MBUAPCD), Public Works Department and Health Department. There has been no indication from those agencies that the site is not suitable. There are no physical or environmental constraints such as geologic or seismic hazard areas, environmentally sensitive habitats, or similar areas that would indicate the site is not suitable for the proposed tank farm demolition.

EVIDENCE: Plans and materials contained in File No. PLN990233 and Conditions in Exhibit "D".

5. FINDING: The proposed project, including all permits and approvals, will not have any significant adverse impacts on the environment and a Mitigated Negative Declaration has been adopted. Potential environmental effects have been studied and there is no substantial evidence in the record, as a whole, that supports a fair argument that the project, as designed and mitigated, may cause a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment and analysis of the County based upon the findings and conclusions drawn in the Initial Study and in consideration of testimony and information received, and scientific and factual data presented in evidence during the public review process. Mitigation measures identified in the Initial Study have been incorporated into the project, and agreed to by the applicant, to reduce any impact to an insignificant level. All applicable mitigation measures are included in the conditions of approval, which are hereby adopted as a mitigation monitoring and reporting program.

EVIDENCE: Studies, data, and reports prepared by staff from various County departments, including Planning and Building Inspection, Public Works, Environmental Health, and the Water Resources Agency, support the adoption of a Negative Declaration for the project. The custodian of the documents and materials that constitute the record of proceedings upon which the adoption of the Negative Declaration is based is the Monterey County Planning and Building Inspection Department, 240 Church Street, Salinas. No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts have been submitted that refute the conclusions reached by these studies, data, and reports. Nothing in the record alters the environmental determination, as presented by staff, based on investigation and the independent assessment of those studies, data, and reports.

EVIDENCE: County staff prepared an Initial Study for the project in compliance

with the California Environmental Quality Act (CEQA), its Guidelines, and the Monterey County CEQA Guidelines. The Initial Study provided substantial evidence that the project, with the addition of mitigation measures, would not have significant environmental impacts. A Mitigated Negative Declaration was filed with the County Clerk on May 5, 2000 and noticed for public review. All comments received on the Initial Study have been considered as well as all evidence in the record, which includes studies, data, and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented or discussed during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data, and reports; application materials; and expert testimony. Among the studies, data, and reports analyzed as part of the environmental determination are the following: Site Plan; Master Plan Amendment; Department of The Army letter dated September 23, 1999; Duke Energy Letter to the U.S. Fish and Wildlife Service dated July 19, 1999; "Biological Resources Report," TRC Environmental Solutions, Inc.; "Cultural Resources Report," M. Doane and G. Breschini, 1999; "Geologic Hazards & Resources Report," TRC Environmental Solutions, Inc.; California Regional Water Quality Control Board (Central Coast Region) letter, February 8, 2000; Storm Water Pollution Prevention Plan & NPDES Permit; "Noise Report," TRC Environmental Solutions, Inc.; "Traffic Report," Higgins Associates; "Transportation Management Plan," Higgins Associates; "Construction Emissions and Impact Analysis" (CEIA) Sierra Systems, March, 2000; "CEIA Peer Review for Monterey County, March 20, 2000" Jones & Stokes; Existing Site Drainage Plan; Proposed Site Drainage Plan.

EVIDENCE: Monterey County staff reviewed all comments to the Initial Study and recommended additional mitigation measures and conditions based on this review process. In addition, Monterey County staff held several meetings with commenting staff to formulate mitigation measures and new conditions.

EVIDENCE: Potential secondary impacts resulting from the Caltrans' project at Highway 1 and Dolan Road can be mitigated to a level of no significance by redesigning the project so that the impacted area is avoided.

EVIDENCE: Monterey County staff reviewed all comments to the Initial Study and recommended additional mitigation measures and conditions based on this review process. In addition, Monterey County staff held several meetings with commenting staff to formulate mitigation measures and new conditions.

EVIDENCE: Potential secondary impacts resulting from the Caltrans' project at Highway 1 and Dolan Road can be mitigated to a level of no significance by redesigning the project so that the impacted area is avoided.

6. **FINDING:** The proposed project is consistent with policies of Chapter 20.144.040 of the adopted and certified Monterey Coastal Implementation Plan (Part 2), dealing with development adjacent to environmentally sensitive habitats.

EVIDENCE: The Biological Report prepared for the site by TRC Environmental Solutions, Inc., 1999 states no significant negative impact will result from this development. A condition has been added which requires the applicant to comply with the mitigation contained in the Biological Report.

7. **FINDING:** The project is consistent with the Hazardous Area Development Standards-Geologic Hazards of the Implementation Plan (Part 2). The parcel is located in a high seismic zone. Pursuant to Section 20.144.100.A.1.B, a Geotechnical Report was prepared by TRC

Environmental Solutions, Inc., 1999. The report concluded that no geologic hazards were present other than potential earthquake activity, and made recommendations which are incorporated as conditions of approval.

EVIDENCE: Monterey County Coastal Implementation Plan (Part 2), Section 20.144.100.A.1.B, Hazardous Area Development Standards, Geologic Hazards.

EVIDENCE: Plans and materials contained in File No. PLN990233 and Conditions 17 and 18.

8. FINDING: The project is consistent with the Transportation Development Standards of the Implementation Plan (Part 2). Section 20.144.120 requires major development projects that impact Highway 1 contribute toward Highway 1 improvements. The project site is accessible from Dolan Road by way of Highway 1 and does require access improvements near Highway 1. The project will have an interim impact on Highway 1 traffic and is subject to Highway 1 improvements that are included in the Transportation Plan (Reference # 12) which mitigate potential impacts to a level of no significant adverse impacts.

EVIDENCE: A site inspection conducted by the project planner on April 14, 2000.

EVIDENCE: Plans and materials contained in File No PLN990233.

9. FINDING: For purposes of the Fish and Game Code, the project will have a potential for changes on fish and wildlife resources upon which the wildlife depends.

EVIDENCE: Staff analysis contained in the Initial Study and the record as a whole indicate the project may or will result in changes to the resources listed in Section 753.5(d) of the Department of Fish and Game regulations which include: native and non-native plant life and the soil required to sustain habitat for fish and wildlife; rare and unique plant life and ecological communities dependent on plant life, and; listed threatened and endangered plant and animals and the habitat in which they are believed to reside; and all species of plant or animals listed as protected or identified for special management in the Fish and Game Code, the Public Resources Code, and the Water Code, or regulations adopted thereunder.

10. FINDING: The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.

EVIDENCE: The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, the North County Fire District, Monterey Bay Unified Air Pollution Control District (MBUAPCD), and the Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general.

EVIDENCE: Adoption of the Negative Declaration includes mitigation measures that address potential cumulative impacts.

EVIDENCE: File and application materials, Initial Study with mitigation measures, and Mitigated Negative Declaration contained in the project file.

11. FINDING: The proposed project is consistent with public access policies Chapter 6.4 of the certified North Monterey County Land Use Plan.

EVIDENCE: A ten-foot public access easement for the Coastal Trail is required as a condition of

approval for a Coastal Development Permit for this project.

12. **FINDING:** The Coastal Development Permit, as approved by the Planning Commission, is appealable to the Board of Supervisors and the Coastal Commission.
- EVIDENCE:** Sections 20.86 of Title 20 the Monterey County Coastal Implementation Plan (Part 1).

