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STAFF REPORT
COASTAL DEVELOPMENT PERMIT APPLICATION

Permit Number: **E-08-012**

Applicant: **Chevron**

Project Location: Former Guadalupe Oil Field, San Luis Obispo County (Exhibit 1).

Project Description: Construct 5,060 feet of wire fencing with three gates to keep cattle from entering the property, and remove 90 feet of existing fencing.

Substantive File Documents: Appendix A

EXECUTIVE SUMMARY

In this application, Chevron proposes to construct a 5,060-foot long segment of a perimeter fence and remove 90 feet of existing fencing at the former Guadalupe Oil Field in San Luis Obispo County. The new fence is required by Condition 106 of Chevron's County-issued Coastal Development Permit/Development Plan ("CDP/DP") D890558D. CDP/DP D890558D covers activities to remediate a large site-wide oil spill and restore habitat. Condition 106 requires implementation of a fencing plan to prohibit the passage of domestic livestock (cattle from neighboring ranches) around and into the site's ESHA, particularly the natural wetland ponds and wetland restoration sites.

To meet the requirement of Condition 106, Chevron proposes to build a 4.72-mile long, four-foot high, four-strand barbed wire perimeter fence around the site's southern and eastern boundaries. Of the total 4.72 miles of fence, approximately 5,060 feet would be located within the Coastal Commission's original permit jurisdiction and is the subject of this permit application.

The entire site is designated ESHA in the County's LCP. The site includes the mouth of the Santa Maria River and wetland ponds A, B and C. Although Chevron designed the fence and its location to minimize impacts to wetlands, ESHA and wildlife, construction of the fence will unavoidably cause temporary and minor impacts to about .23 acres of jurisdictional wetlands and ESHA. All work will be done manually with hand tools. The fencing project will provide long-term habitat preservation benefits by preventing cattle from accessing the site and damaging those habitat areas.

On November 7, 2008, the County approved Minor Use Permit DRC2007-00103 for the fencing project. That permit includes a number of mitigation measures to avoid or minimize impacts to wetlands, ESHA, cultural resources, public views, and public access (Exhibit 3). Special Condition 1 of this permit incorporates all conditions of the Minor Use Permit. Special Condition 2 of this permit requires the Executive Director's approval of the design and location of two beachfront fence signs informing the public of the private and public land boundary and the public's right to traverse the beach. With implementation of these mitigation measures and conditions, Commission staff believes the project will be carried out consistent with the wetland, ESHA, cultural, visual and public access protection policies of the Coastal Act.

The Commission staff recommends **approval** of CDP application E-08-012, as conditioned.

1.0 RECOMMENDATION OF APPROVAL

Staff recommends approval of the permit application, subject to Standard and Special Conditions.

Motion:

I move that the Commission approve the Coastal Development Permit E-08-012 pursuant to the staff recommendation.

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the amendment and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves coastal development permit application E-08-012 on the ground that the development as amended will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

2.0 STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** This permit is not valid until a copy of the permit is signed by the Permittee or authorized agent, acknowledging receipt of the permit and the acceptance of the terms and conditions, and is returned to the Commission office.

2. **Expiration.** Construction activities for the proposed project must be initiated within two years of issuance of this permit. This permit will expire two years from the date on which the Commission approved the proposed project if development has not begun. Construction of the development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made at least six months prior to the expiration date.

3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission (hereinafter, "Executive Director") or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided the assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

3.0 SPECIAL CONDITIONS

1. **Conditions of Approval.** This permit incorporates all Conditions of Approval of Minor Use Permit DRC2007-00103 (Exhibit 3).

2. **Public Access Signs.** Prior to construction of Segment 1 of the fence, Chevron shall submit to the Coastal Commission's Executive Director for review and approval final design of the beachfront fence signs (including size, color, and wording) and sign locations.

4.0 FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

4.1 Project Location

The former Guadalupe Oil Field site (now called the Guadalupe Restoration Project site) is located on the central coast of California approximately 15 miles south of the City of San Luis Obispo (Exhibit 1). It occupies over 2,800 acres of the larger Guadalupe–Nipomo Dunes Complex. Most of the site is within San Luis Obispo County, though a small portion extends into Santa Barbara County along the southern boundary. The site is bounded on the south by the Santa Maria River and estuary/lagoon system, on the west by the Pacific Ocean, on the north by Nature Conservancy-managed sand dunes, and to the east by agricultural land. The majority of the site consists of sand dunes ranging up to approximately 160 feet in elevation, while the western edge of the site is a relatively flat beach.

