



Agenda Item E.2
PUBLIC HEARING
Meeting Date: March 17, 2009

TO: Mayor and Councilmembers

FROM: Dan Singer, City Manager

CONTACT: Steve Chase, Planning and Environmental Services Director
Anne Wells, Advance Planning Manager

SUBJECT: Initiation of Amendments to the Venoco Inc. (Ellwood Pipeline, Inc.) Franchise Agreement and Coastal Zoning Ordinance Sections 35-154 and 35-161

RECOMMENDATION:

- A. Open the public hearing.
- B. Allow staff presentation and public testimony.
- C. Close the public hearing.
- D. Deliberate and move to initiate amendments to the Venoco Inc. (Ellwood Pipeline, Inc.) Franchise Agreement and Coastal Zoning Ordinance Sections 35-154 and 35-16 (Case # 109-024-OA).

BACKGROUND:

With the adoption of Goleta's General Plan/Coastal Land Use Plan (General Plan) in 2006, the City set an important policy directive related to energy use: discontinue, remove, and restore onshore processing and transport facilities (see Policy LU 10). This policy directive is because the location of the Venoco, Inc Ellwood Onshore Oil and Gas Processing Facility (EOF) is in close proximity to residential neighborhoods, Ellwood School, the Bacara Resort & Spa, and environmentally sensitive habitat areas.

The City, upon incorporation, adopted the County of Santa Barbara's Inland and Coastal Zoning Ordinances. Unless otherwise updated, these ordinances do not necessarily reflect policy directives in the General Plan. Recently, two ordinances, an ordinance adopting a Franchise Agreement for the Ellwood Pipeline, Inc. Line 96 and the Coastal Zoning Ordinance Sections 35-154 and 35-161 defining "new production", were identified as needing to be updated to reflect the directives in the General Plan for clarity and consistency purposes.

DISCUSSION:

Franchise Agreement

Line 96 transports crude oil processed at Venoco's EOF to the Ellwood Marine Terminal (EMT) where the oil is temporarily stored and shipped via barge to market. Line 96 is owned and operated by Ellwood Pipeline, Inc., a subsidiary of Venoco Inc. An agreement was established between Ellwood Pipeline, Inc. and the City through the adoption of Santa Barbara County Ordinance 3238. The agreement was with ExxonMobil Pipeline Company, which subsequently changed ownership to Ellwood Pipeline, Inc. on February 12, 2008. Attachment 1 includes the letter transferring ownership to Ellwood Pipeline, Inc., a map of the Line 96 route, and the ordinance establishing the Franchise Agreement.

Section 20 of the agreement allows for a common pipeline carrier. This means that shared use of the pipeline is allowed, when in fact, the carrier using the pipeline is a single-user, Venoco/Ellwood Pipeline Inc. Moreover, the current configuration of this pipeline only provides for one, sole user. As such, staff requests that the Council initiate an amendment to the Franchise Agreement to remove the common carrier clause, such that the pipeline is only authorized for single use. This request does not conflict with Venoco's business because it does not alter the current use of the pipeline. Additionally, Venoco is in the environmental review process of the EMT Decommissioning Project, a proposal to both decommission and remove the marine terminal and Line 96. As such, there is no potential for a future use conflict.

This amendment request is consistent with the General Plan in that it corrects the agreement to reflect the existing use of Line 96, avoids any potential future alternate or joint use which could extend the life of the pipeline beyond Venoco's use, and furthers the policy directive in LU 10 to decommission the pipeline.

Coastal Zoning Ordinance Amendment

As previously stated, the City inherited the County's Coastal Zoning Ordinance upon incorporation. The Coastal Zoning Ordinance Sections 35-154 and 35-161 were originally prepared by the County of Santa Barbara to address several oil and gas facilities. The definition of "new production" in the ordinance is outdated and is a remnant of Santa Barbara County's South Coast Consolidation Policy and implementing regulations, adopted in 1987 and certified by the California Coastal Commission in 1988. In essence, newly produced oil and gas could only be processed at facilities located in Las Flores Canyon and Gaviota. Of note, a generic definition of new production was included to guide offshore producers and onshore processing facility operators, who were concerned that the new policies would violate their vested rights under existing permits.

In 1990, the County adopted changes to the land use and zoning designations for all non-consolidated processing facilities on the South Coast including the EOF, rendering

them legal nonconforming uses and structures. That action further defined what oil and gas production each non-consolidated processing facility was entitled to receive by restricting it to that defined within the scope of existing permits. In so doing, it rendered obsolete the generic definition of new production contained within the County's Coastal Zoning Ordinance.

The General Plan identifies the EOF as an "Open Space – Active Recreation" land use, a legal non-conforming use, consistent with the County's previous rezone. The recommended amendment to the Coastal Zoning Ordinance is intended to eliminate potential confusion in determining what oil and gas may be received at the EOF. The recommended amendment reconciles differences between the City's General Plan and the Coastal Zoning Ordinance.

The proposed amendments would include:

1. Removal of references to the term "new production" as none is allowed under General Plan Policy LU 10. Removal of the option of new production is also consistent with the legal non-conforming land use designation at the EOF.
2. Clarification that the operator for the onshore processing facility is a legal nonconforming use.
3. Removal of references to the County and "consolidated sites" as they do not pertain to the City.
4. Clarification that any future facility improvement does not allow for processing of production that is not already allowable within the scope of existing permits.

Of note, Venoco has previously asked the City Council to amend the General Plan to reflect the County's original wording in its South Coast Consolidation Policy and implementing regulations. The City Council has declined to do so on a couple of occasions. More over, Venoco has expressed disagreement with staff in a recent meeting and in other discussions about staff's intent to move forward with reconciling the term "new production" as proposed for initiation herein.

Summary

If the City Council initiates the ordinance amendments, staff would draft these amendments accordingly and would return to the Council for deliberations and first reading on May 5, 2009.

ALTERNATIVES:

The City Council is under no obligation to initiate the proposed ordinance amendments. This action is a house-keeping item that clarifies and reconciles ordinances with current and future allowable conditions of operation of Line 96 and the EOF. As such, the matter was not brought before the City Council's Energy Committee prior to coming before the Council this evening but would be reviewed by the committee prior to coming back to the Council.

FISCAL IMPACTS:

The preparation of the proposed ordinance amendments was included in the adopted FY 2007–2009 Budget under Program 4300 of the Planning & Environmental Services Department.

LEGAL REVIEW:

This staff report and the proposed ordinance amendment concepts underwent review by the City Attorney's Office.

Submitted By:

Reviewed By:

Approved By:

Steve Chase
Planning & Environmental
Services Director

Michelle Greene
Administrative
Services Director

Daniel Singer
City Manager

ATTACHMENTS:

1. Venoco, Inc. (Ellwood Pipeline, Inc.) Franchise Agreement (Ordinance 3238)
2. Coastal Zoning Ordinance Sections 35-154 and 35-161

Attachment 1

Venoco, Inc. (Ellwood Pipeline, Inc.) Franchise Agreement

Contents

- Letter from Ellwood Pipeline, Inc (2-12-08) Confirming Pipeline Ownership Transfer
- Map of Line 96
- Ordinance 3238 Mobile Line 96 Discretionary Permit (Franchise Agreement)



ELLWOOD PIPELINE, INC

February 12, 2008

Steven Wagner, Director of Community Services
City of Goleta
130 Cremora Drive, Suite B
Goleta, California 93117

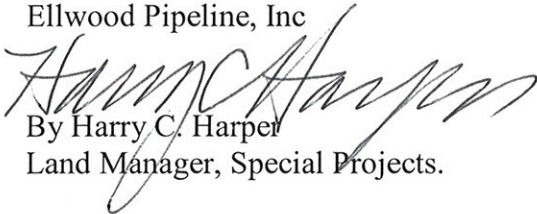
Re: Ellwood Pipeline Transfer

Dear Mr. Wagner:


This is to confirm our conversation that pursuant to Section 12 of Santa Barbara County Ordinance 3238 that the City of Goleta consents to the transfer of the Ellwood Line 96 crude oil 10 inch pipeline from Mobil Pacific Pipeline Company to Ellwood Pipeline Inc. The line runs for some 3.3 miles from the Venoco, Inc. Onshore Processing Facility and terminates at Venoco's Marine terminal. The consent applies to the related ordinance and license, such as Ordinance 3238, which the City of Goleta succeeded to upon its incorporation from the County of Santa Barbara.

We have enclosed a copy of this letter and a self addressed stamped envelope for you convenience in responding. Please do not hesitate to let me or Mr. Steve Grieg know if you have further questions.

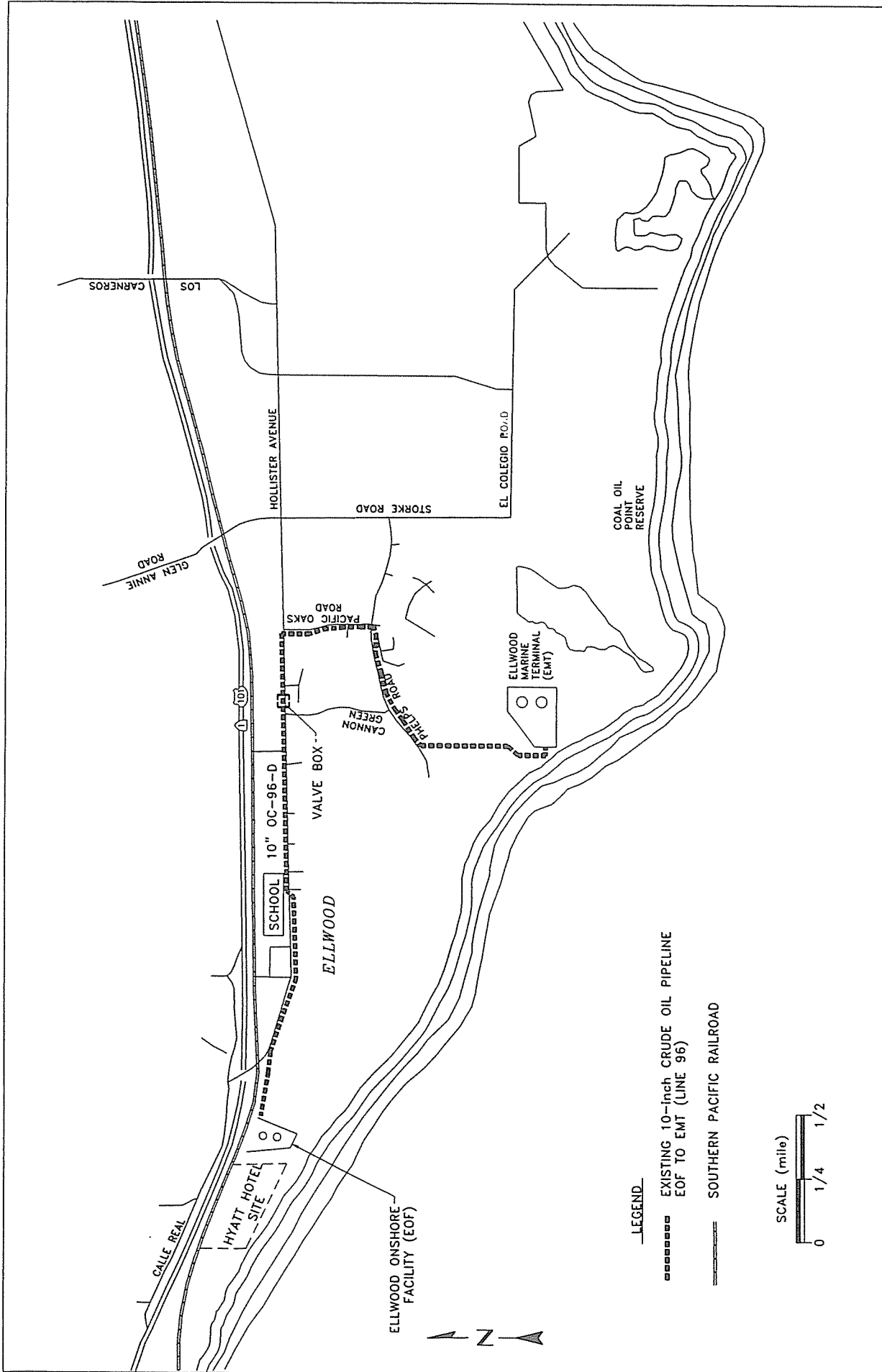
Yours very truly
Ellwood Pipeline, Inc


By Harry C. Harper
Land Manager, Special Projects.

