

EMERGENCY PERMIT

24EMP-00001



Coastal Zone:

Subject to the requirements of Section 35-171.2 of the Article II Coastal Zoning Ordinance and the policies of the Coastal Land Use Plan.

Case Name: Freeport-McMoRan Desalination Plant Brine Outfall Line Repair

Case Number: 24EMP-00001

Site Address: 17100 Calle Mariposa Reina, Gaviota CA, 93117

APN: 081-010-003

Applicant/Agent Name: Applicant: David Rose, Freeport-McMoRan Oil & Gas, LLC

Agent: April Winecki, Winecki Consulting, Inc.

Owner Name: Union Pacific Railroad
Railroad Management Company, LLC
P.O. Box 678305
Dallas, TX 75267-8305

ZONING PERMIT
ISSUED
SANTA BARBARA COUNTY PLANNING & DEVELOPMENT

PERMIT APPROVAL:

This is to inform you that an Emergency Permit has been approved for:

The excavation, inspection, and repair of a portion of the Freeport-McMoRan Oil & Gas (FMOG) brine (wastewater) outfall line to the FMOG Gaviota Desalination Plant located at 17100 Calle Real, Gaviota CA 93117. The leak and repair area is located on a section of the FMOG right-of-way to the Union Pacific Railroad, parcel No. 081-010-003, within an area known as the former Gaviota Marine Terminal.

The project consists of the excavation of approximately 17.7 cubic yards of material to expose approximately 80 linear feet of the brine outfall line. Protective coating will be applied, and the excavation backfilled and restored to pre-project conditions. The project is expected to disturb approximately 480 square feet of area. Equipment and personnel will use existing access roads within the Gaviota Desalination Plant facility and the former Gaviota Marine Terminal to access the repair location. The repair site is located directly west of a paved access road, within a disturbed area with small amounts of ruderal vegetation underneath the railroad trestle bridge. No impacts to sensitive species or vegetation is expected to occur.

Spoil piles will be kept covered with a tarp each evening and surrounded by straw waddles to prevent soil erosion and other debris from washing away. During rain events, the excavation will be backfilled and not re-excavated until the rain event storm has passed. The entire area surrounding the excavation will be kept fenced during construction to prevent humans and wildlife from entering the area.

The repair is necessary to bring the Gaviota Desalination Plant back to its full operations to support the Freeport Gaviota Oil Heating Facility and the Santa Barbara County Fire Department Station No. 38. The project constitutes an emergency because the Desalination Plant provides essential potable and fire water to the Santa Barbara County Fire Department Station No. 38, an essential public service to the Gaviota area. Due to the detected leak, the Desalination Plant was temporarily shut-in on November 30, 2023; water supply to the Fire Station is estimated to last only 4-5 weeks. As such, the timeframe to permit the pipeline repair as a “standard” project would have resulted in a loss of water supply to the Fire Station. The Fire Station relies on the Desalination Plant water for fire suppression and protection services. As such, repair of the brine outfall line was determined to be emergency activity in order to avoid a disruption of essential public services.

Therefore, this situation constitutes an emergency in accordance with the applicable Development Code indicated above and immediate action is warranted. As the required findings (listed below) can be made, the emergency work is hereby approved, subject to compliance with the attached conditions of approval. The project is exempt from environmental review pursuant to CEQA Guidelines Section 15269(c), which exempts “specific actions necessary to prevent or mitigate an emergency” (see

Attachment B). This permit is not valid until signed by the owner/applicant and subsequently issued by the Planning and Development Department upon verification that all conditions of approval requiring action prior to permit issuance are satisfied.