The majority of the former Guadalupe Oil Field is located within San Luis Obispo County's certified local coastal program ("LCP") jurisdiction. However, portions of the site that border the oceanfront and Santa Maria riverbank are within the Coastal Commission's original coastal permit jurisdiction.

4.2 Guadalupe Oil Field Restoration Site Background

The production of oil and gas was the principal land use at the former Guadalupe Oil Field from 1946 to March 1994. Unocal first acquired a 49 percent oil interest in the Guadalupe Oil Field in 1951. By March 1953, the field produced up to 2,000 barrels per day from 34 wells. In June 1953, Unocal purchased the remaining 51 percent oil lease interest. By 1988, the field contained 215 potential producing wells and produced 3,500 barrels per day. In April 1994, oil production operations ceased.

In the 1950s, Unocal had introduced a refined petroleum hydrocarbon known as "diluent" (a kerosene-like additive used to thin oil) to assist in the recovery and transportation of heavy crude oil. Unocal transported the diluent to the site by pipeline and truck and distributed it throughout the field by a system of storage tanks and pipelines. Over the years, diluent released from the pipelines and storage tanks and is now present in ground water and soil at the site.

In January 1988, surfers discovered petroleum hydrocarbons on the beach and in the ocean offshore of the oil field. In January 1990, California Department of Fish and Game ("CDFG") staff discovered diluent surfacing in sand in front of the oil field's 5X well pad. The Central Coast Regional Water Quality Control Board ("RWQCB") immediately ordered Unocal to investigate the source of the diluent spill.

In March 1990, Unocal installed a subsurface bentonite slurry wall in front of the 5X well area to stop diluent from reaching the ocean. The CDFG and RWQCB also discovered diluent surfacing at a site called C-12 that is adjacent to the river estuary. In December 1991, Unocal installed a subsurface high-density polyethylene ("HDPE") wall at the C-12 site to prevent migration of the diluent into the river. Because diluent continued to surface on the beach, in 1993 the RWQCB ordered a site-wide investigation of petroleum-hydrocarbon contamination in the soil and ground water. The CDFG investigation also led to the filing of criminal charges against Unocal and six of its employees. The defendants pleaded "no contest" to the criminal charges, were placed on three years probation, and fined $1.3 million. By 1996, Unocal's site-wide investigation discovered over 90 diluent plumes and 150 sumps (i.e., areas of concentrated and contaminated wastes consisting of drilling mud, heavy metals, and variety of petroleum products). No one knows how many gallons of petroleum hydrocarbons spilled onto soil and ground water, but estimates range from 8.5 and 20 million gallons.

The contamination consists of both "separate-phase" (i.e., free product) and "dissolved-phase" diluent. Since diluent is lighter than water and has a low solubility, most of the diluent spilled to the shallow dune aquifer remains as separate-phase and floats on top of the water. Separate-phase diluent is also present in the soil column above the groundwater. Some of the diluent dissolves into the groundwater (i.e., dissolved-phase) and moves downstream with the ground water flow, generally from east to west. This has resulted in ground water contamination beneath much of the site with a flux toward the ocean and Santa Maria River. In several areas, Unocal discovered contaminated groundwater entering surface water bodies.

During the winter storm seasons of 1994 and 1995, there continued to be marine and river releases of diluent at the oil field. Both the U.S. Coast Guard and CDFG directed Unocal to undertake immediate emergency actions to prevent the continued release of petroleum into surface waters. Coastal Commission staff issued multiple emergency permits authorizing the excavation of contaminated sand at a beach site called 5X, installation of HDPE and sheet pile wall barriers, sump removal, and the placement of up to 160 sand-filled geobags along the upper edge of the Santa Maria river bank (to prevent the river's migration into areas of known diluent plumes).

