

1 **3.0 ENVIRONMENTAL ANALYSIS AND CHECKLIST**

2 This section contains the Initial Study (IS) that was completed for the proposed
3 Hercules LLC/Prologis (Applicant) Hercules Pipeline Removal Project (Project) in
4 accordance with the requirements of the California Environmental Quality Act (CEQA).
5 The IS identifies site-specific conditions and impacts, evaluates their potential
6 significance, and discusses ways to avoid or lessen impacts that may be potentially
7 significant. The information, analysis, and conclusions included in the IS provide the
8 basis for determining the appropriate document needed to comply with CEQA. For the
9 Project, based on the analysis and information contained herein, the California State
10 Lands Commission (CSLC) has found that the IS shows that there is substantial
11 evidence that the Project may have a significant effect on the environment but revisions
12 to the Project would avoid the effects or mitigate the effects to a point where clearly no
13 significant effect on the environment would occur. As a result, the CSLC has concluded
14 that a Mitigated Negative Declaration (MND) is the appropriate CEQA document for the
15 Project.

16 The evaluation of environmental impacts provided in this IS is based in part on the
17 environmental impact questions contained in the Appendix G of the State CEQA
18 Guidelines; these questions, which are included in an impact assessment matrix for
19 each environmental category (Aesthetics, Agriculture and Forest Resources, Air Quality,
20 Biological Resources, Cultural Resources, etc.), are “intended to encourage thoughtful
21 assessment of impacts.” Each question is followed by a check-marked box with column
22 headings that are defined below.

- 23 • **Potentially Significant Impact.** This column is checked if there is substantial
24 evidence that a Project-related environmental effect may be significant. If there
25 are one or more “Potentially Significant Impacts,” a Project Environmental Impact
26 Report (EIR) would be prepared.
- 27 • **Less than Significant with Mitigation.** This column is checked when the
28 Project may result in a significant environmental impact, but the incorporation of
29 identified Project revisions or mitigation measures would reduce the identified
30 effect(s) to a less than significant level.
- 31 • **Less than Significant Impact.** This column is checked when the Project would
32 not result in any significant effects. The Project’s impact is less than significant
33 even without the incorporation of Project-specific mitigation measures.
- 34 • **No Impact.** This column is checked when the Project would not result in any
35 impact in the category or the category does not apply.

36 The environmental factors checked below would be potentially affected by this Project;
37 a checked box indicates that at least one impact would be a “Potentially Significant

1 Impact” except that the Applicant has agreed to Project revisions, including the
 2 implementation of mitigation measures, that reduce the impact to “Less than Significant
 3 with Mitigation.”

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| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forest Resources | <input type="checkbox"/> Air Quality/Greenhouse Gas Emissions |
| <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology and Soils |
| <input checked="" type="checkbox"/> Hazards and Hazardous Materials | <input checked="" type="checkbox"/> Hydrology and Water Quality | <input type="checkbox"/> Land Use and Planning |
| <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise | <input type="checkbox"/> Population and Housing |
| <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation | <input checked="" type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities and Service Systems | <input type="checkbox"/> Mandatory Findings of Significance | |

4 Detailed descriptions and analyses of impacts from Project activities and the basis for
 5 their significance determinations are provided for each environmental factor on the
 6 following pages, beginning with Section 3.1, Aesthetics. Relevant laws, regulations, and
 7 policies potentially applicable to the Project are listed in the Regulatory Setting for each
 8 environmental factor analyzed in this IS and in Table 3-1.

9 **AGENCY DETERMINATION**

10 Based on the environmental impact analysis provided by this Initial Study:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

11 _____
 12 Signature
 13 Jennifer DeLeon
 14 Division of Environmental Planning and Management
 California State Lands Commission

 Date

1 **Table 3-1. Federal (U.S.) and State (CA) Laws, Regulations, and Policies**
 2 **Potentially Applicable to the Project**

| Multiple Environmental Issue Areas | | |
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| CA | 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. As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the U.S. in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for areas of fill or artificial accretion. | |
| CA | McAteer-Petris Act | The McAteer-Petris Act created the San Francisco Bay Conservation and Development Commission (BCDC), which is responsible for the regulation of development for the San Francisco Bay portion of the Coastal Zone. Any filling, dredging or development within BCDC's jurisdiction which is approximately 100 feet of the Bay requires a BCDC permit. |
| CA | San Francisco Bay Plan | The Bay Plan provides BCDC policies on Appearance, Design, and Scenic Views around the Bay. Several of these policies are to ensure and maintain the visual quality around the Bay. |
| 3.1 Aesthetics | | |
| U.S. | None applicable. | |
| CA | California Scenic Highway Program | The California Scenic Highway Program, managed by the California Department of Transportation, was created to preserve and protect scenic highway corridors from change that would diminish the aesthetic value of lands adjacent to highways. State highways identified as scenic, or eligible for designation, are listed in California Streets and Highways Code § 260 et seq. |
| 3.2 Agriculture and Forest Resources (NONE APPLICABLE) | | |
| U.S. | None applicable. | |
| CA | Williamson Act (Gov. Code §§ 51200-51207) | This Act enables local governments to enter into contracts with private landowners to restrict specific parcels of land to agricultural or related open space use, and provides landowners with lower property tax assessments in return. Local government planning departments are responsible for the enrollment of land into Williamson Act contracts. Generally, any commercial agricultural use would be permitted within any agricultural preserve. In addition, local governments may identify compatible uses permitted with a use permit. |
| 3.3 Air Quality and Greenhouse Gas Emissions | | |
| CA | Federal Clean Air Act (FCAA) (42 USC 7401 et seq.) | The FCAA requires the U.S. Environmental Protection Agency (USEPA) to identify National Ambient Air Quality Standards (NAAQS) to protect public health and welfare. National standards are established for ozone (O ₃), carbon monoxide (CO), nitrogen dioxide (NO ₂), sulfur dioxide (SO ₂), particulate matter (PM ₁₀ and PM _{2.5}), and lead (Pb). In 2007, the U.S. Supreme Court ruled that carbon dioxide (CO ₂) is an air pollutant as defined under the FCAA, and that the USEPA has authority to regulate GHG emissions. Pursuant to the 1990 FCAA Amendments, USEPA classifies air basins (or portions thereof) as in "attainment" or "nonattainment" for each criteria air pollutant, based on whether or not the NAAQS are achieved. The classification is determined by comparing monitoring data with State and Federal standards. <ul style="list-style-type: none"> An area is classified as in "attainment" for a pollutant if the pollutant concentration is lower than the standard. An area is classified as in "nonattainment" for a pollutant if the pollutant concentration exceeds the |