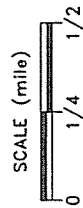
Consented to and Agreed
This 25 Day of ~~January~~, 2008.
City of Goleta FEBRUARY


By Steven Wagner
Director of Community Services

Cc: Steve Grieg



- LEGEND**
- EXISTING 10-INCH CRUDE OIL PIPELINE EOF TO EMT (LINE 96)
 - ===== SOUTHERN PACIFIC RAILROAD



CONSTRUCTION Ellwood Onshore Facility (EOF) Marine Terminal (EMT) Santa Barbara, CA Project No. 12186		LINE 96 EXISTING ONSHORE OIL PIPELINE ROUTE MARINE TERMINAL, ELLWOOD FACILITY, SANTA BARBARA, CA		VENOCO INC. Santa Barbara, CA		Date: 5-01-00 Scale: NONE Drawn By: R. WILLIAMS Elec. Engr. Project Engr.: R. VAN NOSTRAND App'd. By:	
10" OC-96-D VALVE BOX SCHOOL HYATT HOTEL - SITE ELLWOOD ONSHORE FACILITY (EOF)		10" OC-96-D VALVE BOX SCHOOL HYATT HOTEL - SITE ELLWOOD ONSHORE FACILITY (EOF)		10" OC-96-D VALVE BOX SCHOOL HYATT HOTEL - SITE ELLWOOD ONSHORE FACILITY (EOF)		10" OC-96-D VALVE BOX SCHOOL HYATT HOTEL - SITE ELLWOOD ONSHORE FACILITY (EOF)	

ORDINANCE 3238 / 00-FDP-003

Mobil Line 96 Discretionary Permit

ORDINANCE 3238

June 29, 1981

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ORDINANCE NO. 3238

Mobil Exploration and Producing U.S., Inc. Line 96

AN ORDINANCE OF THE COUNTY OF SANTA BARBARA, GRANTING A GAS, OIL AND WATER FRANCHISE TO FOUR CORNERS PIPELINE COMPANY FOR PIPELINES FOR TRANSMISSION OF SAID SUBSTANCES IN PIPELINES IN CERTAIN COUNTY ROAD RIGHT OF WAYS.

The Board of Supervisors of Santa Barbara County does ordain as follows:

SECTION 1. AUTHORITY.

This franchise is granted under and pursuant to the provisions of Chapter 2, Division 3 of the California Public Utilities Code, also known as the "Franchise Act of 1937" as amended, (commencing with Section 6201 of the Public Utilities Code).

SECTION 2. DEFINITIONS.

As used in this franchise, the singular number includes the plural and the plural includes the singular. Unless it shall be apparent from the context that they have a different meaning, the following words and phrases shall have the meaning stated in this section, that is:

County: The County of Santa Barbara.

Grantee: The person, firm or corporation to whom this franchise is awarded and granted by the Board of Supervisors, and any person, firm or corporation to which it may hereafter be lawfully transferred as herein provided.

Board: The Board of Supervisors of the County.

Franchise Property: All property constructed, installed, operated or maintained in a public highway pursuant to any right or privilege granted by this franchise, provided that any such property shall retain its character as "franchise property" only so long as it shall remain in or upon any public highway pursuant to a right or privilege granted by this franchise.

Highway: Those portions of highways, roads, and streets, designated in Section 3.

Use: In connection with pipelines to be installed hereunder, "use" means to regularly transmit oil, gas, other hydrocarbon substances and/or water through such pipelines, but does not include temporary transmission for testing purposes only.

SECTION 3. FRANCHISE RIGHTS & PURPOSES.

The following described rights, privileges and franchises, subject to each and all of the terms and conditions of Chapter 2 of Division 3 of the Public Utilities Code (Sections 6201 et seq.) and of this ordinance are hereby granted to THE FOUR CORNERS PIPELINE COMPANY hereinafter referred to as "Grantee."

Said rights, privileges and franchises are to use or to lay or to construct from time to time and to maintain, operate, renew, repair, change the size of, remove or abandon in place one or more pipes and pipelines for the collection, transportation or distribution of oil, gas, gasoline, petroleum, or any other hydrocarbon substances or water, together with all manholes, valves, appurtenances and service connections necessary or convenient for the operation of said pipes or pipelines including conduits, cathodic protection devices, wires, cables and other appurtenances necessary or convenient for the exercise of the Grantee's business, in, along, across, upon and under the following public streets in the unincorporated territory of the County of Santa Barbara:

1. Phelps Road between Pacific Oaks Road and 700 feet west of Canon Green Drive.
2. Pacific Oaks Road between Phelps Road and Hollister Avenue.
3. Hollister Avenue between Pacific Oaks Road and Sandpiper Frontage Road.
4. Sandpiper Frontage Road between Hollister Avenue and 2,000 feet west of Hollister Avenue.

SECTION 4. ACCEPTANCE.

This franchise is granted under the terms and conditions hereinafter set forth and within 30 (thirty) days after passage of this ordinance the Grantee shall file with the Office of the Clerk of the Board a written acceptance hereof, which shall contain a specific written agreement by Grantee to abide by such terms and conditions.

SECTION 5. CONSTRUCTION & HOLD HARMLESS CLAUSE.

The pipelines to be constructed and operated under this franchise shall be built and constructed in a good and workmanlike manner and of good material. All pipelines laid, located or maintained under this franchise shall be placed at such locations as not to interfere with the use of public highways by the traveling public or with the use of public property or public works for their primary purposes. The Grantee shall make and fill all excavations in such manner as to leave the highways or other public property in as good condition as it was prior to said excavation. All such work shall be performed in compliance with the laws of the State of California and the Santa Barbara County Code, and with all rules, regulations or standards referred to herein. The Grantee shall at all times hold the County of Santa Barbara harmless from any and all liability, loss, claims or damage resulting from or connected in any way with the laying, use, operation, repair, replacement or maintenance of said system. If requested by County, Grantee shall, without cost to County represent and defend County in any proceedings brought against County in connection with this franchise or its use.

SECTION 6. SUBORDINATION OF FRANCHISE.

(a) The County, state and any municipal corporation, political subdivision or governmental agency or instrumentality of the State of California, when acting in a governmental capacity, may improve any highway or portion thereof in which franchise property has heretofore been constructed or installed and may construct, install, repair and maintain in any such highway, and may remove from any such highway any public improvement.

(b) If notice in writing is given to the Grantee thirty (30) days in advance of the fact that work is to be done pursuant to any right reserved in subdivision (a) of this section, specifying the general nature of the work and area in which the same is to be performed, then the Grantee shall do all things necessary to protect its franchise property during the progress of such work and if ordered by the board or by the governmental agency performing such work the Grantee shall disconnect, remove or relocate its franchise property in the highway to such extent and in such manner as shall be necessary to permit the performance of such work, and to permit the maintenance, operation and use of such public improvement or of the highway as so improved. All of such things to be done and work to be performed by the Grantee shall be at no cost or expense to the County.

SECTION 7. INCREASED COST DUE TO ROAD IMPROVEMENTS OR CHANGES.

In the event that the County or any governmental agency above mentioned shall hereafter construct, install, reconstruct or repair any bridge or artificial support in or underlying any highway in which Grantee's franchise property is located or which is prescribed as the location for any of Grantee's franchise property, and in the event that the cost thereof be increased in order to provide for the installation, maintenance or operation of Grantee's franchise property in or on the highway area covered or underlain by said bridge or other artificial support, then the Grantee shall pay to the County, or to such governmental agency or instrumentality doing such work the full amount of such increase of cost upon completion of such construction, installation or repair.

SECTION 8. COMMENCEMENT AND COMPLETION OF WORK.

The said Grantee shall in good faith commence construction under this franchise within not more than one (1) year from the granting of this franchise and, if not so commenced within said time, this franchise shall be declared forfeited. The completion of the work shall be prosecuted diligently and in good faith by the Grantee.

SECTION 9. PERMIT REQUIRED.

Before any excavation work is commenced in any right of way of any county road for any project under this franchise, Grantee shall apply for and obtain an Excavation Permit for such work from the County Department of Transportation as provided in Article I of

Chapter 28 of the Santa Barbara County Code and any amendments or successors thereto. Grantee further agrees to fully comply with all conditions of any and all such Excavation Permits.

SECTION 10. ANNUAL PAYMENTS.

The said Grantee, its successors or assigns, shall, during the life of this franchise, pay annually to the Division of Revenue and Trust of Auditor-Controller of the County of Santa Barbara, in lawful money of the United States, and in the manner provided by law, two percent (2%) of the gross annual receipts of the Grantee arising each year from the use, operation or possession of this franchise within the County.

The Grantee of this franchise shall file with the Clerk of the Board of County within three (3) months after the expiration of the calendar year, or fractional calendar year, following the date of the granting of said franchise, and within three (3) months after the expiration of each and every calendar year thereafter, a duly verified statement showing the total gross receipts of such Grantee, during the preceding calendar year, or such fractional calendar year, arising from the use, operation or possession of said franchise within the County. It shall be the duty of such Grantee, within fifteen (15) days after the filing of such statement, to pay to the Division of Revenue and Trust of the Auditor-Controller of the County, in lawful money of the United States, said two percent (2%) of the gross annual receipts of said Grantee, assigns, arising from the use, operation or possession of this franchise. Any neglect, omission or refusal by the Grantee, to file such verified statement, or to pay said percentage at the times or in the manner hereinbefore provided shall be grounds for the declaration of a forfeiture pursuant to the provisions of Section 21 hereunder.

SECTION 11. CITY INCORPORATION OR ANNEXATION.

Whenever any portion of the territory covered by this franchise shall be annexed to, or otherwise become a part of any municipal corporation, or of any other county, the rights reserved under this franchise to the County of Santa Barbara or any officer thereof, shall inure to the benefit of such municipal corporation or county, and its appropriate officers.

SECTION 12. ASSIGNMENT.

The Grantee shall not sell, transfer or assign this franchise or any rights or privileges thereunder without first obtaining the written consent of the Board. A mere change of name or of the nature of the grantee entity without more than fifty percent (50%) change in ownership of Grantee shall not require such consent, but a merger with another entity, or a change of ownership of Grantee or its stock in excess of fifty percent (50%) shall require such consent of the Board. The Board, however, shall not withhold its consent arbitrarily or without good cause. The new owner must demonstrate financial responsibility to the Board's satisfaction, unless the Board waives such requirement due to publicly known

financial responsibility of the new owner. Any new owner must further agree in writing to comply with all of the provisions of this ordinance in order to obtain such consent.

SECTION 13. COMPLIANCE WITH LAW.

Grantee agrees to fully comply with all applicable Federal, State and local laws, codes, ordinances, standards, rules and regulations including those of the Air Pollution Control District in all of its operations under this franchise ordinance and its use thereof.

SECTION 14. PIPE LINE REGULATIONS, SPILL PLANS.

Grantee particularly agrees to install and operate all pipelines installed and/or used hereunder in accordance with applicable U.S. Department of Transportation rules and regulations published in 49 CFR 195, and any amendments thereto.

