

**CALENDAR ITEM
C41**

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02/21/14
PRC 3453.1
K. Foster
S. Mongano

**CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT AND
ISSUANCE OF A NEW GENERAL LEASE – INDUSTRIAL USE**

APPLICANT:

Tesoro Refining & Marketing Company LLC
Golden Eagle Refinery
150 Solano Way
Martinez, CA 94553

AREA, LAND TYPE, AND LOCATION:

15.37 acres, more or less, of sovereign land in the Carquinez Strait and Pacheco Creek, in and near the city of Martinez, Contra Costa County.

AUTHORIZED USE:

The continued operation and maintenance of an existing marine oil terminal wharf in the Carquinez Strait; and two crossings at Pacheco Creek for various pipelines and a telephone cable.

PREVIOUS LEASE TERM(S):

25 years, beginning January 1, 1984

PROPOSED LEASE TERM:

30 years, beginning January 1, 2014.

CONSIDERATION:

Base Rent of \$301,323 for the lease year from January 1, 2014 to December 31, 2014; with the State adjusting the Annual Rent for each year following the Base Rent year by the application of the annual percentage change of the California Consumer Price Index (CPI), provided that the adjusted Annual Rent will never be lower than the Base Rent then in effect. CPI adjustments will continue annually until each tenth anniversary of the Lease (2024 and 2034), when a new Base Rent may be established as outlined in the Lease.

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SPECIFIC LEASE PROVISIONS:

Insurance: In an amount not less than \$10,000,000 per occurrence, with the State reserving the right at any time to require an increase in the amount of liability insurance to reflect economic inflation and to cover any additionally authorized improvements or alterations; Lessee may satisfy all or part of the insurance requirements through maintenance of a staff-approved self-insurance program as outlined in the Lease.

Performance Deposit: \$2,000,000; with the State reserving the right at any time to require an increase in the performance deposit amount to reflect economic inflation or to cover any additionally authorized improvements, alterations, or purposes or any modification of rental.

Dredging: Maintenance dredging may occur a maximum of once every five years, and is limited by specific time restraints and all other conditions as imposed by regulatory agencies having jurisdiction regarding this matter; if dredging is required for safe navigation or operations of the terminal, dredging may occur more often upon the written consent of Commission staff; dredged material shall be disposed of at any U.S. Army Corps of Engineers-approved Carquinez Strait site or at any onshore disposal site fully authorized by all governmental entities having jurisdiction; dredged material may not be sold.

BACKGROUND:

Various oil companies have operated a wharf for the transfer of petroleum products at the subject site adjacent to an upland refinery in Martinez since approximately 1923. Lease No. PRC 331.1 was originally authorized by the Commission to Tidewater Associated Oil Company (Tidewater) on August 19, 1947, for two right-of-way crossings at Pacheco Creek, for various pipelines and a telephone cable. Lease No. PRC 3453.1 a General Lease – Industrial Use to Tidewater was authorized by the Commission beginning December 19, 1961, for a 15-year period with three (3) renewal option periods of 10 years each. The Commission terminated Lease No. PRC 331.1 and consolidated the two right-of-ways into Lease No. PRC 3453.1 and issued a new General Lease – Industrial Use to Tosco Corporation beginning January 1, 1984, for a period of 25 years.

On January 30, 2002, the Commission authorized an assignment of Lease No. PRC 3453.1 from Tosco Corporation to Ultramar Inc., and on December 16, 2002, the Commission authorized an assignment from Ultramar Inc. to Tesoro Refining and Marketing Company. On January 3, 2013, Tesoro Refining and

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Marketing Company changed its name to Tesoro Refining & Marketing Company LLC (Tesoro).

The Lease expired on December 31, 2008, and has been in holdover status pending the processing of Tesoro's application for a new lease and the preparation of an Environmental Impact Report for ongoing operations at the facility.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15025), the staff has prepared an Environmental Impact Report (EIR) identified as CSLC EIR No. 760, State Clearinghouse No. 2012052030. Such EIR was prepared and circulated for public review pursuant to the provisions of CEQA. A Mitigation Monitoring Program has been prepared in conformance with the provisions of CEQA (Pub. Resources Code, § 21081.6), and is contained in Exhibit C, attached hereto.
3. Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15091) are contained in Exhibit D, attached hereto.
4. A Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15093) is contained in Exhibit D, attached hereto.
5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the Project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Site and Location Map
- B. Land Description
- C. Mitigation Monitoring Program
- D. CEQA Findings and Statement of Overriding Considerations

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDINGS:

1. Certify that CSLC EIR No. 760, State Clearinghouse No. 2012052030, was prepared for this Project pursuant to the provisions of CEQA, that the Commission has reviewed and considered the information contained therein and in the comments received in response thereto and that the EIR reflects the Commission's independent judgment and analysis.
2. Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.
3. Adopt the Findings, made in conformance with California Code of Regulations, Title 14, section 15091, as contained in Exhibit D, attached hereto.
4. Adopt the Statement of Overriding Considerations made in conformance with California Code of Regulations, Title 14, section 15093, as contained in Exhibit D, attached hereto.

SIGNIFICANT LANDS INVENTORY FINDING:

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

AUTHORIZATION:

Authorize issuance of a General Lease – Industrial Use to Tesoro Refining & Marketing Company LLC beginning January 1, 2014, for a term of 30 years, for the continued operation and maintenance of existing marine oil terminal facilities, and two crossings at Pacheco Creek for various pipelines and a telephone cable as described in Exhibit A attached and by this reference made a part hereof, and as shown on Exhibit B (for reference purposes only); maintenance dredging a maximum of once every five years subject to compliance with all applicable permits, recommendations, or limitations of all regulatory agencies having jurisdiction over such activity; if dredging is required for safe navigation or operations of the terminal, dredging may occur more often upon the written consent of Commission staff; Base Rent of \$301,323 for the lease

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year from January 1, 2014 to December 31, 2014, with the State adjusting the Annual Rent by means of a CPI adjustment for each year following the fixing of a Base Rent as provided in the Lease, provided that the adjusted Annual Rent will never be lower than the Base Rent then in effect; Insurance in an amount not less than \$10,000,000 per occurrence, with the State reserving the right at any time to require an increase in the amount of liability insurance to reflect economic inflation and to cover any additionally authorized improvements or alterations; Lessee may satisfy all or part of the insurance requirements through maintenance of a staff-approved self-insurance program as outlined in the Lease; performance deposit of \$2,000,000 with the State reserving the right at any time to require an increase in the amount of the performance deposit to reflect economic inflation or to cover any additionally authorized improvements, alterations, or purposes or any modification of rental as provided in the Lease.

EXHIBIT A

PRC 3453.1

LAND DESCRIPTION

Two parcels of tide and submerged land in the State-owned bed of Pacheco Slough (Creek) and one parcel of tide and submerged land in Suisun Bay, Contra Costa County, California, more particularly described as follows:

PARCEL 1

A strip of land 100 feet wide, lying 50 feet on each side of the following described centerline:

BEGINNING at a point on the centerline of the Southern Pacific Railroad's mainline which bears S 18°09'20" E, 50.00 feet from a brass cap monument stamped "AVON", said monument having California Coordinate System Zone 3 coordinates of X=1,545,386.26 and Y=561,570.34; thence from said point of beginning, S 71°20'30" W, 140 feet, more or less, along the centerline of said mainline to the end of the herein described line.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark of Pacheco Slough.

PARCEL 2

A strip of land 50 feet wide lying 25 feet on each side of the following described centerline:

COMMENCING at a brass cap monument stamped "AVON" having California Coordinate System Zone 3 coordinates of X=1,545,386.26 and Y=561,570.34; thence N 65°18'49" W, 300.13 feet to a point where the ordinary high water mark of the easterly bank of Pacheco Slough as described in that boundary agreement recorded in Volume 1732, at Page 35, Official Records of Contra Costa County, intersects a line parallel with and 256 feet northerly of the Southern Pacific Railroad's mainline and being the TRUE POINT OF BEGINNING of the herein described centerline; thence S 71°20'30" W, parallel with said mainline, 129.17 feet to the ordinary high water mark of the westerly bank of Pacheco Slough as described in that boundary agreement recorded in Volume 1732, at Page 37, Official Records of Contra Costa County and the end of the herein described line.

PARCEL 3

COMMENCING at U.S. Coast and Geodetic Triangulation Station Suisun Pt. 2, as shown on Tidewater Drawing No. 26-DA-43 dated October 29, 1962; thence N 32°17'17.7" W, 1100.00 feet and S 60°30'44" W, 656.90 feet along the Pierhead line in Suisun Bay to the TRUE POINT OF BEGINNING; thence from the true point of beginning, S 29°29'16" E, 220.00 feet; thence S 60°30'44" W, 780.00 feet; thence

S 25°09'40" W, 103.67 feet; thence S 64°50'37" E, 824.02 feet; thence S 36°23'56" W, 101.96 feet; thence N 64°50'37" W, 948.64 feet; thence S 60°30'44" W 370.27 feet; thence N 29°29'16" W, 395.00 feet; thence N 60°30'44" E, 1400.00 feet; thence S 29°29'16" E, 175.00 feet to the point of beginning.

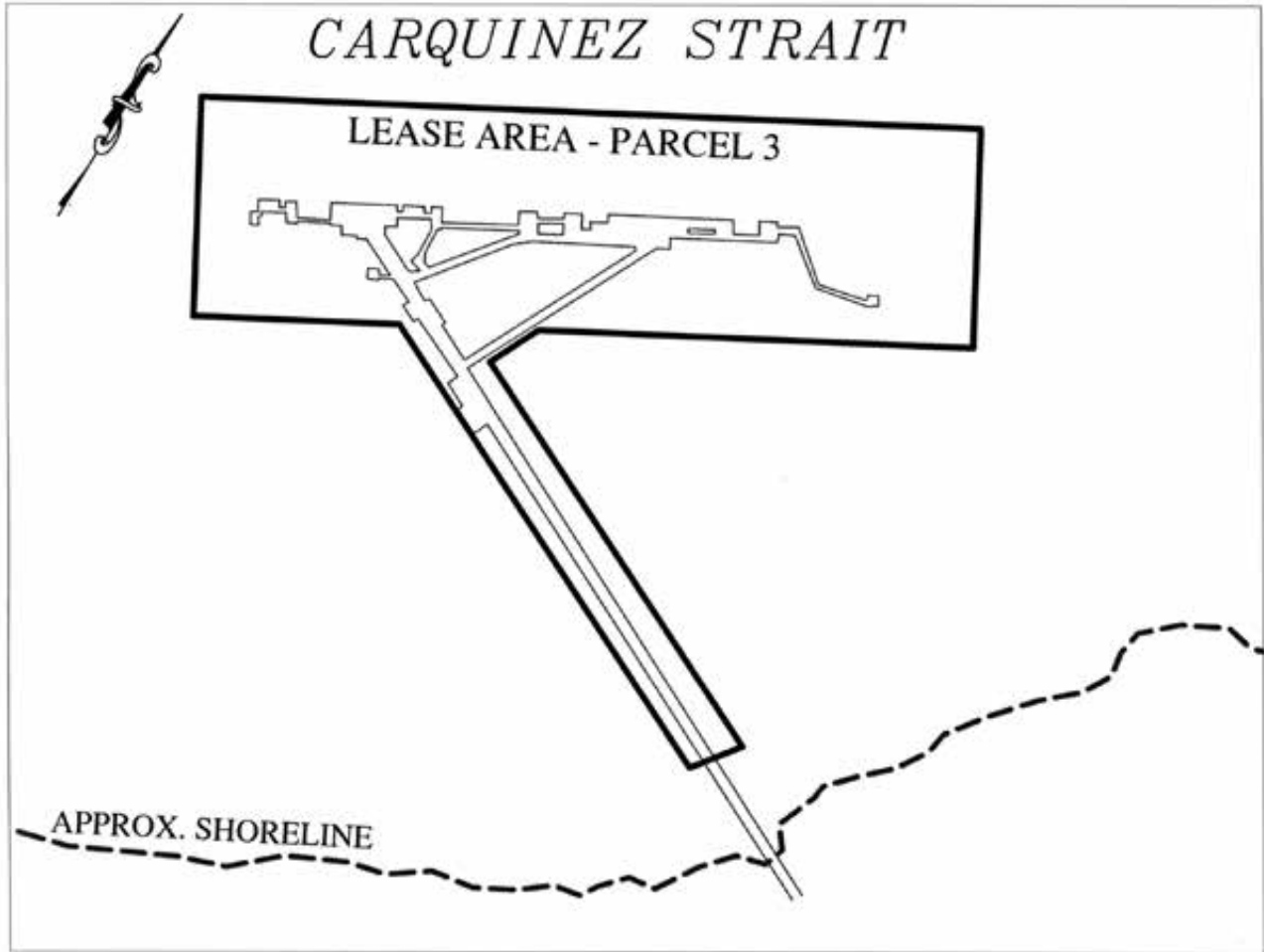
END OF DESCRIPTION

PARCELS 1 AND 2 BASED ON THAT ORIGINAL DESCRIPTION REVISED MARCH 28, 1983 BY BOUNDARY AND TITLE UNIT, LEROY WEED, SUPERVISOR AS FOUND IN LEASE FILE PRC 3453. PARCEL 3 REVISED 9/06/13 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT.



NO SCALE

SITE



Carquinez Strait, Martinez

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 3453.1
TESORO AMORCO MOT
GENERAL LEASE -
INDUSTRIAL USE
CONTRA COSTA COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION
MITIGATION MONITORING PROGRAM

Amorco Marine Oil Terminal Lease Consideration Project
(State Clearinghouse No. 2012052030)

The California State Lands Commission (CSLC) is the lead agency under the California Environmental Quality Act (CEQA) for the **Amorco Marine Oil Terminal Lease Consideration Project (Project)**. In conjunction with approval of this Project, the CSLC adopts this Mitigation Monitoring Program (MMP) for implementation of mitigation measures (MMs) for the Project to comply with Public Resources Code section 21081.6, subdivision (a) and State CEQA Guidelines sections 15091, subdivision (d) and 15097.