Sincerely,



Lisa Plowman, Director

APPROVAL DATE: January 23, 2024

OWNER/APPLICANT AGREEMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions of approval incorporated herein. The undersigned also acknowledges and agrees that:

- This Emergency Permit provides only temporary authorization for the proposed action and other applicable permits (such as a Coastal Development Permit) are required by law to validate the emergency work as permanent.
- Any evidence or findings contained herein, or upon which this permit relies, shall not constitute any limitation on the authority of the County of Santa Barbara to issue, grant, deny, rescind, or revoke this permit or any future permit(s) required for the activities described herein, or on the authority of the County of Santa Barbara to analyze, mitigate, or condition any future permit(s) required for the activities described herein.
- This permit does not authorize any work or construction activities outside of the scope of the project as indicated in the project description, conditions of approval and approved plans.
- This permit shall not be construed to authorize any violation of County ordinance or policy, or the violation of any State or Federal regulation.

David Rose



1/24/24

Print Name

Signature

Date

PERMIT ISSUANCE:

Jacquelynn Ybarra

1/25/2024

Print Name

Signature

Date

BACKGROUND:

The project is a request by Freeport-McMoRan Oil & Gas LLC (FMOG, Applicant) for an Emergency Permit to inspect and repair a portion of the brine (wastewater) outfall line of the FMOG Gaviota Desalination Plant located at 17100 Calle Real, Gaviota CA 93117. The Gaviota Desalination Plant is owned and operated by FMOG and supplies essential potable and fire water to the adjacent Freeport Gaviota Oil Heating Facility, and the nearby Santa Barbara County Fire Department Station No. 38. The wastewater pipeline connects to Freeport Gaviota Desalination Plant to the Pacific Ocean along the Gaviota Coast.

On December 1, 2023, FMOG informed County Planning & Development staff that moisture was detected near the brine outfall line, indicating a leak. Due to the detected moisture, the Desalination Plant was shut in on November 30, 2023. The available on-hand water supply was estimated to last approximately 4 to 5 weeks from the date of shut-in. The leak and repair area is located on a section of the FMOG right-of-way to the Union Pacific Railroad, parcel No. 081-010-003, within an area known as the former Gaviota Marine Terminal. The project area is within the coastal zone, zoned TC (Transportation Corridor).

Verbal authorization to move forward with emergency work was provided by the Director of Planning & Development on December 4, 2023. The project commenced on December 18, 2023, and repair work occurred through January 5, 2024. The work is now complete. The project consisted of the excavation of approximately 17.7 cubic yards of material to expose approximately 80 linear feet of the brine outfall line. Protective coating was then applied, and the excavation was backfilled and restored to pre-project conditions. The project disturbed approximately 480 square feet of area. Equipment and personnel used existing access roads within the Gaviota Desalination Plant facility and the former Gaviota Marine Terminal.

The project area is near County-designated environmentally sensitive habitat (ESH) and riparian corridor. Sensitive biological species documented in the area include Miles' milk-vetch (*Astragalus didymoca*). Alcatraz Creek, a mapped freshwater/shrub wetland is located adjacent to the repair site, and is permanently fenced off from the repair location. The repair site is located directly west of a paved access road, within a disturbed area with small amounts of ruderal vegetation underneath the railroad trestle bridge. No impacts to sensitive species or vegetation is expected to occur.

The project was determined to be an emergency activity in order to avoid a disruption of essential public services, and to avoid impacts to public health, safety, and welfare as defined in CEQA. Repairs are needed to bring the Gaviota Desalination Plant back to full operations, to continue to provide essential potable and fire water to the Santa Barbara County Fire Department, Station No. 38.

FINDINGS OF APPROVAL:

- 1. The approval of this project shall not be held to permit or to be an approval of a violation of any provision of any County Ordinance or State Law.**

The approval of this Emergency Permit will not permit or approve any violation of County Ordinance or State Law. Condition of Approval 2 requires that an application for the required permits necessary to validate the emergency work as permanent be submitted by the applicant no later than 30 days following the issuance of the Emergency Permit. Processing of the required follow-on permit will ensure that the project is reviewed for, and completed in compliance with, applicable regulations.