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| | | <p>standard.</p> <ul style="list-style-type: none"> An area is designated “unclassified” for a pollutant if there are not enough data available for comparisons. |
| CA | California Clean Air Act of 1988 (CCAA) (Assembly Bill [AB] 2595) | <p>The CCAA requires all air districts in the State to endeavor to achieve and maintain State ambient air quality standards for O₃, CO, SO₂, NO₂, and PM; attainment plans for areas that did not demonstrate attainment of State standards until after 1997 must specify emission reduction strategies and meet milestones to implement emission controls and achieve more healthful air quality. California's ambient air standards are generally stricter than national standards for the same pollutants; the State has also established standards for sulfates, hydrogen sulfide (H₂S), vinyl chloride, and visibility-reducing particles. The 1992 CCAA Amendments divide O₃ nonattainment areas into four categories of pollutant levels (moderate, serious, severe, and extreme) to which progressively more stringent requirements apply.</p> |
| CA | California Global Warming Solutions Act of 2006 (AB 32) | <p>Under Assembly Bill [AB] 32, CARB is responsible for monitoring and reducing GHG emissions in the State and for establishing a statewide GHG emissions cap for 2020 that is based on 1990 emissions levels. CARB (2009) has adopted the AB 32 Climate Change Scoping Plan (Scoping Plan), which contains the main strategies for California to implement to reduce CO₂ equivalent (CO₂e) emissions by 169 million metric tons (MMT) from the State's projected 2020 emissions level of 596 MMT CO₂e under a business-as-usual scenario. The Scoping Plan breaks down the amount of GHG emissions reductions the CARB recommends for each emissions sector of the State's GHG inventory, but does not directly discuss GHG emissions generated by construction activities.</p> |
| CA | Senate Bill (SB) 97 and 375 | <ul style="list-style-type: none"> Pursuant to SB 97, the State Office of Planning and Research prepared and the Natural Resources Agency adopted amendments to the State CEQA Guidelines for the feasible mitigation of GHG emissions or the effects of GHG emissions. Effective as of March 2010, the revisions to the CEQA Environmental Checklist Form (Appendix G) and the Energy Conservation Appendix (Appendix F) provide a framework to address global climate change impacts in the CEQA process; State CEQA Guidelines section 15064.4 was also added to provide an approach to assessing impacts from GHGs. SB 375 (effective January 1, 2009) requires CARB to develop regional reduction targets for GHG emissions, and prompted the creation of regional land use and transportation plans to reduce emissions from passenger vehicle use throughout the State. The targets apply to the regions covered by California's 18 metropolitan planning organizations (MPOs). The 18 MPOs must develop regional land use and transportation plans and demonstrate an ability to attain the proposed reduction targets by 2020 and 2035. |
| CA | Executive Orders (EOs) | <ul style="list-style-type: none"> Under EO S-01-07, which set forth a low carbon fuel standard for California, the carbon intensity of California's transportations fuels is to be reduced by at least 10 percent by 2020. EO S-3-05 established statewide GHG emission targets of reducing emissions to 2000 levels by 2010, to 1990 levels by 2020, and to 80 percent below the 1990 level by 2050. |
| CA | Other | <ul style="list-style-type: none"> Under California's Diesel Fuel Regulations, diesel fuel used in motor vehicles, except harbor craft, has been limited to 500 parts per million (ppm) sulfur since 1993. The sulfur limit was reduced to 15 ppm beginning September 1, 2006, and harbor craft were included starting in 2009. CARB's Heavy Duty Diesel Truck Idling Rule (Cal. Code Regs., tit. 13, § 2485) prohibits heavy-duty diesel trucks from idling for longer than 5 minutes at a time. Truck idling for longer than 5 minutes while queuing is allowed, however, provided the queue is located beyond 100 feet (30 meters) from any homes or schools. The Statewide Portable Equipment Registration Program (PERP) establishes |