The Project authorizes Tesoro Refining and Marketing Company, LLC (Tesoro or Applicant) to allow the Amorco Marine Oil Terminal (Amorco Terminal) to continue operations, which will enable the associated Golden Eagle Refinery to continue to receive petroleum products from tankers that dock at the Amorco Terminal, in accordance with the terms and conditions of CSLC Lease No. PRC 3453.1, a 30-year General Lease-Industrial Use.

PURPOSE

It is important that significant impacts from the Project are mitigated to the maximum extent feasible. The purpose of a MMP is to ensure compliance and implementation of MMs; this MMP shall be used as a working guide for implementation, monitoring, and reporting for the Project's MMs.

ENFORCEMENT AND COMPLIANCE

The CSLC is responsible for enforcing this MMP. Tesoro is responsible for the successful implementation of and compliance with the MMs identified in this MMP. This includes all field personnel and contractors working for Tesoro.

MONITORING

The CSLC staff may delegate duties and responsibilities for monitoring to other environmental monitors or consultants as necessary. Some monitoring responsibilities may be assumed by other agencies, such as affected jurisdictions, cities, and/or the California Department of Fish and Wildlife (CDFW). The CSLC and/or its designee shall ensure that qualified environmental monitors are assigned to the Project.

Environmental Monitors. To ensure implementation and success of the MMs, an environmental monitor be notified of all Project activities that have the potential to create significant environmental impacts or impacts for which mitigation is required. Along with the CSLC staff, the environmental monitor(s) are responsible for:

- Ensuring that the Applicant has obtained all applicable agency reviews and approvals;
- Coordinating with the Applicant to integrate the mitigation monitoring procedures during Project implementation (for this Project, many of the monitoring procedures shall be conducted during the deconstruction phase); and
- Ensuring that the MMP is followed.

The environmental monitor shall immediately report any deviation from the procedures identified in this MMP to the CSLC staff or its designee. The CSLC staff or its designee shall approve any deviation and its correction.

Workforce Personnel. Implementation of the MMP requires the full cooperation of Project personnel and supervisors. Many of the MMs require action from site supervisors and their crews. In addition, to ensure successful implementation, all applicable relevant mitigation procedures shall be written into contracts between the Applicant and any contractors.

General Reporting Procedures. A monitoring record form shall be submitted to the Applicant, and once the Project is complete, a compilation of all the logs shall be submitted to the CSLC staff. The CSLC staff or its designated environmental monitor shall develop a checklist to track all procedures required for each MM and shall ensure that the timing specified for the procedures is followed. The environmental monitor shall note any issues that may occur and take appropriate action to resolve them.

Public Access to Records. Records and reports are open to the public and would be provided upon request.

MITIGATION MONITORING TABLE

This section presents the mitigation monitoring table for the following environmental disciplines: Operational Safety/Risk of Accidents; Biological Resources; Water Quality; Land Use and Recreation; and Visual Resources, Light and Glare. All other environmental disciplines were found to have less than significant or no impacts and are therefore not included below. The table lists the following information, by column:

- Impact (impact number, title, and impact class);
- Mitigation measure (full text of the measure);
- Location (where impact occurs and mitigation measure should be applied);
- Monitoring/reporting action (action to be taken by monitor or Lead Agency);
- Effectiveness criteria (how the agency can know if the measure is effective);
- Responsible agency; and
- Timing (before, during, or after construction; during operation, etc.).

Table C-1: Mitigation Monitoring Program

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
Operational Safety/Risk of Accidents					
<p>OS-1: Potential for spills and response capability for containment of oil spills from the Amorco Terminal during transfer operations. (Significant and unavoidable.)</p>	<p>MM OS-1a: Provide and maintain mooring line quick release devices that shall be able to be activated within 60 seconds.</p> <ul style="list-style-type: none"> • These devices shall be capable of being engaged by electric/push button release mechanism and by integrated remotely-operated release system. • Tesoro shall document procedures and training for systems use and communications between Amorco Terminal and vessel operator(s). • Routine inspection, testing and maintenance of all equipment and systems in accordance with manufacturers’ recommendations and necessity are required to ensure safety and reliability, to the satisfaction of CSLC staff. • Tesoro may install alternate technology that provides an equivalent level of protection, as reviewed by CSLC staff and approved by the Commission at a publicly noticed meeting. 	<p>CSLC monitor to observe properly provided and maintained devices and periodically monitor procedures and training for systems use.</p>	<p>This measure would allow a vessel to leave the Amorco Terminal as quickly as possible in the event of an emergency (fire, explosion, accident, or tsunami that could lead to a spill) that could impact the Amorco Terminal or the vessel.</p>	<p>CSLC</p>	<p>Within 24 months of lease implementation</p>
	<p>MM OS-1b: Tension Monitoring Systems. Provide and maintain TMSs to effectively monitor all mooring line and environmental loads, and avoid excessive tension or slack line conditions that could result in damage to</p>	<p>CSLC monitor to observe properly provided and maintained devices and periodically</p>	<p>Reduces potential for damages and spills.</p>	<p>CSLC</p>	<p>Within 24 months of lease implementation</p>

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
	<p>the terminal structure and/or equipment and/or vessel mooring line failures that could result in spills.</p> <ul style="list-style-type: none"> • Line tensions and environmental data shall be integrated into systems that record and relay all critical data in real time to the control room, terminal operator(s) and vessel operator(s). • This system shall include, but not be limited to, quick release hooks only (with load cells), site-specific current meter(s), site-specific anemometer(s), and visual and audible alarms that can support effective preset limits and shall be able to record and store monitoring data. • Tesoro shall document procedures and training for systems use and communications between Amorcó Terminal and vessel operator(s) • Routine inspection, testing and maintenance of all equipment and systems in accordance with manufacturers' recommendations and necessity are required to ensure safety and reliability, to the satisfaction of CSLC staff. • Tesoro may install alternate technology that provides an equivalent level of protection, as reviewed by CSLC staff and approved by the Commission at a publicly noticed meeting. 	<p>monitor procedures and training for systems use.</p>			

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
	<p>MM OS-1c: Allision Avoidance Systems. Provide and maintain AASs at the Amorco MOT to prevent damage to the pier/wharf and/or vessel during docking and berthing operations.</p> <ul style="list-style-type: none"> • The AASs shall be used and alarmed to monitor vessel drift (both surge and sway) during all mooring operations, and shall be equipped with an AIS receiver to capture passing vessel parameters. • This shall be integrated with the TMSs such that all data collected are available in the Control Room and to Amorco Terminal operator(s) at all times and vessel operator(s) during berthing operations. The AASs shall also be able to record and store monitoring data. • Tesoro shall document procedures and training for systems use and communications between Amorco Terminal and vessel operator(s). • Routine inspection, testing and maintenance of all equipment and systems in accordance with manufacturers' recommendations and necessity are required to ensure safety and reliability, to the satisfaction of CSLC staff. 	<p>CSLC monitor to observe properly, provided, and maintained devices and periodically monitor procedures and training for systems use.</p>	<p>Reduces potential for damages and spills.</p>	<p>CSLC</p>	<p>Within 24 months of lease implementation</p>

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
<p>OS-2: Amorc Terminal spills from pipelines during non-transfer periods. (Significant and unavoidable.)</p>	<p>No additional mitigation measures available. (See MM OS-1a, OS-1b, OS1c, OS4a, and OS-4b.)</p>	<p>See MM OS-1a, OS-1b, OS1c, OS4a, and OS-4b.</p>	<p>See MM OS-1a, OS-1b, OS1c, OS4a, and OS-4b.</p>	<p>See MM OS-1a, OS-1b, OS1c, OS4a, and OS-4b.</p>	<p>See MM OS-1a, OS-1b, OS1c, OS4a, and OS-4b.</p>
<p>OS-3: Potential for fires and explosions and response capability. (Significant and unavoidable.)</p>	<p>MM OS-3b: Fire Protection Assessment. Tesoro shall develop a Fire Protection Assessment, including a set of procedures, training and drills consistent with Marine Oil Terminal Engineering and Maintenance Standards (Cal. Code Regs., tit. 24, §3108F2.2). Tesoro shall also develop a set of procedures and conduct training and drills for dealing with tank vessel fires and explosions for tank vessels berthed at the terminal. The procedures shall include the steps to follow in the event of a tank vessel fire and describe how Tesoro and the vessel will coordinate activities. The procedures shall also identify other capabilities that can be procured if necessary in the event of a major incident. The Fire Plan and procedures shall be submitted to the California State Lands Commission (CSLC) staff within 90 days of lease renewal. The CSLC staff shall have final approval of the plan.</p>	<p>Tesoro shall prepare and submit Fire Protection Assessment to CSLC for review and approval.</p>	<p>Provides planning and procedures for emergency response.</p>	<p>CSLC</p>	<p>Submit to CSLC within 90 days of signing the lease agreement.</p>

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
<p>OS-4: Response capability for accidents in the Bay and outer coast.</p>	<p>MM OS-4a: U.S. Coast Guard (USCG) Ports and Waterways Safety Assessment workshops. Tesoro shall participate in USCG PAWSA workshops for the San Francisco Bay Area to support overall safety improvements to the existing Vessel Traffic Service in the Bay Area or approaches to the Bay, if such workshops are conducted by the USCG during the life of the lease.</p>	<p>Tesoro shall demonstrate to CSLC their participation in USCG PAWSA workshops to support overall safety in the Bay and to protect sensitive resources.</p>	<p>Reduces potential damage to resources.</p>	<p>CSLC</p>	<p>Life of lease.</p>
	<p>MM OS-4b: Spill response to vessel spills. Tesoro shall respond to any spill from a vessel traveling in the San Francisco Bay to or from the Amorco Terminal or moored at the Amorco Terminal, as if it were its own, without assuming liability, until such time as the vessel's response organization can take over management of the response actions in a coordinated manner.</p>	<p>CSLC monitor to observe emergency actions.</p>	<p>Reduces potential damage to resources.</p>	<p>CSLC</p>	<p>Life of lease.</p>

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
Biological Resources					
BIO-6: Cause impacts to the San Francisco Bay Estuary and associated aquatic biota as a result of major fuel, lubricant, and/or boat-related spills. (Significant and unavoidable.)	MM BIO-6a: Bird rescue personnel and rehabilitators. Tesoro shall ensure that procedures are in place to bring bird rescue personnel and rehabilitators to the site following a spill event that is not immediately contained at the Amorcó Terminal. This requires having contractual arrangements in place as part of the Golden Eagle Refinery Oil Spill Contingency Plan so that bird rescue personnel and equipment can be on-site within hours of the onset of an accidental release.	Verify contractual arrangements in place and contact info on site	Minimize marine bird mortality in the event of a spill.	CSLC	Within 60 days of project approval and EIR certification and for life of lease.
	MM BIO-6b: Cleanup of oil from biological area. When a spill occurs, Tesoro shall develop procedures for cleanup of any sensitive biological areas contacted by oil in consultation with biologists from the CDFW, National Marine Fisheries Service (NMFS), and U.S. Fish and Wildlife Service (USFWS).	Verify that cleanup procedures have been developed.	Minimize impacts to sensitive biological areas in the event of a spill.	CSLC, with CDFW, U.S. USFWS, and NMFS	Within 60 days of project approval and EIR certification and for life of lease.
	MM BIO-6c: Natural Resource Damage Assessment (NRDA) Team. Tesoro shall coordinate to the maximum extent feasible with the NRDA Team to determine the extent of damage and loss of resources, cleanup, restoration, and compensation. Tesoro shall keep the CSLC staff informed of its participation in such efforts by providing copies of memos, meeting agendas, emails, or other appropriate documentation. Tesoro shall be responsible for cleanup,	Tesoro shall provide documentation of participation to CSLC staff.	Reduces potential damage and loss of resources from oil spill.	CSLC, NRDA trustee agencies (typically USFWS, NMFS, CSLC, CDFW)	In conjunction with NRDA, for life of lease.

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
	restoration, and compensation of damages to resources if Tesoro is determined to be the responsible party for a spill.				
BIO-7: Introduce invasive nonindigenous species to the San Francisco Bay Estuary. (Significant and unavoidable.)	MM BIO-7a: Marine Invasive Species Act (MISA) Reporting Forms. Tesoro shall advise both agents and representatives of shipping companies having control over vessels that have informed Tesoro of plans to call at the Amorc Terminal about the California Marine Invasive Species Act and associated implementing regulations. Tesoro shall satisfy itself that all vessels submit required reporting forms, as applicable for each vessel, to the CSLC Marine Facilities Division, including, but not limited to, the Ballast Water Reporting Form, Hull Husbandry Reporting Form, Ballast Water Treatment Technology Reporting Form, and/or Ballast Water Treatment Supplemental Reporting Form.	Verify documentation of vessel compliance with reporting requirements and associated regulation.	Compliance with MISA to reduce the introduction of nonindigenous aquatic species from ballast water and hull fouling.	CSLC	Life of lease.
	MM BIO-7b: Invasive species action funding. Tesoro shall participate and assist in funding ongoing and future actions related to nonindigenous aquatic species as identified in the October 2005 Delta Smelt Action Plan (State of California 2005). The funding support shall be provided to the Pelagic Organism Decline Account or other account identified by the California Department of Water Resources (DWR)	The level of funding shall be determined by the CSLC, DWR, CDFW, and Tesoro as part of the agencies' responsibilities under the Delta Smelt Action Plan and CSLC's	Contributions will go towards effort in finding a solution to pelagic species decline.	CSLC, DWR, CDFW	Life of lease.

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
	and CDFW, the lead Action Plan agencies. The level of funding shall be determined through a cooperative effort between the CSLC, DWR, CDFW, and Tesoro, and shall be based on criteria that establish Tesoro’s commensurate share of the plan’s nonindigenous aquatic species actions costs.	administration of MISA.			
CUM-BIO-2: Cause cumulative impacts to San Francisco Bay Estuary and associated biota from oil spills from all marine oil terminals combined, or from all tankering combined. (Significant and unavoidable.)	MM CUM-BIO-2a: Tesoro shall implement MM BIO-6a through BIO-6c.	See MM BIO-6a through BIO-6c.	See MM BIO-6a through BIO-6c.	See MM BIO-6a through BIO-6c.	See MM BIO-6a through BIO-6c.
CUM-BIO-3: Cause cumulative impacts by increasing the risk of introduction of nonindigenous aquatic species from vessel traffic to San Francisco Bay. (Significant and unavoidable.)	MM CUM-BIO-3a: Tesoro shall implement MM BIO-7a and BIO-7b.	See MM BIO-7a and BIO-7b.	See MM BIO-7a and BIO-7b.	See MM BIO-7a and BIO-7b.	See MM BIO-7a and BIO-7b.

