

**SOLANO COUNTY PLANNING COMMISSION
RESOLUTION NO. XX**

WHEREAS, the Solano County Planning Commission has considered Use Permit Application No. U-19-02 and Marsh Development Permit MD-19-01 of **Chevron Pipe Line Company** to replace an approximately 2.5-mile portion of an 8-inch lateral pipeline that traverses an area located within the Suisun Marsh from Grizzly Island Road to Birds Landing Road within the Suisun Marsh Agriculture "A-SM-160" and Marsh Preservation "MP" Zoning Districts; APNs: 0046-230-010, 020, 030, 040, 0048-070-280, 0090-070-420, and 460, and;

WHEREAS, the Commission has reviewed the report of the Department of Resource Management and heard testimony relative to the subject application at the duly noticed public hearing held on April 18, 2019, and;

WHEREAS, after due consideration, the Planning Commission has made the following findings in regard to said proposal:

1. **The establishment, maintenance or operation of the proposed use is in conformity with the County General Plan with regard to traffic circulation, population densities and distribution, and other aspects of the General Plan.**

The site preparation, construction, and operation phases are consistent with the intent of the Marsh designation of the Solano County General Plan which allows for uses that do not adversely impact the potentially sensitive habitat of the Suisun Marsh. The project is also consistent with the Resources Chapter which provides for transmission of natural resources.

2. **Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.**

Adequate access to the project area is provided primarily via State Route 12 to Grizzly Island Road to the GIWS and SR-12 Shiloh Road and Birds Landing Road to the BLWS. Potable water and temporary chemical toilets will be brought on site for use during the temporary drilling and construction phases.

3. **The subject use will not, under the circumstances of the particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County and that the application process complies with the California Environmental Quality Act of 1970, as amended.**

The California State Lands Commission acting as the Lead Agency has prepared and adopted an Initial Study and Mitigated Negative Declaration (IS/MND) for the project. The IS/MND identified certain potentially significant impacts together with proposed mitigations to reduce the impacts to less than significant along with other impacts determined to be less than significant.

Pursuant to the California Environmental Quality Act, CEQA Guidelines Section 21069, Solano County is acting as a Responsible Agency for the issuance of the Use Permit and Marsh Development Permit required for the project.

4. **That the proposed development shall be consistent with the certified Suisun Marsh Local Protection Program. Where the proposed development is located in both the Secondary and Primary Management Areas, all portions of the proposed development shall be consistent with the certified Suisun Marsh Local Protection Program.**

The County's Policies and Regulations Governing the Suisun Marsh consolidate the policies and regulation contained in the County's Local Component of the Suisun Marsh Local Protection Program as certified by the Bay Conservation and Development Commission (BCDC). The local marsh protection policies set forth provisions and standards for the construction of utilities, facilities, and transportation systems for natural resources in and immediately adjacent to the Suisun Marsh. These policies are designed to minimize any potential disturbance to the sensitive habitat of the Suisun Marsh. Utilization of existing pipeline infrastructure, pipeline design, construction methods, and time periods for construction are established in the SMPP that accomplish this goal.

There are many aspects of the proposal that are influenced by these Policies which have been incorporated into the project either by design or through mitigation measures and re-enforced through appropriate conditions of approval.

BE IT, THEREFORE, RESOLVED, that the Planning Commission of the County of Solano acting as a Responsible Agency has considered the Mitigated Negative Declaration prepared and adopted by the Lead Agency (California State Lands Commission) and approve Use Permit Application No. U-19-02 and Marsh Development permit MD-19-01 subject to the following recommended conditions of approval:

Administration:

1. The use shall be established in accord with the plans and information submitted with Use Permit Application No. U-19-02 and as approved by the Solano County Planning Commission.
2. Any change of use or intensification will require a new or revised use permit and further environmental review. Any deviation from the project description or requirements of the Planning Commission will subject the use permit to review and possible revocation.
3. The permittee shall obtain approval from the San Francisco Bay Conservation and Development Commission (BCDC), as may be required, for any development proposed within the Primary Management Area of the Suisun Marsh. Any action taken by the Planning Commission shall not become effective until:
 - 1) The time period for filing an appeal pursuant to Section 28.112 of the County Zoning Regulations has expired, or, if an appeal has been filed, the appeal has been finally decided or withdrawn; and
 - 2) The twenty (20) working day period after the Bay Conservation and Development Commission has received notice of the County's final action approving the marsh development permit has expired or, if an appeal by or to the Bay Conservation and Development Commission has been filed, the appeal has been withdrawn or the Bay Conservation and Development Commission either determines that the appeal raises no substantive issue or takes no action on the appeal within the time limits specified in section 29524 of the Public Resources Code.