DECISION

THEREFORE, it is the decision of said Planning Commission that the Negative Declaration be adopted and said application be granted as shown on the attached sketch, subject to the following conditions:

1. The Combined Development Permit includes an Amendment to the Moss Landing Power Plant Master Plan, and a Coastal Development Permit for removing 19 Moss Landing Power Plant oil tanks, Grading (approximately 150,000 cubic yards) and site restoration. The parcel is located 12 miles northwest of Salinas, California, in Monterey County at the intersection of Highway 1 and Dolan Road, east of the Moss Landing Harbor and south of the Elkhorn Slough (Assessor's Parcel Numbers 133-171-003 and 133-181-011), in the North Monterey area of the Coastal Zone. The proposed project is consistent with County ordinances and land use regulations subject to the following terms and conditions. Neither the uses nor the construction allowed by this permit shall commence unless, and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. (Planning and Building Inspection)

PRIOR TO THE ISSUANCE OF A DEMOLITION PERMIT OR A GRADING PERMIT

2. The applicant shall obtain a Demolition Permit from the Monterey County Planning and Building Inspection Department. (Planning and Building Inspection Department)
3. The applicant shall obtain a grading permit from the Building Inspection Division. (Planning and Building Inspection Department)
4. The improvement and grading plans shall include an implementation schedule of measures for the prevention and control of erosion, siltation and dust during and immediately following construction and until erosion control planting becomes established. This program shall be approved by the Director of Planning and Building Inspection. (Planning and Building Inspection Department)
5. Native trees which are located close to the construction site shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of building permits subject to the approval of the Director of Planning and Building Inspection. (Planning and Building Inspection)
6. No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of Planning and Building Inspection. (Planning and Building Inspection)

Department)

7. All cut and/or fill slopes exposed during the course of construction shall be covered, seeded with native grasses or otherwise treated to control erosion in accordance with the Erosion Control Plan, and in coordination with the consulting biologist, subject to the approval of the Director of Planning and Building Inspection. (Planning and Building Inspection Department)
8. A notice to be recorded with the Monterey County Recorder which states: "An Erosion Control Plan has been prepared for this parcel by Duke Engineering & Services and is and is on record in the Monterey County Planning and Building Inspection Department File (PLN990233)." (Planning and Building Inspection Department)
9. Duke Energy shall provide evidence to the Water Resource Agency that no ground or surface water contamination has occurred beneath or around the tanks to be demolished. (Water Resources Agency)
10. Once the area under the each tank is exposed, soil tests shall be performed, and if there is soil contamination PG&E will be required to seek the appropriate permits and clean and restore the site. This includes documenting to the satisfaction of all appropriate agencies that the area is free from contamination, and, if not, developing and implementing an acceptable remediation plan. (Water Resources Agency)
11. Within 60 days after the County issues the Coastal Development Permit, Duke Energy shall convey to the County a scenic/conservation easement (easement) over those portions of the property identified as Area A on the attached, modified Figure 2, "Location of Wetland and Soil Sample Locations," Ch2MHill, May 31, 2000, Exhibit "M" (Modified Figure 2). The Applicant shall not enter or disturb Area A in any way, except for necessary maintenance activities for the spill containment system. The scenic/conservation easement deed that addresses ESH and wetlands shall include management requirements/guidelines acceptable to the California Department of Fish & Game, and is to be submitted to and approved by Director of Planning and Building Inspection. The proposed scenic/conservation easement for the existing BSH and wetland area can be modified only if a wetland enhancement plan approved by the Department of Fish and Game and Monterey County (migration corridor between sloughs) is implemented prior to any change in land use. (Planning and Building Inspection Department & Department of Fish and Game)
12. Duke Energy shall submit a Wetland Mitigation/Enhancement Plan ("WMEP") to the Director no later than one year after issuance of the Coastal Development Permit. The WMEP shall be developed in consultation with Monterey County, CDFG, and the Director of the California Coastal Commission or his designee ("Coastal Commission"). The WMEP shall determine how to enhance the biological and ecological values of the wetlands that are currently provided by Area A, how to best manage the habitat value determined for Areas B1 and B2, , how to enhance the habitat value of Area A by adding habitat value at least equivalent to the habitat value, of the significantly degraded and small isolated wetlands identified in Areas B, and C, and how to best implement these enhancements of habitat value. The WMEP shall include (a) a specific implementation schedule covering Area A with funding, monitoring, and maintenance criteria, and (b) an evaluation of alternative methods and/or offsite wetlands compensation areas to preserve and/or enhance the biological, ecological or other functional values provided in these areas. The WMEP shall be developed in consultation with Monterey County, the Department of Fish & Game, the U.S. Fish & Wildlife Service, and the California Coastal Commission. (The primary focus of the WMEP shall be to enhance the biological and ecological values of the wetland and migratory corridor adjacent to and southeast of Tanks 13 & 14. The WMEP shall include a specific implementation schedule with funding, monitoring, and maintenance criteria. This plan shall mitigate for the significantly degraded and small isolated wetlands identified on the wetland

map in Areas B & C of the CH2M Hill 31 May, 2000 report, Exhibit "M.") Duke Energy shall post a \$250,000 performance bond for the Department of Fish and Game. (Planning and Building Inspection Department, and Department of Fish and Game)

13. The grading plan shall include permanent barriers to protect amphibious species (i.e., Red-Legged frogs) around Area A, and any areas of property that allow amphibian migration into Duke infrastructure, and any other wetland preservation/restoration sites (See Wetland Map of the Ch2mHill May 31, 2000 report, Exhibit "M.") (Planning and Building Inspection Department, and Department of Fish and Game)
14. Duke Energy shall hire an independent wetland specialist consultant, approved by the Director of Planning & Building Inspection, to prepare a report that evaluates the habitat value of the significantly degraded and small isolated wetlands identified as Areas B and C and evaluates the habitat value of Areas B1 and B2, on Modified Figure 2. Tanks 3, 4, and 10 may be demolished, and their sites cleared, before the submission of this report, provided the consultant has completed its evaluation of the value of any wetlands habitat on the sites of these tanks. No further tank removal will be allowed until the submission of the report to the Monterey County Planning and Building Inspection Department Director ("Monterey County") and to the Director of the California Department of Fish and Game or his/her designee ("CDFG"). Upon submission of the report, and approval by Monterey County Planning and Building Inspection Department and California Department of Fish and Game, Duke Energy may proceed with project activities in Areas B and C. (Planning and Building Inspection Department, and Department of Fish and Game)
15. Prior to disturbing any areas within Area B1 or Area B2 as shown on modified Figure 2 or prior to October 1st, 2000, whichever is earlier, Duke Energy shall submit a Red-legged Frog Survey Report covering those areas to the Monterey County Planning and Building Inspection Department Director and California Department of Fish and Game. If necessary, the Survey shall include mitigation measures and implementation criteria for the permanent protection or relocation of any Red-legged Frogs identified. If any red-legged frogs are identified, the mitigation plan shall be developed in consultation with Monterey County, CDFG, the U.S. Fish & Wildlife Service and the Coastal Commission. (Planning and Building Inspection Department, and Department of Fish and Game)
16. Duke Energy shall continue to maintain existing barriers to retain Red-Legged Frogs (if any) or other amphibian species within Area A and Area B1 until completion of the Red-Legged Frog Survey Report. After completion of the Report, permanent barriers shall be installed if necessary pursuant to the mitigation plan. (Planning and Building Inspection Department, and Department of Fish and Game)
17. Duke Energy will submit a temporary drainage plan to indicate how the site will continue to operate its current drainage infrastructure. Duke Energy will consult with CDFG if there any additional permits or approvals are necessary for modifications of the existing infrastructure. (Planning and Building Inspection Department, and Department of Fish and Game)
18. Duke Energy shall submit a permanent drainage plan to the County within one year of the issuance of the Coastal Development Permit. This plan shall be prepared by a registered civil engineer, and wetland specialist/hydrologist, or architect addressing on-site and offsite impacts of feasible options for surface water management and disposal, including the installation of oil-grease/water separators for any new impervious area(s). The plan shall evaluate the steps necessary to repair, maintain and improve the flow of water to Dolan Road via the site's existing drainage infrastructure. The plan also shall evaluate possible additional areas for the retention and stormwater management and the preservation of and/or enhancement of on-site wetlands,

consistent with the operation of the existing drainage. The plan shall incorporate the recommendations of the Wetland Mitigation/Enhancement Plan (WMEP) and the Water and Wetlands Report, Exhibit "M." The plan shall specifically provide implementation methods to preserve and enhance wetlands onsite and immediately adjacent to the project site. The plan shall incorporate the best available techniques to control silt, sedimentation and other non-point source pollutants and be consistent with an updated Storm Water Pollution Control Plan. The plan shall identify the area around wetland site 13 (See Exhibit "M") to be enlarged and enhanced for retention, and wetland/storm water management. The plan shall be developed in consultation with Monterey County Water Resource Agency, the California Regional Water Quality Control Board, the Department of Fish & Game, the U.S. Fish & Wildlife Service, and the California Coastal Commission. (Water Resources Agency, Planning and Building Inspection Department, and Department of Fish and Game)