In March 1996, Unocal submitted to the RWQCB and San Luis Obispo County a Remedial Action Plan. The County used the Remedial Action Plan to prepare an environmental impact report ("EIR") under the California Environmental Quality Act ("CEQA") for overall site cleanup and abandonment of the oil field.

In April 1998, the RWQCB issued Cleanup or Abatement Order ("CAO") 98-38 requiring Unocal to remediate the Guadalupe Oil Field. The RWQCB took a phased approach to site cleanup, proceeding first with cleanup up of the most critical plumes (those known to be introducing petroleum hydrocarbons into surface waters) while continuing with investigations into the total extent of site contamination.

In December 1998, San Luis Obispo County approved Coastal Development Permit/Development Plan ("CDP/DP") D890558D to remediate and restore those high-priority sites required by CAO 98-38. In November 1999, the Coastal Commission approved CDP E-99-009 for the remediation activities located within the Commission's original permit jurisdiction (i.e., those plumes and sumps located on the beach and along the Santa Maria riverbank). Activities within the Commission's jurisdiction included removal of 2.29 miles of pipeline, excavating the 5X, A2A North, and A5A diluent plumes, and removing access roads, well pads and six sumps. Within the Commission's permit jurisdiction, Unocal has completed excavation of the diluent plumes and sumps required by CAO-98-38 and as authorized by CDP E-99-009.

4.3 Project Description

In this application, Chevron proposes to construct a 5,060-foot long segment of a perimeter fence at the former Guadalupe Oil Field. The purpose of the fence is to prevent cattle from neighboring ranches from entering the site. The fence is required by Condition 106 of Chevron's County-issued CDP/DP D890558D. Condition 106 requires:

> *Prior to the issuance of a construction permit for Stage 2, Unocal shall submit to the County Department of Planning and Building and the Executive Director of the Coastal Commission for review and approval a fencing plan that will effectively prohibit the passage of domestic livestock around and into wetland ponds A, B, and C and other wetlands identified in the jurisdictional wetland determination. The fencing shall be installed at the end of each stage of remediation and abandonment activities in each wetland area.*

Historically, cattle migrate onto the site from neighboring properties to the south and east. Chevron has attempted to manage grazing pressure by contacting the ranchers to remove cattle when observed on site, but this approach has not been successful. At one point a neighboring rancher installed a fence near the estuary and southwestern portion of the site that was effective when water backed up in the estuary. When water levels dropped, however, cattle walked around the fence. That rancher has rejected offers by Chevron to purchase the land surrounding for former oil field.

The former Guadalupe Oil Field site is designated in the County's LCP as environmentally sensitive habitat ("ESHA"). The site borders the mouth of the Santa Maria River and includes wetland ponds A, B and C. In addition, following excavations of contaminated material, Chevron is converting certain upland areas to wetland habitat as part of Chevron's approved restoration plans and mitigation requirements. Cattle grazing on the site can adversely affect ESHA and wetlands, and interfere with Chevron's site restoration efforts. Cattle trample and compact soils and generally cause physical disturbance, especially in wet areas, steep areas, and areas with unstable substrate like sand. Grazing can result in changes to vegetation community composition and favor annual exotics over native perennial vegetation. Grazing contributes to a low turf-like growth form of herbaceous vegetation and alters the growth of woody species. Cattle may also spread invasive species into wetland habitats. Habitats disturbed by cattle grazing provide little food and cover for wildlife species. Further, cow waste material results in the addition of nutrients and a reduction in water quality.

To meet the requirement of Condition 106, Chevron proposes to install a 4.72 mile long, four-foot high, four-strand barbed wire perimeter fence around the site's southern and eastern boundaries. Of the total 4.72 miles of fence, approximately 5,060 feet would be located within the Coastal Commission's original coastal permit jurisdiction and is the subject of this permit application. The fencing project is designed to eliminate grazing activities from the entire project site, including the natural and intact wetlands, as well as wetland restoration sites.

The proposed fencing alignment is divided in to nine segments. All of Segment 1 and a significant portion of Segment 2 are proposed within the Coastal Commission's permit jurisdiction. The project also includes installing three new fence gates and removing 90 feet of existing fence within the area of the Coastal Commission's permit jurisdiction. Exhibit 2 shows the proposed alignment of the fence within the Coastal Commission's permit jurisdiction.