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| | | a uniform program to regulate portable engines/engine-driven equipment units. Once registered in the PERP, engines and equipment units may operate throughout California without the need to obtain individual permits from local air districts. |
| 3.4 Biology | | |
| U.S. | Endangered Species Act (FESA) (7 USC 136, 16 USC 1531 et seq.) | <p>The FESA, which is administered in California by the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS), provides protection to species listed as threatened or endangered, or proposed for listing as threatened or endangered. Section 9 prohibits the “take” of any member of a listed species.</p> <ul style="list-style-type: none"> • Take is defined as “...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” • Harass is “an intentional or negligent act or omission that creates the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavior patterns that include, but are not limited to, breeding, feeding, or sheltering.” • Harm is defined as “...significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering.” <p>When applicants are proposing projects with a Federal nexus that “may affect” a federally listed or proposed species, the Federal agency is required to consult with the USFWS or NMFS, as appropriate, under Section 7, which provides that each Federal agency must ensure that any actions authorized, funded, or carried out by the agency are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of areas determined to be critical habitat.</p> |
| U.S. | Magnuson-Stevens Fishery Conservation and Management Act (MSA) (16 USC 1801 et seq.) | <p>The MSA is the primary law governing marine fisheries management in U.S. Federal waters. The MSA was first enacted in 1976 and amended in 1996. Amendments to the 1996 MSA require the identification of Essential Fish Habitat (EFH) for federally managed species and the implementation of measures to conserve and enhance this habitat. Any project requiring Federal authorization, such as a USACE permit, is required to complete and submit an EFH Assessment with the application and either show that no significant impacts to the essential habitat of managed species are expected or identify mitigations to reduce those impacts. Under the MSA, Congress defined EFH as “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity” (16 USC 1802(10)). The EFH provisions of the MSA offer resource managers a means to heighten consideration of fish habitat in resource management. Pursuant to section 305(b)(2), Federal agencies shall consult with the NMFS regarding any action they authorize, fund, or undertake that might adversely affect EFH.</p> |
| U.S. | Marine Mammal Protection Act (MMPA) (16 USC 1361 et seq.) | <p>The MMPA is designed to protect and conserve marine mammals and their habitats. It prohibits takes of all marine mammals in the U.S. (including territorial seas) with few exceptions. The NMFS may issue a take permit under section 104 if the activities are consistent with the purposes of the MMPA and applicable regulations at 50 CFR, Part 216. The NMFS must also find that the manner of taking is “humane” as defined in the MMPA. If lethal taking of a marine mammal is requested, the applicant must demonstrate that using a non-lethal method is not feasible.</p> |
| U.S. | Migratory Bird Treaty Act (MBTA) (16 USC 703-712) | <p>The MBTA was enacted to ensure the protection of shared migratory bird resources. The MBTA prohibits the take, possession, import, export, transport, selling, purchase, barter, or offering for sale, purchase, or barter, of any migratory bird, their eggs, parts, and nests, except as authorized under a valid permit. The responsibilities of Federal agencies to protect migratory birds are set forth in EO 13186. The USFWS is the lead agency for migratory birds. The</p> |

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| | | USFWS issues permits for takes of migratory birds for activities such as scientific research, education, and depredation control, but does not issue permits for incidental take of migratory birds. |
| U.S. | Other | <ul style="list-style-type: none"> • The Bald and Golden Eagle Protection Act makes it illegal to import, export, take (including molest or disturb), sell, purchase or barter any bald eagle or golden eagle or parts thereof. • Clean Water Act (33 USC 1251 et seq.) (See 3.3.8, Hydrology and Water Quality) • Executive Order 13112 requires Federal agencies to use authorities to prevent introduction of invasive species, respond to and control invasions in a cost-effective and environmentally sound manner, and to provide for restoration of native species and habitat conditions in ecosystems that have been invaded. • Executive Order 13158 requires Federal agencies to (1) identify actions that affect natural or cultural resources that are within a Marine Protected Area (MPA); and (2) in taking such actions, to avoid harm to the natural and cultural resources that are protected by a MPA. • Rivers and Harbors Act (33 USC 401) (See 3.3.8, Hydrology and Water Quality) |
| CA | California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) | The CESA provides for the protection of rare, threatened, and endangered plants and animals, as recognized by the California Department of Fish and Wildlife (CDFW), and prohibits the taking of such species without its authorization. Furthermore, the CESA provides protection for those species that are designated as candidates for threatened or endangered listings. Under the CESA, the CDFW has the responsibility for maintaining a list of threatened species and endangered species (Fish & G. Code, § 2070). The CDFW also maintains a list of candidate species, which are species that the CDFW has formally noticed as under review for addition to the threatened or endangered species lists. The CDFW also maintains lists of Species of Special Concern that serve as watch lists. Pursuant to the requirements of the CESA, an agency reviewing a proposed project within its jurisdiction must determine whether any State-listed endangered or threatened species may be present in the project site and determine whether the proposed project will have a potentially significant impact on such species. In addition, the CDFW encourages informal consultation on any proposed project that may affect a candidate species. The CESA also requires a permit to take a State-listed species through incidental or otherwise lawful activities (§ 2081, subd. (b)). |
| CA | California Marine Life Protection Act (MLPA) (Fish & G. Code, §§ 2850–2863) | Passed by the State Legislature in 1999, the MLPA required the CDFW to redesign its system of MPAs to increase its coherence and effectiveness at protecting the state's marine life, habitats, and ecosystems. For the purposes of MPA planning, a public-private partnership commonly referred to as the MLPA Initiative was established, and the State was split into five distinct regions (four coastal and the San Francisco Bay) each of which had its own MPA planning process. All four coastal regions have completed these individual planning processes. As a result the coastal portion of California's MPA network is now in effect statewide. Options for a planning process in the San Francisco Bay have been developed for consideration at a future date. |
| CA | Other relevant California Fish and Game Code sections | <ul style="list-style-type: none"> • The California Native Plant Protection Act (Fish & G. Code, § 1900 et seq.) is intended to preserve, protect, and enhance endangered or rare native plants in California. This Act includes provisions that prohibit the taking of listed rare or endangered plants from the wild and a salvage requirement for landowners. The Act directs the CDFW to establish criteria for determining what native plants are rare or endangered. Under section 1901, a species is endangered when its prospects for survival and reproduction are in immediate jeopardy from one or more causes. A species is rare when, although not threatened with immediate extinction, it is in such small numbers throughout its range that it may become endangered. |