19. Three copies of a drainage plan shall be prepared by a registered civil engineer or architect to address on-site and off-site impacts for review and approval by the Water Resources Agency. Stormwater runoff from impervious surfaces shall be dispersed at multiple points, away from and below any septic leach fields, over the least steep available slopes, with erosion control at outlets. (Water Resources Agency)
20. The applicant shall incorporate the recommendations from the Geotechnical Soils and Geological Hazards Report prepared by TRC Environmental Solutions, Inc., 1999, on the building permit application plans. (Planning and Building Inspection Department)
21. A notice shall be recorded with the Monterey County Recorder which states: "A Geotechnical Soil and Geological Hazards Report has been prepared for this parcel by TRC Environmental Solutions, Inc., 1999, and is on record in the Monterey County Planning and Building Inspection Department File (PLN990233). All development on the parcel must be in accordance with the Geotechnical Soil and Geological Hazards Report, as approved by the Director of Planning and Building Inspection." This notice shall be recorded prior to issuance of building or grading permits. (Planning and Building Inspection Department)
22. A notice shall be recorded with the Monterey County Recorder which states: "An Archaeological Report has been prepared for this parcel by M. Doane and G. Breschini, consulting Archaeologist for TRC Environmental Solutions, Inc. (Reference # 6), and is on record in the Monterey County Planning and Building Inspection File (PLN990233). All disturbance on the parcel must be in accordance with the Archaeological Report, as approved by the Director of Planning and Building Inspection." This notice shall be recorded prior to issuance of building or grading permits. (Planning and Building Inspection Department)
23. A ten-foot public access easement for the Coastal Trail shall be conveyed to Monterey County over those portions of the property westerly of Highway 1 as shown on Figures 4 and 6 of the certified North Monterey County Land Use Plan. A public access easement deed shall be submitted to and approved by Director of Planning and Building Inspection prior to December 31, 2000. (Planning and Building Inspection Department)
24. The property owner agrees as a condition and in consideration of the approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations

under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, filing of the final map, whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (Planning and Building Inspection)

25. The applicant shall record a notice which states: "A permit (Resolution # 00037) was approved by the Monterey County Planning Commission for Assessor's Parcel Numbers 133-181-011 and 133-171-003. The permit was granted subject to 70 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department. Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to demolition and the issuance of grading permits." (Planning and Building Inspection Department)
26. Pursuant to the State Public Resources Code, State Fish and Game Code and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid within five days of project approval, before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. (Planning and Building Inspection Department)
27. The applicant shall enter into an agreement with the County to implement the Mitigation Monitoring Plan adopted as part of this project. (Planning and Building Inspection)
28. Comply with Title 22 of the California Administrative Code, and Chapter 6.50 of the Health and Safety Code (Hazardous Waste Management) as approved by the Director of Environmental Health. (Environmental Health)
29. Obtain other applicable permits from the Hazardous Materials/Solid Waste Branch of the Monterey County Department of Environmental Health. (Environmental Health)
30. Duke Energy shall demonstrate to the Division of Environmental Health that any soil and groundwater contamination in the tank farm area undergoing demolition has been adequately remediated, and that demolition and subsequent construction activities shall not interfere with any other ongoing remediation activities (Environmental Health).
31. Submit an implementation plan and a monitoring plan to Public Works for scheduling construction worker shifts prior to or after peak hours (Public Works).
32. The applicant shall provide vanpooling for employees subject to the approval of the Department of Public Works. This should include providing employees and contractors with maps showing the locations of required Park-N-Ride lots. Also, effort should be made to accommodate carpooling through scheduling of pooled employees together, to the extent possible (Public Works).
33. Prohibit project construction worker traffic from making a left turn from westbound Dolan Rd onto southbound Highway 1 (Public Works).

34. Prohibit project construction truck traffic from making a left turn from westbound Dolan Rd onto southbound Highway 1 (Public Works).
35. Prohibit project construction truck traffic from the use of southbound Highway 1 for left turns onto Dolan Road during the morning peak (6:30 AM - 8:30 AM) and during the evening peak hours (3:30 PM - 5:30 PM) (Public Works).
36. Within six months of approval of this permit (PLN990233), contribute a fair share for future improvements to State Highways 1, 156 and 183. This contribution may be in the form of right-of-way dedication on Highway 1 along the project frontage (Public Works).
37. Within six months of approval of this permit (PLN990233), the required Caltrans encroachment permits shall be issued and the work shall begin for the proposed improvements to the SR-1/Dolan Road Intersection to include the following:
 - (a) Extend the existing left-turn lane on southbound State Route 1 at Dolan Road.
 - (b) Construct a right-turn lane on Dolan Road where it intersects SR-1.
 - (c) Construct a right-turn lane on northbound SR-1 where it intersects with Dolan Road.
 - (d) Construct a median acceleration lane for traffic turning left from westbound Dolan Road to southbound SR-1
38. The contractor's entrance off Dolan Road shall be completed prior to using the entrance gate, and shall include channelization and tapers subject to the approval of the Department of Public Works (Public Works & Planning & Building Inspection Department).
39. Within six months of approval of this permit (PLN990233), construct channelization improvements at the State Highway 1/Dolan Road intersection subject to the approval of Caltrans and the Department of Public Works (Public Works).
40. Comply with programs contained within the Transportation Management Plan contained in PLN990233 (Reference # 12) in consultation with Cal Trans, Monterey County Public Works and The Transportation Agency for Monterey County (Public Works).
41. The applicant shall provide evidence of parking accommodations to facilitate parking for construction workers and equipment during the period covered by this permit (Public Works).
42. The parking requirements shall meet the standards of Monterey County's Title 20 (Coastal Zoning Ordinance) and be approved by the Director of Planning and Building Inspection prior to the commencement of the approved use. (Public Works/Planning and Building Inspection)
43. Duke Energy shall pay a pro-rata contribution based on the percentage of traffic added to the following intersections (Public Works).
 - A. Dolan Road and Castroville Boulevard
 - i. Add eastbound right turn lane
 - ii. Lengthen northbound right turn merge lane with eastbound Dolan Road through lane.
 - B. Elkhorn Road and Castroville Boulevard
 - i. Add eastbound and westbound left turn channelization
 - ii. Correct vertical curve sight distance

- iii. Improve westbound merge from Elkhorn to westbound with traffic.
- C. Castroville Boulevard and San Miguel Canyon Road
- i. Lengthen eastbound right turn lane
 - ii. Improve striping.