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
Water Quality					
<p>WQ-3: Degrade water quality by the discharge of ballast water. (Significant and unavoidable.)</p>	<p>MM WQ-3: Advise vessels of applicable regulations and standards. Tesoro shall advise both agents and representatives of shipping companies having control over vessels that have informed Tesoro of plans to call at the Amorco Terminal about the Coastal Ecosystems Protection Act of 2006 and associated implementing regulations.</p>	<p>Tesoro will advise both agents and representatives of shipping companies having control over vessels that have informed Tesoro of plans to call at the Amorco Terminal about the Coastal Ecosystems Protection Act of 2006 and associated implementing regulations.</p>	<p>Informing vessel operators of regulations and standards will help reduce the potential of nonindigenous aquatic species introduction via ballast water.</p>	<p>CSLC, U.S. Gulf Coast, U.S. Environmental Protection Agency</p>	<p>Prior to the vessel's entry into San Francisco Bay or in the alternative, at least 24 hours prior to the vessel's arrival at the Amorco Terminal.</p>
<p>WQ-5: Degrade water quality as a result of vessel biofouling. (Significant and unavoidable.)</p>	<p>MM WQ-5: Advise vessels of applicable regulations and standards. Tesoro shall prepare, and maintain current, a fact sheet and provide it to all vessels calling at the Amorco Terminal to ensure that they are informed of applicable regulations and standards associated with the prevention of biofouling. Prior to allowing berthing at the Terminal, Tesoro will confirm with vessels that they are in compliance with the Marine Invasive Species Act (MISA), including completion of MISA-required paperwork. Tesoro shall ensure that all</p>	<p>Tesoro shall prepare, and maintain current, a fact sheet and provide it to all vessels calling at the Amorco Terminal to ensure that they are informed of applicable regulations and standards associated with</p>	<p>Informing vessel operators of regulations and standards will help reduce the risk of the risk of nonindigenous aquatic species introductions through</p>	<p>CSLC</p>	<p>Prior to the vessel's entry into San Francisco Bay or in the alternative, at least 24 hours prior to the vessel's arrival at the Amorco Terminal.</p>

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
	vessels submit required reporting forms, as applicable for each vessel prior to the vessel's entry into San Francisco Bay or in the alternative, at least 24 hours prior to the vessel's arrival at the Amorc Terminal.	the prevention of biofouling. Tesoro would confirm with vessels that they are in compliance with MISA, including completion of MISA-required paperwork.	vessel biofouling. Data collected from the MISA reporting forms will aid research in preventing biofouling.		
WQ-6: Degrade water quality due to anti-fouling paints used on vessel hulls. (Significant and unavoidable.)	WQ-6 Inform Vessels calling at the Amorc Terminal of the ban on tributyltin (TBT). Tesoro shall prepare, and maintain current, a fact sheet and provide it to all vessels calling at the Amorc Terminal to ensure that they are informed of the requirements of the 2008 International Maritime Organization prohibition of TBT applications to vessel hulls. Prior to allowing berthing at the Terminal, Tesoro will confirm with vessels that they are in compliance with the Marine Invasive Species Act (MISA), including completion of MISA-required paperwork. Tesoro shall ensure that all vessels submit required reporting forms, as applicable for each vessel prior to the vessel's entry into San Francisco Bay or in the alternative, at least 24 hours prior to the vessel's arrival at the Amorc Terminal.	Tesoro shall Inform vessels calling at the Amorc Terminal of the ban on TBT. Tesoro will advise both agents and representatives of shipping companies about the requirements of the 2008 International Maritime Organization prohibition of TBT applications to vessel hulls.	Informing vessel operators of the ban on TBT will help reduce the impact to water quality from highly harmful antifouling.	CSLC	Prior to the vessel's entry into San Francisco Bay or in the alternative, at least 24 hours prior to the vessel's arrival at the Amorc Terminal.

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
<p>WQ-8: Degrade water quality as a result of stormwater runoff from the wharf. (Potentially significant.)</p>	<p>WQ-8: Amend existing Storm Water Pollution Prevention Plan (SWPPP). Tesoro shall append the existing SWPPP to include specific Best Management Practices (BMPs) to protect stormwater runoff from the wharf area. BMPs shall be designed to reduce the input of contaminant to the San Francisco Bay and prevent leaks and spills during routine activities.</p>	<p>Tesoro shall append the existing SWPPP to include specific Best Management Practices (BMPs) to protect stormwater runoff from the wharf area.</p>	<p>Amended Plan will prevent releases of contaminants from the wharf to nearby waterways.</p>	<p>CSLC</p>	<p>Prior to implementation of Project activities.</p>
<p>WQ-9: Degrade water quality as a result of oil leaks and spills during unloading. (Significant and unavoidable.)</p>	<p>No additional mitigation measures available. (See MMs OS-1a, 1b, and 1c.)</p>	<p>See MMs OS-1a, 1b, and 1c.</p>	<p>See MMs OS-1a, 1b, and 1c.</p>	<p>See MMs OS-1a, 1b, and 1c.</p>	<p>See MMs OS-1a, 1b, and 1c.</p>
<p>WQ-10: Degrade water quality due to releases from vessels in transit in the San Francisco Bay or along the outer coast. (Significant and unavoidable.)</p>	<p>No additional mitigation measures available. (See MMs OS-4a and OS-4b.)</p>	<p>See MMs OS-1a, 1b, and 1c.</p>	<p>See MMs OS-1a, 1b, and 1c.</p>	<p>See MMs OS-1a, 1b, and 1c.</p>	<p>See MMs OS-1a, 1b, and 1c.</p>
<p>CUM WQ-1: Cause contaminant impacts on San Francisco Bay water quality. (Significant and unavoidable.)</p>	<p>No additional mitigation measures available. (See MMs WQ-3, WQ-5 and WQ-6.)</p>	<p>See MMs WQ-3, WQ-5 and WQ-6.</p>	<p>See MMs WQ-3, WQ-5 and WQ-6.</p>	<p>See MMs WQ-3, WQ-5 and WQ-6.</p>	<p>See MMs WQ-3, WQ-5 and WQ-6.</p>

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
CUM WQ-3: Degrade water quality due to oil releases from vessels in transit in the San Francisco Bay or along the outer coast. (Significant and unavoidable.)	No additional mitigation measures available. (See MMs OS-1a, 1b, and 1c.)	See MMs OS-1a, 1b, and 1c.	See MMs OS-1a, 1b, and 1c.	See MMs OS-1a, 1b, and 1c.	See MMs OS-1a, 1b, and 1c.

Land Use and Recreation					
LUR-2: Cause residual impacts on sensitive shoreline lands and/or water and non-water recreation due to an accidental release of oil at or near the Amorco Terminal. (Significant and unavoidable.)	No additional mitigation measures available. (See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.)	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.
LUR-3: Cause residual impacts on sensitive shoreline lands and/or water and non-water recreation due to an accidental release of oil from vessels in transit. (Significant and unavoidable.)	No additional mitigation measures available. (See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.)	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.

Impact (Class)	Mitigation Measure(s) (MMs)	Monitoring/ Reporting Action	Effectiveness Criteria	Responsible Agency	Timing
<i>Visual Resources, Light and Glare</i>					
VR-4: Create visual effects from accidental releases of oil at or near the Amorco Terminal. (Significant and unavoidable.)	No additional mitigation measures available. (See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.)	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.
VR-5: Create visual effects from oil spills from vessels in transit. (Significant and unavoidable.)	No additional mitigation measures available. (See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.)	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.	See MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b.

EXHIBIT D – AMORCO MARINE OIL TERMINAL LEASE CONSIDERATION PROJECT

STATEMENT OF FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

1.0 INTRODUCTION

The California State Lands Commission (CSLC), acting as a lead agency under the California Environmental Quality Act (CEQA), makes these Findings and this Statement of Overriding Considerations to comply with CEQA as part of its discretionary approval to authorize issuance of a General Lease-Industrial Use Permit to Tesoro Refining and Marketing Company, LLC (Tesoro) for use of sovereign lands associated with the Amorco Marine Oil Terminal Lease Consideration Project (Project). The CSLC is making these Findings pursuant to Public Resources Code section 21081 and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15091, subd. (a)),¹ which states in part:

No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale of each finding.

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

The CSLC is the lead agency under CEQA for the Project because the CSLC has the principal responsibility for taking action on the Project by issuing a lease. The CSLC analyzed the environmental impacts associated with the Project in a Final Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2012052030).²

The Project involves the issuance of a 30-year lease for continued operation of the Amorco Marine Oil Terminal (Amorco Terminal) with a reduced parcel size, changing from approximately 16.6 acres to approximately 14.9 acres.³ The Amorco Terminal, which is located in the Carquinez Strait, approximately 0.25 mile west of the Benicia-

¹ CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in California Code of Regulations, Title 14, section 15000 et seq.

² The Final EIR was published in February 2014 and is available on the CSLC website at: www.slc.ca.gov (under the “Information” tab and “CEQA Updates” link).

³ The lease area was modified to (1) exclude an area to the west of the existing Amorco Terminal that Tesoro has never used, and (2) extend the lease area slightly waterward to account for the increase in ship size since the lease boundary was last established. The result was a net reduction in lease area.

Martinez Bridge, and its associated Golden Eagle Refinery (Refinery) have operated at their current locations, offshore and onshore within the city of Martinez, Contra Costa County, since 1923 and 1913, respectively. The Refinery is located about 2.5 miles east of the Amorco Terminal near Tesoro's Avon Marine Oil Terminal. Activities at these facilities include the transfer and processing of crude oil and various hydrocarbon fuels.

On March 1, 1966, the CSLC authorized the issuance of Lease No. PRC 3453.1, a General Lease-Industrial Use, to the Tidewater Oil Company for what is currently known as the Amorco Terminal. Subsequently, several amendments and lease assignments have been authorized to various operators. The CSLC issued the current lease in 1984 for a term of 25 years. In 2002, the CSLC authorized the assignment of this lease to Ultramar, Inc., which shortly thereafter sold the Amorco Terminal to Tesoro. In 2003, the CSLC authorized the assignment of the lease to Tesoro. The existing lease expired on December 31, 2008 and Tesoro is presently in a "holdover" month-to-month tenancy.⁴

In its lease application, Tesoro has requested a new 30-year lease from the CSLC to allow the Amorco Terminal to continue operations, which will enable the associated Refinery to continue to receive petroleum products from tankers that dock at the Amorco Terminal. With the exception of a reduced lease parcel size, no changes to the Amorco Wharf (wharf) or Amorco Terminal operations are proposed.

2.0 ADMINISTRATIVE RECORD OF PROCEEDINGS

These Findings are based on the information contained in the EIR for the Project, as well as information provided by the Applicant and gathered through the public involvement process, all of which is contained in the administrative record. References cited in these Findings can be found in the Final EIR, Section 9.0, References. The administrative record is located in the Sacramento office of the California State Lands Commission, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825.

3.0 FINDINGS

Findings are required by each "public agency" that approves a project for which an EIR has been certified that identifies one or more significant environmental impacts. (Pub. Resources Code, § 21081; State CEQA Guidelines, § 15091.) These Findings, as a result, are intended to comply with the above-described mandate that for each significant effect identified in the EIR, the CSLC adopt one or more of the following, as appropriate.

- (1) Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the CSLC. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

⁴ Holdover status means that the Amorco Terminal is continuing to operate under the terms of its existing lease while a decision on a new lease is pending.

- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

These Findings are also intended to comply with the requirement that each finding by the CSLC be supported by substantial evidence in the administrative record of proceedings, as well as accompanied by a brief explanation of the rationale for each finding. (State CEQA Guidelines, § 15091, subds. (a), (b).) To that end, these Findings provide the written, specific reasons supporting the CSLC’s decision under CEQA to approve the Project.

A discussion of supporting facts follows each Finding.

- Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
- Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.
- Wherever Finding (3) is made, the CSLC has determined that, even after implementation of all feasible mitigation measures and consideration of feasible alternatives, the identified impact will exceed the significance criteria set forth in the EIR. Furthermore, to the extent that potentially feasible measures have been alleged or proposed, the Findings explain why certain economic, legal, social, technological or other considerations render such possibilities infeasible. The significant and unavoidable impacts requiring Finding (3) are identified in the Final EIR, discussed in the Responses to Comments, and explained below. Having done everything it can to avoid and substantially lessen these effects consistent with its legal authority and CEQA, the CSLC finds in these instances that overriding economic, legal, social, and other benefits of the approved Project outweigh the resulting significant and unavoidable impacts. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines sections 15092 and 15093.).

All environmental impacts of the Project identified in the EIR are listed below; the significance of each impact is classified as follows.

Definition	Findings Required
Significant and Unavoidable (SU). Significant adverse impact that remains significant after mitigation	Yes
Less than Significant with Mitigation (LTSM). Significant adverse impact that can be eliminated or reduced below an issue’s significance criteria	Yes
Less than Significant (LTS). Adverse impact that does not meet or exceed the identified significance criteria	No
No Impact (NI)	No

A. SUMMARY OF FINDINGS

Based on public scoping, the proposed Project will have No Impact on the following environmental issue areas:

- Aesthetics
- Agricultural Resources
- Mineral Resources
- Population and Housing
- Public Services
- Utilities and Service Systems

The EIR subsequently identified the following impacts as Less Than Significant:

- Air Quality
- Geology, Sediments, and Seismicity
- Cultural Resources
- Land-Based Transportation
- Noise

For the remaining potentially significant effects, the Findings set forth below are:

- Organized by significant impacts within the following EIR issue areas:
 - Operational Safety/Risk of Accidents (OS)
 - Biological Resources (BIO)
 - Water Quality (WQ)
 - Land Use and Recreation (LUR)
 - Visual Resources, Light and Glare (VR)
- Numbered in accordance with the impact and mitigation numbers identified in the Mitigation Monitoring Program (MMP) in the EIR (see Section 8.0 of the EIR) (Findings may not be numbered sequentially, since Findings are not required when impacts are Less than Significant or there is No Impact); and
- Followed by an explanation of the rationale for each Finding.