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| | | <ul style="list-style-type: none"> • The California Species Preservation Act (Fish & G. Code §§ 900-903) provides for the protection and enhancement of the amphibians, birds, fish, mammals, and reptiles of California. • Fish and Game Code sections 3503 & 3503.5 prohibit the taking and possession of native birds' nests and eggs from all forms of needless take. These regulations also provide that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nests or eggs of any such bird except as otherwise provided by this Code or any regulation adopted pursuant thereto. • Fish and Game Code sections 3511 (birds), 4700 (mammals), 5050 (reptiles and amphibians), & 5515 (fish) designate certain species as "fully protected." Fully protected species, or parts thereof, may not be taken or possessed at any time without permission by the CDFW. • Fish and Game Code section 3513 does not include statutory or regulatory mechanism for obtaining an incidental take permit for the loss of non-game, migratory birds. |
| CA | California Native Plant Protection Act (Fish & G. Code, § 1900 et seq.) | This Act is intended to preserve, protect, and enhance endangered or rare native plants in California. This Act includes provisions that prohibit the taking of listed rare or endangered plants from the wild and a salvage requirement for landowners. The Act directs the CDFW to establish criteria for determining what native plants are rare or endangered. Under section 1901, a species is endangered when its prospects for survival and reproduction are in immediate jeopardy from one or more causes. A species is rare when, although not threatened with immediate extinction, it is in such small numbers throughout its range that it may become endangered. |
| 3.5 Cultural Resources | | |
| U.S. | Archaeological Resources Protection Act (ARPA) | <p>The ARPA states that archaeological resources on public or Indian lands are an accessible and irreplaceable part of the nation's heritage and:</p> <ul style="list-style-type: none"> • Establishes protection for archaeological resources to prevent loss and destruction due to uncontrolled excavations and pillaging; • Encourages increased cooperation and exchange of information between government authorities, the professional archaeological community, and private individuals having collections of archaeological resources prior to the enactment of this Act; • Establishes permit procedures to permit excavation or removal of archaeological resources (and associated activities) located on public or Indian land; and • Defines excavation, removal, damage, or other alteration or defacing of archaeological resources as a "prohibited act" and provides for criminal and monetary rewards to be paid to individuals furnishing information leading to the finding of a civil violation or conviction of a criminal violator. <p>ARPA has both enforcement and permitting components. The enforcement provision provides for the imposition of both criminal and civil penalties against violators of the Act. The ARPA's permitting component allows for recovery of certain artifacts consistent with the standards and requirements of the National Park Service (NPS) Federal Archeology Program.</p> |
| U.S. | National Historic Preservation Act (NHPA) (16 USC 470 et seq.) | This applies only to Federal undertakings. Archaeological resources are protected through the NHPA, as amended, and its implementing regulation, Protection of Historic Properties (36 CFR 800), the AHPA, and the ARPA. This Act presents a general policy of supporting and encouraging the preservation of prehistoric and historic resources for present and future generations by directing Federal agencies to assume responsibility for considering the historic resources in their activities. The State implements the NHPA through its statewide comprehensive cultural resource surveys and preservation programs. The California Office of Historic Preservation (OHP), within the California Department |

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| | | of Parks and Recreation, implements the policies of the NHPA on a statewide level and advises Federal agencies regarding potential effects on historic properties. The OHP also maintains the California Historic Resources Inventory. The State Historic Preservation Officer (SHPO) is an appointed official who implements historic preservation programs within the State's jurisdictions, including commenting on Federal undertakings. |
| U.S. | Other | <ul style="list-style-type: none"> • Executive Order 13158 requires Federal agencies to (1) identify actions that affect natural or cultural resources that are within a MPA; and (2) in taking such actions, to avoid harm to the natural and cultural resources that are protected by a MPA. • NPS Abandoned Shipwreck Act of 1987 (43 USC 2101–2106). Under this Act, states have the responsibility for management of living and nonliving resources in State waters and submerged lands, including certain abandoned shipwrecks. The NPS has issued guidelines that are intended to: maximize the enhancement of cultural resources; foster a partnership among sport divers, fishermen, archeologists, sailors, and other interests to manage shipwreck resources of the states and the U.S.; facilitate access and utilization by recreational interests; and recognize the interests of individuals and groups engaged in shipwreck discovery and salvage. Specific provisions of the Act's guidelines include procedures for locating and identifying shipwrecks, methods for determining which shipwrecks are historic, and preservation and long-term management of historic shipwrecks. |
| CA | California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) | As the CEQA lead agency, the CSLC is responsible for complying with all provisions of the CEQA and State CEQA Guidelines that relate to "historical resources." A historical resource includes: (1) a resource listed in, or eligible for listing in, the California Register of Historic Resources (CRHR); (2) a resource included in a local register of historical or identified as significant in an historical resource surveys; and (3) any resource that a lead agency determines to be historically significant for the purposes of CEQA, when supported by substantial evidence in light of the whole record. The CRHR was created to identify resources deemed worthy of preservation on a State level and was modeled closely after the National Register. The criteria, which are nearly identical to those of the National Register but focus on resources of statewide significance (see State CEQA Guidelines § 15064.5, subd. (a)(3)), are defined as any resource that meets any of the following criteria: (1) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; (2) Is associated with lives of persons important in our past; (3) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or (4) Has yielded, or may be likely to yield, information important in prehistory or history. Properties listed, or formally designated as eligible for listing, on the National Register are automatically listed on the CRHR, as are certain State Landmarks and Points of Interest. A lead agency is not precluded from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1, subdivision (j), or 5024.1 (State CEQA Guidelines § 15064.5, subd. (a)(4)). |
| CA | Health and Safety Code § 7050.5 | This code states that if human remains are exposed during construction, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code section 5097.998. The Coroner has 24 hours to notify the Native American Heritage Commission (NAHC) if the remains are determined to be of Native American descent. The NAHC will contact most likely descendants, who may recommend how to proceed. |