- 44. In the event that any of these projects (A, B, and C) experience significant adverse environmental impacts, Monterey County Public Works shall provide mitigation to remove the impacts, or as an alternative select other road improvement projects within the North Monterey County area and require Duke Energy to contribute its fair share toward the funding of them (Public Works).
- 45. Obtain required permits from the County Planning and Building Inspection, Health, and Public Works Departments, and complete all installations prior to the occupancy of the temporary trailer. (Planning and Building Inspection Department)
- 46. All necessary permits must be obtained and maintained in active status from any other agency. (Planning and Building Inspection Department)

**PRIOR TO OCCUPANCY, OR FINALIZING OF BUILDING, GRADING OR
DEMOLITION PERMITS AND/OR DURING CONSTRUCTION**

- 47. Duke Energy shall comply with the current Uniform Fire Code/California Fire Code as adopted with amendments by the North County Fire District. (North County Fire District)
- 48. Duke Energy shall coordinate demolition activities with the North County Fire District prior to implementing any actions. (North County Fire District)
- 49. Construction equipment shall be shut down when not in use. (Planning and Building Inspection Department)
- 50. Duke shall work with contractors making deliveries of construction-related materials to the Moss Landing site to ensure that the engines in diesel-fueled delivery trucks are shut down if idle times exceed ten minutes. (Monterey Bay Unified Air Pollution Control District)
- 51. Establish regular preventive maintenance to prevent emission increases due to engine problems. (Planning and Building Inspection Department)
- 52. Use low-sulfur and low-aromatic fuel meeting California standards for motor vehicle Diesel fuel. (Planning and Building Inspection Department)
- 53. Use low-emitting Diesel engines meeting federal emissions standards for construction equipment. (Planning and Building Inspection Department)
- 54. For earth moving operations: to control dust emissions, use either water application or chemical dust suppressant application to maintain soil moisture contents. (Planning and Building Inspection Department)
- 55. For unpaved surface travel and unpaved parking areas: use either water application or chemical dust suppressant application to control dust emissions. (Planning and Building Inspection Department)

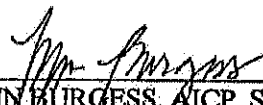
56. For unpaved surface travel and unpaved parking areas: limit traffic speeds on unpaved surfaces to 15 mph. (Planning and Building Inspection Department)
57. For paved access roads and paved parking areas: use vacuum sweeping and/or water flushing of paved road surface to remove buildup of loose material to control dust emissions from travel on paved access roads (including adjacent public streets impacted by construction activities) and paved parking areas. (Planning and Building Inspection Department)
58. To minimize dirt track-out to public paved roads: install sandbags or other erosion control measures to prevent silt runoff to public paved roads. (Planning and Building Inspection Department)
59. To minimize dirt track-out to public paved roads: cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard. (Planning and Building Inspection Department)
60. To minimize dirt track-out to public paved roads: apply pavement or chemical dust suppressant to all unpaved construction site access roads to form a stable surface extending a minimum of 100 feet from the intersection of the access road/paved public road; or apply pavement to all unpaved construction site access roads to form a stable surface extending a minimum of 25 feet from the intersection of the access road/paved public road, and install a track-out control device immediately adjacent to the public paved road. (Planning and Building Inspection Department)
61. For active disturbed areas and active storage piles: mitigate fugitive dust emissions from wind erosion by application of either water or chemical dust suppressant. (Planning and Building Inspection Department)
62. For inactive disturbed surfaces: mitigate fugitive dust emissions from wind erosion by replanting vegetation in disturbed areas as soon as possible after active operations have ceased, or by application of either water or chemical dust suppressant. (Planning and Building Inspection Department)
63. For inactive storage piles: mitigate fugitive dust emissions from wind erosion by application of either water or chemical dust suppressant, or install temporary coverings, or install temporary three-sided enclosures. (Planning and Building Inspection Department)
64. If during the course of construction activity on the subject property, cultural, archaeological, historical, paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (150 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (Planning and Building Inspection)
65. The applicant shall remove the temporary trailers occupied during construction within sixty days after final inspection. (Planning and Building Inspection)
66. The site shall be landscaped. The use of native species consistent with and found in the project area shall be required in all landscaping plans as a condition of project approval. A list of appropriate native plant species identified in Attachment #2 and #3 in the Monterey County Coastal Implementation Plan (Part 2) is available in brochure form (*Suggested Native Species Landscaping List - North County Coastal Zone*) from the Planning

and Building Inspection Department. (Planning and Building Inspection Department).

- 67. Landscape plans shall apply xeriscape principles, including such techniques and materials as native or low water use plants and low precipitation sprinkler heads, bubblers, drip irrigation systems and timing devices. (Water Resources Agency; Planning and Building Inspection)
- 68. All landscaped areas and replanted trees shall be continuously maintained by the applicant and all plant material shall be continuously maintained in a litter-free, weed-free, healthy, growing condition. (Planning and Building Inspection)
- 69. Prior to finalizing of building, grading or demolition permits Duke Energy shall submit the Final Red-legged Frog Survey Report to the Monterey Planning and Building Inspection Department Director, and the Department of Fish and Game. The Survey shall include mitigation measures and implementation criteria for the permanent protection and relocation, if necessary, of the identified amphibious species. The mitigation plan shall be approved by Monterey County, in consultation with the Department of Fish & Game, the U.S. Fish & Wildlife Service, and the California Coastal Commission. (Planning and Building Inspection Department, and Department of Fish and Game)
- 70. Improve intersection of State Highway 1 and Dolan Rd by lengthening the existing southbound left turn pocket and installing right turn lane and stop sign on Dolan Rd. to include an eight foot shoulder on State Highway 1 (Public Works).

PASSED AND ADOPTED this 28th day of June, 2000 by the following vote:

AYES: Errea, Sanchez, Hawkins, Parsons, Brennan, Hennessy, Pitt-Derdivanis, Hernandez, Lacy, Wilmot
 NOES: None
 ABSENT: None



 LYNN BURGESS, AICP, SECRETARY

Copy of this decision mailed to applicant on **JUL 11 2000**

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS. IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **JUL 21 2000**

THIS APPLICATION IS ALSO APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE DECISION BY THE BOARD OF SUPERVISORS, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (408) 479-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA.