Once the action taken by the Planning Commission becomes effective and the project is approved, the County may issue any additional ministerial permits required of the project.

4. The permittee shall obtain permits or other clearances from any agency having jurisdiction over the proposed project, including but not limited to: the San Francisco Bay Conservation and Development Commission, US Army Corps of Engineers, California Department of Fish and Wildlife, and the San Francisco Regional Water Quality Control Board. The permittee shall comply with all requirements of Solano County including the Policies and Regulations Governing the Suisun Marsh.
5. This permit shall be subject to periodic renewal every five (5) years. A renewal may be granted if said request is received prior to the expiration date of April 18, 2024 and the use is found to be in compliance with the permit terms and conditions at that time. Prior to permit expiration, the applicant shall submit an application for renewal along with applicable renewal fees as may be set by the County Board of Supervisors.

Public Works Engineering

6. Security satisfactory to the Director of Resource Management shall be posted as security for payment of repairs to County roads and highways damaged by construction activities, including transportation of equipment to and from the site.
7. The applicant shall apply for and secure an appropriate grading permit from Public Works Engineering for the construction of the drilling pad and associated access improvements.
8. Applicant shall apply for and secure an encroachment permit for any and all work within the County right of way.

Building and Safety Division

9. Prior to any construction or improvements taking place, a Building Permit Application shall first be submitted as per the 2013 California Building Code, or the most current edition of the code enforced at the time of building permit application. "Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit."
10. The building permit plans shall include a code analysis as listed below and the design shall be under the 2010 California Codes and all current rules, regulations, laws and ordinances of the local, state and federal requirements. Upon building permit submittal, the licensed architect shall provide a code analysis for each building or structure such as:
 - A) Occupancy Classification
 - B) Type of Construction
 - C) Seismic Zone
 - D) Location on Property
 - E) Height of all buildings and structures
 - F) Square footage
 - G) Occupant Load
 - H) Allowable Floor Area
 - I) Height and Number of Stories

Environmental Health Division

11. The applicant shall provide contract with a licensed sanitation company to install and maintain a portable chemical toilet for the duration of the construction period.
12. If hazardous materials and/or hazardous waste are stored on site, the applicant shall maintain a Hazardous Materials Business Plan under California Health and Safety and Code of Regulation guidelines.

Suisun Marsh Management Area

13. Existing pipeline systems shall be utilized to the maximum extent feasible.
14. The pipeline design shall meet all applicable safety standards of the Office of Pipeline Safety Operations (OPSO) and other regulatory agencies.
15. The pipeline route shall avoid tidal marshes and managed wetlands wherever possible and, if that is not possible, the route crosses as little marsh or managed wetland as possible.
16. Wide track or amphibious construction equipment shall be used in tidal marsh or managed wetland areas. Pads or mats shall be used as needed to prevent any construction equipment from sinking into the soft marsh muds and damaging the marsh plants.
17. The trench and push construction method shall be used in all tidal marsh and managed wetland areas where feasible, so that the construction zone is kept as small as possible and the minimum amount of heavy equipment passes through the marsh or wetland area.
18. Prior to any pipeline construction or related activities in the Marsh, the contractors consult with the State Department of Fish and Wildlife to determine at what time such construction or related activities should be conducted so as to create the least possible adverse impact on breeding, migration, or other fish and wildlife activities.
19. Prior to any underground pipeline construction in the Marsh, the contractors consult with the Solano County Mosquito Abatement District to ensure existing re-circulation water ditches are not blocked and levees are adequately repaired after pipeline construction, or that effective mosquito control measures are maintained.
20. At slough, mudflat and bay crossings of gas pipelines, the trench is dredged in a manner that minimizes turbidity and prevents interference of the dredging operation with fish or wildlife.
21. A regular surface and aerial inspection of the pipeline route is carried out as required by OPSO.
22. Construction and drilling in tidal marsh and managed wetland areas shall occur only during the dry months of the years (generally April 15 through October 15) when these activities would not disturb wintering waterfowl.
23. The pipeline routes within the primary and secondary management areas of the Suisun Marsh shall be revegetated by the Permittee with native plants appropriate for the site, based on the recommendations of a qualified biologist. At the end of the project life, all unnecessary fill shall be removed and revegetated with native plants.