Grantee shall, before it uses any pipelines installed hereunder to transmit oil, gasoline or other liquid hydrocarbons, submit to the County Department of Resource Management, an oil spill prevention and cleanup plan pertaining to oil spills which may occur in the unincorporated territory of the County. Such plans shall coordinate with plans Grantee will submit for spills occurring in areas not within such territory.

SECTION 15. NATIVE VEGETATION.

Grantee will, in connection with restoring the County road right of way surface, also concurrently replant all areas from which native vegetation was removed, with the same or a similar type or types of native vegetation and shall include appropriate measures to the satisfaction of the County Transportation Department to prevent soil erosion and to maintain such replanted vegetation until it has established itself.

SECTION 16. PIPE LINE INSPECTION AND OVERPRESSURE SAFETY DEVICES.

Grantee will prepare and submit to County Department of Resources Management for approval, a pipeline inspection program meeting the requirements of the U.S. Department of Transportation. Overpressure safety devices meeting all Federal and State requirements shall be installed. No use shall be made of pipelines installed hereunder until said inspection program has been approved by County Department of Resource Management and said overpressure safety devices have been installed and shown to be in operating condition to the satisfaction of the County Department of Resource Management.

SECTION 17. REVIEW OF SEISMIC FAULTS.

The pipeline trenches shall be reviewed by an independent geological consultant in order to log and identify unknown active and potentially active faults within the route of the

pipeline when under construction. Grantee shall engage and utilize an Independent Geotechnical (Soils, Engineering, and Engineering Geology) Consultant approved by the County. Said independent consultant will, during pipeline installation, when earth is excavated, examine characteristics of the near surface soils and will log any faults encountered and thereafter prepare for the County any necessary reports concerning surface soils and faults as deemed necessary by the County's Geologist with the County Department of Public Works (County Geologist). The County's Geologist is to be notified promptly of any faults discovered. Such faults shall not be permanently concealed or covered if the County Geologist requests to see them until the Geologist has seen them, or three days have elapsed whichever occurs sooner. The logging and identification of said faults shall not unreasonably delay any construction permitted hereunder.

SECTION 18. ARCHAEOLOGICAL PROTECTION PROCEDURES.

Grantee will follow the following procedures to protect archaeological resources:

Grantee shall at Grantee's expense engage an archaeologist and a representative Native American Indian, both approved by the County of Santa Barbara, Department of Resource Management, and selected from a list or data provided by the County of Santa Barbara. Said Archaeologist and Native American Indian representative shall examine excavations being made to construct the pipelines to determine the presence of significant cultural resource features. In the unlikely event a burial site is discovered, the Grantee shall halt activities at the discovery and provide reasonable time for a Native American Spiritual Leader to execute respectful disposition of the remains. If any cultural resource features are discovered, the pipeline construction shall halt until artifacts unearthed can be logged, identified in the manner hereinabove noted, and removed for curation. Removal of cultural resource features shall be accomplished in a reasonable amount of time. Any artifacts unearthed will be deposited for curation at the University of California at Santa Barbara. If artifacts unearthed will not be accepted by the University of California at Santa Barbara, then Grantee will make arrangements to store said artifacts on its premises for a period of not more than one year, after such time said artifacts will be donated to an educational institution, private collector, or given the County of Santa Barbara for further disposition. Evidence that the above procedures have been followed shall be filed by the Grantee, with the County Department of Resource Management.

SECTION 19. MAPS

Prior to use of the pipelines, Grantee shall file with the County's Department of Transportation an exact map or maps at suitable scale of the final pipeline route, including cross sections of intersections with roadways and other utilities and diagrams of the relationship to other features within roadway and railroad rights of way. A copy of these maps and diagrams will be filed with the Department of Public Works of the County as well. Upon completion of pipeline installations, and within a period of ninety (90) days, Grantee

will file "as-constructed" maps, which will not substantially differ from maps sent to the Department of Transportation by the Grantee.

SECTION 20. COMMON CARRIER.

Grantee agrees to operate its pipelines transporting oil and other fluid hydrocarbons as a common carrier subject to the jurisdiction of the California Public Utilities Commission, including any regulations relating to shared use.

SECTION 21. FORFEITURE.

In the event of any neglect, failure or refusal to fully comply with any of the provisions of this franchise, the County may give Grantee or any assignee or successor in interest written notice to cure such default within a reasonable time to be specified by County in its notice. Failure to cure such default shall constitute grounds for forfeiture of this franchise. If the Board declares such forfeiture, Grantee shall forthwith lose all rights to use the streets, roads and other public places in the unincorporated territory of the County.

Upon such forfeiture, Grantee or its assignee or successor shall, upon demand by County remove forthwith all or certain specified things placed or installed pursuant to this Franchise Ordinance, or, at County's option, all or certain specified things installed pursuant hereto shall become property of County and not subject to removal by Grantee, its assignments or successors. The foregoing remedies are cumulative not exclusive and are in addition to any other rights County may have at law or otherwise, to proceed against Grantee, its assigns or successors.

SECTION 22. FRANCHISE NONEXCLUSIVE.

This franchise is granted under and pursuant to the provisions of the laws of the State of California applicable to the granting of franchises by Counties and this franchise shall not be exclusive, but the Board of the County reserves the right and power to grant other and additional franchises to persons, firms and corporations as authorized and provided by law so long as such additional franchises shall not unreasonably interfere with the rights granted to Grantee hereunder.

SECTION 23. PERFORMANCE BOND.

The Grantee shall file a bond running to the County with at least two (2) good and sufficient sureties or a corporate surety bond to be approved by the Board of Supervisors of said County in the penal sum of \$50,000.00, conditioned that the Grantee shall well and truly observe, fulfill and perform each and every term and condition of this franchise, and in case of any breach of condition of such bond, the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages and shall be recoverable from the

principal and surety or sureties upon said bond. Said bond shall be filed with the Clerk of the Board of Supervisors within five (5) days after this franchise is awarded to the Grantee. The amount of the said bond may be increased by order of the Board, after ninety (90) days' notice to Grantee after one (1) public hearing thereon.

SECTION 24. PUBLICATION EXPENSES.

The Grantee shall reimburse the County of Santa Barbara for all publication expenses incurred by the County in connection with the granting of this franchise; said payment to be made within thirty (30) days after the County shall have furnished Grantee with a written statement of such expenses.

SECTION 25. SEVERABILITY:

If any section, paragraph, provision, sentence, clause or phrase of this ordinance, or the application thereof to any public highway or other public place included in this ordinance, is for any reason held invalid, the remainder of this ordinance shall not be affected thereby.

SECTION 26. BINDING ON SUCCESSORS.

This franchise herein granted and all provisions, rights, negotiations and duties thereof shall extend and inure to and be binding on the Grantee, its successors and assigns.

SECTION 27. NOTICE.

Notice to be given hereunder shall be deemed given if personally delivered, or mailed, postpaid, U.S. Mail, addressed as follows:

COUNTY: Director of Transportation, Santa Barbara County Courthouse, Santa Barbara, Calif. 93101.

SECTION 28.

This Ordinance, being an ordinance which by statute (Government Code Section 25131) can be passed only after notice and a public hearing, it shall take effect and be in force thirty days from the date of its passage, and before the expiration of fifteen days after its passage it shall be published once, with the names of the members of the Board of Supervisors voting for and against the same, in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara. (8825)

PASSED, APPROVED, and ADOPTED this 29th day of June, 1981, by the following vote:

AYES: David M. Yager, Robert E. Kallman, DeWayne Holmdahl, and Harrell Fletcher.

ORDINANCE NO. 3238
Mobil Exploration and Producing U.S., Inc. Line 96

NOES: None.

ABSENT: William B. Wallace.

HARRELL FLETCHER
Chairman, Board of Supervisors of the County of Santa Barbara, State of California

(Seal)

ATTEST:

HOWARD C. MENZEL

COUNTY CLERK-RECORDER

By: KATHERINE F. KIEMAN
Deputy Clerk-Recorder

July 11 - 4794

ENERGY\WP\ARCO\FCPL.CDN

ATTACHMENT B: CONDITIONS OF APPROVAL

Mobil Pacific Pipeline Company

Existing conditions #1-28 of Mobil's Ordinance 3238 (00-FDP-003) remain in effect (see Appendix D in staff report dated August 24, 2000). The following conditions are added for the Line 96 leak detection system project:

29. The Development Plan Revisions (00-FDP-003 (RV01) and 95-FDP-24 (RV03)) are based upon and limited to compliance with the project as described in the application materials, the Mitigated Negative Declaration, and this Staff Report and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Where proposed deviations are technical in nature, they may be reviewed and approved by the Systems Safety and Reliability Review Committee (SSRRC). Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval. The project description is summarized below as follows:

Mobil/Venoco proposes to install a computerized leak detection system that shall continuously monitor the transfer of Venoco crude oil between the Ellwood Onshore Facility and the Ellwood Marine Terminal. The Supervisory Control and Data Acquisition (SCADA) will be used to remotely monitor the pipeline system for leaks and other abnormal operations. Signals shall be sent to a Control Center in Dallas, Texas, that is manned 24 hours per day. Dallas operators shall be specifically trained on how to respond and what procedures to follow in the event of system alarms and abnormal operations.

For Line 96, the SCADA system shall monitor three variables at the inlet to the pipeline (the Venoco Ellwood Onshore Facility) and at the outlet from the pipeline (at the Marine Terminal). The three variables are temperature, pressure and flow. The computer will poll, or read, these three values at each location every 10 to 20 seconds. Any deviation in any of the variables that is greater than a maximum of 20% shall create both audible and visual alarms. Larger leaks that exceed this deviation shall immediately notify the Dallas operator to shut down the pumps.

Every 5 minutes, 1 hour and 24 hours, the computer system shall calculate the volume of oil transported by correcting the raw flow data gathered every 10 - 20 seconds with the temperature and pressure readings. By comparing the oil coming in to the pipeline to the oil going out of the pipeline, the system can determine if there is an imbalance. Imbalances greater than 25 barrels shall generate both audible and visual alarms. Calculations shall be performed at these intervals in order to detect both larger and smaller leaks. Larger leaks will produce a noticeable imbalance in 5 minutes, as well as setting off pressure and flow alarms

in 10-20 seconds. However, a small, slow leak may only show an imbalance on the 1 or 24 hour reading as the amount of the imbalance would be greater for the longer the time period.

Percent deviations and imbalance levels that will trigger alarms are for the initial SCADA system setup. As operations of the pipeline become better understood, the percent deviations and imbalance levels shall become tighter (less than 20% and less than 25 barrels) allowing for better response to a situation. Within 4 weeks of installation and operation of the SCADA system, the level of that accuracy shall be on the order of 1 barrel imbalances. To verify that this level has been achieved, Mobil shall provide the System Safety Reliability Review Committee (SSRRC) written documentation of the operating parameters once the system is fine-tuned. This documentation shall be provided within four weeks of SCADA system operation.

If the SCADA system computer generates an alarm, an operator in the Dallas Control Center shall investigate to determine if the alarm is indicative of a pipeline leak or a system failure, such as a failed temperature or pressure sensor. If the operator concludes, after reviewing the pipe line system data, that a potential leak exists, the operator shall immediately shut down the pumps. After securing the shutdown the operator shall then immediately call Venoco to inform them of the action and request that Venoco initiate a first responder investigation as per agreements with Venoco. The Dallas operator shall also notify the ExxonMobil Pipeline Company Taft office personnel. The first responder investigation shall include driving the pipeline route to survey for leakage and containing the leakage if one is found.

At this point, the ExxonMobil Pipeline Company Taft personnel shall stay in contact with the Venoco personnel and monitor the ongoing first response actions. ExxonMobil Pipeline Company Taft staff shall be available on a 24 hour/7 day per week basis to handle this type of situation. If further assistance and cleanup resources are needed, the Taft staff shall contact the ExxonMobil Las Flores Canyon facility. Additional resources shall be made available, as necessary, from Advanced Cleanup Technologies in Ventura, CA. If the spill threatens the marine environment, Clean Seas shall also be called upon to respond. Mobil Pipeline Company shall maintain its agreements with all of these resources.