- 2. In compliance with Section 35-171.5.2 of the Article II Zoning Ordinance, prior to the approval or conditional approval of an application for an Emergency Permit the Director shall first make all of the following findings, as applicable:**

- a. An emergency exists and requires action more quickly than provided for by the procedures for permit processing, and the action will be completed within 30 days unless otherwise specified by the terms of the permit.*

An inspection of the brine outfall line identified moisture indicating a leak. In order to assess the potential leak and damage to the pipeline, Freeport-McMoRan shut in the Gaviota Desalination Plant on November 30, 2023. Estimated stored water availability at the Desalination Plant is 4-5 weeks. The Desalination Plant provides essential potable and fire water to the County of Santa Barbara Fire Department, Station 38, which serves the Gaviota coast. It was determined that a portion of brine outfall line would need to be excavated on APN 081-010-003 on land owned by the Union Pacific Railroad within the coastal zone. The inspection and repair of the pipeline was determined to be an emergency activity in order to restore water to Fire Station No. 38 and avoid a disruption of essential public services, as well as to avoid impacts to public health, safety and welfare as defined in CEQA. Processing the project as a standard project would likely take longer than the 4-5 weeks of available water. Therefore, the Director finds that an emergency exists and requires action more quickly than provided for by the procedures for standard permit processing.

- b. Public comment on the proposed emergency action has been reviewed.*

The Director finds that no public comment on the proposed emergency action has been received to date.

- c. The action proposed is consistent with the requirements of the Coastal Land Use Plan and Coastal Zoning Ordinance.*

The County's Comprehensive Plan includes policies which aim to protect, maintain and restore the environment, including both the natural and man-made environments. The emergency action taken by Freeport-McMoRan is allowed under Article II, which recognizes that certain actions warrant immediate, special consideration in order to lessen or remediate an emergency. The emergency action is consistent the County's Comprehensive Plan as described below with reference to applicable policies:

Coastal Plan Policy 3-13: *Plans for development shall minimize cut and fill operations. Plans requiring excessive cutting and filling may be denied if it is determined that the development could be carried out with less alteration of the natural terrain.*

Coastal Plan Policy 3-17: *Temporary vegetation, seeding, mulching, or other suitable stabilization method shall be used to protect soils subject to erosion that have been disturbed during grading or development. All cut and fill slopes shall be stabilized immediately with planting of native grasses and shrubs, appropriate nonnative plants, or with accepted landscaping practices.*

Coastal Plan Policy 3-19: *Degradation of the water quality of groundwater basins, nearby streams, or wetlands shall not result from development of the site. Pollutants, such as chemicals, fuels, lubricants, raw sewage, and other harmful waste, shall not be discharged into or alongside coastal streams or wetlands either during or after construction.*

Coastal Plan Policy 9-41: *All permitted construction and grading within stream corridors shall be carried out in such a manner as to minimize impacts from increased runoff, sedimentation, biochemical degradation, or thermal pollution.*

Consistent. The project is consistent with the above policy requirements regarding water quality and erosion control. Grading was minimized, and only required the excavation of 17.7 cubic yards of material, disturbing 480 square feet. Grading did not occur on a hillside. Nearby Alcatraz creek was protected from the project area by existing riparian and upland vegetation and chain-link fencing. Standard stormwater and erosion and sediment control measures and other construction Best Management Practices were employed to protect the work site from erosion including that spoil piles were kept covered with a tarp each evening and surrounded by straw waddles to prevent soil erosion and other debris from washing away. During rain events, the excavation was backfilled and not re-excavated until the rain event storm passed. The entire area surrounding the excavation was fenced with high-visibility silt fencing to prevent humans and wildlife from entering the area.