Environmental Mitigation Measures:

24. **AES-1: Night-Lighting Spillage Minimization.** Night-lighting required during nighttime activities shall be shielded and directed downward toward the work area to minimize light trespass to adjacent areas.
25. **BIO-1: Environmental Awareness Training.** CPL shall ensure that all construction personnel receive mandatory environmental awareness training. The training shall be provided by a qualified biologist, prior to the start of construction activities, and as new personnel are added to the Project. The environmental awareness training shall familiarize workers with the special-status species and their habitats, explain the regulatory requirements to protect special-status species, and describe measures that must be implemented to avoid and minimize impacts. The training materials shall be developed and submitted to CSLC staff for approval at least 2 weeks prior to the start of Project activities. CPL shall identify a representative as the person for any employee or contractor to contact if a special-status species is observed in the defined project area, and shall provide the contact information for both this representative and the qualified biologist to U.S. Fish and Wildlife Service, California Department of Fish and Wildlife, and CSLC staffs before construction commences. The qualified biologist shall maintain a list of contractors who have received training and shall submit a summary of the awareness training to CSLC staff within 30 days after construction begins and after construction is completed.
26. **BIO-2: Biological Monitoring and Surveying.** CPL shall ensure that the following surveys and/or monitoring activities are conducted. Surveys shall be conducted by a qualified biologist, approved by CSLC staff in consultation with California Department of Fish and Wildlife (CDFW), or U.S. Fish and Wildlife Service (USFWS) staff.
- **Preconstruction Surveys:** A preconstruction survey shall be conducted within 15 days prior to the start of construction at each work site and staging area. If sensitive species are identified during the survey, the area where the species is present will be avoided, and CPL will coordinate with USFWS and/or CDFW.
 - **Biological Monitoring during Construction:** An approved qualified biologist shall be on-site during initial ground-disturbance activities at the BLWS and air vent location. The biologist shall have the authority to stop activities in the event that a special-status species is observed. In the event that a special-status species is encountered in the defined Project area during Project activities that could result in take of the species, associated work activities at the location shall be halted immediately and CPL shall, if necessary, contact the appropriate agency (i.e., CDFW, USFWS) and CSLC staff to discuss ways to proceed with the Project.
 - **Migratory Bird Monitoring and Protection Measures:** For work conducted within the migratory bird breeding season (February 15 and August 31), the approved qualified biologist shall survey periodically to determine if migratory birds protected under the Migratory Bird Treaty Act (MBTA) are actively nesting within the Project work areas. Active nests will be avoided or relocated in consultation with USFWS.
 - **Bird deterrents** may also be used to reduce bird nesting at the work sites. Deterrents if used, shall be installed by or under the supervision of the biological monitor and replaced as needed during construction at the work sites. Deterrents shall be regularly inspected and modified as necessary.