The fence would be four-strand wire on t-posts at 10-foot centers. The t-posts would be set at a maximum height of five feet; the top strand of wire would be 48-inches high. The top three strands would be barbed wire and the bottom strand would be smooth strand wire to facilitate wildlife passage under the fence. Support posts (2 3/8-inch diameter galvanized or wooden support posts) anchored with concrete mix would be installed every 100 feet at a minimum at the top and bottom of slopes and at horizontal transitions. Nixalite© or equivalent bird barrier spikes would be placed on all posts in snowy plover habitat to deter predatory birds from perching. Gates would be constructed using two support posts or a support post and anchor point post all anchored with concrete. The gates would be constructed of barbed wire with a two-inch to three-inch treated round tree stake or wire stay located vertically in the middle to prevent tangling and a two-inch to three-inch treated round tree stake or galvanized pipe on the moving edge(s) of the gates.

The proposed alignment of the fence would use existing roads and Off Road Vehicle (ORV) trails to the maximum extent feasible. Wooden and/or steel support posts would need to be anchored (i.e., cemented) at a minimum of every 100 feet and at the base of the slopes to ensure the integrity of the fence. Depending on the presence of sensitive plants (e.g., La Graciosa Thistle), minor alignment adjustments may need to be made in the field to avoid these resources.

Fence installation would require one or more trucks, ORVs, and/or trailers to carry materials, tools and equipment. Chevron will transport fence materials using ORVs to the nearest access road where they will be offloaded and carried to the installation sites on foot and installed using hand tools.

The County and Coastal Commission's independent Onsite Environmental Coordinator (OEC), required by CDP/DP D890558D and CDP E-99-009, will be present on site for fence installation activities. The role of the OEC, in part, is to ensure the project is carried out as proposed and in compliance with County and Coastal Commission conditions of approval.

4.4 Other Agency Approvals

County of San Luis Obispo: On November 7, 2008, the County of San Luis Obispo adopted a Mitigated Negative Declaration and approved Minor Use Permit DRC2007-00103 for the proposed fencing project.

Army Corps of Engineers: On March 7, 2008, the Corps issued authorization letter 975026100-BAH under Nationwide Permits ("NWP") 7, 27, 33 and 38 that includes authorization for the fencing project.

California Department of Fish and Game ("CDFG"): The CDFG issued Incidental Take Permit No. 2081-1999-018-3, as amended February 7, 2008.

5.0 COASTAL ACT ISSUES

5.1 Wetlands

Coastal Act Section 30233(a) states:

> *The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*
>
> *(l) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
>
> *(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
>
> *(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*

(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(6) Restoration purposes.

(7) Nature study, aquaculture, or similar resource dependent activities.

Of the total length of fence proposed within the Coastal Commission's permit jurisdiction (5,060 feet), 3,105.7 feet would be located in an area designated as State of California jurisdictional wetlands. The work includes placement of fence posts within wetlands. Fence posts are "fill" as that term is defined in the Coastal Act.[1] Building the fence would impact 0.14 acres of state-designated wetlands (this assumes a two-foot wide fence installation corridor) due to (a) minor trimming of willows along the fence corridor near the Santa Maria River floodplain and dune swales; (b) possible limited occurrences of ORVs driving over herbaceous wetland vegetation; and (c) digging holes for support posts. These effects would be primarily temporary (e.g., trampling of vegetation and willow trimming). About 67 square feet, or .00154 acres of the 0.14 acre impact area, would be permanent due to installation of fence posts every 100 feet.

Section 30233(a) of the Coastal Act imposes a three-part test: (1) the development must fall within one of seven allowable categories of use; (2) there must be no feasible less environmentally damaging alternative to such development; and (3) the development's effects must be mitigated to the maximum extent feasible. As shown below, the project would be consistent with the requirements of this three-part test:

1. Allowable Use: The proposed fence is a component of the overall Guadalupe Oil Field Restoration Project and is required by a condition of Chevron's County-issued CDP/DP for the remediation and restoration of the 2,800 site. As described above, the fence is proposed to prohibit the passage of domestic livestock around and into wetland and site restoration areas. The Commission therefore finds the proposed project serves a "restoration purpose" and therefore is an allowable use and meets the first test of Coastal Act Section 30233(a).