This decision is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

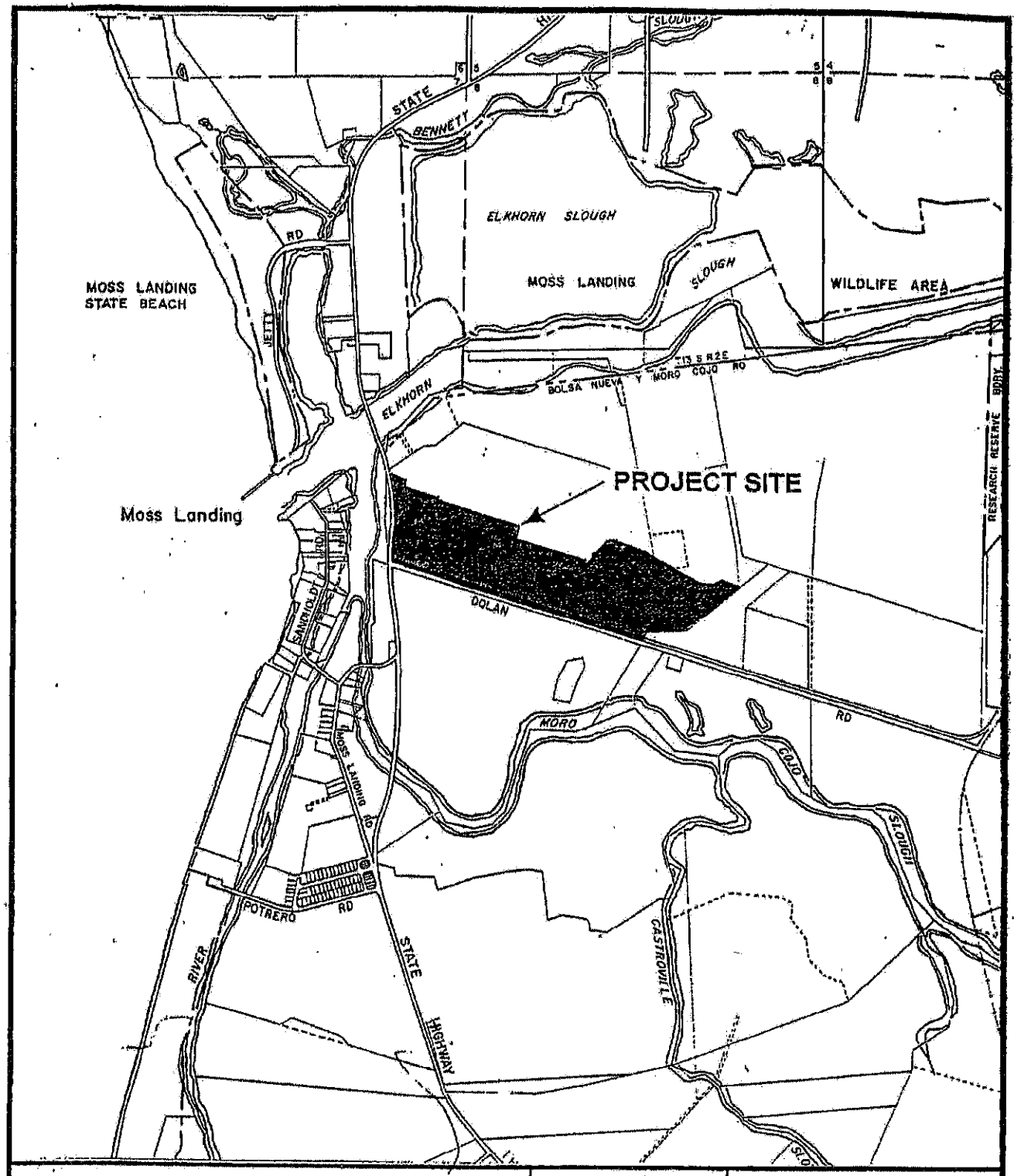
NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Salinas.

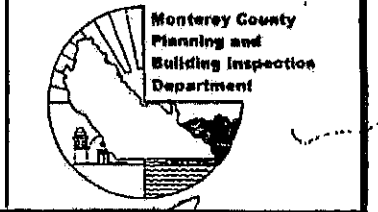
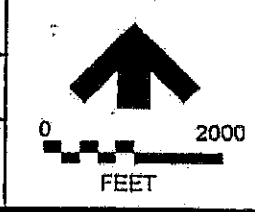
2. This permit expires 2 years after the above date of granting thereof unless construction or use is started within this period.

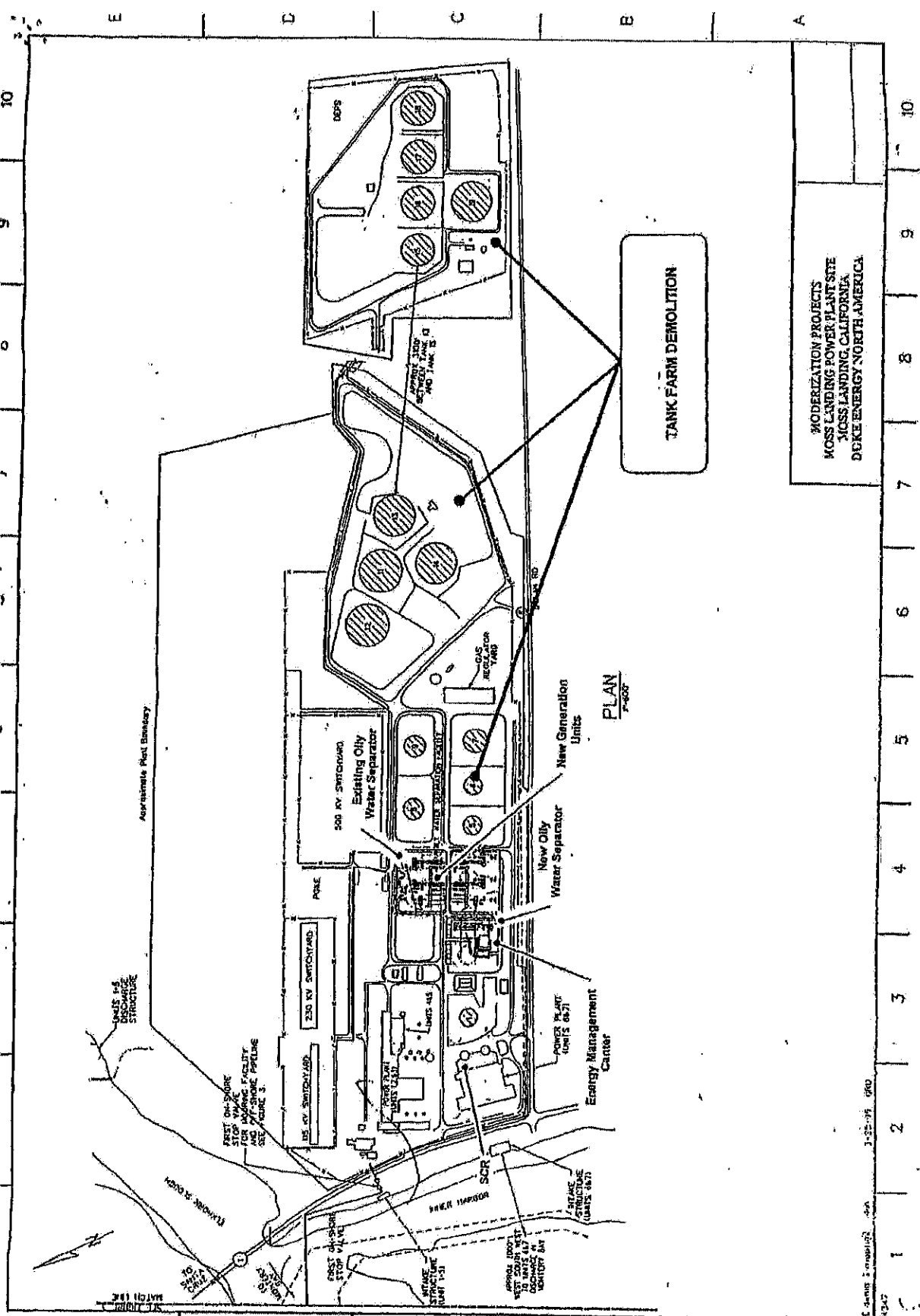


APPLICANT: DUKE ENERGY

APN: 133-181-011-000

300' LIMIT: 
 2,500' LIMIT: 