| 3.6 Geology and Soils | | |
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| U.S. | None applicable. | |
| CA | Alquist-Priolo Earth-quake Fault Zoning Act (Pub. Resources Code, §§ 2621-2630) | This Act requires that "sufficiently active" and "well-defined" earthquake fault zones be delineated by the State Geologist and prohibits locating structures for human occupancy across the trace of an active fault. |
| | California Building Code (CBC) (Cal. Code Regs., tit. 23) | The CBC contains requirements related to excavation, grading, and construction of pipelines alongside existing structures. A grading permit is required if more than 50 cubic yards of soil are moved. Sections 3301.2 and 3301.3 contain provisions requiring protection of the adjacent property during excavations and require a 10-day written notice and access agreements with the adjacent property owners. |
| 3.7 Hazards and Hazardous Materials | | |
| U.S. | Clean Water Act (CWA) (33 USC 1251 et seq.) | The CWA is comprehensive legislation (it generally includes reference to the Federal Water Pollution Control Act of 1972, its supplementation by the CWA of 1977, and amendments in 1981, 1987, and 1993) that seeks to protect the nation's water from pollution by setting water quality standards for surface water and by limiting the discharge of effluents into waters of the U.S. (see below and in Section 3.8, <i>Hydrology and Water Resources</i>). |
| U.S. | California Toxics Rule (40 CFR 131) | In 2000, the USEPA promulgated numeric water quality criteria for priority toxic pollutants and other water quality standards provisions to be applied to waters in the State of California. USEPA promulgated this rule based on the Administrator's determination that the numeric criteria are necessary in the State of California to protect human health and the environment. (Under CWA section 303(c)(2)(B), the USEPA requires states to adopt numeric water quality criteria for priority toxic pollutants for which the USEPA has issued criteria guidance, and the presence or discharge of which could reasonably be expected to interfere with maintaining designated uses.) These Federal criteria are legally applicable in California for inland surface waters, enclosed bays, and estuaries. |
| U.S. | Hazardous Materials Transportation Act (HMTA) (49 USC 5901) | The HMTA delegates authority to the United States Department of Transportation (DOT) to develop and implement regulations pertaining to the transport of hazardous materials and hazardous wastes by all modes of transportation. Additionally, the USEPA's Hazardous Waste Manifest System is a set of forms, reports, and procedures for tracking hazardous waste from a generator's site to the disposal site. Applicable Federal regulations are contained primarily in CFR Titles 40 and 49. |
| U.S. | National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR 300) | Authorized under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 USC 9605, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99 through 499; and by CWA section 311(d), as amended by the Oil Pollution Act of 1990 (OPA), Pub. L. 101 through 380. The NCP outlines requirements for responding to both oil spills and releases of hazardous substances. It specifies compliance, but does not require the preparation of a written plan. It also provides a comprehensive system for reporting, spill containment, and cleanup. The United States Coast Guard (USCG) and USEPA co-chair the National Response Team. In accordance with 40 CFR 300.175, the USCG has responsibility for oversight of regional response for oil spills in "coastal zones," as described in 40 CFR 300.120. |
| U.S. | Oil Pollution Act (OPA) (33 USC 2712) | The OPA requires owners and operators of facilities that could cause substantial harm to the environment to prepare and submit plans for responding to worst-case discharges of oil and hazardous substances. The passage of the OPA motivated California to pass a more stringent spill response and recovery |