If no leaks are found during the Venoco personnel inspection, the ExxonMobil Pipeline Company operations personnel in Taft shall be dispatched to troubleshoot and repair the SCADA system.

In the event of a SCADA system phone line failure such as failed temperature, pressure or flow sensors or phone line failures, the pipeline pumps shall be either shut-down remotely from Dallas or, if the SCADA system is not available, Venoco personnel shall be contacted immediately for a pump shut-down. If further pumping is needed in order to prevent a Venoco operational upset, personnel shall be stationed at the Venoco Ellwood facility flow meters (LACT meters) and at the Marine Terminal tank level gauges to relay readings to the Dallas personnel. If communications are not available, the system shall remain shutdown.

ExxonMobil Pipeline Company Taft personnel shall be dispatched to repair the SCADA system.

In the event of a seismic activity, the system shall be immediately shut down and Venoco personnel shall drive the pipeline to inspect for damage. The pipeline shall then be pressurized for 2 hours and the line visually inspected to ensure no leaks have developed.

No grading work will be required at the Venoco Ellwood Onshore Facility. The proposed project will involve electrical connections. At the EMT, an estimated 50 cubic yards of grading work will be necessary along the pipeline corridor to install necessary metering devices.

30. If the Planning Commission determines at a noticed public hearing that the permittees are not in compliance with any permit condition(s), pursuant to the provisions of Sec. 35-185 of Article II of the Santa Barbara County Code, the Planning Commission is empowered, in addition to revoking the permit pursuant to said section, to amend, alter, delete, or add conditions to this permit.
31. Within 18 months after the effective date of this permit, construction and/or the use shall commence. Construction or use cannot commence until a Coastal Development Permit has been issued. Failure to commence the construction and/or use pursuant to a valid Coastal Development Permit shall render the Development Plan Revision(s) null and void. All time limits may be extended by the Planning Commission for good cause shown, provided a written request, including a statement of reasons for the time limit extension request is filed with Planning and Development prior to the expiration date.
32. Approval of the Final Development Plan Revisions (00-FDP-003 (RV01) and 95-FDP-24 (RV03)) shall expire five (5) years after approval by the Planning Commission, unless prior to the expiration date, substantial physical construction has been completed on the development or a time extension has been applied for by the applicant. The decision-maker with jurisdiction over the project may, upon good cause shown, grant a time extension for one year.
33. No permits for development, including grading, shall be issued except in conformance with an approved Final Development Plan. The size, shape, arrangement, use, and location of buildings, walkways, parking areas, and landscaped areas shall be developed in conformity with the approved development. Substantial conformity shall be approved by the Director of P&D.
34. Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement, the applicant shall obtain a Coastal Development and Building Permit from Planning and Development. These Permits are required by ordinance and are necessary to ensure implementation of the conditions required by the Planning Commission. Before any Permit

will be issued by Planning and Development, the applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.

35. All applicable final conditions of approval shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
36. Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Final Development Plan Revisions (00-FDP-003 (RV01) and 95-FDP-24 (RV03)). In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
37. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.
38. Mobil shall notify the Energy Division that construction will begin at least two weeks prior to initiation of construction and immediately upon completion. **MONITORING:** Energy Division to verify compliance.
39. Mobil shall prepare an Environmental Quality Assurance Program (EQAP) for Planning and Development approval prior to approval of the Coastal Development Permit. The program shall include all plans relevant to construction and operations of the proposed facilities specified by these conditions and shall describe the steps Mobil will take to assure compliance with these conditions. This plan is intended to provide a framework for all other programs and plans specified by these conditions as required prior to approval of the Coastal Development Permit. The program shall include all plans relevant to construction activities. The program shall include provisions for at least one EQAP monitor with overall responsibility for assuring condition compliance during the construction phase. This EQAP monitor shall be funded by Mobil and hired by and be responsible to Planning and Development.
40. All new equipment shall be painted with non-reflective paint upon installation. Equipment at the Ellwood Onshore Facility shall be painted "Ellwood Tan," consistent with Ordinance 2919,

Condition 23. **Timing:** Equipment shall be painted within 30 days of installation.
MONITORING: EQAP monitor to spot check in the field. (Mitigation Measure V-1)

41. Mobil shall use the following measures to reduce impacts to air quality:

- Street cleaning;
 - Operation of haul and delivery trucks between 9 a.m. and 4:30 p.m., only.
 - Wash-down of equipment before leaving work site.
 - During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
 - Soil stockpiled for more than two days shall be covered or kept moist to prevent dust generation.
 - Use of mechanized construction equipment shall be minimized to the maximum extent.
- Plan Requirements and Timing:** All requirements shall be shown on construction plans.
MONITORING: EQAP monitor to spot check in the field. (Mitigation Measure AQ-1)

42. Mobil shall designate a person or persons to monitor the dust control program and to order increased watering as necessary to prevent transport of dust off-site. Their duties shall include holiday and weekend periods when work may not be in progress. **Plan Requirements:** The name and telephone number of such persons shall be provided to the APCD and the Energy Division. **MONITORING:** EQAP monitor to spot check in the field. (Mitigation Measure AQ-2)

43. Venoco shall incorporate the new components at the Marine Terminal and Ellwood Facility into their Inspection and Maintenance Program in compliance with the Air Pollution Control District's Rule 331 – Fugitive Emissions Inspection and Maintenance Requirements. **MONITORING:** EQAP monitor to spot check in the field. (Mitigation Measure AQ-3)

44. Catch basins and sorbent materials shall be placed under all piping prior to hot tapping, cold cutting, or any other disturbance. **Plan Requirements and Timing:** This condition of approval shall be printed on all construction drawings prior to issuance of a Coastal Development Permit. **MONITORING:** EQAP monitor to verify in the field. Note: This mitigation measure can also be found under Section 6.9, labeled as RK-1. (Mitigation Measure B-2)

45. If groundwater is encountered during trenching activities, Mobil shall pump this water into a temporary storage tank. Prior to discharging this water, testing for contamination shall be performed. If contamination is detected, the water shall be trucked offsite to an appropriate waste disposal site. If testing proves the water to be clean, discharging activities shall include erosion control and sedimentation prevention measures (e.g., straw bales) as approved by the EQAP monitor. **Plan Requirements and Timing:** The applicant shall designate groundwater discharge areas acceptable to the EQAP monitor prior to construction.

MONITORING: EQAP monitor shall inspect the site throughout the construction period to ensure proper measures are taken to avoid siltation. (Mitigation Measure B-4)

46. During construction, washing of concrete, paint, or equipment shall occur only in areas where polluted water and materials can be contained for subsequent removal from the site. Washing shall not be allowed near sensitive biological resources. An area designated for washing shall be identified. **Plan Requirements and Timing:** The applicant shall designate wash-off areas acceptable to the EQAP monitor, prior to construction. **MONITORING:** EQAP monitor shall site inspect throughout the construction period to ensure proper use. (Mitigation Measure B-5)
47. Mobil shall schedule a pre-construction meeting with the EQAP monitor for project supervisors and contractors, prior to beginning work. **Plan Requirements and Timing:** Mobil shall notify the Energy Division once the meeting is scheduled. **MONITORING:** EQAP monitor to attend meeting. (Mitigation Measure B-6)
48. The EQAP monitor shall be present, as necessary, throughout the project to ensure avoidance of tarplant as well as compliance with other mitigation measures. **MONITORING:** EQAP monitor to conduct site visits periodically, as needed. (Mitigation Measure B-7)
49. No herbicides shall be used during equipment installation. **MONITORING:** EQAP monitor to field check. (Mitigation Measure B-8)
50. All excavation work shall occur outside of the rainy season (November 1-April 1) unless the applicant submits for review and approval an erosion control plan to P&D prior to CDP approval. **Plan Requirements and Timing:** Plan shall identify Best Management Practices for preventing offsite erosion and sedimentation. Plan shall be submitted for review and approval prior to approval of the CDP. **MONITORING:** EQAP monitor to spot-check in the field. (Mitigation Measure B-9)
51. All earth disturbances including scarification and placement of fill within the archaeological site area shall be monitored by a P&D-qualified archaeologist and a Native American Consultant pursuant to County Archaeological Guidelines. **Plan Requirements and Timing:** Prior to issuance of a Coastal Development Permit, a contract or Letter of Commitment between the applicant and the archaeologist, consisting of a project description and scope of work, shall be prepared. The contract must be executed and submitted to P&D for review and approval. This condition shall be printed on all construction drawings. **MONITORING:** P&D planners shall confirm monitoring by archaeologist and the EQAP monitor shall spot check field work. (Mitigation Measure AR-1)
52. A P&D qualified archaeologist and Native American representative shall monitor construction of the trench. In the event that archaeological remains are encountered during grading, work shall be stopped immediately or redirected until these monitors evaluate the find to determine if a Phase 2 investigation is warranted. If required, the Phase 2

investigation, pursuant to County Archaeological Guidelines, shall be abbreviated to focus only on the trench alignment and immediate vicinity, rather than on the entire site. If remains are found to be significant and extensive, they may be subject to a Phase 3 mitigation program consistent with County Archaeological Guidelines and funded by the applicant. However, because of the small scale of this project, the Phase 2 sampling could also satisfy mitigation requirements depending on the particular circumstances of the discovery. **Plan Requirements/Timing:** This condition shall be printed on all building and grading plans. **MONITORING:** P&D shall check plans prior to approval of the Coastal Development Permit. EQAP monitor to ensure compliance in the field. (Mitigation Measure AR-2)

53. Excavation work shall be limited to the areas identified on the project plans. **Plan Requirements and Timing:** This condition shall be printed on all construction plans. **MONITORING:** EQAP monitor to ensure compliance in the field. (Mitigation Measure AR-3)

54. Prior to construction, Mobil shall receive approval from the Fire Department of a Fire Protection Plan including the following provisions:

- Mobil shall notify Santa Barbara County Fire Station 11 of the estimated date of construction to allow the engine companies adequate time for familiarization with the project site.
- Mobil shall have onsite communications capabilities for immediate notification of Fire Dispatch in the event of an emergency.
- Mobil shall ensure access for fire trucks is not blocked by parked vehicles or staged equipment for the duration of the construction project.
- Hot Work Permits are required for all hot work performed and made available for review at the construction site.