B. POTENTIALLY SIGNIFICANT IMPACTS

In certifying the EIR and approving the Project, the CSLC imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of these mitigation measures. Impacts determined to be Less Than Significant with Mitigation are shown in Table 1.

However, even with the integration of all feasible mitigation, the CSLC concluded in the EIR that the other identified potentially significant impacts will remain significant. Table 1 identifies those impacts that the CSLC determined would be, after mitigation, Significant and Unavoidable.

Table 1 – LTSM and SU Impacts

Environmental Issue Area	Impact Nos.	
	LTSM	SU
Operational Safety/Risk of Accidents		OS-1, OS-2, OS-3, OS-4
Biological Resources		BIO-6, BIO-7, CUM BIO-2, CUM BIO-3
Water Quality	WQ-8	WQ-3, WQ-5, WQ-6, WQ-9, WQ-10, CUM WQ-1, CUM WQ-3
Land Use and Recreation		LUR-2, LUR-3
Visual Resources, Light and Glare		VR-4, VR-5

As a result, the CSLC adopts the Statement of Overriding Considerations set forth as part of this Exhibit to support its approval of the Project despite the significant and unavoidable impacts.

C. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION (LTSM)

The impacts identified below were determined in the EIR to be potentially significant absent mitigation; after application of mitigation, however, the impacts were determined to be less than significant.

1. WATER QUALITY

CEQA FINDING NO. WQ-8

Impact: **Impact WQ-8. Degrade water quality as a result of stormwater runoff from the wharf.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project that have the potential to result in stormwater runoff from the Amorco Terminal may contribute pollutants to the San Francisco Bay. The Amorco Terminal has several existing best management practices (BMPs) in place, which reduce the risk of incidental spills reaching the San Francisco Bay. A drip pan or catch basin provides stormwater and surface liquid containment at the unloading manifold area of the Amorco Terminal. All transfer areas (e.g., work areas around risers, loading arms, hydraulic systems) are protected by berms. Stormwater and incidental spills are collected and drained to a recovery tank (also known as the slops tank) located under the transfer berth on the east end of the wharf. The tank is double-walled and has a 500-gallon capacity. The slops tank is equipped with a sump pump that is automatically activated as the level in the tank rises. There is an auxiliary pump in case the primary sump pump fails. The slops tank is protected from overflow by level-control

instrumentation, including visual and audible high-level alarms. Testing of the slops tank overflow system is performed monthly and documented appropriately.

Collected runoff from the Amorco Terminal is combined with process waters and pumped to the Refinery Wastewater Treatment Plant for full treatment, and is ultimately discharged to Suisun Bay via permitted outfall E-001. Activities at the Amorco Terminal are subject to National Pollutant Discharge Elimination System (NPDES) Permit CA0004961, Waste Discharge Requirements Order No. R2-2010-0084, issued by the San Francisco Bay Regional Water Quality Control Board. Pursuant to its NPDES permit, Tesoro has prepared a Storm Water Pollution Prevention Plan (SWPPP), which includes the onshore operations at the Amorco Terminal. The SWPPP does not specifically address the potential for pollutant input from the wharf.

On non-bermed areas of the wharf, there is potential for contaminants to accumulate on surfaces from routine vehicle use, maintenance activities, and daily operations. Project activities require the transport and handling of hazardous materials such as fuels, oils, and waste products for operation and maintenance of facility equipment. Hazardous materials that accumulate on surfaces of the Amorco wharf would likely flow into the San Francisco Bay during storm events. However, the potential for adverse effects is less than significant with the combination of compliance to regulations regarding the management of hazardous materials and the existing secondary containment facilities in place at the Amorco Terminal.

Implementation of Mitigation Measure (MM) WQ-8 has been incorporated into the Project to reduce this impact to a less-than-significant level.

MM WQ-8: Amend existing Storm Water Pollution Prevention Plan. Tesoro shall append the existing SWPPP to include BMPs to protect stormwater runoff from the wharf area. BMPs shall be designed to reduce the input of contaminant to the San Francisco Bay and prevent leaks and spills during routine activities.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. With the mitigation described above, this impact is reduced to a less-than-significant level.

D. SIGNIFICANT AND UNAVOIDABLE IMPACTS (SU)

The following impacts were determined in the Final EIR to be significant and unavoidable. The Statement of Overriding Considerations adopted as part of this exhibit applies to all such unavoidable impacts as required by CEQA. (Pub. Resources Code, § 21081, subd. (b); State CEQA Guidelines sections 15092 and 15093.)

1. OPERATIONAL SAFETY/RISK OF ACCIDENTS

CEQA FINDING NO. OS-1

Impact: **Impact OS-1. Potential for spills and response capability for containment of oil spills from the Amorco Terminal during transfer operations.**

- Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

The Amorco Terminal operates as an import-only facility for crude oil. Crude oil is delivered by both tankers and barges. No refined products are transferred and no products are loaded onto marine vessels. The maximum number of vessels projected to call annually at the Amorco Terminal is 90. Spills may originate from the Amorco Terminal or from the tank vessel and may be due to natural factors (earthquake, tsunami, severe environmental conditions, etc.), human error (berth collision, bad hose connection, ineffective mooring line tending, etc.), or equipment failure. Potential sources of a spill from the Amorco Terminal include drip pans, hydraulic hoses, loading hoses and fittings, pipelines and fittings, and valves.

Tesoro is required by regulation to maintain an up-to-date Oil Spill Prevention and Response Plan and to have the necessary resources on-site to handle spills of 50 barrels (2,100 gallons) or less. Should a spill of more than 50 barrels occur, Tesoro is required to take steps to minimize impacts with their on-site equipment, and contact their contracted Oil Spill Response Organization, Marine Spill Response Corporation, which has the resources and capability to respond to large spills.

Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) minimum engineering, inspection, and maintenance standards apply to all existing and new marine oil terminals in California, and include criteria for maintenance; inspection; structural and seismic analysis and design; mooring and berthing; geotechnical considerations (including site-specific assessment); and analysis and review of the fire, piping, mechanical, and electrical systems. A detailed MOTEMS audit of the Amorco wharf was recently completed. In addition, a detailed geotechnical investigation was performed. These two audits/studies found that the wharf did not meet MOTEMS seismic standards and, in addition, found a number of other MOTEMS deficiencies. Tesoro has implemented a program to upgrade the wharf to meet MOTEMS seismic standards and to fix the other deficiencies. To date, the seismic upgrades are reportedly complete and most of the other deficiencies have been corrected.

The probability that a release would occur at the Amorco Terminal has been derived from CSLC statistics of past spills at marine terminals in the San Francisco Bay Area from 2003 to 2012. The probability of a spill of any size from the Amorco Terminal or a tank vessel at the Amorco Terminal was calculated to be 0.27 (once every 3.7 years). This drops to a spill every 73 years for a spill greater than 1,000 gallons.

Tesoro reported in its Oil Spill Response Plan that there has only been one reportable spill at the Amorco Terminal since 1991. This spill occurred on February 4, 2000 and involved a release of less than one barrel of gasoline/diesel from the D line to the water. The spill was cleaned up and the line was taken out of service.

Tesoro's conformance with its existing Oil Spill Prevention and Response Plan, which requires that the Amorco Terminal have the necessary resources to handle spills of 50 barrels (2,100 gallons) or less, together with implementation of **MMs OS-1a through OS-1c**, described below, would reduce these potentially significant impacts to less than significant for a small spill of 50 barrels or less. However, even though the probability of a moderate spill is low, and the probability for a larger spill is even lower, spill modeling results show that such events could pose a threat to human health through interaction with the spilled material, which would be a significant impact even with the implementation of **MMs OS-1a through OS-1c**.

Implementation of **MM OS-1a** would minimize this impact by allowing the quick release of mooring lines in the event of an emergency. In the event of a fire, tsunami, explosion, or other emergency, quick release of the mooring lines within 60 seconds would allow the vessel to quickly leave the Amorco Terminal, which could help prevent damage to the Amorco Terminal and vessel and avoid and/or minimize spills. These measures may also help isolate an emergency situation, such as a fire or explosion, from spreading between the Amorco Terminal and vessel, thereby reducing spill potential. By providing mooring release devices capable of being engaged by a locally initiated electric/push button release system and by a remotely operated release mechanism, Tesoro would have several different options to cover emergency situations.

MM OS-1a: Remote Release Systems. Provide and maintain mooring line quick release devices that shall be able to be activated within 60 seconds.

- These devices shall be capable of being engaged by electric/push button release mechanism and by an integrated remotely operated release system.
- Tesoro shall document procedures and training for systems use and communications between Amorco Terminal and vessel operator(s).
- Routine inspection, testing, and maintenance of all equipment and systems in accordance with manufacturers' recommendations and necessity are required to ensure safety and reliability, to the satisfaction of CSLC staff.
- Tesoro may install alternate technology that provides an equivalent level of protection, as reviewed by CSLC staff and approved by the Commission at a publicly noticed meeting.

Implementation of **MM OS-1b** would minimize this impact by continuously monitoring moored vessel line strains and providing the capabilities to alarm operators at preset limits, warning operators of the development of dangerous mooring situations. This allows time to take corrective action and minimize the potential for the parting of mooring lines, which can quickly escalate to the breaking of loading arm connections, the breakaway of a vessel, and/or other unsafe mooring conditions that could ultimately lead to a petroleum product spill. The Amorco Terminal is located in a high-velocity-current area in the Carquinez Strait. Its wharf is not aligned with either the ebb or flood

current, and it currently has no mechanisms to monitor mooring line tending and integrated environmental conditions. Monitoring moored vessel line strains and environmental conditions enables informed and controlled transfer operations to continue in high-velocity-current conditions, harsh weather conditions, and/or other conditions where excessive tension or slack in a vessel's mooring lines could result in failure of the mooring lines and/or significant movement of the vessel, resulting in damage to the Amorco Terminal and/or vessel. Backed up by an alarm system, real-time data monitoring and control room information would provide the Terminal Person-In-Charge (TPIC) with immediate knowledge of whether safe operating limits of the moorings are being exceeded. Mooring adjustments can be made to reduce the risk of damage and accidental conditions.

MM OS-1b: Tension Monitoring Systems (TMSs). Provide and maintain TMSs to effectively monitor all mooring line and environmental loads, and avoid excessive tension or slack line conditions that could result in damage to the terminal structure and/or equipment and/or vessel mooring line failures that could result in spills.

- Line tensions and environmental data shall be integrated into systems that record and relay all critical data in real time to the control room, terminal operator(s) and vessel operator(s).
- This system shall include, but not be limited to, quick release hooks only (with load cells), site-specific current meter(s), site-specific anemometer(s), and visual and audible alarms that can support effective preset limits and shall be able to record and store monitoring data.
- Tesoro shall document procedures and training for systems use and communications between Amorco Terminal and vessel operator(s).
- Routine inspection, testing, and maintenance of all equipment and systems in accordance with manufacturers' recommendations and necessity are required to ensure safety and reliability, to the satisfaction of CSLC staff.
- Tesoro may install alternate technology that provides an equivalent level of protection, as reviewed by CSLC staff and approved by the Commission at a publicly noticed meeting.

Implementation of **MM OS-1c** would minimize this impact by monitoring an approaching vessel's speed, approach angle, and distance from the dock to keep the potential impact velocity within the maximum elastic allowable limits of the fender/structural system, and thus help to prevent damage to the Amorco Terminal and/or vessel due to vessel impact that could lead to a spill. Monitoring these factors would ensure that all vessels can safely berth at the Amorco Terminal and comply with the minimum standards required in the MOTEMS.

Furthermore, monitoring passing vessels and moored vessel movements with Allision Avoidance Systems (AASs) ensures that all vessels can remain securely moored at the Amorco Terminal and comply with the minimum standards required in the MOTEMS. Excessive surge or sway of vessels (motion parallel or perpendicular to the wharf, respectively) and/or passing vessel forces may result in sudden shifts/redistribution of mooring forces through the mooring lines, which can quickly escalate to the failure of

mooring lines, breaking of loading arm connections, the breakaway of a vessel, and/or other unsafe mooring conditions that could ultimately lead to a spill.

MM OS-1c: Allision Avoidance Systems. Provide and maintain AASs at the Amorco Terminal to prevent damage to the pier/wharf and/or vessel during docking and berthing operations.

- The AASs shall be used and alarmed to monitor vessel drift (both surge and sway) during all mooring operations, and shall be equipped with an AIS receiver to capture passing vessel parameters.
- This shall be integrated with the TMSs such that all data collected are available in the Control Room and to Amorco Terminal operator(s) at all times and vessel operator(s) during berthing operations. The AASs shall also be able to record and store monitoring data.
- Tesoro shall document procedures and training for systems use and communications between Amorco Terminal and vessel operator(s).
- Routine inspection, testing and maintenance of all equipment and systems in accordance with manufacturers' recommendations and necessity are required to ensure safety and reliability, to the satisfaction of CSLC staff.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. OS-2

Impact: **Impact OS-2. Amorco Terminal spills from pipelines during non-transfer periods.**

- Finding(s):
- (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.
 - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Spills from the Amorco Terminal during non-transfer periods would most likely be associated with a leak or spill from pipelines. Tesoro has an extensive pipeline inspection and maintenance program. California Code of Regulations, Title 2, Article 5.5 and MOTEMS have set requirements for preventative maintenance that include periodic testing of oil pipelines and inspection of all terminal pipeline components. Tesoro reports fully complying with those requirements. Nevertheless, leaks or spills are possible and considering the Amorco Terminal pipeline volume of 757 barrels, a substantial spill is possible. Tesoro would respond to a pipeline leak or spill, as described above for CEQA Finding No. OS-1, according to the extent of the spill and affected area. Even with response measures in place, depending on the size of the spill and the environmental resources affected, impacts of a spill could be significant.