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| | | regulation and the creation of the Office of Spill Prevention and Response (OSPR) to review and regulate oil spill plans and contracts. |
| U.S. | Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.) | The RCRA authorizes the USEPA to control hazardous waste from “cradle-to-grave,” which encompasses its generation, transportation, treatment, storage, and disposal. RCRA’s Federal Hazardous and Solid Waste Amendments from 1984 include waste minimization and phasing out land disposal of hazardous waste as well as corrective action for releases. The Department of Toxic Substances Control (DTSC) is the lead State agency for corrective action associated with RCRA facility investigations and remediation. |
| U.S. | Other | <ul style="list-style-type: none"> • Rivers and Harbors Act (33 USC 401) (See 3.3.8, Hydrology and Water Quality) • The Act to Prevent Pollution from Ships (1980) requires ships in U.S. waters, and U.S. ships wherever located, to comply with International Convention for the Prevention of Pollution from Ships (MARPOL). • Convention on the International Regulations for Preventing Collisions at Sea (COLREGS). These regulations establish “rules of the road” such as rights-of-way, safe speed, actions to avoid collision, and procedures to observe in narrow channels and restricted visibility. • Inspection and Regulation of Vessels (46 USC Subtitle II Part B). Federal regulations for marine vessel shipping are codified in 46 CFR parts 1 through 599 and are implemented by the USCG, Maritime Administration, and Federal Maritime Commission. These regulations provide that all vessels operating offshore, including those under foreign registration, are subject to requirements applicable to vessel construction, condition, and operation. All vessels (including motorboats) operating in commercial service (e.g., passengers for hire, transport of cargoes, hazardous materials, and bulk solids) on specified routes (inland, near coastal, and oceans) are subject to requirements applicable to vessel construction, condition, and operation. These regulations also allow for inspections to verify that vessels comply with applicable international conventions and U.S. laws and regulations. • Navigation and Navigable Waters regulations (33 CFR) include requirements pertaining to prevention and control of releases of materials (including oil spills) from vessels, traffic control, and restricted areas, and general ports and waterways safety. |
| CA | Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Gov. Code § 8574.1 et seq.; Pub. Resources Code § 8750 et seq.) | This Act and its implementing regulations seek to protect State waters from oil pollution and to plan for the effective and immediate response, removal, abatement, and cleanup in the event of an oil spill. The Act requires vessel and marine facilities to have marine oil spill contingency plans and to demonstrate financial responsibility, and requires immediate cleanup of spills, following the approved contingency plans, and fully mitigating impacts on wildlife. The Act assigns primary authority to the OSPR division within the CDFW to direct prevention, removal, abatement, response, containment, and cleanup efforts with regard to all aspects of any oil spill in the marine waters of the State. The CSLC assists OSPR with spill investigations and response. |
| CA | Other | <ul style="list-style-type: none"> • The California Clean Coast Act (SB 771) establishes limitations for shipboard incinerators, and the discharge of hazardous material—including oily bilgewater, graywater, and sewage—into State waters or a marine sanctuary. It also provides direction for submitting information on visiting vessels to the CSLC and reporting of discharges to the State water quality agencies. • The California Harbors and Navigation Code specifies a State policy to “promote safety for persons and property in and connected with the use and equipment of vessels,” and includes laws concerning marine navigation that are implemented by local city and county governments. This Code also |

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| | | <p>regulates discharges from vessels within territorial waters of the State of California to prevent adverse impacts on the marine environment. This Code regulates oil discharges and imposes civil penalties and liability for cleanup costs when oil is intentionally or negligently discharged to the State waters.</p> <ul style="list-style-type: none"> • California Seismic Hazards Mapping Act (Pub. Resources Code, § 2690) and Seismic Hazards Mapping Regulations (Cal. Code Regs., tit. 14, Div. 2, Ch. 8, Art. 10) (See 3.3.6, <i>Geology and Soils</i>) • The Hazardous Waste Control Act (Cal. Code Regs., tit. 26) defines requirements for proper management of hazardous materials. • Porter-Cologne Water Quality Control Act (Cal. Water Code, § 13000 et seq.) (See 3.3.8, <i>Hydrology and Water Quality</i>) |
| 3.8 Hydrology and Water Quality | | |
| U.S. | Clean Water Act (CWA) (33 USC 1251 et seq.) | <p>The CWA is a comprehensive piece of legislation that generally includes reference to the Federal Water Pollution Control Act of 1972, and its substantial supplementation by the CWA of 1977. Both Acts were subsequently amended in 1981, 1987, and 1993. Overall, the CWA seeks to protect the nation’s water from pollution by setting water quality standards for surface water and by limiting the discharge of effluents into waters of the U.S. These water quality standards are promulgated by the USEPA and enforced in California by the State Water Resources Control Board (SWRCB) and nine Regional Water Quality Control Boards (RWQCBs). CWA sections include:</p> <ul style="list-style-type: none"> • <u>State Water Quality Certification</u>. Section 401 (33 USC 1341) requires certification from the State or interstate water control agencies that a proposed water resources project is in compliance with established effluent limitations and water quality standards. U. S. Army Corps of Engineers (USACE) projects, as well as applicants for Federal permits or licenses are required to obtain this certification. • <u>National Pollution Discharge Elimination System (NPDES)</u>. Section 402 (33 USC 1342) establishes conditions and permitting for discharges of pollutants under the NPDES. • <u>Ocean Discharges</u>. Section 403 (33 USC 1343) addresses criteria and permits for discharges into the territorial seas, the contiguous zone, and the oceans. • <u>Permits for Dredged or Fill Material</u>. Section 404 (33 USC 1344) authorizes a separate permit program for disposal of dredged or fill material in U.S. waters. |
| U.S. | Oil Pollution Act (OPA) (33 USC 2712) | <p>The OPA requires owners and operators of facilities that could cause substantial harm to the environment to prepare and submit plans for responding to worst-case discharges of oil and hazardous substances. The passage of the OPA motivated California to pass a more stringent spill response and recovery regulation and the creation of the Office of Spill Prevention and Response (OSPR) to review and regulate oil spill plans and contracts.</p> |
| U.S. | Rivers and Harbors Act (33 USC 401) | <p>This Act governs specified activities in “navigable waters” (waters subject to the ebb and flow of the tide or that are presently used, have been used in the past, or may be susceptible for use to transport interstate or foreign commerce). Specifically, it limits the construction of structures and the discharge of fill into navigable waters of the U.S. Under section 10 of the Rivers and Harbors Act, the building of any wharf, pier, jetty, or other structure is prohibited without Congressional approval, and excavation or fill within navigable waters requires approval from the USACE.</p> |
| CA | Porter-Cologne Water Quality Control Act (Cal. Water Code § 13000 et seq.) (Porter- | <p>Porter-Cologne is the principal law governing water quality in California. The Act established the SWRCB and nine RWQCBs which have primary responsibility for protecting State water quality and the beneficial uses of State waters. Porter-Cologne also implements many provisions of the Federal CWA, such as the National Pollutant Discharge Elimination System (NPDES) permitting program. Pursuant to the CWA § 401, applicants for a Federal license or permit for activities that may result in any discharge to waters of the U. S. must seek a</p> |