- 27. BIO-3: Wildlife Exclusion Fencing.** The contractor shall inspect the installed salt marsh harvest mouse exclusion fencing around the GIWS under the supervision of the biological monitor, prior to commencing construction. The biological monitor shall check the fence at regular intervals to monitor proper installation and report maintenance needs and check for the presence of wildlife. Fence inspection intervals shall be based on the planned construction activities, recent and forecasted weather events, and the results of preconstruction surveys and previous fence checks.
- 28. BIO-4: Revegetation and Monitoring Plan.** Following completion of Project construction, CPL shall restore managed wetland areas within the Suisun Marsh to pre-Project conditions in accordance with a revegetation and monitoring plan. At least 2 weeks prior to conclusion of construction, CPL shall submit the plan to CSLC staff for approval. The plan shall include details for site preparation and revegetation methods, monitoring, performance criteria, and reporting. These elements are subject to modification through consultation with natural resource agencies.
- **Site Preparation and Revegetation:** All equipment, geotextile mats, rock fill, and filter fabric shall be removed. Excavations shall be backfilled with the stockpiled material originally excavated from the pit. Subsoil shall be replaced in the excavation and compacted with machinery. After proper backfilling of the subsoil, the upper 6 inches of topsoil shall be replaced and spread evenly over the pit. Topsoil shall not be mixed with subsoil or used to fill the pit. The contractor shall also apply appropriate erosion control treatment as needed to any disturbed ground prior to the end of the construction season.
 - **Monitoring:** After construction, a qualified biologist shall monitor the hydrologic conditions and the vegetation cover and composition. Monitoring shall occur annually for the first 3 to 5 years following revegetation (expected to be 2020 to 2025) with a provision that cessation of monitoring may be requested by CPL if performance criteria for year 5 is met earlier. Restored areas shall be monitored to achieve end-points as agreed upon with the agencies.
 - **Performance Criteria:** Revegetation of wetlands shall be deemed successful if total plant cover is greater than 70 percent of adjacent undisturbed areas, at least one to three dominant species are presented, and there is no increasing trend in invasive, nonnative species relative to the adjacent undisturbed areas. Performance criteria may be revised at the request and in consultation with natural resource agencies.
 - **Reporting:** Annual reports and a final monitoring report shall be submitted to the CSLC staff by December 31 of each monitoring year (until CSLC monitoring obligations are complete) or as determined in coordination with natural resources agencies. At their request, copies shall also be provided to San Francisco Bay Conservation and Development Commission, California Department of Fish and Wildlife, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and U.S. Fish and Wildlife Service staffs.
- 29. CUL-1: Cultural Resource Training.** A preconstruction meeting shall be jointly organized by a professional archaeologist and a Yocha Dehe Tribal Monitor to educate onsite construction personnel as to the sensitivity of archaeological and Tribal cultural resources in the area. The Applicant's personnel shall instruct all construction and Project personnel to avoid removing cultural materials from the Project site if discovered. Evidence of compliance with this mitigation measure shall be documented, and provided to California State Lands Commission staff, prior to construction.

30. **CUL-2: Discovery of Previously Unknown Cultural Resources.** In the event that potentially significant archaeological or tribal cultural resources are discovered any time during construction, all earth-disturbing work within 100 feet of the discovery shall be temporarily suspended or redirected until a professional archaeologist or a culturally affiliated tribal monitor, have evaluated the nature and significance of the discovery. In the event that a potentially significant archaeological or tribal cultural resource is discovered, CPL, the CSLC, and any local, state, or federal agency with approval or permitting authority over the Project that has requested/required such notification shall be notified within 48 hours. Impacts to previously unknown significant archaeological or tribal cultural resources shall be avoided through preservation in place if feasible. Damaging effects to tribal cultural resources shall be avoided or minimized following the measures identified in Public Resources Code section 21084.3, subdivision (b), if feasible, unless other measures are mutually agreed to by the lead archaeologist and culturally affiliated tribal monitor that would be as or more effective. A treatment plan developed by the archaeologist and, for tribal cultural resources, the culturally affiliated tribal monitor, shall be submitted to CSLC staff for review and approval. If the lead archaeologist and the culturally affiliated tribal monitor believe that damaging effects to tribal cultural resources will be avoided or minimized, then work in the area may resume.
31. **CUL-3: Discovery of Previously Unknown Paleontological Resources.** In the event that potentially significant paleontological resources are discovered during Project construction: (1) CPL shall immediately redirect or temporarily suspend all earth-disturbing work within 100 feet of the discovery until a professional paleontologist, approved by CSLC staff, has evaluated the nature and significance of the discovery; and (2) CPL shall immediately notify (within 48 hours) CSLC staff and any local, state, or federal agency with approval or permitting authority over the Project that has requested/required such notification. A treatment plan developed by the paleontologist shall be submitted to CSLC staff for review and approval. If the lead paleontologist believes that damaging effects to paleontological resources will be avoided or minimized, then work in the area may resume.
32. **CUL-4: Unanticipated Discovery of Human Remains.** If human remains are encountered, all work in the vicinity of the remains shall halt, and the Solano County Coroner must be contacted pursuant to Public Resources Code sections 5097.94, 5097.98, and 5097.99. If unknown human remains are discovered no further disturbance would occur until the County Coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission. CPL and CSLC staff would also be notified immediately within 24 hours of the discovery.
33. **HAZ-1: Pipeline Purging and Containment.** Prior to cutting and tie-in activities, the existing pipeline shall be pigged and purged with nitrogen to create a non-flammable environment before cutting. This work would begin at a valve location in Pittsburg and continue to Chevron Terminal in Sacramento. Secondary containment shall be set up at the GIWS, BLWS, and Grouting Vent Work Site as a precaution to prevent the accidental release of any material that may still remain inside the pipeline.
34. **HAZ-2: Asbestos Handling Procedures.** Construction personnel shall be informed of the potential presence of asbestos-containing material (ACM) at the construction site prior to their assignment. After exposing the existing pipeline and prior to the start of cutting and tie-in activities, a certified asbestos inspector/consultant shall test whether the coating consists of ACM greater than 1 percent by weight. If testing reveals the coating contains ACM less than 1 percent by weight, the pipe segment shall be treated as normal construction waste