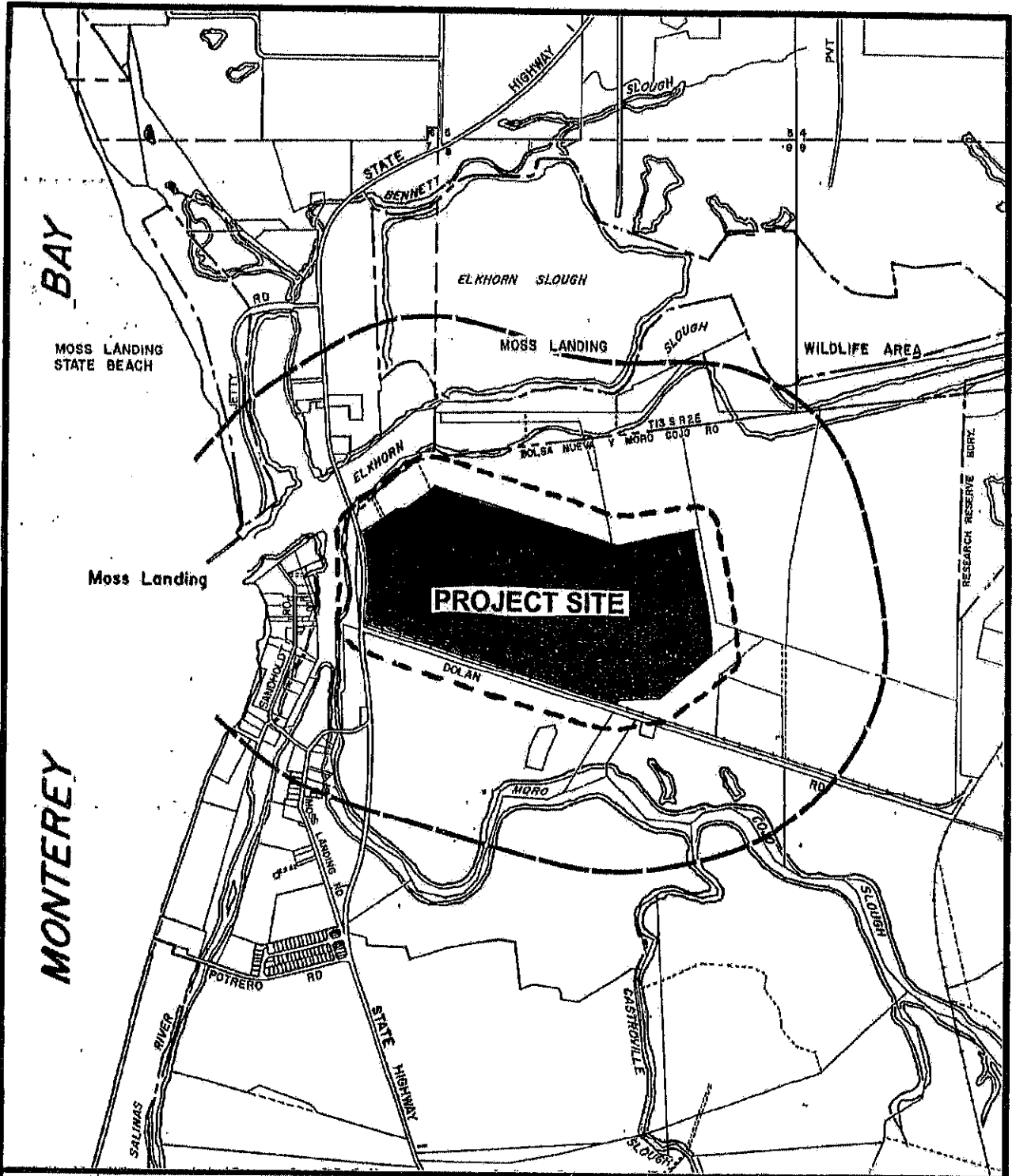




TANK FARM DEMOLITION

PLAN
P-600

MODERNIZATION PROJECTS
MOSS LANDING POWER PLANT SITE
MOSS LANDING, CALIFORNIA
DUKE ENERGY NORTH AMERICA

1-25-95 960
PK342



APPLICANT: DUKE/PG&E
 APN: 133-181-010-000M FILE#990233
 300' LIMIT: 
 2,500' LIMIT: 

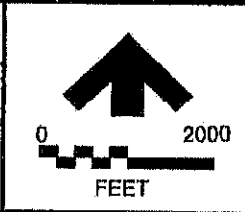


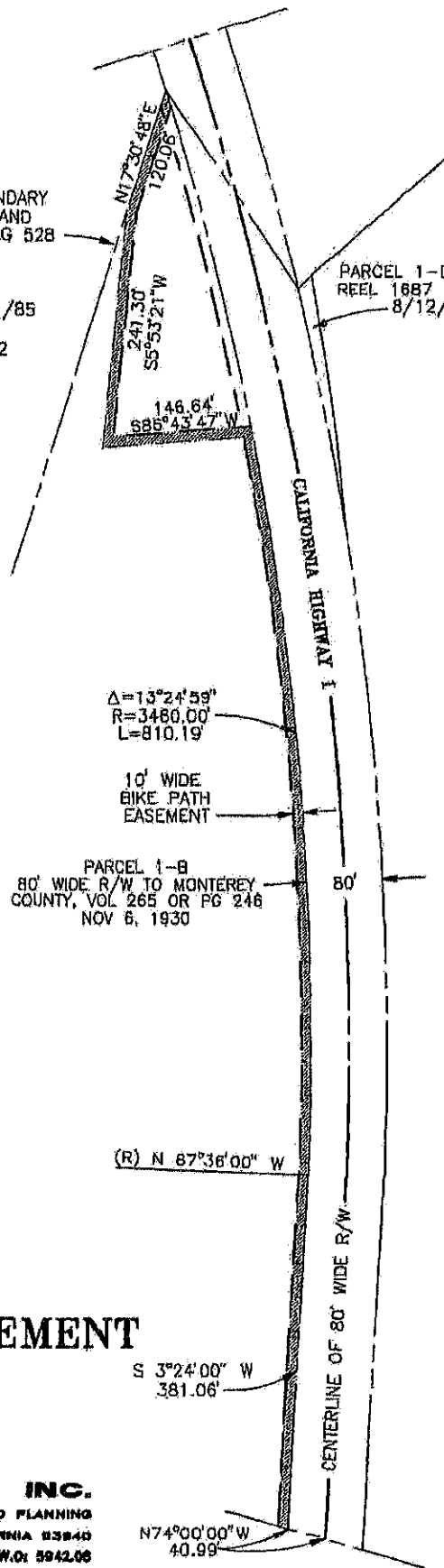
EXHIBIT C

DATE: 6/14/00

AGREEMENT ESTABLISHING BOUNDARY
 BETWEEN P.G.&E. PROPERTY AND
 SALINAS RIVER, VOL 1653 OR PG 528
 6/21/53

AFFIDAVIT OF SURVEY REC. 6/11/85
 REEL 1847 OR PG 429,
 R/S VOL 13 SURVEYS PG 212

PARCEL 1-D TO STATE
 REEL 1687 OR PG 844
 8/12/83



MOSS LANDING HARBOR

POWER PLANT



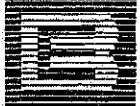
LS No.5555: _____

DATE: SEPT. 29, 2000

NOT TO SCALE

(R) N 67°36'00\" W

MONTEREY COUNTY EASEMENT
EXHIBIT OF
A 10' WIDE BIKE PATH
EASEMENT



BESTOR ENGINEERS, INC.
 CIVIL ENGINEERING - SURVEYING - LAND PLANNING
 5701 BLUE LARKSPUR LANE, MONTEREY, CALIFORNIA 93940
 SCALE: NOT TO SCALE DATE: SEPTEMBER 29, 2000 W.O: 5942.06

S 3°24'00\" W
 381.06'

N74°00'00\" W
 40.99'