The Project pipelines are reportedly fully compliant with California Code of Regulations, Title 2, Article 5.5 and MOTEMS release prevention requirements, and Tesoro is already required to ensure readiness of spill response capabilities for the worst-case discharge from the Amorco Terminal, which exceeds any leak or spill that could occur from the pipeline. These prevention and response capabilities are considered to be inclusive of feasible measures to reduce the risk of oil spills from the Amorco Terminal during non-transfer periods. No additional feasible mitigation measures have been identified that would be capable of substantial further reduction of the risk from releases during non-transfer periods.

Implementation of **MMs OS-1a, OS-1b, and OS-1c**, as well as **MMs OS-4a and OS-4b** (see below), would further minimize this impact by providing improved oil spill containment and avoidance measures. Refer to CEQA Findings No. OS-1 and see No. OS-4 for the mitigation measures.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. OS-3

Impact: **Impact OS-3. Potential for fires and explosions and response capability.**

- Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in a fire and/or an explosion that could lead to a major oil spill, which, as described above in CEQA Finding No. OS-1, could result in a significant impact.

The closest populated public areas are residential areas, parks, and marinas that are all located too far away to be impacted by heat from a potential fire or flying debris from a potential explosion at the Amorco Terminal. Therefore, the risk to the public from such an event at the Amorco Terminal is less than significant. If an oil spill were to occur and become ignited, it could drift toward residential, park, or marina areas and present a hazard to the public or property. The intervening distance would provide time to respond and evacuate public areas if needed for safety, so the risk to persons from a potential ignited oil spill is low. Furthermore, because of the extremely low probability of an oil spill with fire, the risk of such an event to the public is less than significant. However, a major fire at the Amorco Terminal could result in an oil spill with significant impacts similar to the description provided for Impact OS-1 (refer to CEQA Finding No. OS-1).

During the past 10 years, no fires or explosions were reported at the Amorco Terminal; however, fires and explosions involving vessels and/or at the Terminal are possible.

Tank vessels have the potential to be a source of fire or explosion. Tank vessels loading or unloading low-flash cargoes (cargoes having a flash point of less than 150 degrees Fahrenheit [° F]) are required to have properly operating inert gas systems (IGS). An IGS generates an inert gas that is injected into the cargo tanks to displace the oxygen to a level that will not support ignition. The Vessel Person-in-Charge is required to verify that the tanks are inerted and that the IGS is working properly before transfer operations can commence. Products with flash points greater than 150° F do not generate enough vapors to support ignition unless the product is heated to a temperature above 150° F.

The potential for a tank vessel explosion at the Amorco Terminal is considered to be reduced because of the United States Coast Guard (USCG) regulations requiring that tank vessels be equipped with IGS. The radiant-heat footprint capable of causing second-degree burns to exposed skin after 30 seconds of exposure (1,600 British thermal units per square foot per hour) was calculated to be 300 feet around the tank vessels. The radiant-heat hazard footprint would not pose a significant hazard to the public because there are no public areas within 300 feet of the wharf area. An explosion involving one of the cargo tanks could send flying debris up to 1,500 feet from the tank. The closest marina and park are approximately 3,000 feet from the wharf and the closest residence is located more than a mile away. Hence, these areas would not be expected to be impacted by flying debris from a vessel explosion. Considering the separation distance, the fire or explosion risk to the public is less than significant. Furthermore, the very low probability (less than one in a million per vessel call) of such an incident makes its occurrence unlikely.

Tesoro's fire protection system at the Amorco Terminal meets MOTEMS requirements. Tesoro also maintains its own fire/emergency response department with full-time trained personnel at the Refinery. These personnel are trained in fighting petroleum fires at the Amorco Terminal. Tesoro is a member of the local Petro-Chemical Mutual Aid Organization, an agreement between large industries in the San Francisco Bay Area to provide aid in the form of spill/hygiene/fire-response equipment and assistance. In addition, the Contra Costa County Fire Protection District would respond to a marine fire and provide support.

Implementation of **MM OS-3** would minimize this impact by providing procedures and training to Tesoro employees for dealing with tank vessel fires and explosions at the Amorco Terminal and for coordinating these effort with vessel personnel. Tankers are required by 46 Code of Federal Regulations Part 34 to have sophisticated firefighting systems, which include fire pumps, piping, hydrants, and foam systems. Tank barges are required to have portable fire extinguishers, and some are equipped with built-in systems. Tank vessel crews are trained in the use of the firefighting equipment, and the onboard firefighting equipment is sufficient to extinguish most fires. This measure will help to increase response capability and reduce the potential impacts from a vessel fire.

MM OS-3: Fire Protection Assessment. Tesoro shall develop a Fire Protection Assessment, including a set of procedures, training, and drills consistent with Marine Oil Terminal Engineering and Maintenance Standards (Cal. Code Regs., tit. 24, § 3108F2.2). Tesoro shall also develop a set of procedures and conduct training and drills for dealing with tank vessel fires and explosions for tank vessels berthed at the Amorco Terminal. The procedures shall include the steps to follow in the event of a tank vessel fire and describe how Tesoro and the vessel will coordinate activities. The procedures shall also identify other capabilities that can be procured if necessary in the event of a major incident. The Fire Plan and procedures shall be submitted to the California State Lands Commission (CSLC) staff within 90 days of lease renewal. The CSLC staff shall have final approval of the plan.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. OS-4

Impact: **Impact OS-4. Response capability for accidents in the San Francisco Bay and outer coast.**

- Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Spills from marine vessel accidents in the San Francisco Bay or outer coast could result in impacts to water quality or biological resources. Impacts could be limited by spill response to a less-than-significant level for those spills that can be contained during first-response efforts without lasting impacts to sensitive resources; however, impacts from larger spills or spills affecting sensitive resources could be significant and adverse even considering response capabilities.

Based on data from previous EIRs for marine terminals in the San Francisco Bay, the probability of a spill greater than 100 gallons from tankers and barges calling at terminals in the San Francisco Bay is estimated at 8.4×10^{-7} and 5.0×10^{-6} per vessel call, respectively. This equates to an estimated probability of a spill greater than 100 barrels of 9.6×10^{-5} per year for the maximum number of vessels expected to call at the Amorco Terminal.

A spill of crude oil from a vessel would not normally present a safety hazard to members of the public. A large spill could shut down vessel traffic in portions of the San Francisco Bay while responders attempt to mitigate the spill. Impacts to water quality, biology,

aesthetics, and other areas are also possible. To provide a basis for evaluating where an oil spill from a vessel could flow and how large an area could be impacted, results from a 20,000-barrel tanker spill scenario near the Carquinez Bridge complex, conducted using the NOAA Trajectory Analysis Planner II (TAPII) software for the Shell Crude Tank Replacement Project Final EIR, was analyzed. Modeling results indicate that probabilities of exceeding the levels of concern range from 75 to 100 percent along the shoreline east and west of the Carquinez Bridge in both summer and winter, with higher probabilities of exceedance extending into San Pablo Bay and Suisun Bay for the winter scenario.

Although unlikely, a spill could become ignited. If a fire were to occur, the potential for safety impacts to members of the public is low, because of the isolated nature of spill locations on the water, away from residential areas. The potential for a tank vessel explosion is remote, because tankers are required to be equipped with IGS that maintain an inert gas in the vapor space of the cargo tanks, preventing the formation of a flammable gas-oxygen mixture in the explosive range.

Response to a spill from a tanker is the responsibility of the vessel owner/operator. Under the National Contingency Plan and National Incident Management System, a Unified Command would be formed, with the Federal and State On-Scene Coordinators coordinating priorities, resources, and efforts to protect the public; facilitating commerce; and mitigating the impacts of the spill. As a result of the Oil Pollution Act of 1990, each vessel is required to have an oil plan that identifies the worst-case spill (defined as the entire contents of the vessel) and the assets that will be used to respond to the spill. All tanker companies operating within California waters must demonstrate by signed contract to the USCG and California Department of Fish and Wildlife that they have, either themselves or under contract, the necessary response assets to respond to a worst-case release as defined under federal and State regulations.

Implementation of **MM OS-4a** would require Tesoro's participation in USCG Ports and Waterways Safety Assessment (PAWSA) workshops for the San Francisco Bay Area to improve transit issues and response capabilities in general, and to support overall safety improvements to the existing Vessel Traffic Service (VTS) in the future. The PAWSA process was established to open a dialogue with waterway users and stakeholders to identify needed Vessel Traffic Management improvements and to determine candidate VTS waterways. PAWSA provides a formal structure for identifying risk factors and evaluating potential mitigation measures through expert inputs. The process requires the participation of professional waterway users with local expertise in navigation, waterway conditions, and port safety. In addition, stakeholders are included in the process to ensure that important environmental, public safety, and economic consequences are given appropriate attention as risk interventions are selected.

MM OS-4a: USCG Ports and Waterways Safety Assessment workshops. Tesoro shall participate in USCG PAWSA workshops for the San Francisco Bay Area to support overall safety improvements to the existing Vessel Traffic Service in the Bay Area or approaches to the Bay, if such workshops are conducted by the USCG during the life of the lease.

Implementation of **MM OS-4b** would minimize this impact by requiring Tesoro personnel and its contractors to assist in responding to spills from tankers near the Amorco Terminal. While vessel owners/operators are responsible for their own spills, if a spill were to occur near the Amorco Terminal, Tesoro and its contractors may be in a better position to provide immediate response to a spill using their own equipment and resources, rather than waiting for mobilization and arrival of the vessel's response organization. The Tesoro staff is fully trained to take immediate actions in response to spills. Such action could result in a quicker response and more effective control and recovery of spilled product. Tesoro would be required to respond to any spill from a vessel traveling in the bay to or from the Amorco Terminal or moored at its wharf, without assuming liability, until such time as the vessel's response organization can take over management of the response actions in a coordinated manner. This requirement would further reduce the potential impacts of spills in the bay.

MM OS-4b: Spill response to vessel spills. Tesoro shall respond to any spill from a vessel traveling in the San Francisco Bay to or from the Amorco Terminal or moored at the Amorco Terminal, as if it were its own, without assuming liability, until such time as the vessel's response organization can take over management of the response actions in a coordinated manner.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

2. BIOLOGICAL RESOURCES

CEQA FINDING NO. BIO-6

Impact: **Impact BIO-6: Spill Impacts to Biological Resources.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Major fuel, lubricant, and/or boat-related spills to the San Francisco Bay Estuary could adversely affect aquatic biota. As presented in the Final EIR, Section 4.1, Operational Safety/Risk of Accidents, results of oil spill modelling indicate that while spills at or near the Amorco Terminal have the potential to travel through Carquinez Strait into San Pablo Bay and into Suisun Bay and its associated marshes, the highest probability of contact with oil occurs within the direct vicinity of the Amorco Terminal. The trajectory of the spill and the extent of its distribution vary seasonally. A spill in winter during the flooding season would be carried by heavy Delta outflows into San Pablo Bay, oiling shorelines along the Carquinez Strait. During the dry summer months, spills would be

carried upstream along tidal currents and dispersed by wind into Suisun Bay and marshes. While impacts from spills would depend on the material, quantity, and time of the spill, a large variety of aquatic organisms and habitats would be affected.

Implementation of **MMs BIO-6a, BIO-6b, and BIO-6c** would minimize this impact by ensuring the bird rescue personnel and rehabilitators can be on-site within hours of an accidental release, that any cleanup plans are protective of aquatic biota and habitats, and that impacts to biological resources from spills are compensated.

MM BIO-6a: Bird rescue personnel and rehabilitators. Tesoro shall ensure that procedures are in place to bring bird rescue personnel and rehabilitators to the site following a spill event that is not immediately contained at the Amorc Terminal. This requires having contractual arrangements in place as part of the Golden Eagle Refinery Oil Spill Contingency Plan so that bird rescue personnel and equipment can be on-site within hours of the onset of an accidental release.

MM BIO-6b: Cleanup of oil from biological area. When a spill occurs, Tesoro shall develop procedures for cleanup of any sensitive biological areas contacted by oil in consultation with biologists from the California Department of Fish and Wildlife, National Marine Fisheries Service, and U.S. Fish and Wildlife Service.

MM BIO-6c: Natural Resource Damage Assessment (NRDA) Team. Tesoro shall coordinate to the maximum extent feasible with the NRDA Team to determine the extent of damage and loss of resources, cleanup, restoration, and compensation. Tesoro shall keep the CSLC staff informed of its participation in such efforts by providing copies of memos, meeting agendas, emails, or other appropriate documentation. Tesoro shall be responsible for cleanup, restoration, and compensation of damages to resources if Tesoro is determined to be the responsible party for a spill.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. BIO-7

Impact: **Impact BIO-7: Introductions of Invasive Nonindigenous Species.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Commercial ships can introduce nonindigenous aquatic species through ballast water discharge or vessel biofouling. Ballast water is capable of transporting live aquatic species around the world. Biofouling organisms are transported by vessels into new environments where they may be transferred from the ship into the new environment by spawning, detachment, or mechanical removal. Once established, nonindigenous aquatic species can have severe ecological impacts, which affect a wide variety of aquatic biota and habitats. The rate of species introductions, and thus the risk of invasion by species with detrimental impacts, has increased significantly during recent decades. In some parts of the San Francisco Bay Estuary, introduced species account for the majority of species diversity, dominate the estuary's food webs, and may result in profound structural changes to habitat.

Implementation of **MM BIO-7a** would minimize this impact by requiring that vessels that plan to call at the Amorco Terminal are informed of relevant California laws and regulations addressing nonindigenous aquatic species. This would provide a tracking mechanism to monitor the management of ballast water and hull husbandry practices for vessels travelling in California waters. Strict compliance with the Marine Invasive Species Act (Public Resources Code, §§ 71200-71271) and associated regulations, including California's performance standards for the discharge of ballast waters, by vessels using the Amorco Terminal will significantly reduce the potential for the introduction of non-native species to Bay-Delta waters. However, the possibility of introduction of non-native species from ballast water discharge remains, even with strict adherence to State regulations and permits.