and no additional measures are required. If testing reveals the coating contains ACM greater than 1 percent by weight, the materials shall be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District, and in accordance with applicable worker safety regulations. All ACM removed from the pipe segment shall be labeled, transported, and disposed of at a verified and approved ACM disposal facility.

35. **HAZ-3: Wildland Fire Prevention.** During project construction, the HDD work pad areas shall be cleared of any dead vegetation that could serve as potential fuels. The clearing shall include vegetation trimming within a few inches of the ground. No grading shall take place as part of the vegetation clearing. Additionally, firefighting equipment shall be kept in functioning condition on the Project sites. Such equipment shall include at a minimum hand held fire extinguishers. If work is to be performed during the dry season, workers shall be informed of wildland fire risk and measures to prevent it via brochures and worker awareness training.
36. **HYDRO-1: Stormwater Pollution Prevention Plan (SWPPP).** A SWPPP consistent with the Statewide National Pollution Discharge Elimination System Construction General Permit (Order No. 2012-0006-DWQ) shall be developed and implemented. The SWPPP shall detail the construction-phase erosion and sediment control best management practices (BMPs) and the housekeeping measures for control of contaminants other than sediment. Erosion control BMPs shall include source control measures such as wetting of dry and dusty surfaces to prevent fugitive dust emissions, preservation of existing vegetation, and effective soil cover (e.g., geotextiles, straw mulch, hydroseeding) for inactive areas and finished slopes to prevent sediments from being dislodged by wind, rain, or flowing water. Sediment control BMPs shall include measures such as installation of fiber rolls and sediment basins to capture and remove particles that have already been dislodged. The SWPPP shall establish good housekeeping measures such as construction vehicle storage and maintenance, handling procedures for hazardous materials, and waste management BMPs, which shall include procedural and structural measures to prevent the release of wastes and materials used at the site. The SWPPP shall also detail spill prevention and control measures to identify the proper storage and handling techniques of fuels and lubricants, and the procedures to follow in the event of a spill.
37. **HYDRO-2: Inadvertent-Return Contingency Plan.** At least 30 days before Project implementation, CPL shall submit to CSLC staff for review and approval and shall subsequently implement in the event of an inadvertent return, a final inadvertent-return contingency plan for horizontal directional drilling. The inadvertent- return contingency plan shall ensure that preventive and responsive measures can be implemented by the contractor and shall include:
- Design protocols to be implemented for the protection of sensitive cultural and biological resources;
 - Design protocols to require a geotechnical engineer or qualified geologist to make recommendations regarding the suitability of the formations to be bored to minimize the potential for inadvertent return conditions.

I hereby certify that the foregoing resolution was adopted at the regular meeting of the Solano County Planning Commission on April 18, 2019, by the following vote:

AYES:	Commissioners	_____

NOES:	Commissioners	_____

EXCUSED:	Commissioners	_____

By: _____
Bill Emlen, Secretary

DRAFT