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| | Cologne) | <p>Water Quality Certification (Certification) from the State in which the discharge originates. Such Certification is based on a finding that the discharge will meet water quality standards and other appropriate requirements of State law. In California, RWQCBs issue or deny certification for discharges within their jurisdiction. The SWRCB has this responsibility where projects or activities affect waters in more than one RWQCB's jurisdiction. If the SWRCB or a RWQCB imposes a condition on its Certification, those conditions must be included in the Federal permit or license.</p> <p>Statewide Water Quality Control Plans include: individual RWQCB Basin Plans; the California Ocean Plan; the San Francisco Bay/Sacramento-San Joaquin Delta Estuary Water Quality Control Plan (Bay-Delta Plan); the Water Quality Control Plan for Enclosed Bays and Estuaries of California; and the Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California (Thermal Plan). These Plans contain enforceable standards for the various waters they address. For example:</p> <ul style="list-style-type: none"> • Basin Plan. Porter-Cologne (§ 13240) requires each RWQCB to formulate and adopt a Basin Plan for all areas within the Region. Each RWQCB must establish water quality objectives to ensure the reasonable protection of beneficial uses and a program of implementation for achieving water quality objectives within the basin plans. 40 CFR 131 requires each State to adopt water quality standards by designating water uses to be protected and adopting water quality criteria that protect the designated uses. In California, the beneficial uses and water quality objectives are the State's water quality standards. • The California Ocean Plan establishes water quality objectives for California's ocean waters and provides the basis for regulation of wastes discharged into the State's ocean and coastal waters. It incorporates the State water quality standards that apply to all NPDES permits for discharges to ocean waters. |
| CA | San Francisco Bay Plan | <p>Pursuant to the Bay Plan, BCDC responsibilities include the following: Regulation of all filling and dredging in the Bay:</p> <ul style="list-style-type: none"> • Administration of the Federal Coastal Zone Management Act within the Bay segment of the California coastal zone; • Regulation of new development within the first 100 feet inland from the Bay to ensure public access to the Bay is provided; • Pursuit of an active planning program to implement studies of Bay issues so that BCDC plans and policies are based on the best available current information; • Participation in the region-wide State and Federal program to establish a Long Term Management Strategy for dredging and dredged material disposal to be conducted in an environmentally sound and economically prudent way. |
| 3.9 Land Use and Planning | | |
| U.S. | CZMA | |
| CA | San Francisco Bay Plan | <p>BCDC has jurisdiction over the open water, marshes, and mudflats of the greater San Francisco Bay; the first 100 feet from the shoreline; the portion of the Suisun Marsh below the 10 foot contour line; portions of most creeks, rivers, slough, and other tributaries that flow into the San Francisco Bay; and salt ponds, duck hunting preserves, game refuges, and other managed wetlands that have been diked off from San Francisco Bay. Permits from BCDC are required for most projects proposed along the shoreline, particularly if they include the following:</p> <ul style="list-style-type: none"> • Placing solid material, building or repairing docks or pile-supported or cantilevered structures, disposing of material, or mooring a vessel for a long period in San Francisco Bay or in certain tributaries that flow into the Bay; • Dredging or extracting material from the Bay bottom; • Substantially changing the use of any structure or area; |

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| | | <ul style="list-style-type: none"> • Constructing, remodeling, or repairing a structure; or Subdividing property or grading land. |
| 3.10 Mineral Resources (NONE APPLICABLE) | | |
| 3.11 Noise | | |
| U.S. | Noise Control Act (42 USC 4910) | Required the USEPA to establish noise emission criteria, as well as noise testing methods (40 CFR Chapter 1, Subpart Q). These criteria generally apply to interstate rail carriers and to some types of construction and transportation equipment. The USEPA published a guideline (USEPA 1974) containing recommendations for acceptable noise level limits affecting residential land use of 55 dBA L_{dn} for outdoors and 45 dBA L_{dn} for indoors. |
| U.S. | Department of Housing and Urban Development Environmental Standards (24 CFR Part 51) | <p>Sets forth the following exterior noise standards for new home construction (for interior noise levels, a goal of 45 dBA is set forth and attenuation requirements are geared to achieve that goal):</p> <ul style="list-style-type: none"> ○ 65 L_{dn} or less – Acceptable ○ 65 L_{dn} and < 75 L_{dn} – Normally unacceptable, appropriate sound attenuation measures must be provided ○ > 75 L_{dn} – Unacceptable |
| U.S. | NTIS 550\9-74-004, 1974 (“Information on Levels of Environmental Noise Requisite to Protect Health and Welfare with an Adequate Margin of Safety”). | In response to a Federal mandate, the USEPA provided guidance in this document, commonly referenced as the, “Levels Document,” that establishes an L_{dn} of 55 dBA as the requisite level, with an adequate margin of safety, for areas of outdoor uses including residences and recreation areas. The USEPA recommendations contain a factor of safety and do not consider technical or economic feasibility (i.e., the document identifies safe levels of environmental noise exposure without consideration for achieving these levels or other potentially relevant considerations), and therefore should not be construed as standards or regulations. |
| 3.11 Population and Housing (NONE APPLICABLE) | | |
| 3.12 Public Services | | |
| U.S. | Code of Federal Regulations | <ul style="list-style-type: none"> • Under 29 CFR 1910.38, whenever an Occupational Safety and Health Administration (OSHA) standard requires one, an employer must have an Emergency Action Plan that must be in writing, kept in the workplace, and available to employees for review. An employer with 10 or fewer employees may communicate the plan orally to employees. Minimum elements of an emergency action plan are: <ul style="list-style-type: none"> ○ Procedures for reporting a fire or other emergency; ○ Procedures for emergency evacuation, including type of evacuation and exit route assignments; ○ Procedures to be followed by employees who remain to operate critical plant operations before they evacuate; ○ Procedures to account for all employees after evacuation; ○ Procedures to be followed by employees performing rescue or medical duties; and ○ The name or job title of every employee who may be contacted by employees who need more information about the plan or an explanation of their duties under the plan. • Under 29 CFR 1910.39, an employer must have a Fire Prevention Plan (FPP). A FPP must be in writing, be kept in the workplace, and be made available to employees for review; an employer with 10 or fewer employees may communicate the plan orally to employees. Minimum elements of a FPP are: <ul style="list-style-type: none"> ○ A list of all major fire hazards, proper hazardous material handling and |