MM BIO-7a: Marine Invasive Species Act Reporting Forms. Following the adoption of the Mitigation Monitoring Program for the Project, Tesoro shall advise both agents and representatives of shipping companies having control over vessels that have informed Tesoro of plans to call at the Amorco Terminal about the California Marine Invasive Species Act and associated implementing regulations. Tesoro shall satisfy itself that all vessels submit required reporting forms, as applicable for each vessel, to the CSLC Marine Facilities Division, including, but not limited to, the Ballast Water Reporting Form, Hull Husbandry Reporting Form, Ballast Water Treatment Technology Reporting Form, and/or Ballast Water Treatment Supplemental Reporting Form.

Implementation of **MM BIO 7-b** will contribute to State efforts to reduce nonindigenous aquatic species impacts to native species.

MM BIO-7b: Invasive species action funding. Tesoro shall participate and assist in funding ongoing and future actions related to nonindigenous aquatic species as identified in the October 2005 Delta Smelt Action Plan. The funding support shall be provided to the Pelagic Organism Decline Account or other account identified by the California Department of Water Resources (DWR) and California Department of Fish and Wildlife (CDFW), the lead Action Plan agencies. The level of funding shall be determined through a cooperative effort between the

CSLC, DWR, CDFW, and Tesoro, and shall be based on criteria that establish Tesoro's commensurate share of the plan's nonindigenous aquatic species actions costs.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. CUM BIO-2

Impact: **Impact CUM BIO-2: Cumulative Impacts of on Oil Spill on Biological Resources.**

- Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in additional cumulative impacts to biological resources from oil spills. Among the facilities with potential to contribute to the accidental release of petroleum products are the Chevron Richmond Refinery Long Wharf Terminal, Tesoro Avon Marine Terminal, and the Plains All American Martinez Marine Terminal.

Implementation of **MMs BIO-6a, BIO-6b, and BIO-6c** collectively aid in the prevention and cleanup of accidental releases of oil spills; however, a major spill could have a residual impact following spill response and cleanup. Refer to CEQA Finding No. BIO-6 for the mitigation measures.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. CUM BIO-3

Impact: **Impact CUM BIO-3: Cumulative Impacts of Nonindigenous Species Introduction.**

- Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

All commercial vessel traffic to the San Francisco Bay has the potential to introduce nonindigenous aquatic species. Although vessels that call at the Amorcó Terminal are required to comply with federal and State provisions, compliance with the current regulations is not enough to ensure full mitigation of this impact.

As discussed under CEQA Finding No. BIO-7 above, implementation of **MMs BIO-7a and BIO-7b** would mitigate this impact by enabling tracking of compliance with California laws and regulations and by implementing special-status species recovery plans. Refer to CEQA Finding No. BIO-7 for the mitigation measures.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

3. WATER QUALITY

CEQA FINDING NO. WQ-3

Impact: **Impact WQ-3. Degrade water quality by the discharge of segregated ballast water.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in the degradation of water quality by introducing nonindigenous aquatic species from discharged segregated ballast water. Ships routinely take on ballast water after cargo is unloaded in one port, and later discharge the ballast water when cargo is loaded at another port. This exchange of ballast water from one port to another may result in the transport of numerous organisms from one region to another. Release of ballast water could have a significant adverse impact to water quality if viruses, toxic algae, or other harmful organisms are released. Release of harmful microorganisms would violate the water quality objective for toxicity in the San Francisco Bay Basin Plan (Basin Plan). This objective states that waters be maintained free of toxic substances in concentrations that are lethal to or that produce other detrimental responses in aquatic organisms.

To inhibit the introduction and spread of nonindigenous aquatic species in California, the Coastal Ecosystems Protection Act of 2006 established performance standards for the discharge of ballast water, which are administered by the CSLC. Although ballast water discharges are conducted in accordance with effective management practices

and are administered by State and federal regulations, risk of nonindigenous aquatic species introduction to San Francisco Bay cannot be completely eliminated. The discharge of ballast water containing harmful organisms could impair the beneficial uses of the Project area and significantly degrade water quality.

Implementation of **MM WQ-3** would minimize this impact by informing vessel operators of ballast water performance standards and regulations. However, the possibility of introducing nonindigenous aquatic species from ballast water discharge still remains even with strict adherence to State regulations and permits.

MM WQ-3: Advise vessels of applicable standards and regulations. Tesoro shall advise both agents and representatives of shipping companies having control over vessels that have informed Tesoro of plans to call at the Amorco Terminal about the Coastal Ecosystems Protection Act of 2006 and associated implementing regulations.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. WQ-5

Impact: **Impact WQ-5. Degrade water quality as a result of vessel biofouling.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in the degradation water quality by introducing nonindigenous aquatic species via vessel biofouling. Vessel biofouling occurs when organisms attach to the hull and other wetted surfaces of a vessel. When vessels move from port to port, biofouling communities are transported along with their “host” structure. Biofouling organisms can be introduced into these new areas when they reproduce, drop off, or are knocked off of the vessel. Even vessels that may be well maintained and that have little to no biofouling present on the hull can still represent a potential for nonindigenous aquatic species impact through biofouling of certain niches in the vessel. According to Section 502 of the Clean Water Act (CWA), invasive species meet the definition of “pollutant” because they are “biological materials...discharged into water,” and they impair or threaten to impair the full range of designated beneficial uses of waterbodies in the San Francisco Bay.

The CSLC regulates vessel biofouling under the Marine Invasive Species Act of 2003 (MISA). In 2008, the CSLC initiated the requirement of annual submittal of the Hull

Husbandry Reporting Form for vessels operating in State waters. In an effort to reduce introductions of nonindigenous aquatic species via vessel biofouling, data reported in the Husbandry Reporting Forms have been used in conjunction with CSLC-sponsored research to develop biofouling management requirements.

Implementation of **MM WQ-5** would minimize this impact by ensuring vessel operators are in compliance with regulations and standards. While regulations and provisions have been helpful in reducing the potential of new nonindigenous aquatic species introductions from hull fouling, existing standards and measures are not completely effective. The introduction of additional harmful organisms may impair several of the Project area’s beneficial uses. Therefore, the introduction of new nonindigenous aquatic species via vessel biofouling as a result of continued Amorco Terminal operation could pose potential significant and unavoidable adverse impacts to water quality.

MM WQ-5: Ensure vessels regarding compliance with applicable regulations and standards. Tesoro shall prepare, and maintain current, a fact sheet and provide it to all vessels calling at the Amorco Terminal to ensure that they are informed of applicable regulations and standards associated with the prevention of biofouling. Prior to allowing berthing at the terminal, Tesoro will confirm with vessels that they are in compliance with the MISA, including completion of MISA-required paperwork. Tesoro shall ensure that all vessels submit required reporting forms, as applicable for each vessel prior to the vessel’s entry into San Francisco Bay or in the alternative, at least 24 hours prior to the vessel’s arrival at the Amorco Terminal.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. WQ-6	
Impact:	Impact WQ-6. Degrade water quality due to anti-fouling paints used on vessel hulls.
Finding(s):	(1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR. (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in degradation of water quality due to anti-fouling paints used on vessel hulls calling at the Amorco Terminal. Marine anti-fouling paints or coatings are used to reduce nuisance algal and marine growth on ships. Biofouling can significantly affect the drag of the vessel through the water, reducing its fuel economy. Anti-fouling coatings incorporate biocides such as

copper, sodium chloride, and zinc as the active ingredients. All of these are meant to be toxic to marine life that would settle or attach to the hull of ships. The International Maritime Organization Convention on the Control of Harmful Anti-fouling Systems on Ships went into force in January 2008. It prohibits and restricts application, re-application, installation, or use of harmful anti-fouling paints on ships, especially those containing harmful organotins, such as tributyltin (TBT).

Implementation of **MM WQ-6** would minimize this impact by requiring representatives of vessels berthing at the Amorco Terminal to provide documentation certifying that their vessel is in compliance with the 2001 International Maritime Organization Convention on the Control of Harmful Anti-fouling Systems on Ships and other applicable regulations. Although the use of anti-fouling paint containing TBT was discontinued in 2008, there is still potential that vessels with old applications of TBT on their hulls could visit the Amorco Terminal. The use of these substances on vessels associated with the Amorco Terminal is considered to be a significant adverse impact to water quality that cannot be mitigated to less than significant.

MM WQ-6: Inform Vessels calling at the Amorco Terminal of the ban on TBT.

Tesoro shall prepare, and maintain current, a fact sheet and provide it to all vessels calling at the Amorco Terminal to ensure that they are informed of the requirements of the 2008 International Maritime Organization prohibition of TBT applications to vessel hulls. Prior to allowing berthing at the Terminal, Tesoro will confirm with vessels that they are in compliance with the MISA, including completion of MISA-required paperwork. Tesoro shall ensure that all vessels submit required reporting forms, as applicable for each vessel prior to the vessel's entry into San Francisco Bay or in the alternative, at least 24 hours prior to the vessel's arrival at the Amorco Terminal.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. WQ-9

Impact: **Impact WQ-9. Degrade water quality as a result of oil leaks and spills during unloading.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in the degradation of water quality as a result of oil leaks and spills during Amorco Terminal operations.

Accidental releases of petroleum products during loading and unloading operations at the Amorce Terminal could contaminate the surrounding surface water with floating product. Petroleum products present in San Francisco Bay waters would likely exceed the Basin Plan water quality objective for oil and grease, which comprises any visible film or coating on the surface of the water or on objects in the water that cause nuisance or that otherwise adversely affect beneficial uses. Oil spill trajectory modeling has been performed to evaluate the extent of impacts from a reasonable worst-case discharge of 22,178 barrels at the wharf. The maximum most probable discharge is 1,200 barrels. The Amorce Terminal is subject to regulations promulgated by the United States Environmental Protection Agency (USEPA) that require the preparation of a Spill Prevention Control and Countermeasures Plan and regulations adopted by both the USEPA and the CDFW's Office of Spill Prevention and Response (OSPR) covering the development and maintenance of oil spill response and contingency plans. Plans have been prepared in accordance with these regulatory requirements for the Amorce Terminal. In addition, Tesoro has a Wharf Operations Manual governing Amorce Terminal operations, including spill prevention. The OSPR also requires a Certificate of Financial Responsibility to demonstrate that it has adequate financial resources to pay cleanup and damage costs arising from an oil spill.

Impacts would be minimized to the extent feasible with **MMs OS-1a, OS-1b, and OS-1c**. Refer to CEQA Finding No. OS-1 for the mitigation measures. No additional mitigation measures are available that would further reduce this impact. Consequences of a spill would depend on the spill conditions and could range from relatively small spills that can be contained during first-response efforts with rapid clean up and no significant impacts, to spills that are larger or difficult to clean up with significant residual impacts after mitigation. Even with the implementation of contingency planning and response measures for oil spills, a spill could spread over a large area and impact water quality to the San Francisco Bay. In such a case, impacts to water quality would be significant and unavoidable.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. WQ-10

Impact: **Impact WQ-10. Degrade water quality due to oil releases from vessels in transit in the San Francisco Bay or along the outer coast.**

- Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in the degradation of water quality due to releases of oil from vessel in transit to and from the Amorco Terminal. The fate and water quality impacts of oil spills associated with vessel transit in the San Francisco Bay or along the outer coastline are similar to the effects described in Impact WQ-9. However, a larger oil spill is more likely from accidents associated with vessels in transit than from a spill during the controlled conditions of unloading at the Amorco Terminal. Most tanker spills/accidents that occur in transit are larger spills that cannot be quickly contained, and would result in significant and unavoidable impacts.

Implementation of **MMs OS-4a and OS-4b** would minimize this impact to the extent feasible and practical. Refer to CEQA Finding No. OS-4 for the mitigation measures. No additional mitigation measures are available that would further reduce this impact. All tanker companies operating within California waters must demonstrate by signed contract to the USCG and CDFW that they have the necessary response assets to respond to a worst-case release as defined under federal and State regulations. While Tesoro does not have legal responsibility for tankers it does not own, it does have responsibility to participate in improving general response capabilities.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. CUM WQ-1

Impact: **Impact CUM WQ-1. Cause contaminant impacts on San Francisco Bay water quality.**

- Finding(s):
- (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.
 - (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in the contribution of water contamination. The water quality of the San Francisco Bay/Estuary has been degraded by inputs of pollutants from a variety of sources, including point sources such as municipal wastewater and industrial discharges and nonpoint sources such as urban and agricultural runoff, riverine inputs, dredging and dredge material disposal, marine vessel inputs, and inputs from air pollutants, spills, and accidents. The identified stressors or pollutants in Suisun Bay and Carquinez Strait, according to the CWA 303(d) list include: Pesticides, dioxins/furans, mercury, nonindigenous aquatic species, nickel, polychlorinated biphenyls, and selenium. Any contribution of these contaminants from Amorco Terminal operations could result in a significant, adverse cumulative

impact. Of this list, only nonindigenous aquatic species have been identified as potentially degrading water quality due to Amorco Terminal operations through ballast water and vessel biofouling.

Though no contaminants associated with anti-fouling paints are on the 303(d) list for Suisun Bay or Carquinez Strait, anti-fouling paints are a significant concern for water quality in the San Francisco Bay. Vessels visiting the Amorco Terminal may contribute to water contamination through use of anti-fouling paints, which contain copper, sodium chloride, and zinc, all of which are highly toxic to aquatic species.

Implementation of **MMs WQ-5 and BIO-7a** would ensure that vessels calling at the Amorco Terminal are informed of applicable regulations and standards associated with the prevention of vessel biofouling. Refer to CEQA Findings No. WQ-5 and No. BIO-7 for the mitigation measures.

Implementation of **MM WQ-6** would minimize the impacts associated with anti-fouling paints by confirming all vessels that visit the Amorco Terminal would comply with the international ban on TBT. Refer to CEQA Finding No. WQ-6 for the mitigation measure. Although, TBT was phased out in 2008, there is still potential that vessels with old applications of TBT on their hulls could visit the Amorco Terminal. Due to the high toxicity of these biocides, any contribution from the vessels calling at Amorco Terminal would be cumulatively significant.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. CUM WQ-3

Impact: **Impact CUM WQ-3. Degrade water quality due to releases from vessels in transit in the San Francisco Bay or along the outer coast.**

- Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to contribute to the degradation of water quality due to releases from vessels in transit.