Coastal Plan Policy 9-1: *Prior to the issuance of a development permit, all projects on parcels shown on the land use plan and/or resource maps with a Habitat Area overlay designation or within 250 feet of such designation or projects affecting an environmentally sensitive habitat area shall be found to be in conformity with the applicable habitat protection policies of the land use plan. All development plans, grading plans, etc., shall show the precise location of the habitat(s) potentially affected by the proposed project. Projects which could adversely impact an environmentally sensitive habitat area may be subject to a site inspection by a qualified biologist to be selected jointly by the County and the applicant.*

Coastal Plan Policy 9-36: *When sites are graded or developed, areas with significant amounts of native vegetation shall be preserved. All development shall be sited, designed, and constructed to minimize impacts of grading, paving, construction of roads or structures, runoff, and erosion on native vegetation. In particular, grading and paving shall not adversely affect root zone aeration and stability of native trees.*

Coastal Plan Policy 9-37: *The minimum buffer strip for major streams in rural areas, as defined by the land use plan, shall be presumptively 100 feet, and for streams in urban areas, 50 feet. These minimum buffers may be adjusted upward or downward on a case-by-case basis. The buffer shall be established based on an investigation of the following factors and after consultation with the Department of Fish and Game and Regional Water Quality Control Board in order to protect the biological productivity and water quality of streams.*

Coastal Plan Policy 9-38: *No structures shall be located within the stream corridor except: public trails, dams for necessary water supply projects, flood control projects where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development; and other development where the primary function is for the improvement of fish and wildlife habitat. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible.*

Gaviota Coast Policy NS-2: Environmentally Sensitive Habitat (ESH) Protection. (COASTAL) *Environmentally Sensitive Habitat (ESH) areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. A resource dependent use is a use that is dependent on the ESH resource to function (e.g., nature study, habitat restoration, public trails, and low-impact campgrounds). Resource-dependent uses shall be sited and designed to avoid significant disruption of habitat values to ESH through measures including but not limited to: utilizing established disturbed areas where feasible, limiting grading by following natural contours, and minimizing removal of native vegetation to the maximum extent feasible. Non-resource dependent development, including fuel modification and agricultural uses, shall be sited and designed to avoid ESH and ESH buffer areas. If avoidance is infeasible and would preclude reasonable use of a parcel or is a public works project necessary to repair and maintain an existing public road or existing public utility, then the alternative that would result in the fewest or least significant impacts shall be selected and impacts shall be mitigated. Development in areas adjacent to ESH areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Gaviota Coast Policy NS-6: Wildlife Corridors. *Development shall avoid to the maximum extent feasible and otherwise minimize disruption of identified wildlife travel corridors.*

Gaviota Coast Policy NS-11: Restoration. (COASTAL) *In cases where adverse impacts to biological resources as a result of new development cannot be avoided and impacts have been minimized, restoration shall be required. A minimum replacement ratio of 3:1 shall be required to compensate for adverse impacts to native habitat areas or biological resources, except that mitigation for impacts to wetlands shall be a minimum 4:1 ratio.*

Consistent. The project is consistent with the above policy requirements regarding natural resource protections. The project area is near County-designated environmentally sensitive habitat (ESH) and riparian corridor. Sensitive biological species documented in

the area include Miles' milk-vetch (*Astragalus didymoca*). Alcatraz Creek (Canada Alcatraz), a mapped freshwater/shrub wetland is located approximately 45 – 75 feet west of the repair site, and is permanently fenced off from the repair location. The repair site is located directly west of a paved access road, within a disturbed area with small amounts of ruderal vegetation underneath the railroad trestle bridge. No impacts to sensitive species or vegetation is expected to occur. A biological resources survey will be conducted as part of the subsequent Coastal Development Permit. Any identified impacts to critical habitat, sensitive species, and/or wildlife movement will be mitigated and site restoration will be implemented at the ratios described in Gaviota Coast Policy NS-11 (Restoration).

EMERGENCY PERMIT CONDITIONS OF APPROVAL

1. **EMP-01 Project Description.** This Emergency Permit is based upon and limited to compliance with the project description, and the conditions of approval set forth below. Any deviations from the project description or conditions must be reviewed and approved by the County for conformity with this approval. Deviations without the above-described approval will constitute a violation of permit approval. If it is determined that project activity is occurring in violation of any or all of the following conditions, the Director of Planning and Development may revoke this permit and all authorization for development. The decision of the Director to revoke the Emergency Permit may be appealed to the Planning Commission.