CENTERLINE OF 80' WIDE R/W

L:\2002\594206\Draw\LEGAL.DWG - Courtroll - MR 15, 2001 - 10:51:24

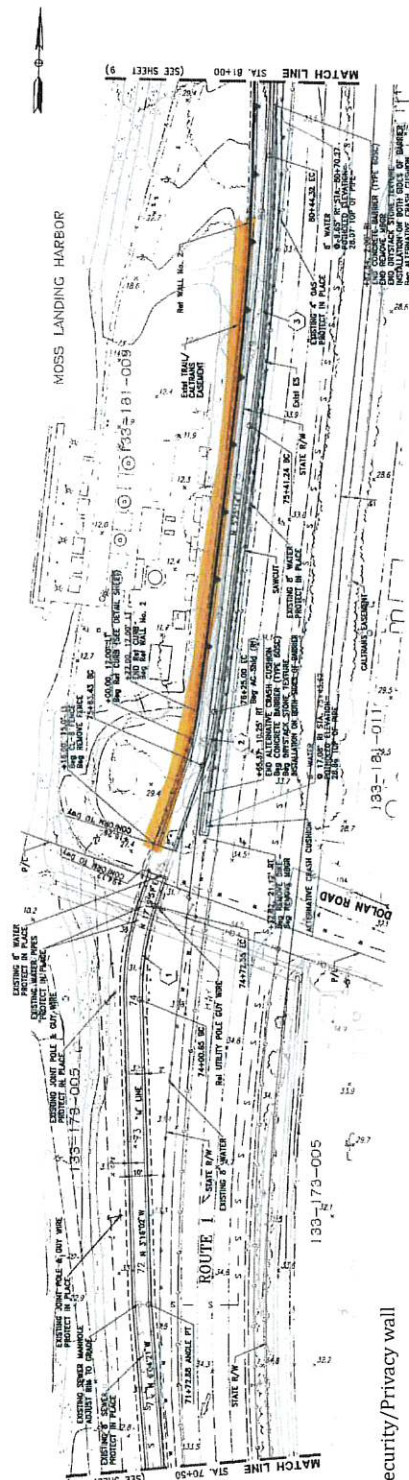
EXHIBIT C

EXHIBIT C

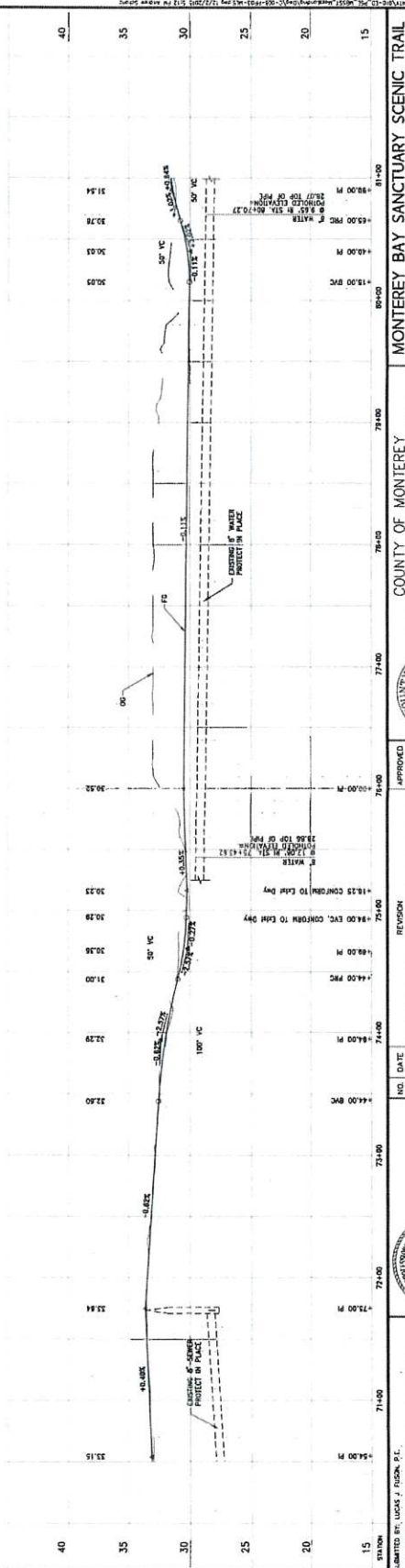
CONSTRUCTION NOTES.

- 1. FOR ADVISORY BOARD OF WAY DATA, CONTACT NORTH OF WAY ENGINEERING AT THE DISTRICT OFFICE.

CHORD DATA				
A	B	Δ	T	L
1	206.00'	28.2355'	36.34'	71.90'
2	206.00'	174.427'	28.86'	41.57'
3	2000.00'	5.4934'	101.53'	203.00'



Security/Privacy wall



<p>DESIGNED BY: LUCKS & FUSON, P.C. CHECKED BY: A.H. DRAWN BY: LUCKS & FUSON, P.C. PROJECT NO.: 2004-17 DATE: 6-30-17</p>	<p>APPROVED</p>	<p>REVISION</p>	<p>NO. DATE</p>
<p>MONTEREY COUNTY PUBLIC WORKS COUNTY ENGINEER No. 2004-17 DATE: 6-30-17</p>	<p>APPROVED</p>	<p>REVISION</p>	<p>NO. DATE</p>
<p>COUNTY OF MONTEREY RESOURCE MANAGEMENT AGENCY DEPARTMENT OF PUBLIC WORKS ENGINEERING SECTION 100 WEST ALVARADO STREET, 2ND FLOOR MONTEREY, CA 93940 (408) 755-4800/FAX (408) 755-4808</p>	<p>APPROVED</p>	<p>REVISION</p>	<p>NO. DATE</p>
<p>MONTEREY BAY SANCTUARY SCENIC TRAIL MOSS LANDING SEGMENT PLAN AND PROFILE (STA 70+50.00 TO 81+00.00)</p>	<p>DATE: 11/07/15 DRAWING: 8 SHEET: 8 TOTAL SHEETS: 15</p>	<p>DATE: 11/07/15 DRAWING: 8 SHEET: 8 TOTAL SHEETS: 15</p>	<p>DATE: 11/07/15 DRAWING: 8 SHEET: 8 TOTAL SHEETS: 15</p>

EXHIBIT C

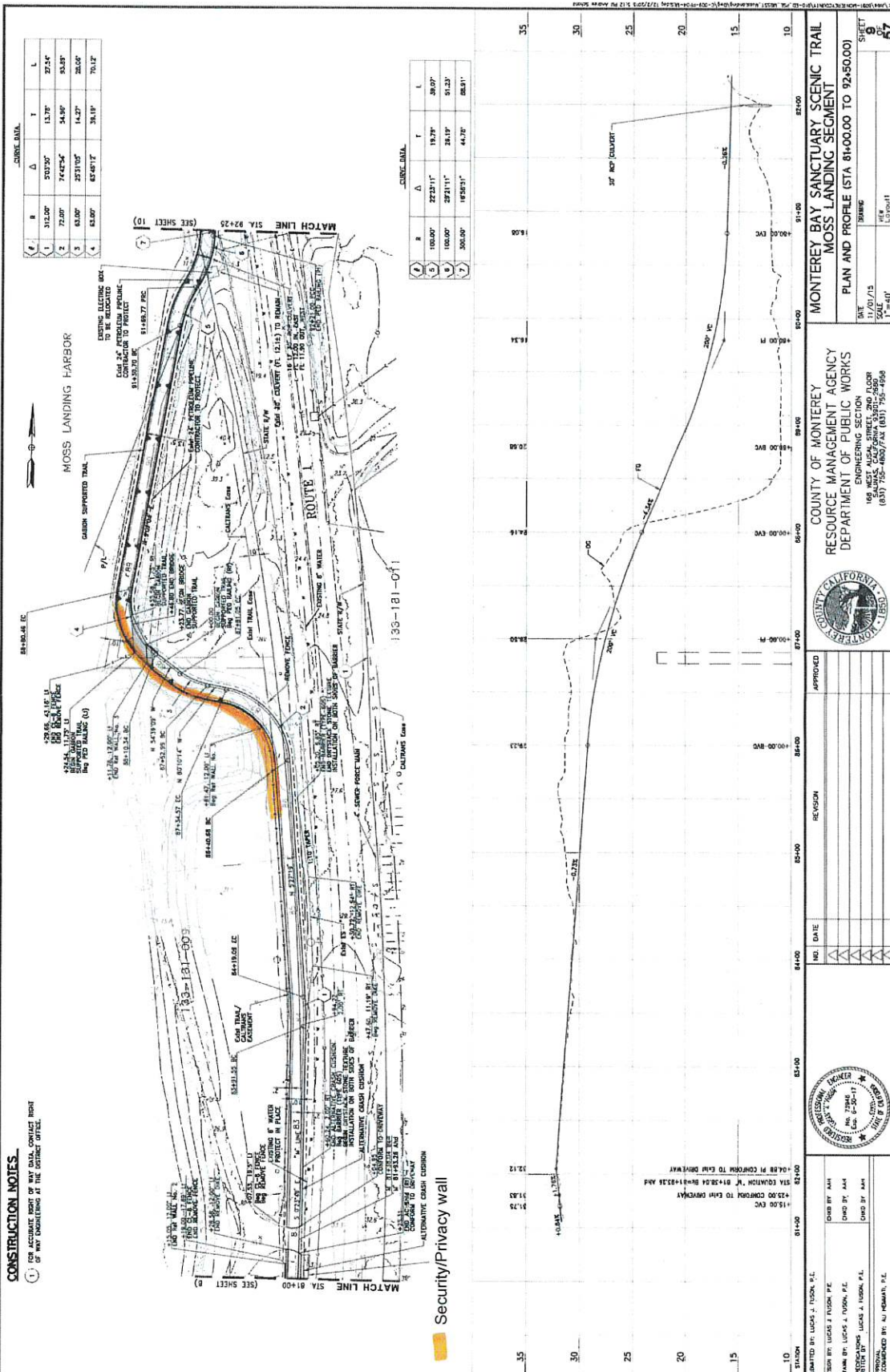
CONSTRUCTION NOTES
 (1) FOR ACCURATE RISE OF WAY DATA, CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