Impacts would be minimized to the extent feasible with **MMs OS-4a and OS-4b**. Refer to CEQA Finding No. WQ-4 for the mitigation measures. A major oil spill from a vessel in transit in the San Francisco Bay or along the outer coast would have a significant,

adverse impact on water quality. The incremental effects of such a vessel transiting to or from the Amorco Terminal would also be cumulatively significant.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

4. LAND USE AND RECREATION

CEQA FINDING NO. LUR-2

Impact: **Impact LUR-2. Cause residual impacts on sensitive shoreline lands and/or water and non-water recreation due to an accidental release of oil at or near the Amorco Terminal.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

An accidental spill of oil at or near the Amorco Terminal could cause residual impacts on sensitive shoreline lands and recreation near the water and the shoreline, including Martinez Regional Shoreline, Martinez Waterfront Park, and Carquinez Strait Regional Shoreline, and to recreational boats. Impacts from accidental oil releases could preclude the use of beach areas and associated recreational activities. Shoreline and water-related uses would be disrupted by oil on the beach and in the water.

The degree of impact is influenced by factors such as location, spill size, type of material spilled, prevailing wind and current conditions, the vulnerability and sensitivity of the shoreline, and effectiveness of early containment and cleanup efforts. Because it is impossible to predict with any certainty the potential consequences of a spill, impacts from spills are considered to be significant and unavoidable if first-response efforts would not contain or clean up the spill, resulting in residual impacts that would affect the general public's use of shoreline or water areas.

Implementation of **MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b** would minimize this impact by providing improved oil spill containment and avoidance measures. Refer to CEQA Findings No. OS-1 and No. OS-4 for the mitigation measures. With implementation of these measures, impacts to shoreline and recreational resources from a spill can be reduced to less than significant for small spills; however, impacts would remain significant for large spills.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. LUR-3

Impact: **Impact LUR-3. Cause residual impacts on sensitive shoreline lands and/or water and non-water recreation due to an accidental release of oil from vessels in transit.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Depending on spill size and location, a spill within San Francisco Bay or Carquinez Strait could affect recreational boating in the vicinity of the spill and its area of spread. Shoreline uses that could be affected by a spill include marinas, parks, and other recreational uses, as well as other marine terminals and port and harbor operations. Passenger and cargo vessels, commercial fishing vessels, recreational boaters, and others may have to slow, reroute, or halt operations during cleanup and containment.

Compared to the San Francisco Bay, existing land uses and recreational areas along the outer coast are more diverse, ranging from heavily used areas to areas that are undeveloped and fairly inaccessible, especially along the northern coast. Spills that beach along heavily used areas and recreational points would limit or preclude such uses and result in significant, adverse impacts, depending on the characteristics of a spill and its residual effects. Oil that spreads to beaches, sand dunes, tide pools, shoreline reserves, harbors, marinas, and other recreational boating and fishing facilities would limit access to these areas due to containment equipment and cleanup activities.

The degree of impact is influenced by factors such as location, spill size, type of material spilled, prevailing wind and current conditions, the vulnerability and sensitivity of the shoreline, and effectiveness of early containment and cleanup efforts. Because it is impossible to predict with any certainty the potential consequences of a spill, impacts from spills are considered to be significant and unavoidable if first-response efforts would not contain or clean up the spill, resulting in residual impacts that would affect the general public's use of shoreline or water areas.

Implementation of **MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b** would minimize this impact by providing improved oil spill containment and avoidance measures. Refer to CEQA Findings No. OS-1 and No. OS-4 for the mitigation measures. With implementation of these measures, impacts to shoreline and recreational resources from a spill can be reduced to less than significant for small spills; however, impacts would remain significant for large spills.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

5. VISUAL RESOURCES, LIGHT AND GLARE

CEQA FINDING NO. VR-4

Impact: **Impact VR-4. Create visual effects from accidental releases of oil at or near the Amorco Terminal.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in oil spills at the Amorco Terminal during transfer operations. In general, the potential impacts resulting from such an occurrence would tend to degrade the visual quality of the water and shoreline. The degree of impact is influenced by factors not limited to location, spill size, type of material spilled, prevailing wind and current conditions, the vulnerability and sensitivity of the shoreline, and effectiveness of early containment and cleanup efforts. A large spill from the Project could cause visual impacts ranging from oil sheens to heavy oiling, including floating lumps of tar. Heavy crude oil may disappear over the duration of several days, with remaining heavy fractions floating at or near the surface in the form of mousse, tarballs, or mats, and lasting from several weeks to several months. Therefore, the presence of oil on the water would change the color and, in heavier oiling, textural appearance of the water surface. Oil on shoreline surfaces or nearshore marsh areas would cover these surfaces with a brownish-blackish, gooey substance.

Although the potential for spills is low, such oiling would result in a negative impression of the viewshed. A spill at or near the Amorco Terminal would potentially be visible to the public from areas that include, but are not limited to: the Benicia-Martinez Bridge, Carquinez Strait, Suisun Bay, Carquinez Strait Regional Shoreline, Martinez Regional Shoreline, Martinez Waterfront Park, and the Benicia State Recreation Area. The public, becoming aware of a spill, may react negatively to its visual effects. Sensitivity heightens and awareness of the negative change in the environment increases. Without rapid containment by immediate booming and cleanup, the visual effects of even a small spill of 50 barrels can leave residual impacts, and they can be significant.

Implementation of **MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b** would minimize this impact by providing improved oil spill containment and avoidance measures. Refer to CEQA Findings No. OS-1 and No. OS-4 for the mitigation measures. With implementation of these measures, visual impacts from a spill can be reduced to less

than significant for small spills; however, visual impacts would remain significant for large spills.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

CEQA FINDING NO. VR-5

Impact: **Impact VR-5. Create visual effects from oil spills from vessels in transit.**

- Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effect as identified in the EIR.
- (3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in oil spills from vessels transiting the shipping lanes. The degree of visual impact is influenced by factors not limited to location, spill size, type of material spilled, prevailing wind and current conditions, the vulnerability and sensitivity of the shoreline, and effectiveness of early containment and cleanup efforts. A large spill from a vessel in transit could cause visual impacts ranging from oil sheens to heavy oiling, including floating lumps of tar. Heavy crude oil may disappear over the duration of several days, with remaining heavy fractions floating at or near the surface in the form of mousse, tarballs, or mats, and lasting from several weeks to several months. Therefore, the presence of oil on the water would change the color and, in heavier oiling, textural appearance of the water surface. Oil on shoreline surfaces or nearshore marsh areas would cover these surfaces with a brownish-blackish, gooey substance.

A spill at or near the Carquinez Bridge or Benicia-Martinez Bridge would potentially be visible to the public from areas that include, but are not limited to: the Carquinez Bridge, Benicia-Martinez Bridge, Carquinez Strait, Suisun Bay, San Pablo Bay, the upper and middle portions of San Francisco Bay, and the Golden Gate Strait, as well as numerous recreational areas and ecological reserves. For a spill at or near the Golden Gate Bridge, affected public areas may include, but not be limited to: the upper and middle portions of San Francisco Bay, the Golden Gate Strait, and the coast outside of the Golden Gate Bridge, as well as numerous recreational areas and ecological reserves. In addition, a spill from either location could potentially be visible to the public from approximately 30 marina facilities throughout the San Francisco Bay, as well as numerous fishing piers.

Spills along the outer coast could result in significant adverse impacts, where spills would be visible in the nearshore zone or at the shoreline. The level of public sensitivity

and expectations of views along the outer coast are more varied than within San Francisco Bay. Along many portions of the outer coast, public usage is low. In such areas, the public perception and expectations of viewers would not change as much as in areas the public frequents. In high-use areas such as coastal park and beach areas, ecological preserve areas, communities and harbors, and other areas where a higher number of viewers would be present, visual sensitivity would be high where cleanup efforts and residual effects were occurring.

Implementation of **MMs OS-1a, OS-1b, OS-1c, OS-4a, and OS-4b** would minimize this impact by providing improved oil spill containment and avoidance measures. Refer to CEQA Findings No. OS-1 and No. OS-4 for the mitigation measures. With implementation of these measures, visual impacts from a spill can be reduced to less than significant for small spills; however, visual impacts would remain significant for large spills.

LEVEL OF SIGNIFICANCE AFTER MITIGATION. This impact is considered significant and unavoidable.

4.0 STATEMENT OF OVERRIDING CONSIDERATIONS

A. INTRODUCTION

The Final EIR prepared by the CSLC as lead agency under CEQA for the Amorcó Marine Oil Terminal Lease Consideration Project (SCH No. 2012052030) identifies significant impacts of the proposed Project that cannot feasibly be mitigated to below a level of significance. Pursuant to Public Resources Code section 21081 and section 15043 of the State CEQA Guidelines, the CSLC may approve a project even though it will cause a significant effect on the environment, if the CSLC makes a fully informed and publicly disclosed decision that there is no feasible way to lessen or avoid the significant effect, and specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project.

State CEQA Guidelines section 15093 states in part:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."*
- (b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record.*

The statement of overriding considerations shall be supported by substantial evidence in the record.

This Statement of Overriding Considerations presents a list of (1) the specific significant effects on the environment attributable to the approved Project that cannot feasibly be mitigated to below a level of significance, (2) benefits derived from the approved Project, and (3) specific reasons for approving the Project.

Although the CSLC has imposed mitigation measures to reduce impacts, impacts remain that are considered significant after application of all feasible mitigation. Significant impacts of the approved Project fall under five resource areas: operational safety/risk of accidents; biological resources; water quality; land use and recreation; and visual resources, light and glare (see Tables 1 and 2). These impacts are specifically identified and discussed in more detail in the CSLC’s CEQA Findings and Final EIR. The CSLC finds that all mitigation measures identified in the Final EIR have been imposed to avoid or lessen impacts to the maximum extent feasible. (Impacts and mitigation measures are identified and discussed throughout Section 4.0 of the Final EIR. A summary of all impacts and mitigation measures is provided in the Mitigation Monitoring Program, adopted as part of this Project approval, as set forth in Exhibit C.) While the CSLC has imposed all feasible mitigation measures, the following impacts remain significant for purposes of adopting this Statement of Overriding Considerations.

Table 2 – Significant and Unavoidable Impacts Identified for the Approved Project

Impact	Impact Description
Operational Safety/Risk of Accidents	
Impact OS-1. Potential for spills and response capability for containment of oil spills from the Amorco Terminal during transfer operations.	While a small spill can be contained and cleaned up, a large spill can be carried by the winds and currents and impact a large area of the San Francisco Bay. Such a spill has the potential to impact water quality and biological resources and to disrupt other vessel traffic in the San Francisco Bay. A large spill could take an extended time period to clean up.
Impact OS-2. Amorco Terminal spills from pipelines during non-transfer periods.	A release of up to 757 barrels is possible from a pipeline on the wharf during non-transfer periods. Such a release has the potential to impact numerous resources depending on the environmental conditions present at the time and the effectiveness of the response effort.
Impact OS-3. Potential for fires and explosions and response capability.	Because of the location of the Amorco Terminal away from populated areas, a fire or explosion would not result in a significant impact to the public. However, a fire and/or an explosion could result in a large oil spill that could have significant impacts, as described for CEQA Finding No OS-1.
Impact OS-4. Response capability for accidents in the San Francisco Bay and outer coast.	A tank vessel release while in the San Francisco Bay or in the outer coast could result in the release of a large amount of oil. Such a release has the potential to impact a large area of the San Francisco Bay and/or the outer coast, to impact many resources such as water quality and biological resources, and to disrupt other vessel traffic in the San Francisco Bay. A large spill could take an extended time period to clean up.

Impact	Impact Description
Biological Resources	
Impact BIO-6. Spill impacts to biological resources.	Major fuel, lubricant, and/or boat-related spills to the San Francisco Bay Estuary could adversely affect aquatic biota. As presented in the Final EIR Section 4.1, Operational Safety/Risk of Accidents, results of oil spill modelling indicate that while spills at or near the Amorco Terminal have the potential to travel through the Carquinez Strait into San Pablo Bay and into Suisun Bay and its associated marshes, the highest probability of contact with oil occurs within the direct vicinity of the Amorco Terminal. The trajectory of the spill and the extent of its distribution vary seasonally. A spill in winter during the flooding season would be carried by heavy Delta outflows into San Pablo Bay, oiling shorelines along the Carquinez Strait. During the dry summer months, spills would be carried upstream along tidal currents and dispersed by wind into Suisun Bay and marshes. While impacts from spills would depend on the material, quantity, and time of the spill, a large variety of aquatic organisms and habitats would be affected.
Impact BIO-7. Introductions of invasive nonindigenous species.	Commercial ships can introduce nonindigenous aquatic species through ballast water discharge or vessel biofouling. Ballast water is capable of transporting live aquatic species around the world. Biofouling organisms are transported by vessels into new environments where they may be transferred from the ship into the new environment by spawning, detachment, or mechanical removal. Once established, nonindigenous aquatic species can have severe ecological impacts, which affect a wide variety of aquatic biota and habitats. The rate of species introductions, and thus the risk of invasion by species with detrimental impacts, has increased significantly during recent decades. In some parts of the San Francisco Bay Estuary, introduced species account for the majority of species diversity, dominate the estuary's food webs, and may result in profound structural changes to habitat.
Impact CUM BIO-2. Cumulative impacts of an oil spill on biological resources.	Activities proposed as part of the Project have the potential to result in additional cumulative impacts to biological resources from oil spills. Among the facilities with potential to contribute to the accidental release of petroleum products are the Chevron Richmond Refinery Long Wharf Terminal, Tesoro Avon Marine Terminal, and the Plains All American Martinez Marine Terminal.
Impact CUM BIO-3. Cumulative impacts of nonindigenous species introduction.	All commercial vessel traffic to the San Francisco Bay has the potential to introduce nonindigenous aquatic species. Although vessels that call at the Amorco Terminal are required to comply with federal and State provisions, compliance with the current regulations is not enough to ensure full mitigation of this impact.