The project description is as follows:

Emergency Permit request by Freeport-McMoRan to inspect and repair a section of the Gaviota Desalination Plant brine (wastewater) outfall line located on a section of the Freeport-McMoRan right-of-way to the Union Pacific Railroad, parcel 081-010-003 within an area known as the former Gaviota Marine Terminal. The wastewater pipeline connects the Freeport-McMoRan Gaviota Desalination Plant at 17100 Calle Mariposa Reina to the Pacific Ocean along the Gaviota Coast.

The Desalination Plant supplies essential potable and fire water to the adjacent Freeport-McMoRan Gaviota Oil Heating Facility and the nearby Santa Barbara County Fire Department Station No. 38. Due to detected moisture near the outfall line indicating a leak, the Desalination Plant was shut in on November 30, 2023. The available on-hand water supply is estimated to last approximately 4 to 5 weeks. The repair is necessary to re-establish water supply to the Fire Department and Freeport-McMoRan. Freeport-McMoRan notified the County of the proposed emergency work on December 1, 2023. The Planning and Development Director authorized commencement of the repair work on December 4, 2023. The project commenced on December 18, 2023, and repair work occurred through January 5, 2024. Project work is now complete.

The inspection and repair of the brine outfall line consisted of the excavation of approximately 17.7 cubic yards of material to expose approximately 80 linear feet of line. Protective coating was applied. The excavation was then restored to pre-project conditions.

The project disturbed approximately 480 square feet of area. Equipment and personnel used existing access roads within the Gaviota Desalination Plant facility and the former Gaviota Marine Terminal.

The repair area is within Freeport-McMoRan's right-of-way with Union Pacific Railroad. The project area is near County-designated environmentally sensitive habitat (ESH) and riparian corridor. Sensitive biological species documented in the area include Miles' milk-vetch (*Astragalus didymoca*). Alcatraz Creek, a mapped freshwater/shrub wetland is located adjacent to the repair site, and is fenced off from the repair location. The repair site is located directly west of a paved access road, within a disturbed area with small amounts of ruderal vegetation underneath the railroad trestle bridge. No impacts to sensitive species or vegetation is expected to occur.

Spoil piles shall be kept covered with a tarp each evening and surrounded by straw waddles to prevent soil erosion and other debris from washing away. During rain events, the excavation shall be backfilled and not re-excavated until the rain event storm has passed. The entire area surrounding the excavation shall be kept fenced during construction to prevent humans and wildlife from entering the area.

The Applicant will apply for a subsequent Coastal Development Permit (CDP) from the County within 30 days following approval of this Emergency Permit.

2. **EMP-02 Project Conformity.** The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of the structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval thereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.
3. **EMP-03 Follow Up Application Required.** An application(s) for the required permits necessary to validate the emergency work as permanent shall be submitted by the applicant to the Planning and Development Department no later than 30 days following the issuance of this Emergency Permit. The permits required for the proposed emergency include a Coastal Development Permit with a Hearing pursuant to Section 36-169 of the Article II Coastal Zoning Ordinance. If the follow up permit is denied, the Emergency Permit shall be valid only until a final decision is made on the follow up permit, at which point the Emergency Permit shall expire.
4. **EMP-04 Completeness Items.** Any materials required for a completed application shall be submitted within 90 days after written notification of the application deficiencies is provided to the applicant. This time period may be extended by the Director of Planning and Development.