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| | | <p>storage procedures, potential ignition sources and their control, and the type of fire protection equipment necessary to control each major hazard;</p> <ul style="list-style-type: none"> ○ Procedures to control accumulations of flammable and combustible waste materials; ○ Procedures for regular maintenance of safeguards installed on heat-producing equipment to prevent the accidental ignition of combustible materials; ○ The name or job title of employees responsible for maintaining equipment to prevent or control sources of ignition or fires; and ○ The name or job title of employees responsible for the control of fuel source hazards. ○ An employer must inform employees upon initial assignment to a job of the fire hazards to which they are exposed and must also review with each employee those parts of the FPP necessary for self-protection. <ul style="list-style-type: none"> ● Under 29 CFR 1910.155, Subpart L, Fire Protection, employers are required to place and keep in proper working order fire safety equipment within facilities. | | | | | | | | | | | | | | | | | | |
| CA | California Code of Regulations | Under Title 19, Public Safety , the California State Fire Marshal (CSFM) develops regulations relating to fire and life safety. These regulations have been prepared and adopted to establish minimum standards for the prevention of fire and for protection of life and property against fire, explosion, and panic. The CSFM also adopts and administers regulations and standards necessary under the California Health and Safety Code to protect life and property. | | | | | | | | | | | | | | | | | | |
| 3.13 Recreation (NONE APPLICABLE) | | | | | | | | | | | | | | | | | | | | |
| 3.14 Transportation and Traffic | | | | | | | | | | | | | | | | | | | | |
| U.S. | Ports and Waterways Safety Act | This Act provides the authority for the USCG's program to increase vessel safety and protect the marine environment in ports, harbors, waterfront areas, and navigable waters, including by authorizing the Vessel Traffic Service, controlling vessel movement, and establishing requirements for vessel operation. | | | | | | | | | | | | | | | | | | |
| CA | California Vehicle Code | Chapter 2, Article 3 of the Vehicle Code defines the powers and duties of the California Highway Patrol, which has enforcement responsibilities for the vehicle operation and highway use in the State. | | | | | | | | | | | | | | | | | | |
| 3.15 Utilities and Service Systems (NONE APPLICABLE) | | | | | | | | | | | | | | | | | | | | |
| Abbreviations used in this table (see also List of Abbreviations and Acronyms following the Table of Contents) include: | | | | | | | | | | | | | | | | | | | | |
| <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;">AB = Assembly Bill</td> <td style="width: 50%;">RWQCB = Regional Water Quality Control Board</td> </tr> <tr> <td>CARB = California Air Resources Board</td> <td>SB = Senate Bill;</td> </tr> <tr> <td>CDFW = California Department of Fish and Wildlife</td> <td>SWRCB = State Water Resources Control Board</td> </tr> <tr> <td>CEQA = California Environmental Quality Act</td> <td>USACE = U.S. Army Corps of Engineers</td> </tr> <tr> <td>CFR = Code of Federal Regulations</td> <td>USC = U.S. Code</td> </tr> <tr> <td>CSLC = California State Lands Commission</td> <td>USCG = U.S. Coast Guard</td> </tr> <tr> <td>CWA = Clean Water Act</td> <td>USEPA = U.S. Environmental Protection Agency</td> </tr> <tr> <td>EO = Executive Order</td> <td>USFWS = U.S. Fish and Wildlife Service</td> </tr> <tr> <td>NMFS = National Marine Fisheries Service</td> <td></td> </tr> </table> | | | AB = Assembly Bill | RWQCB = Regional Water Quality Control Board | CARB = California Air Resources Board | SB = Senate Bill; | CDFW = California Department of Fish and Wildlife | SWRCB = State Water Resources Control Board | CEQA = California Environmental Quality Act | USACE = U.S. Army Corps of Engineers | CFR = Code of Federal Regulations | USC = U.S. Code | CSLC = California State Lands Commission | USCG = U.S. Coast Guard | CWA = Clean Water Act | USEPA = U.S. Environmental Protection Agency | EO = Executive Order | USFWS = U.S. Fish and Wildlife Service | NMFS = National Marine Fisheries Service | |
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