Impact	Impact Description
Water Quality	
Impact WQ-3. Degrade water quality by the discharge of segregated ballast water.	Discharge of ballast water that contains nonindigenous aquatic species could impair several of the Project area's beneficial uses, including commercial and sport fishing, estuarine habitat, fish migration, preservation of rare and endangered species, fish spawning, wildlife habitat, and water contact recreation. Therefore, discharge of ballast water is determined to have a potentially significant impact to water quality.
Impact WQ-5. Degrade water quality as a result of vessel biofouling.	The release of nonindigenous aquatic species attached to or associated with the wetted portions of a vessel could impair several of the Project area's beneficial uses resulting in a potentially significant impact to water quality.
Impact WQ-6. Degrade water quality due to anti-fouling paints used on vessel hulls.	Anti-fouling coatings incorporate biocides such as copper, sodium chloride, and zinc as the active ingredients. Although the use of anti-fouling paint containing TBT was discontinued in 2008, there is still potential that vessels with old applications of TBT on their hulls could visit the Amorco Terminal. The use of these substances on vessels associated with the Amorco Terminal is considered to be a significant, adverse impact to water quality that cannot be mitigated to less than significant.
Impact WQ-9. Degrade water quality as a result of oil leaks and spills during unloading.	Accidental releases of petroleum products during loading and unloading operations at the Amorco Terminal could contaminate the surrounding surface water with floating product. Petroleum products present in San Francisco Bay waters would likely exceed the Basin Plan water quality objective for oil and grease, which comprises any visible film or coating on the surface of the water or on objects in the water that cause nuisance or that otherwise adversely affect beneficial uses. Even with the implementation of oil spill contingency planning and response measures, a spill could spread over a large area and impact water quality to the San Francisco Bay. In such a case, impacts to water quality would be significant and unavoidable.
Impact WQ-10. Degrade water quality due to oil releases from vessels in transit in the San Francisco Bay or along the outer coast.	A significant impact to water quality could result from leaks or an accidental spill of oil from a vessel along tanker routes either in San Francisco Bay or outer coast waters. Most tanker spills/accidents that occur in transit are larger spills that cannot be quickly contained, and would result in significant and unavoidable impacts.
Impact CUM WQ-1. Cause contaminant impacts on San Francisco Bay water quality.	Contributions of a contaminant already at significantly high levels to the waters of San Francisco Bay would have a significant adverse impact at the cumulative level. Due to the high toxicity of TBT any contribution of this biocide from the vessels calling at Amorco Terminal would be adverse and cumulatively significant.
Impact CUM WQ-3. Degrade water quality due to releases from vessels in transit in the San Francisco Bay or along the outer coast.	A major oil spill from a vessel in route or departing the Amorco Terminal within the San Francisco Bay and along the outer coast would have a significant adverse cumulative impact on water quality.

Impact	Impact Description
Land Use and Recreation	
<p>Impact LUR-2. Cause residual impacts on sensitive shoreline lands and/or water and non-water recreation due to an accidental release of oil at or near the Amorco Terminal.</p>	<p>Impacts from accidental oil releases at or near the Amorco Terminal could preclude the use of beach areas and associated recreational activities. Shoreline and water-related uses would be disrupted by oil on the beach and in the water. Because it is impossible to predict with any certainty the potential consequences of a spill, impacts are considered to be significant and unavoidable if first-response efforts would not contain or clean up the spill, resulting in residual impacts that would affect the general public's use of shoreline or water areas.</p>
<p>Impact LUR-3. Cause residual impacts on sensitive shoreline lands and/or water and non-water recreation due to an accidental release of oil from vessels in transit.</p>	<p>Impacts from accidental oil releases from vessels in transit could preclude the use of beach areas and associated recreational activities. Shoreline and water-related uses would be disrupted by oil on the beach and in the water. Because it is impossible to predict with any certainty the potential consequences of a spill, impacts are considered to be significant and unavoidable if first-response efforts would not contain or clean up the spill, resulting in residual impacts that would affect the general public's use of shoreline or water areas.</p>
Visual Resources, Light, and Glare	
<p>Impact VR-4. Create visual effects from accidental releases of oil at or near the Amorco Terminal.</p>	<p>A large spill from the Project could cause visual impacts ranging from oil sheens to heavy oiling, including floating lumps of tar. Heavy crude oil may disappear over the duration of several days, with remaining heavy fractions floating at or near the surface in the form of mousse, tarballs, or mats, and lasting from several weeks to several months. Although the potential for spills is low, such oiling would result in a negative impression of the viewshed. The public, becoming aware of a spill, may react negatively to its visual effects. Without rapid containment by immediate booming and cleanup, the visual effects of even a small spill of 50 barrels can leave residual impacts, and they can be significant.</p>
<p>Impact VR-5. Create visual effects from oil spills from vessels in transit.</p>	<p>A large spill from the Project could cause visual impacts ranging from oil sheens to heavy oiling, including floating lumps of tar. Heavy crude oil may disappear over the duration of several days, with remaining heavy fractions floating at or near the surface in the form of mousse, tarballs, or mats, and lasting from several weeks to several months. Although the potential for spills is low, such oiling would result in a negative impression of the viewshed. The public, becoming aware of a spill, may react negatively to its visual effects. Without rapid containment by immediate booming and cleanup, the visual effects of even a small spill of 50 barrels can leave residual impacts, and they can be significant.</p>

B. ALTERNATIVES

As explained in *California Native Plant Society v. City of Santa Cruz* (2009) 177 Cal. App. 4th 957, 1000:

When it comes time to decide on project approval, the public agency's decisionmaking body evaluates whether the alternatives [analyzed in the EIR] are actually feasible.... At this final stage of project approval, the agency considers whether '[s]pecific economic, legal, social, technological, or other considerations...make infeasible the mitigation measures or alternatives identified in the environmental impact report.' Broader considerations of policy thus come into play when the decisionmaking body is considering actual feasibility than when the EIR preparer is assessing potential feasibility of the alternatives [citations omitted].

The two alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that could reduce one or more significant impacts of the Project. These alternatives include: (1) No Project; and (2) Restricted Lease Taking Amorco Terminal Out of Service for Oil Transport. As presented in the EIR, the alternatives were described and compared with each other and with the proposed Project.

Under State CEQA Guidelines section 15126.6, subdivision (e)(2), if the No Project Alternative is identified as the environmentally superior alternative, the EIR must also identify an environmentally superior alternative among the other alternatives. However, based on the analysis contained in the Final EIR, the proposed Project is selected as the environmentally superior alternative.

The two CEQA alternatives proposed and evaluated in the EIR are rejected as being infeasible for the following reasons.

1) No Project Alternative. While the No Project Alternative eliminates operational impacts associated with the Amorco Terminal, implementation of this alternative, at least for the short term, does not meet the Project objective of supplying the crude oil required to maintain Refinery operational viability. In the long term, it would potentially shift similar levels of impact to other San Francisco Bay Area (Bay Area) marine oil terminals in order to make up the differential for crude oil and product transport throughout San Francisco Bay. The capacity of other Bay Area terminals may be taxed, potentially increasing vessel congestion, collisions, and costs while vessels wait to berth and offload/load. This alternative could also shift Tesoro's sources for crude oil to land-based means of traditional crude oil transportation such as a pipeline and/or rail to absorb import operations from the Amorco Terminal, resulting in potentially significant land-based impacts to operational safety/risk of accidents, water quality, land use/recreation, and visual resources due to the risk of spills, fire, or explosion. In addition, construction of pipelines and/or rail lines would potentially impact biological resources, cultural resources, land-based transportation, and noise.

2) Restricted Lease Taking Amorco Terminal Out of Service for Oil Transport Alternative. The Restricted Lease Taking Amorco Out of Service for Oil

Transport Alternative would also potentially shift similar levels of impact to other Bay Area marine oil terminals, and/or to land-based means of traditional crude oil transportation such as a pipeline and/or rail in order to make up the differential for crude oil and product transport throughout San Francisco Bay. All potential impacts remain the same as for the No Project Alternative.

Based upon the objectives identified in the Final EIR and the detailed mitigation measures imposed upon the Project, the CSLC has determined that the Project should be approved, subject to such mitigation measures (Exhibit C, Mitigation Monitoring Program), and that any remaining unmitigated environmental impacts attributable to the Project are outweighed by the following specific economic, fiscal, social, environmental, land use, and other overriding considerations:

C. BENEFICIAL IMPACTS OF THE PROJECT

State CEQA Guidelines section 15093, subdivision (a), requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project.

The Amorc Terminal has operated at its current location, transferring petroleum products to the Golden Eagle Refinery, since 1923. The provision of a lease to Tesoro to continue its existing Amorc Terminal operations for another 30 years will benefit both the State of California and the region served by the Amorc Terminal.

The California Energy Commission (CEC) forecasted that demand for transportation fuels would continue to increase as the economy recovers from the recent recession. In its *2009 Integrated Energy Policy Report* (Publication No. CEC-100-2009-003-CMF), the CEC stated:

California needs sufficient fuel infrastructure to ensure reliable supplies of transportation fuels for its citizens. Reliance on foreign oil imports increasingly puts the state's fuel supply at risk, not only because of security and reliability concerns, but also because the marine ports are not expanding to meet expected growth in demand. Until new vehicle technologies and fuels are commercialized, petroleum will continue to be the primary fuel source for California's vehicles. The state will need to enhance and expand the existing petroleum infrastructure, particularly at in-state marine ports, as well as its alternative fuel infrastructure.

The CEC's 2009 Integrated Energy Policy Report (IEPR) also made the following recommendation:

To maintain energy security, state and local agencies need to ensure that there is adequate infrastructure for the delivery of transportation fuels. The state should modernize and upgrade the existing infrastructure to accommodate alternative and renewable fuels and vehicle technologies as they are developed and to

address petroleum infrastructure needs to preserve past investments and to expand throughput capacity in the state.

Both the statement and recommendation continue to hold true. While the CEC's 2013 IEPR states: "Compared to 2008, gasoline consumption has declined by six percent, due in part to the national economic recession and higher vehicle fuel economy standards." The 2013 IEPR also states that "petroleum accounts for more than 90 percent of California's transportation energy sources."

A key benefit of the Project is to maintain the Refinery operational viability by continuing current Amorc Terminal operations through which the Refinery receives petroleum. Without the Amorc Terminal to deliver petroleum, the Refinery could attempt to operate solely on pipeline and/or rail deliveries; however, the throughput would be reduced substantially. If, due to the loss of the Amorc Terminal, it became uneconomical to operate the Refinery, and no other operator assumed any of the functions of the Amorc Terminal, direct and indirect local and regional consequences could result. Without the Amorc Terminal, other terminals and refineries in the Bay area may be taxed, potentially increasing vessel congestion, collisions, as well as the costs while vessels wait to berth and offload/load. Without the petroleum products produced by the Refinery, the region would experience a shortage of locally produced transportation fuels and other necessary petroleum products. Ultimately the reduction in infrastructure and capacity would weaken the economics, health, and security of the region due to shortages of those necessary transportation fuels.

Maintaining existing facilities such as the Amorc Terminal and Golden Eagle Refinery, which currently meet State and local environmental requirements, is critical to meeting both existing and future demand. Though California continues to advance towards alternative fuels, petroleum remains the state's primary source of transportation energy. Any future projects to construct petroleum product storage and handling capacity would require extensive environmental assessment and have significant environmental impact that go well beyond those associated with maintaining an existing infrastructure. In addition, any future new project of this nature may likely have a limited term of usefulness, given the trends that California is experiencing of moving away from petroleum fuels and towards alternative energy sources. Maintaining the existing facilities that are already meeting the current demands for transportation is the most practical approach to meeting California's needs for petroleum based fuels.

D. CSLC ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS

As noted above, under Public Resources Code section 21081, subdivisions (a)(3) and (b) and State CEQA Guidelines section 15093, subdivision (a), the decision-making agency is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or state-wide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve a project.

For purposes of CEQA, if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable significant environmental effects, the decision-making agency may approve the underlying project. CEQA, in this respect, does not prohibit the CSLC from approving the Project, even if the activities authorized by that approval may cause significant and unavoidable environmental effects. This balancing is particularly difficult given the significant and unavoidable impacts on the resources discussed in the EIR and these Findings. Nevertheless, the CSLC finds, as set forth below, that the benefits anticipated by implementing the Project outweigh and override the expected significant effects.

The CLSC has balanced the benefits of the Project against the significant unavoidable impacts that will remain after selection of the approved Project and with implementation of all feasible mitigation in the EIR that is adopted as enforceable conditions of the CSLC's approval of the Project. Based on all available information, the CSLC finds that the benefits of the approved Project outweigh the significant and unavoidable adverse environmental effects, and considers such effects acceptable. The CSLC adopts and makes this Statement of Overriding Considerations with respect to the impacts identified in the EIR and these Findings that cannot be reduced to a less than significant level. Each benefit set forth above constitutes an overriding consideration warranting approval of the project, independent of the other benefits, despite each and every significant unavoidable impact.

E. CONCLUSION

The CSLC has considered the Final EIR and all of the environmental impacts described therein, including those that cannot be mitigated to a less-than-significant level and those that may affect Public Trust uses of State sovereign lands. The CSLC has considered the fiscal, economic, legal, social, environmental, and public health and safety benefits of the Project and has balanced them against the Project's significant and unavoidable adverse environmental impacts and, based upon substantial evidence in the record, has determined that the benefits of the Project outweigh the adverse environmental effects. Based on the foregoing and pursuant to Public Resources Code section 21081 and State CEQA Guidelines section 15093, the CSLC finds that the remaining significant unavoidable impacts of the Project are acceptable in light of the economic, fiscal, social, environmental, and public health and safety benefits of the Project. Such benefits outweigh such significant and unavoidable impacts of the Project and provide the substantive and legal basis for this Statement of Overriding Considerations.

The CSLC finds that to the extent that any impacts identified in the Final EIR remain unmitigated, mitigation measures have been required to the extent feasible, although the impacts could not be reduced to a less-than-significant level.

Based on the above discussion, the CSLC finds that the benefits of the Project outweigh the significant unavoidable impacts that could remain after mitigation is applied and considers such impacts acceptable.