CORDS DATA

Station	B	Δ	T	L
1	312.00'	330.20'	13.77'	27.54'
2	72.00'	74.454'	54.89'	93.89'
3	63.00'	253.105'	14.27'	28.00'
4	63.00'	83.6817'	38.11'	70.12'

CORDS DATA

Station	B	Δ	T	L
1	100.00'	223.11'	19.77'	30.07'
2	100.00'	223.11'	38.19'	51.23'
3	300.00'	193.931'	44.78'	68.31'



MONTEREY BAY SANCTUARY SCENIC TRAIL
MOSS LANDING SEGMENT
 PLAN AND PROFILE (STA 81+00.00 TO 92+50.00)

DATE: 10/13/13
 DRAWN BY: LUCAS A. HOSKIN, P.E.
 CHECKED BY: A.M.H.
 SCALE: 1"=40'

COUNTY OF MONTEREY
 RESOURCE MANAGEMENT AGENCY
 DEPARTMENT OF PUBLIC WORKS

ENGINEERING SECTION
 156 SAMUELSON AVENUE, SUITE 200
 SALINAS, CALIFORNIA 93901-2900
 (831) 755-1800/FAX (831) 755-4986



NO.	DATE	REVISION	APPROVED



DESIGNED BY: LUCAS A. HOSKIN, P.E.
 CHECKED BY: A.M.H.
 DRAWN BY: LUCAS A. HOSKIN, P.E.
 CHECKED BY: A.M.H.
 WRITTEN BY: LUCAS A. HOSKIN, P.E.
 CHECKED BY: A.M.H.
 APPROVAL: ACCOMPANIED BY: A.J. FERRARI, P.E.

Security/Privacy wall

EXHIBIT D

RIGHT OF ENTRY LICENSE

THIS RIGHT OF ENTRY LICENSE (“License”) is entered into as of the last date opposite the respective signatures (the “Effective Date”), by and between the County of Monterey, a political subdivision of the State of California, whose address is 1441 Schilling Place, Salinas, CA 93901 (“Licensee”), and Dynegy Moss Landing, LLC, a Delaware limited liability company, with its central offices at 6555 Sierra Drive, Irving, Texas 75039 (“Licensor”).

Entry by Licensee. Subject to the conditions stated herein including the requirement of advanced notice to Licensor, Licensee shall have the right to enter certain property of Licensor located in Monterey County, California, as more particularly set forth on Exhibit A attached hereto and made a part hereof (the “Property”) for a period of thirty (30) days from the Effective Date, for the sole purpose of accessing adjacent property, owned by Licensor, for which Licensee has easement rights pursuant to that certain “AMENDED AND RESTATED PUBLIC ACCESS EASEMENT DEED AND DECLARATION OF RESTRICTIONS” (hereafter, “Easement” or “Easement Property”) recorded as Document No. _____ with the Monterey County Recorder on _____, 2020, to complete work related to the Monterey Bay Sanctuary Scenic Trail Project, as more particularly described in the Easement. In entering the Property and conducting its limited work, Licensee shall not interfere with any of Licensor’s operations or activities on the Property, whether now existing or planned or permitted for the future.

Entry onto the Property shall only be made during regular working hours and subject to the Licensor’s property management policies and practices, and not inconsistent with the Licensor’s primary use of the Property and other operations incident thereto.

Limitations of License. Licensee’s work shall be detailed in a [Scope of Work], Exhibit B, attached to this License for approval by Licensor, prior to any activity taking place on the Property. Licensee shall use its best efforts to minimize damage to the Property and must promptly repair any damages to the Property resulting from Licensee’s work and/or entry onto the Property and restore the Property to substantially the same condition that existed prior to entry by Licensee.

Condition of Property. Licensee assumes full responsibility for independently and personally inspecting the Property and investigating conditions and determining the existence and magnitude of any hazards to the physical well-being of property of Licensee, its Authorized Contractors, agents, employees, servants, independent contractors, and/or guests. Licensee will advise all of the above-specified persons or entities of any hazards relating to the Property, and will ensure that those persons or entities fully understand the nature of any hazards and safety precautions that can be taken to eliminate or minimize dangers relating to said hazards.

Liability and Release. Licensee acknowledges that it is not an agent, servant, or employee of the Licensor, and that it is responsible for its own acts and deeds and for those of its agents, servants or employees.

To the extent authorized under the laws of the State of California, Licensee shall indemnify and hold Licensor harmless against any and all claims, demands, damages, liabilities and costs incurred by Licensor which directly or indirectly result from, or arise in connection with, any

negligent act or omission of Licensee pertaining to its entry upon or limited inspection of the Property or otherwise to actions taken in furtherance of its rights under this License.

Licensee assumes full responsibility for investigating conditions and determining the existence and magnitude of any hazards to the physical well-being of Licensee's property and any person entering on behalf of Licensee. Licensee will advise any person entering on its behalf of any hazards relating to the Property and will ensure that such persons are advised of and fully understand the nature of the hazards and safety precautions that can be taken to eliminate or minimize dangers relating to the hazards.

With respect to the access across the Property, Licensee expressly acknowledges that it releases all claims, losses, expenses, attorneys' fees, damages, demands, judgments, causes of action, suits, and liability in tort, contract, or any other basis and of every kind and character whatsoever ("Claims") for personal injury, death, or property damage of Licensee, its employees, agents, and equipment service contractors, arising out of or incident to or related in any way to, directly or indirectly, Licensee's entrance onto or activities upon the Property.

Severability. If any provision of this License is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this License, the legality, validity and enforceability of the remaining provisions of this License shall not be affected thereby.

IN WITNESS WHEREOF, Licensee and Licensor have executed this instrument by their duly authorized representatives as of the last date opposite the respective signatures below.

LICENSOR
Dynergy Moss Landing, LLC

LICENSEE
County of Monterey
Resource Management Agency

By: Matthew A. Goering
Title: Vice President

By: Carl P. Holm
Title: Director

Date: _____

Date: _____

APPROVED AS TO FORM:
Office of the County Counsel
Leslie J. Girard, County Counsel

By: _____
Mary Grace Perry
Deputy County Counsel

Date: _____

EXHIBIT A

Property

EXHIBIT B

Scope of Work