5. **EMP-05 Authorized Work Only.** Only that emergency work specifically requested and deemed an emergency for the specific property mentioned is authorized. Any additional emergency work requires separate authorization from the Director of Planning and Development. The work authorized by this permit must be commenced within 30 days of the date of issuance of the permit and completed within 30 days after the beginning of construction. If construction activities are proposed by the applicant to commence after 30 days, separate authorization by the Director of Planning and Development is required.
6. **EMP-06 Other County Agency Permits.** This permit does not preclude the necessity to obtain authorization and/or permits from other County Departments or other agencies.
7. **EMP-07 Stop Work Order.** The Director of Planning and Development may order the work authorized under this emergency permit to stop immediately if it is determined that unanticipated and substantial adverse environmental effects may occur with continued construction.
8. **EMP-08 Not Valid Until Signed.** This Emergency Permit is not valid until signed by the applicant and subsequently issued by Planning and Development.
9. **EMP-09 Additional Permits Required.** This permit does not preclude the necessity to obtain authorization and/or permits from other County Departments or other outside agencies such as the California Coastal Commission.
10. **BIO-01 General Protection Measures.** The following measures shall be implemented to further protect impacts to biological resources:
 - Work areas shall be clearly delineated with high visibility staking or fencing.
 - The temporary impact areas will be minimized to the extent feasible. Areas of disturbed soils with slopes towards the drainage feature will be stabilized to reduce erosion potential. Appropriate BMPs will be used to stabilize the site during and after construction.
 - No material will be permanently stockpiled within jurisdictional wetland areas.
 - All trash will be properly contained and removed from the work site regularly. When operations are complete, any excess materials or debris will be removed from the work area.
 - Staging/storage areas for equipment will be located outside jurisdictional wetland areas.
 - Construction equipment and vehicles will be checked and maintained daily to prevent leaks of materials that if introduced to water could be deleterious to aquatic life.
 - Stationary equipment such as motors, pumps, generators, and welders, located within or adjacent to jurisdictional wetland areas, will be positioned over drip pans and will be inspected frequently.
 - No equipment maintenance will be done where petroleum products or other pollutants from the equipment may enter jurisdictional wetland areas.

- The clean-up of any accidental spill will begin immediately pursuant to all relevant hazardous materials regulations. If the spill could affect downstream water quality or impact special-status species, the permitting agencies will be notified to determine the appropriate action.
- Spoil piles shall be kept covered with a tarp each evening and surrounded by straw wattles to prevent soil erosion and other debris from washing away.
- During rain events, the excavation shall be backfilled and not re-excavated until the rain event storm has passed.

PLAN REQUIREMENTS: The BMPs shall be described and detailed on the site, grading and drainage plans, and depicted graphically. The location and type of BMP shall be shown on the site grading plans. **TIMING:** The plans and maintenance program shall be submitted to P&D for approval prior to Coastal Development Permit issuance. **MONITORING:** P&D compliance monitoring staff shall spot check through site investigations as needed.

11. **CulRes-01 Stop Work at Encounter.** The Owner/Applicant and/or their agents, representatives or contractors shall stop or redirect work immediately in the event archaeological remains are encountered during grading, construction, landscaping or other construction-related activity. The Owner/Applicant shall immediately contact P&D staff, and retain a P&D approved archaeologist and Native American representative to evaluate the significance of the find in compliance with the provisions of the County Archaeological Guidelines and conduct appropriate mitigation funded by the Owner/Applicant. **MONITORING:** P&D permit processing planner shall check plans prior to issuance of the Coastal Development Permit and P&D enforcement staff shall respond to complaints in the field throughout grading and construction.

Attachments:

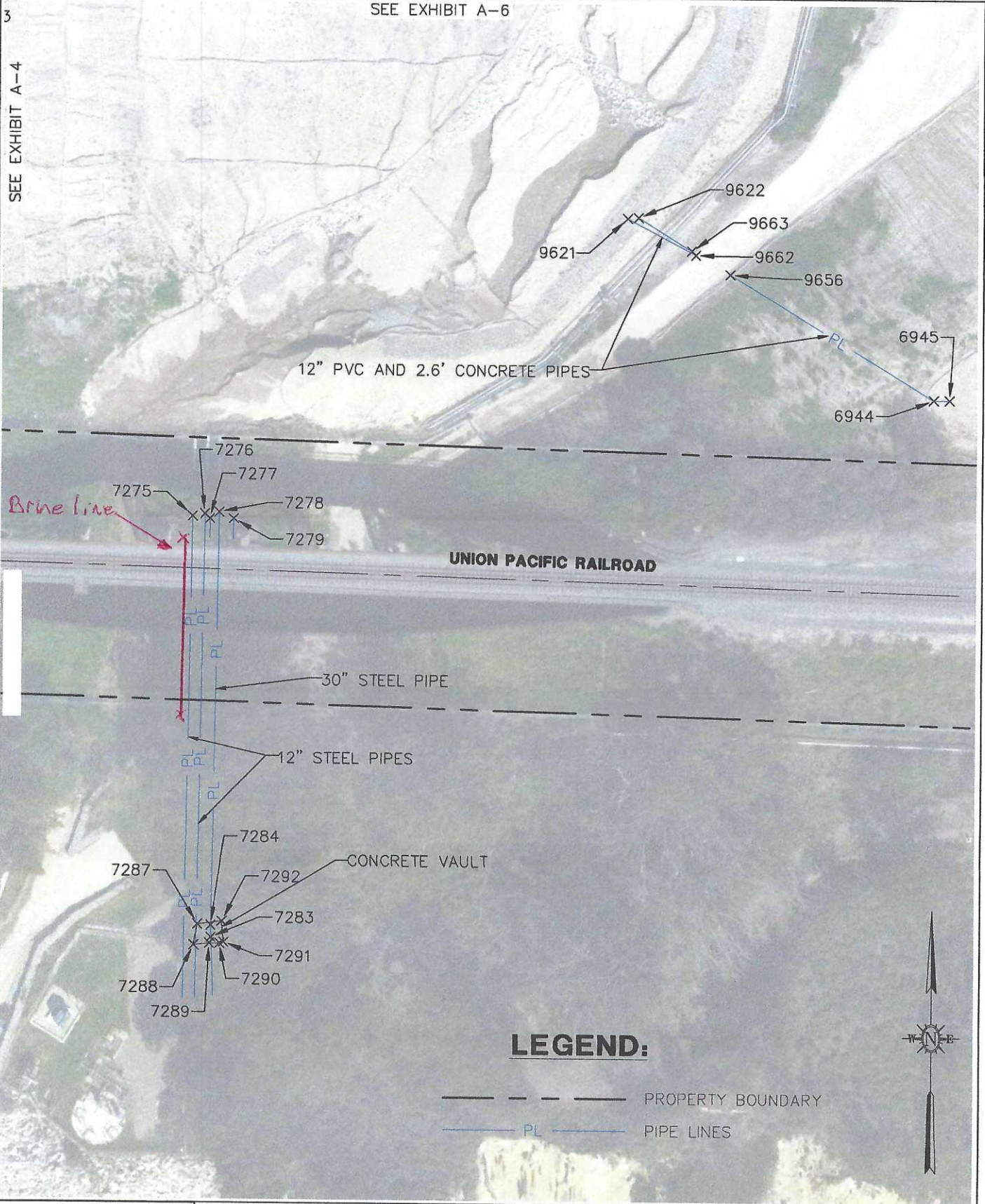
- A. Site Plan
- B. CEQA Exemption

cc: John Zorovich, Deputy Director
Errin Briggs, Supervising Planner
Jacquelynn Ybarra, Staff Planner
Coastal Program Analyst, Calif. Coastal Comm., 89 S. California Street, Ventura CA 93001

3

SEE EXHIBIT A-6

SEE EXHIBIT A-4



Brine line

UNION PACIFIC RAILROAD

LEGEND:

- PROPERTY BOUNDARY
- PL PIPE LINES



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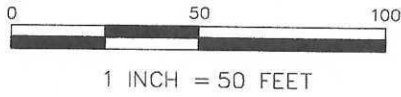


EXHIBIT A-5
 ABANDONMENT-IN-PLACE FEATURES
 16899 US HIGHWAY 101
 GOLETA, CALIFORNIA

DRAWN BY	CHECKED BY	SCALE	DATE
BVS	RBP	1" = 40'	04/13/21