Plan Requirements and Timing: The Fire Protection Plan shall be submitted to the Fire Department and shall receive approval prior to CDP. **MONITORING:** EQAP monitor to spot check in the field. (Mitigation Measure F-1)

55. Mobil shall obtain all necessary permits from the Fire Department prior to construction.

Plan Requirements and Timing: Mobil shall obtain permits prior to construction. **MONITORING:** EQAP monitor to check in the field. (Mitigation Measure F-2)

56. If any discolored or contaminated soil is encountered during project construction, Mobil shall report to Protection Services Division (PSD) and the Energy Division immediately. Mobil and Venoco shall proceed as directed by PSD and the Energy Division should contamination be found: Mobil will have responsibility for any contaminated soil excavated during the project; Venoco will have responsibility for the site. Such direction may include preparation of a Site Assessment and Work Plan, and site remediation if deemed necessary. **MONITORING:** EQAP monitor to spot check in the field. (Mitigation Measure RK-1)

57. Any and all spills of hydrocarbons or hazardous materials during construction shall be reported immediately to PSD and the Energy Division. A follow-up report documenting the source, cause, extent of spilled material and a description of corrective action shall be submitted within 24 hours for review and approval. **MONITORING:** EQAP monitor to spot check in the field. (Mitigation Measure RK-2)
58. Mobil shall submit operating procedures for evacuating the pipeline of any hydrocarbons to the System Safety and Reliability Review Committee for approval prior to issuance of a Coastal Development Permit. **Plan Requirements and Timing:** Mobil/Venoco shall submit operating procedures to the SSRRC for approval prior to CDP. **MONITORING:** EQAP monitor to spot check that procedures are followed in the field. (Mitigation Measure RK-3)
59. Upon completion of the pipeline modifications, Mobil shall submit results of tie-in weld X-rays and the pre-installation off-site pressure test of the pre-fabricated meter run to certify the integrity of the line to Energy and Building and Safety. **Plan Requirements and Timing:** Mobil shall submit results to both Divisions within 15 days of project completion. **MONITORING:** Energy and Building and Safety Divisions to review results. (Mitigation Measure RK-4)
60. Mobil/Venoco shall paint all new equipment upon installation, and as needed throughout the life of the project, to prevent corrosion. **MONITORING:** EQAP monitor to verify in the field. (Mitigation Measure RK-5)
61. Mobil/Venoco shall submit a written procedure for how they will recover the oil from the pipeline section that is to be removed (construction Oil Spill Contingency Plan including emergency response procedures) to the System Safety and Reliability Review Committee for approval, prior to issuance of a Coastal Development Permit. **Plan Requirements and Timing:** The OSCP shall be submitted to the SSRRC prior to CDP. **MONITORING:** EQAP to ensure compliance with the plan in the field. (Mitigation Measure RK-6)
62. Mobil shall establish an agreement with Venoco to provide for immediate spill response. Alternatively, Mobil shall contract with a local company (Goleta) for spill response until Advanced Cleanup Technologies, Inc. arrives on scene. **Plan Requirements and Timing:** Mobil shall submit their executed agreement with Venoco or a local contractor to the Energy Division for approval prior to CDP. The agreement or contract shall specify the location and inventory of equipment and manpower that would be available to respond to a spill. **MONITORING:** Energy Division to verify compliance annually. (Mitigation Measure RK-7)
63. Mobil shall maintain spill response equipment onsite for the duration of the construction period. **MONITORING:** EQAP monitor to spot check. (Mitigation Measure RK-8)
64. The SSRRC will inspect and as-built check the installation prior to commencing the operation. Mobil shall provide as-built P&IDs to the Energy and Building and Safety Divisions within 60 days of project completion. In addition, Venoco shall update EOF and EMT P&IDs to reflect

the modified piping, according to Venoco's Management of Change procedures. **Plan Requirements and Timing:** As-built drawings shall be submitted within 60 days of project completion. Venoco's P&IDs shall be updated accordingly. **MONITORING:** SSRRC to verify P&ID updates during the next scheduled visit to the onshore facilities. (Mitigation Measure RK-9)

65. Mobil shall provide an up to date Emergency Response and Oil Spill Contingency Plan for ongoing operation of Line 96 to reflect the new pipeline leak detection system and to specify response and responsibility of Line 96. **Plan Requirements and Timing:** Plan updates shall be submitted to the SSRRC within 90 days of completion of the project. Project completion shall be defined as the point in time when the new leak detection system is fully installed and the open trenches at the EMT site are backfilled. **MONITORING:** SSRRC to review and approve updates. (Mitigation Measure RK-10)
66. Construction activities shall be limited to weekdays between the hours of 7:30 a.m. and 6:30 p.m. **MONITORING:** EQAP monitor to spot check. (Mitigation Measure N-1)
67. Mobil shall ensure proper maintenance of all internal combustion engines, and shall function check all equipment mufflers. **MONITORING:** EQAP monitor to spot check. (Mitigation Measure N-2)
68. Haul and delivery trucks shall service the project sites between the hours of 9 a.m. and 4:30 p.m., on weekdays only. **MONITORING:** EQAP monitor to spot check in the field. (Mitigation Measure TF-1)
69. Mobil shall provide specific directions to drivers to ensure the haul and delivery trucks take the most direct route available to the site (Highway 101 to Hollister for the EOF, and Highway 101 to Storke Road for the EMT). Mobil shall provide a temporary flagperson for haul and delivery trucks making a left hand turn from the EMT access road onto Storke Road to prevent traffic accidents and to ensure the smooth flow of traffic on both sides of Storke Road. **Plan Requirements and Timing:** Mobil shall submit copies of the directions to the Energy Division prior to CDP and shall have a flagperson on site at the noted intersection during the period when large trucks and equipment are leaving the EMT site. **MONITORING:** EQAP monitor to spot check in the field. (Mitigation Measure TF-2)
70. Mobil shall provide funding for any repairs to the EMT access road, to the satisfaction of the Fire Department, if damaged by the project's truck traffic. **MONITORING:** EQAP monitor to inspect access road prior to and after construction, and document any project-related damage. (Mitigation Measure TF-3)
71. Mobil shall submit to the SSRRC for review and approval, a revised Pipeline Operating and Maintenance Manual reflecting the change in the leak detection system prior to approval of the Coastal Development Permit. The Pipeline Operating and Maintenance Manual shall include the alarm and shutdown criteria as follows: the SCADA system will be set so that a

10 percent deviation from the normal operating range (pressure and flow) will trigger an alarm at the Venoco plant and at the PLOCC, and a 15 percent deviation will trigger an automatic shutdown. Timing and MONITORING: Energy Division to ensure SSRRC receipt and approval of manual prior to approval of Coastal Development Permit.

Venoco Inc.

Existing conditions #1-100 of Venoco's Ordinance 2919 (95-FDP-024) remain in effect (see Appendix E in staff report dated August 24, 2000). The following conditions are added for the Line 96 leak detection system project:

101. The Development Plan Revisions (00-FDP-003 (RV01) and 95-FDP-24 (RV03)) are based upon and limited to compliance with the project as described in the application materials, the Mitigated Negative Declaration, and this Staff Report and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval. The project description is summarized below as follows:

Mobil/Venoco proposes to install a computerized leak detection system that shall continuously monitor the transfer of Venoco crude oil between the Ellwood Onshore Facility and the Ellwood Marine Terminal. The Supervisory Control and Data Acquisition (SCADA) will be used to remotely monitor the pipeline system for leaks and other abnormal operations. Signals shall be sent to a Control Center in Dallas, Texas, that is manned 24 hours per day. Dallas operators shall be specifically trained on how to respond and what procedures to follow in the event of system alarms and abnormal operations.

For Line 96, the SCADA system shall monitor three variables at the inlet to the pipeline (the Venoco Ellwood Onshore Facility) and at the outlet from the pipeline (at the Marine Terminal). The three variables are temperature, pressure and flow. The computer will poll, or read, these three values at each location every 10 to 20 seconds. Any deviation in any of the variables that is greater than a maximum of 20% shall create both audible and visual alarms. Larger leaks that exceed this deviation shall immediately notify the Dallas operator to shut down the pumps.

Every 5 minutes, 1 hour and 24 hours, the computer system shall calculate the volume of oil transported by correcting the raw flow data gathered every 10 – 20 seconds with the temperature and pressure readings. By comparing the oil coming in to the pipeline to the oil going out of the pipeline, the system can determine if there is an imbalance. Imbalances greater than 25 barrels shall generate both audible and visual alarms. Calculations shall be performed at these intervals in order to detect both larger and smaller leaks. Larger leaks will produce a noticeable imbalance in 5 minutes, as well as setting off pressure and flow alarms

in 10-20 seconds. However, a small, slow leak may only show an imbalance on the 1 or 24 hour reading as the amount of the imbalance would be greater for the longer the time period.

Percent deviations and imbalance levels that will trigger alarms are for the initial SCADA system setup. As operations of the pipeline become better understood, the percent deviations and imbalance levels shall become tighter (less than 20% and less than 25 barrels) allowing for better response to a situation. Within 4 weeks of installation and operation of the SCADA system, the level of that accuracy shall be on the order of 1 barrel imbalances. To verify that this level has been achieved, Mobil shall provide the System Safety Reliability Review Committee (SSRRC) written documentation of the operating parameters once the system is fine-tuned. This documentation shall be provided within four weeks of SCADA system operation.

If the SCADA system computer generates an alarm, an operator in the Dallas Control Center shall investigate to determine if the alarm is indicative of a pipeline leak or a system failure, such as a failed temperature or pressure sensor. If the operator concludes, after reviewing the pipe line system data, that a potential leak exists, the operator shall immediately shut down the pumps. After securing the shutdown the operator shall then immediately call Venoco to inform them of the action and request that Venoco initiate a first responder investigation as per agreements with Venoco. The Dallas operator shall also notify the ExxonMobil Pipeline Company Taft office personnel. The first responder investigation shall include driving the pipeline route to survey for leakage and containing the leakage if one is found.

At this point, the ExxonMobil Pipeline Company Taft personnel shall stay in contact with the Venoco personnel and monitor the ongoing first response actions. ExxonMobil Pipeline Company Taft staff shall be available on a 24 hour/7 day per week basis to handle this type of situation. If further assistance and cleanup resources are needed, the Taft staff shall contact the ExxonMobil Las Flores Canyon facility. Additional resources shall be made available, as necessary, from Advanced Cleanup Technologies in Ventura, CA. If the spill threatens the marine environment, Clean Seas shall also be called upon to respond. Mobil Pipeline Company shall maintain its agreements with all of these resources.

If no leaks are found during the Venoco personnel inspection, the ExxonMobil Pipeline Company operations personnel in Taft shall be dispatched to troubleshoot and repair the SCADA system.

In the event of a SCADA system phone line failure such as failed temperature, pressure or flow sensors or phone line failures, the pipeline pumps shall be either shut-down remotely from Dallas or, if the SCADA system is not available, Venoco personnel shall be contacted immediately for a pump shut-down. If further pumping is needed in order to prevent a Venoco operational upset, personnel shall be stationed at the Venoco Ellwood facility flow meters (LACT meters) and at the Marine Terminal tank level gauges to relay readings to the Dallas personnel. If communications are not available, the system shall remain shutdown.

ExxonMobil Pipeline Company Taft personnel shall be dispatched to repair the SCADA system.

In the event of a seismic activity, the system shall be immediately shut down and Venoco personnel shall drive the pipeline to inspect for damage. The pipeline shall then be pressurized for 2 hours and the line visually inspected to ensure no leaks have developed.

No grading work will be required at the Venoco Ellwood Onshore Facility. The proposed project will involve electrical connections. At the EMT, an estimated 50 cubic yards of grading work will be necessary along the pipeline corridor to install necessary metering devices.

102. If the Planning Commission determines at a noticed public hearing that the permittees are not in compliance with any permit condition(s), pursuant to the provisions of Sec. 35-185 of Article II of the Santa Barbara County Code, the Planning Commission is empowered, in addition to revoking the permit pursuant to said section, to amend, alter, delete, or add conditions to this permit.

103. Within 18 months after the effective date of this permit, construction and/or the use shall commence. Construction or use cannot commence until a Coastal Development Permit has been issued. Failure to commence the construction and/or use pursuant to a valid Coastal Development Permit shall render the Development Plan Revision(s) null and void. All time limits may be extended by the Planning Commission for good cause shown, provided a written request, including a statement of reasons for the time limit extension request is filed with Planning and Development prior to the expiration date.

104. Approval of the Final Development Plan Revisions (00-FDP-003 (RV01) and 95-FDP-24 (RV03)) shall expire five (5) years after approval by the Planning Commission, unless prior to the expiration date, substantial physical construction has been completed on the development or a time extension has been applied for by the applicant. The decision-maker with jurisdiction over the project may, upon good cause shown, grant a time extension for one year.

105. No permits for development, including grading, shall be issued except in conformance with an approved Final Development Plan. The size, shape, arrangement, use, and location of buildings, walkways, parking areas, and landscaped areas shall be developed in conformity with the approved development. Substantial conformity shall be approved by the Director of P&D.

106. Before using any land or structure, or commencing any work pertaining to the erection, moving, alteration, enlarging, or rebuilding of any building, structure, or improvement, the applicant shall obtain a Coastal Development and Building Permit from Planning and Development. These Permits are required by ordinance and are necessary to ensure

implementation of the conditions required by the Planning Commission. Before any Permit will be issued by Planning and Development, the applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.

107. All applicable final conditions of approval shall be printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
108. Developer shall defend, indemnify and hold harmless the County or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of the Final Development Plan Revisions (00-FDP-003 (RV01) and 95-FDP-24 (RV03)). In the event that the County fails promptly to notify the applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.
109. In the event that any condition imposing a fee, exaction, dedication or other mitigation measure is challenged by the project sponsors in an action filed in a court of law or threatened to be filed therein which action is brought within the time period provided for by law, this approval shall be suspended pending dismissal of such action, the expiration of the limitation period applicable to such action, or final resolution of such action. If any condition is invalidated by a court of law, the entire project shall be reviewed by the County and substitute conditions may be imposed.
110. All new equipment shall be painted with non-reflective paint upon installation. Equipment at the Ellwood Onshore Facility shall be painted "Ellwood Tan," consistent with Ordinance 2919, Condition 23. **Timing:** Equipment shall be painted within 30 days of installation. **MONITORING:** EQAP monitor to spot check in the field. (Mitigation Measure V-1)
111. All southern tarplants in the vicinity of the work area shall be flagged for avoidance by a County-approved biologist. All equipment staging shall be limited to the site access road to avoid incidental impacts to tarplant in the project area. **Plan Requirements and Timing:** This condition of approval shall be printed on all construction drawings prior to issuance of a Coastal Development Permit. **MONITORING:** EQAP monitor to check for flagging prior to construction, and to spot check staging of equipment throughout construction. (Mitigation Measure B-1)
112. Where excavation work is to occur, the seedbank and topsoil shall be salvaged and replaced once pipeline modifications are complete. Disturbed areas shall be revegetated, using a seed mix that is representative of the native vegetation in the area, immediately upon completion of the construction project. If initial revegetation proves unsuccessful, Mobil shall continue the revegetation effort until deemed satisfactory by the Energy Division (i.e., vegetation in the

disturbed area has been re-established one year following project completion). **Plan Requirements and Timing:** This condition of approval shall be printed on all construction drawings prior to issuance of a Coastal Development Permit. **MONITORING:** EQAP monitor to supervise the topsoil salvage and approve seed mix. (Mitigation Measure B-3)

113. Any and all spills of hydrocarbons or hazardous materials during construction shall be reported immediately to PSD and the Energy Division. A follow-up report documenting the source, cause, extent of spilled material and a description of corrective action shall be submitted within 24 hours for review and approval. **MONITORING:** EQAP monitor to spot check in the field. (Mitigation Measure RK-2)
114. Upon completion of the pipeline modifications, Mobil shall submit results of tie-in weld X-rays and the pre-installation off-site pressure test of the pre-fabricated meter run to certify the integrity of the line to Energy and Building and Safety. **Plan Requirements and Timing:** Mobil shall submit results to both Divisions within 15 days of project completion. **MONITORING:** Energy and Building and Safety Divisions to review results. (Mitigation Measure RK-4)
115. Mobil/Venoco shall submit a written procedure for how they will recover the oil from the pipeline section that is to be removed (construction Oil Spill Contingency Plan including emergency response procedures) to the System Safety and Reliability Review Committee for approval, prior to issuance of a Coastal Development Permit. **Plan Requirements and Timing:** The OSCP shall be submitted to the SSRRC prior to CDP. **MONITORING:** EQAP to ensure compliance with the plan in the field. (Mitigation Measure RK-6)
116. Mobil shall establish an agreement with Venoco to provide for immediate spill response. Alternatively, Mobil shall contract with a local company (Goleta) for spill response until Advanced Cleanup Technologies, Inc. arrives on scene. **Plan Requirements and Timing:** Mobil shall submit their executed agreement with Venoco or a local contractor to the Energy Division for approval prior to CDP. The agreement or contract shall specify the location and inventory of equipment and manpower that would be available to respond to a spill. **MONITORING:** Energy Division to verify compliance annually. (Mitigation Measure RK-7)
117. Mobil shall provide an up to date Emergency Response and Oil Spill Contingency Plan for ongoing operation of Line 96 to reflect the new pipeline leak detection system and to specify response and responsibility of Line 96. **Plan Requirements and Timing:** Plan updates shall be submitted to the SSRRC within 90 days of completion of the project. Project completion shall be defined as the point in time when the new leak detection system is fully installed and the open trenches at the EMT site are backfilled. **MONITORING:** SSRRC to review and approve updates. (Mitigation Measure RK-10)

Attachment 2

Coastal Zoning Ordinance Sections 35-154 and 35-161

Contents

- Coastal Zoning Ordinance, Article II Section 35-154
- Coastal Zoning Ordinance, Article II Sections 35-160 through 168

- prevent unauthorized access thereto and having a of at least six (6) feet unless public access is prevented by reason of an isolated location.
- e. Each producing well site shall be completed in such a manner that all production equipment and facilities shall be recessed, covered, or otherwise screened from view. Trees or shrubbery shall be planted and maintained so as to develop attractive landscaping and to screen the site and production equipment, structures, tanks, and facilities thereon from public view, unless such equipment, structures, tanks, and facilities are screened from public view by reason of an isolated location, existing trees or shrubbery, intervening surface contours, or a wall constructed as herein provided.
 - f. Any machinery used in the production and/or processing shall be so designed and housed that noise and vibration shall be reduced to a minimum and the operation thereof will be compatible with the level of surrounding areas.
 - g. The applicant has received "authority to construct" from the Air Pollution Control District.
 - h. All lights shall be shielded so as not to directly shine on adjacent properties.
 - i. Permanent structures and equipment shall be painted a neutral color so as to blend in with natural surroundings.
 - j. In addition to all of the above, the Development Standards contained in Paragraph 5 of Sec. 35-154.5. for onshore processing facilities for offshore oil and gas development shall also be applicable to the processing facilities that are permitted as a component of an onshore production area.

Sec. 35-154. Onshore Processing Facilities Necessary or Related to Offshore Oil and Gas Development.

(Amended by Ord. 3701, Ord. 3745)

- 1. Applicability: The specific regulations of this section shall apply to structures, equipment, or facilities necessary and incidental to:
 - a. Dehydration and/or separation of oil, gas and condensate obtained from an offshore hydrocarbon area, except for dehydration and separation incidental

to onshore wells which shall be subject to regulations of Section 35-158, and 35-176, and *(Amended by Ord. 4235, 9/3/96)*

b. Oil and gas processing/treatment facilities. *(Amended by Ord. 4235, 9/3/96)*

For the specific regulations listed under 35.154.4B, the terms "new production" or "new oil and gas production" or "new gas production" refer to:

- c. the development of any oil and/or gas after the adoption of these policies which requires new discretionary local, state, or federal permits unless its from an existing well or platform; or
- d. the development of any oil and/or gas which, after the adoption of these policies, requires approval of a new platform, or a new subsea or onshore well completion.

An operator who claims a constitutionally-protected vested right exists within the scope of existing permits to process new production at a facility which is not at a County-designated consolidated site may request the Planning Commission for a determination of exemption to allow processing of that production at the nonconsolidated site. The request must be accompanied by evidentiary support reasonably available at the time of filing. The Planning Commission shall hold a hearing on the request within 60 days of filing. The Planning Commission shall determine the scope of the applicant's existing permits and whether the applicant, by obtaining and relying on such permits prior to the adoption of these policies, has acquired, under California law, a vested right to process new production at a facility other than a County-designated consolidated site.

The Commission may continue the hearing (1) with the consent of the applicant and the County or (2) to permit or require the applicant or the County to submit additional evidence or legal analysis. No more than 90 days total continuance shall be granted unless the parties consent or the Commission finds that additional evidence is needed or a decision cannot feasibly be presented within the allotted time. The Commission shall decide the matter within 30 days after all such evidence and analysis has been submitted.

The applicant shall reimburse the County for all reasonable costs incurred in determining the claim of exemption.

2. Permitted Districts. Processing facilities for offshore oil and gas development are permitted only in the Coastal-Dependent Industry (M-CD) District (if the use requires a site on or adjacent to the sea to be able to function at all) and in the Coastal-Related Industry (M-CR) District, except: *(Amended by Ord. 3947, 11/19/91; Ord. 4235, 9/3/96)*
 - a. Where the property is subject to the Environmentally Sensitive Habitat Area Overlay District (ESH), such facilities shall not be permitted within the area subject to the ESH.
 - b. Where the property is subject to the View Corridor Overlay District (VC), such facilities shall require a Major Conditional Use Permit as provided in Sec. 35-172.
3. Processing. No permits for development including grading shall be issued except in conformance with an approved Final Development Plan, as provided in Sec. 35-174. (Development Plans), and with Sec. 35-169. (Coastal Development Permits).

In addition to the other information required under Sec. 35-174. (Development Plans), the following information must be filed with a Preliminary or Final Development Plan application.

- a. An updated emergency response plan to deal with potential consequences and actions to be taken in the event of hydrocarbon leaks or fires. These emergency response plans shall be approved by the County's Emergency Services Coordinator and Fire Department.
 - b. A phasing plan for the staging of development which includes the estimated timetable for project construction, operation, completion, and abandonment, as well as location and amount of land reserved for future expansion.
- 4A. Findings Required for Approval of Development Plans Outside the South Coast Consolidation Planning Area. *(Added by Ord. 3701).*

In addition to the findings for Development Plans set forth in Sec. 35-174.7 (Development Plans), no Preliminary or Final Development Plan is to be approved

for a project in an area outside the South Coast Consolidation Planning Area unless the Planning Commission also makes all of the following findings:

- a. Consolidation or collocation on or adjacent to an existing processing facility to accommodate the proposed production is not feasible or is more environmentally damaging.
- b. There are no feasible alternative locations for the proposed processing facility that are less environmentally damaging.
- c. Where consolidation or collocation on or adjacent to an existing processing facility is not proposed, for coastal areas east of the City of Santa Barbara, there are no existing processing facilities within three (3) miles of the proposed site.
- d. The proposed facility is compatible with the present and permitted recreational and residential development and the scenic resources of the surrounding area.

4B. Findings Required for Approval of Development Plans for Facilities in the South Coast Consolidation Planning Area. *(Added by Ord. 3701)*

In addition to the findings for Development Plans set forth in Sec. 35-174.7 (Development Plans), no Preliminary or Final Development Plan for processing facilities shall be approved unless the Planning Commission also makes one or more of the following findings:

- a. Existing and approved processing capacity at the County-designated consolidation sites is insufficient to accommodate proposed new production for a period of time that would render development of the proposed offshore reservoir(s) infeasible. This finding shall take into account feasible delays in development of the offshore reservoir(s) to maximize use of existing and approved processing capacity, and feasible expansion of existing processing facilities to provide sufficient capacity.
- b. The specific properties of oil or gas for a particular reservoir - considering available information on the physical and chemical characteristics of the stock, including but not limited to API gravity, sulfur and water content,

viscosity, and pour point - would render development of the resource technically infeasible unless specialized units can be built. Such finding shall consider partial dehydration as a specialized unit if it is required to adapt a resource to the technical requirements of a processing facility. Modifications or additions to existing facilities shall be favored over construction of redundant processing capacity insofar as such modifications or additions render the resource characteristics and the technical processing requirements of a facility compatible with one another.

- c. Commingling the production in existing or already-approved facilities at designated consolidated sites is environmentally unacceptable.

Additionally, no Preliminary or Final Development Plan for expansion or construction of processing facilities shall be approved unless the Planning Commission makes the following findings to restrict industrialization of the area:

- d. The expansion of existing facilities or construction of new facilities are to be located at a County-designated consolidated oil and gas processing site at Gaviota or Las Flores Canyon.
 - e. The proposed facilities will use, to the maximum extent feasible, existing ancillary facilities at the consolidated site.
5. Development Standards. In addition to the regulations of the M-CD District, the following regulations shall apply to onshore processing facilities for offshore oil and gas development:
- a. The level of noise generated by the facility at the property boundary shall not exceed 70 db(A).
 - b. The applicant has received "authority to construct" from the Air Pollution Control District.
 - c. There shall be no visible emission of smoke.
 - d. The installation shall be visually compatible with the potential surroundings by use of any or all of the following measures where applicable: buffer strips, depressions, natural or artificial; screen planting and landscaping continually maintained; camouflage and/or blending colors.

- e. All lights shall be shielded so as not to directly shine on adjacent properties.
- f. Grading and alteration of natural drainages shall be minimized.
- g. Adequate provisions shall be made to prevent erosion and flood damage.
- h. Permanent structures and equipment shall be painted a neutral color so as to blend in with natural surroundings.
- i. Permits for expanding, modifying, or constructing crude-oil processing or related facilities shall be conditioned to require that all oil processed by the facility shall be transported from the facility and the County by pipeline as soon as the shipper's oil-refining center of choice is served by pipeline.

Transportation by a mode other than pipeline may be permitted only:

- (1) within the limits of the permitted capacity of the alternative mode;
and
- (2) when the environmental impacts of the alternative transportation mode are required to be mitigated to the maximum extent feasible;
and
- (3) when the shipper has made a commitment to the use of a pipeline when operational to the shipper's refining center of choice; and
- (4) when the County has determined use of a pipeline is not feasible by making one of the following findings:
 - (a) A pipeline to the shippers' refining center of choice has inadequate capacity or is unavailable within a reasonable period of time;
 - (b) A refinery upset has occurred, which lasts less than two months, precludes the use of a pipeline to that refinery, and requires temporary transportation of oil to an alternative refining center not served by pipeline;
 - (c) The costs of transportation of oil by common carrier pipeline is unreasonable taking into account alternative transportation modes, economic costs, and environmental impacts; or

- (d) An emergency, which may include a national state of emergency, has precluded use of a pipeline.

A permit based on finding (b) or (d) may be granted by the Director of the Planning and Development Department and shall be subject to appeal to the Planning Commission. A permit based on findings (a) and (c) may be granted by the Board of Supervisors. All permits in this section are subject to appeal to the Coastal Commission.

All permits for the use of a non-pipeline mode of transportation may specify the duration for such permitted use. Such permit may be extended upon a showing of good cause based upon a consideration of the findings listed above. A permit based on finding (b) shall be granted for two months only. If refinery upset conditions continue beyond two months and the shipper wishes to continue use of a non-pipeline transportation mode, the shipper must seek a new or modified permit that is based on a consideration of finding (a), (c), or (d). In all cases, the burden of proof as to pipeline unavailability or inadequate capacity, unreasonable tariffs, and the need for and use of other transportation systems shall be on the shipper.

- j. Except in an emergency, no materials, equipment, tools, or pipes used for plant operation shall be delivered to or removed from the plant site through streets within a residential district between the hours of 7 p.m. and 7 a.m. of the next day.
- k. Within the South Coast Consolidation Planning Area, operators and owners of County-designated consolidated facilities and sites shall make their facilities and property available for commingled processing and consolidation of oil and gas facilities on an equitable and nondiscriminatory basis. If existing processing capacity is insufficient to accommodate proposed production and necessary new facilities are not permissible pursuant to the County's consolidation policies, operators of consolidated facilities shall reduce throughput on a pro-rata basis to accommodate other developers. *(Added by Ord. 3701)*

6. Facility and Site abandonment Within the South Coast Consolidation Planning Area:
 - a. The County shall review permits that are approved after August 12, 1985 for new or modified oil and gas facilities when throughput, averaged (arithmetic mean) over any twelve (12) consecutive months, does not exceed 3 percent of the facility's maximum permitted operating capacity. The review shall be conducted in a duly-noticed public hearing to determine if facility abandonment or facility modifications are appropriate. *(Added by Ord. 3701)*

**Sec. 35-155. Onshore Supply Base and Piers and Staging Areas
Necessary or Related to Offshore Oil and Gas
Development.**

(Amended by Ord. 3537, 10/8/85)

1. Applicability: The specific regulations contained within this section shall apply to the onshore portion of supply bases and/or piers and staging areas established for shipping equipment, supplies, and personnel to offshore areas during exploratory, development, or petroleum production operations. For all districts in which piers and staging areas are permitted or conditionally permitted, the district regulations of Division 4 shall be inapplicable to said use.
2. Permitted Districts.
 - a. Supply bases, piers and staging areas are permitted uses in the Coastal-Dependent Industry (M-CD) District (if the use requires a site on or adjacent to the sea in order to function at all) and in Coastal-Related Industry (M-CR) District, except: *(Amended by Ord. 3947, 11/19/91)*
 - 1) Where the property is subject to the Environmentally Sensitive Habitat Area Overlay District (ESH), such facilities shall not be permitted within the area subject to the ESH.
 - 2) Where the proposed facility is subject to the View Corridor Overlay District (VC), such facilities shall require a Conditional Use Permit, as provided in Sec. 35-172.

DIVISION 10.

NONCONFORMING STRUCTURES AND USES

Sec. 35-160. Purpose and Intent.

Within the districts established by this Article, or amendments that may later be adopted, there exists lots, structures, and uses of land and structures, which were lawful prior to the adoption, revision, or amendment of this Article, or previously adopted County ordinances, but which would be prohibited, regulated, or restricted under the terms of this Article or future amendment. It is the intent of this Article to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Article, subject to only very limited exceptions as specified to prevent nonconforming uses and structures from being enlarged, expanded or extended, or being used as grounds for adding other structures or uses prohibited elsewhere in the same district.

(Amended by Ord. 4227, 6/18/96)

Sec. 35-161. Nonconforming Use of Land, Buildings and Structures.

(Amended by Ord. 4067, 8/18/92; Ord. 4227, 6/18/96)

A nonconforming use may be continued subject to the following regulations, so long as such use remains otherwise lawful.

1. **Structural Change.** Except as otherwise provided in this Article, including seismic retrofitting as defined in Sec. 35-58 and in accordance with Sec. 35-169.2.1.m., no existing building or structure devoted to a nonconforming use under this Article shall be enlarged, extended, reconstructed, moved, or structurally altered unless such use is changed to a use permitted in the district in which it is located. No building or structure accessory to a nonconforming use under this Article shall be erected, enlarged, or extended unless such building or structure is also accessory to a conforming use. *(Amended by Ord. 4318, 6/23/98)*

2. Extension or Expansion. A nonconforming use may be extended throughout an existing building provided no structural alterations except those required by law or ordinance (i.e., building code regulations) are made therein. No nonconforming use shall be extended to occupy any land outside such building. No existing nonconforming use of land outside buildings, or involving no buildings, shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the time the use became nonconforming, or moved to any portion of the lot not occupied by such nonconforming use at such time.
3. Change of Use. A nonconforming use may only be changed to a conforming use.
4. Discontinuance. If a nonconforming use is abandoned, any future use shall comply with the provisions of the district in which the use is located. Proof of discontinuation of a nonconforming use for twelve (12) consecutive months shall be prima facie evidence that the nonconforming use has been abandoned.
5. Damage. The purpose of this Section is to identify the standards for allowing the continuation of a nonconforming use in a building, structure, or other development that is damaged or destroyed by fire, flood, earthquake or other natural disaster.
 - a. Non-Residential Uses
 - 1) Where buildings, structures, or other development dedicated to a non-residential nonconforming use are damaged by fire, flood, earthquake, or other natural disaster to an extent of seventy-five (75) percent or more of replacement cost at the time of damage, as determined by the Planning and Development Department, the nonconforming use shall be discontinued and the damaged building, structure, or other development thereafter used in accordance with regulations of the district in which it is located unless the Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship which would be suffered by the owner of the building, structure, or other development should restoration of the nonconforming use be denied.

- 2) Where damage caused by fire, flood, earthquake, or other natural disaster is to an extent of less than seventy-five (75) percent at the time of damage, such building, structure, or other developments may be restored to the same or lesser size and in the same general footprint location, provided however that restoration shall commence within twenty-four (24) months of the time of damage and be diligently carried to completion, and the nonconforming use may be resumed and continued as before, or on a lesser scale, but shall not be enlarged or intensified.
- b. Residential Uses. Where buildings or structures dedicated to nonconforming residential dwelling uses (i.e., single and multi-family units, second residential units, residential uses in the SR-M or SR-H Zone District), except in industrial zones, are damaged or destroyed by fire, flood, earthquake, or other natural disaster, such structures may be reconstructed to the same or lesser size and in the same general footprint location provided that reconstruction shall commence within twenty-four (24) months of the time of damage and be diligently carried to completion. The nonconforming residential dwelling use may be resumed and continued as before, or on a lesser scale, but shall not be enlarged, expanded, or intensified (e.g., increase in gross floor area, increase in the number of bedrooms). If the building or structure dedicated to a nonconforming residential dwelling use is located in an industrial zone the damage standards of Section 35-161.5.a. shall apply.
- c. The restoration or reconstruction of a building, structure, or other development dedicated to a nonconforming use that is damaged or destroyed by fire, flood, earthquake or other natural disaster shall be exempt from the permit requirements of this Article only if the building, structure, or other development complies with the provisions of this Section and if the building, structure, or other development conforms to the specifications documented to exist prior to the damage or destruction as determined by the

Planning and Development Department. If the Planning and Development Department determines that the exterior design or specifications are proposed to be changed or the footprint of the building or structure is relocated, the restored or replaced structure, shall be subject to the provisions of Section 35-184., Board of Architectural Review, if otherwise subject to such review (e.g., the site is within the D-Design Control Overlay District). If the building, structure, or other development is proposed to be altered from the original specifications, as determined by the Planning and Development Department, the restoration or reconstruction shall be subject to all applicable permit requirements of this Article.

6. Limited Exception for Certain Nonconforming Residential Uses. Notwithstanding the foregoing, the County finds that a need exists to conserve, preserve, and rehabilitate certain existing nonconforming residential units despite the fact that such units do not conform to all current terms of this Article. Therefore, existing buildings devoted to a legal nonconforming residential use may be enlarged, extended, reconstructed, moved, and/or structurally altered, subject to the following criteria:
 - a. The site is within a zone district which allows residential use as a permitted use requiring only a Coastal Development Permit.
 - b. On any legal lot, only one existing building devoted to a legal nonconforming residential use may be enlarged, extended, reconstructed, moved, and or structurally altered.
 - c. No enlargements shall result in a total gross floor area devoted to a nonconforming use over 1200 square feet and no enlargements shall be allowed to any building which has a current legal nonconforming residential gross floor area of 1200 or more square feet.
 - d. No new construction, reconstruction, or relocation shall exceed the building height of, or protrude higher than the highest point of, the existing building used for a legal nonconforming residential use.

- e. The building or structure used for a legal nonconforming residential use shall comply with all currently applicable building, electrical, plumbing, fire and mechanical codes, and shall not compromise the adequate performance of any existing water system or liquid waste disposal (septic) system, as determined to the satisfaction of the County Environmental Health Department.
 - f. Any structural enlargement or relocation shall comply with all setback, height, lot coverage, parking, and other requirements of the zone district in which such structure is located.
7. Limited Exception Determinations for Certain Nonconforming Industrial Uses. Notwithstanding the foregoing, the County finds that the need may exist to improve the safety or reduce the environmental effects of certain nonconforming industrial uses by allowing minor changes that could result in minor enlargements, extensions, expansions or structural alterations (e.g., installation of emergency back-up generator for fire protection equipment, modifications to emergency shutdown system) to buildings or structures dedicated to such nonconforming uses, despite the fact that they do not conform to all current provisions of this Article. Therefore, an improvement comprising of minor enlargements, extensions, expansions or structural alterations of a building or structure dedicated to an industrial, public works, or energy-related nonconforming use may be allowed, subject to the following process and findings:
- a. Process
 - 1) No permits shall be issued for development, including grading, unless and until a Limited Exception Determination by the Planning Commission is first granted for the proposed improvement. Where no discretionary permit has previously been issued for the existing nonconforming industrial use, appropriate non-discretionary permits may be issued after a Limited Exception Determination has been granted. Where a discretionary permit has been previously issued, changes to that permit may be made pursuant to the provisions of

this Article and the appropriate non-discretionary permits may be issued after a Limited Exception Determination has been granted. The Limited Exception Determination is appealable to the Board of Supervisors pursuant to Sec. 35-182.3..

2) Unless otherwise specifically waived by the Planning and Development Director, ten (10) copies of the following information shall be submitted:

- a. description of project objectives;
- b. project description, including construction requirements (schedule, equipment, labor, parking), physical changes to existing facilities, and any changes to facility operations or ancillary operations (truck trips, hazardous materials storage, etc.) as a result of the improvement;
- c. map showing contiguous properties, including Assessor Parcel Numbers and property owners' names;
- d. site plan to scale showing all existing and proposed facilities on the site. The new components, modifications to existing equipment, and any components to be removed shall be highlighted;
- e. design specifications for any new components;
- f. estimated expenditures for the improvement, including materials, labor, and equipment;
- g. photographs of the site showing the area where the improvement is proposed;
- h. identification of any increase in utility use or demand as a result of the improvement (water, electricity, natural gas);
- i. written justification and such data, report(s), and documentation that demonstrate and verify the improvement's public health and safety benefit or environmental benefit. In all cases, the burden of proof shall

be on the applicant to provide evidence verifying the public health and safety or environmental benefit.

j. Any other supplemental data or information requested by the Planning and Development Department.

3) The Planning and Development Department shall distribute the material to the appropriate County Departments for a 30-day application completeness review.

4) Upon determination of application completeness, the Planning and Development Department shall conduct an assessment of the public health and safety and/or environmental benefits of the application and shall conduct environmental review. Information from such benefit assessment or the environmental review shall be included for use to support the Planning Commission's action on a Limited Exception Determination.

b. Limited Exception Determination Findings. A Limited Exception Determination for an improvement that results in the minor enlargement, extension, expansion or structural alteration to a building or structure dedicated to an industrial, public works, or energy-related nonconforming use may be granted provided that the following findings are made by the Planning Commission at a noticed public hearing:

1) The improvement has a demonstrable public health and safety, or environmental benefit (e.g., would reduce the risk of a hazardous material spill or reduce air emissions).

2) The improvement does not result in any new un-mitigated significant environmental impacts.

3) The improvement does not result in an increase in the overall intensity of use beyond the existing permitted use (e.g., output/throughput per day) or, for facilities where no permits exist, would not increase the overall intensity of use beyond the current operating limits.

- 4) The improvement does not extend or expand the existing developed industrial site boundary within a parcel.
 - 5) The improvement does not result in an expansion or extension of life of the nonconforming use due to increased capacity of the structure dedicated to the nonconforming use, or from increased access to a resource, or from an opportunity to increase recovery of an existing resource. Any extension in the life of the nonconforming use affected by the improvement results solely from improved operational efficiency and is incidental to the primary purpose of improving public health and safety or providing an environmental benefit.
 - 6) The improvement does not allow for processing of "new production" as defined Section 35-154.
 - 7) If prior Limited Exception Determinations have been made for the same nonconforming use under this section, the successive Limited Exception Determinations cumulatively provide a public health and safety or environmental benefit.
8. **Parking.** If a use is nonconforming with existing parking standards, the building or structure devoted to such use may be altered but the use may not be intensified, extended, or expanded in a manner that would increase the required number of parking spaces pursuant to Division 6, Parking, unless a) the use is brought into conformance with the requirements of Division 6, Parking, or b) a modification to the parking requirements has been approved.

Sec.35-162. Nonconforming Buildings and Structures.

(Amended by Ord. 4227, 6/18/96)

If a building or structure is conforming as to use but nonconforming as to setbacks, height, lot coverage, or other requirements concerning the building or structure, such structure may remain so long as it is otherwise lawful, subject to the following regulations.

1. **Structural Change, Extension, or Expansion.** A nonconforming building or structure may be enlarged, extended, moved, or structurally altered provided that

any such extension, enlargement, etc., complies with the setback, height, lot coverage, and other requirements of this Article. Seismic retrofits, as defined in Section 35-58 and pursuant to Section 35.169.2.1.m., are permitted throughout the conforming and nonconforming portions of the structure or building. No living quarters may be extended into an accessory building located in the required front, side, or rear yards by such addition or enlargement. *(Amended by Ord. 4318, 6/23/98)*

2. Damage. The purpose of this section is to identify the standards for allowing the restoration or reconstruction of a nonconforming structure that is damaged by fire, flood, earthquake or other natural disaster.
 - a. Except for single family residential buildings or structures, where a nonconforming building or structure is damaged by fire, flood, earthquake, or other natural disaster to an extent of seventy-five (75) percent or more of the replacement cost at the time of damage, as determined by the Planning and Development Department, such structure may not be reconstructed unless the Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship which would be suffered by the owner of the structure should reconstruction of the nonconforming structure be denied.
 - b. Where damage to a nonconforming, non-single family residential building or structure is to an extent of less than seventy-five (75) percent of the replacement cost at the time of damage, as determined by the Planning and Development Department, such structure may be restored to the same or lesser size in the same general footprint location.
 - c. If a nonconforming single family residential building or structure is damaged or destroyed by fire, flood, earthquake, or other natural disaster, such building or structure may be reconstructed to the same or lesser size in the same general footprint location.
 - d. Notwithstanding the above, additional provisions, identified in Section 35-214 of Division 15 (Montecito Community Plan Overlay District), exist for

parcels identified within the MON Overlay zone which, in the case of conflict, shall take precedence over this Section.

- e. The restoration permitted above shall commence within twenty-four (24) months of the time of damage and be diligently carried to completion. If the restoration of such building or structure does not commence within twenty-four (24) months it shall not be restored except in conformity with the applicable zone district regulations and other provisions of this Article.
- f. The restoration of a nonconforming building or structure that is damaged by fire, flood, earthquake or other natural disaster shall be exempt from the permit requirements of this Article only if the building or structure complies with the provisions of this Section and if the building or structure conforms to the specifications documented to exist prior to the damage as determined by the Planning and Development Department. If the Planning and Development Department determines that the exterior design or specifications are proposed to be changed or the footprint of the building or structure is relocated, the restored structure shall be subject to the provisions of Section 35-184., Board of Architectural Review., if otherwise subject to such review (e.g., the site is within the D-Design Control Overlay District). If the building or structure is proposed to be altered from the original specifications, the restoration shall be subject to all applicable permit requirements of this Article. *(Amended by Ord. 4318, 6/23/98)*

Sec. 35-163. Construction in Progress.

(Amended by Ord. 4227, 6/18/96)

To avoid undue hardship, nothing in this DIVISION shall be deemed to require a change in the plans, construction or designated use of any building or structure on which actual construction was lawfully begun prior to the effective date of adoption or any amendment of this Article rendering the building or structure or its use nonconforming and upon which actual construction has been carried out diligently. Actual construction is hereby defined as the placing of construction material in permanent position and fastened in a permanent manner.

Sec. 35-164. Termination of Nonconforming Uses.

In addition to the provisions for termination of certain nonconforming uses contained elsewhere in this Division, any nonconforming use or uses of either land or buildings or both may be ordered terminated by the Board of Supervisors after a public hearing as provided hereafter in Sec. 35-166., if one or more of the three following conditions is found to apply to any such nonconforming use or uses.

1. That the condition of the improvements, if any, on the property are such that to require the property to be used only for those uses permitted in the zone where it is located would not impair the constitutional rights of any person; or
2. That the nature of the improvements are such that they can be altered so as to be used in conformity with the uses permitted in the zone in which such property is located without impairing the constitutional rights of any person; or
3. Except in the case of a dedicated cemetery, that the nonconforming use is so exercised as to be detrimental to the public health or safety, or so as to be a nuisance.

Sec. 35-165. Unpermitted Expansion of Nonconforming Uses.

After a public hearing, as provided hereinafter under Sec. 35-166. any expansion of or change in a nonconforming use of buildings or land, or both, not expressly permitted under and strictly in accordance with the terms of this Article and especially this Division, nor required by law, may be ordered terminated by the Board of Supervisors.

Sec. 35-166. Termination Procedure.

1. All nonconforming uses to be terminated under the provisions of this Division may be ordered terminated by the Board of Supervisors upon following the procedure prescribed in this Section. Any disobedience of an order of termination of the Board of Supervisors made pursuant hereto, as well as any continuance of any nonconforming use beyond the express period of time prescribed in this Section shall be deemed a violation of the terms of this Article. Upon recommendation of the Planning Commission, or upon petition by a person or persons affected by a nonconforming use of buildings or land or both, or on its own initiative, the Board

- of Supervisors may set a date for, and call a public hearing to determine whether or not a nonconforming use of land or buildings or both, or an unpermitted expansion of or change in such use should not be ordered terminated. Fifteen (15) days notice of such hearing shall be given by publication once in a newspaper of general circulation in the County of Santa Barbara or in the area where the affected property is located, and by service upon the owner or owners of the land and upon the person operating or maintaining such nonconforming use, if not the owner. Service of such notice shall be either personal or by mail addressed to the last known address of the person to be served. Said notice shall specify the date, time and place of said hearing and shall specify the grounds on which said nonconforming use or changes or expansion thereof is sought to be terminated.
2. All hearings held under this Section by the Board of Supervisors shall be open to the general public, be presided over by the Chairman, vice chairman or acting chairman of the Board of Supervisors, and the proceedings shall be reported by a phonographic reporter. The owner or owners, the party or parties maintaining the nonconforming use, the Board of Supervisors and all other interested persons may be represented by attorneys of their own choosing, may submit written and oral evidence provided that oral evidence shall be taken only on oath or affirmation, may call and examine witnesses, introduce exhibits, cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called him to testify and to rebut the evidence against him. If the person or persons maintaining the said nonconforming use do not testify in their own behalf, they may be called and examined as if under cross-examination.
 3. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts. Hearsay evidence may be used for the purpose of supplementing or

explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions and irrelevant and unduly repetitious evidence shall be excluded.

4. The Board of Supervisors shall render its decision in writing, containing findings of fact, within 30 days after the date on which the public hearing was completed and closed. It shall deliver copies by mail or personally to the parties concerned in said hearing. Failure to so render such decision within said 30 days or any extension thereof stipulated to by the parties shall be deemed to permit the continuance of said nonconforming use or said expansion thereof or change thereto, which was the subject of said hearing. The said decision shall, if it ordered said nonconforming use, or change thereto or expansion thereof terminated, specify such time within which the person so maintaining such nonconforming use or change thereto or expansion thereof, shall so terminate as the Board of Supervisors deems reasonable and proper under the circumstances.
5. Hearings may be continued from time to time by the Board of Supervisors.
6. Judicial review of any order of the Board of Supervisors made hereunder may be had by filing a petition for a writ of mandate in accordance with the provisions of the California Code of Civil Procedure.

Sec. 35-167. Reserved For Future Use.

Sec. 35-168. Reserved For Future Use.

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