2. No Feasible Less Environmentally Damaging Alternative*:* The second test of Coastal Act Section 30233(a) allows for the placement of fill in wetlands if there is no feasible less environmentally damaging alternative to the development. Unocal, the former landowner, pursued a number of alternatives to installing a perimeter fence to keep out cattle. These included:

- Unocal repeatedly called the neighboring rancher to remove cattle that were found to be grazing on the former oil field site. The rancher did not consistently respond to calls to remove the cattle and this effort was not effective.

[1] Coastal Act Section 30108.2 states, ""Fill" means earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area."

- Unocal made offers to purchase the land adjacent to the southern boundary of the former oil field site. The landowner rejected these offers.
- Unocal offered that same landowner property exchanges, but the offer was rejected.
- Unocal offered to provide grazing land inland, but the landowner was not interested.
- Unocal considered hiring a cowboy to patrol the boundaries of the site, but the trampling of a horse riding through the site could cause significant and ongoing adverse ESHA effects.
- Unocal constructed a fence across a road near the estuary in the southeastern part of the site. The cattle, however, were able to walk around the fence. Additionally, the neighboring landowner installed another fence in the same area, which was effective at keeping out cattle during high water levels in the estuary. However, when estuary water levels dropped, cattle walked around the fence.

Chevron, the new former oil field property owner, also considered a number of fencing alternatives, including:

- Installing fencing around individual wetlands as an alternative to a perimeter fence. Over 20 individual wetlands would have to be fenced, which would require building 10 miles of fencing as compared with 4.7 miles for the proposed perimeter fence. Fencing at these locations would result in construction activities closer to sensitive and previously undisturbed resources, and would have more significant habitat effects as compared to the proposed alignment of the perimeter fence.
- Installing fencing along the southern and eastern property line. Chevron concluded this option was infeasible because the property line goes through the Santa Maria River, estuary and other physical barriers. This alternative would require more fencing in wetlands - an additional 0.4 miles - as compared to the proposed project, and require new ORV access trails in wetlands that are not required by the proposed fencing alignment. The proposed alignment avoids the river and estuary and was designed to use existing roads and ORV trails as much as possible to minimize affects to jurisdictional wetlands and ESHA.

The Commission agrees that the project alternatives available to Chevron are either infeasible or would cause more environmental impacts as compared to the proposed project. The Commission therefore finds the project consistent with the second test of Coastal Act Section 30233(a).

3. Mitigated to the Maximum Extent Feasible: The final test of Coastal Act Section 30233(a) requires that the development be mitigated to the maximum extent feasible. **Special Condition 1** of this permit incorporates all conditions of approval of County-approved Minor Use Permit DRC2007-00103 for the fencing project. Where applicable, the County permit incorporates the same comprehensive resource protection conditions of CDP/DP D890558D and CDP E-99-009 (Exhibit 3.) They include:

- Prior to any fence installation (including surveys), Chevron shall give the fencing contractor ecological training regarding the site's sensitive species (description of species potentially at work site, habitat details, protective measures and permit condition

requirements), role of the independent Onsite Environmental Coordinator, and biological monitors.

- Within 30 days[2] of project commencement, a botanist approved by the County and the Executive Director of the Coastal Commission shall conduct a pre-disturbance survey to identify and mark with flags within the construction footprint all individual federal and state listed special status plant species. All identified plants will be avoided.
- During construction, a USFWS-approved red-legged frog biologist shall be present for fence installation that occurs within or in the vicinity (500 feet) of suitable red-legged frog habitat, or as otherwise determined by the USFWS or the Onsite Environmental Coordinator. No individuals, except for biological monitors, shall handle or approach any sensitive species. If federally or state listed species, such as the California red-legged frog , are found in the work area, work shall stop until the individual moves on or is relocated in accordance with the USFWS *Biological and Conference Opinion for the Site-Wide Guadalupe Oil Field Remediation and Restoration Project (1-8-03-FC-57).*
- No fence installation activities shall occur within 200 feet of suitable California red-legged frog breeding habitat from January 1 to September 15, or as determined by the USFWS and the Onsite Environmental Coordinator.
- During fence construction, Chevron shall conduct nighttime California red-legged frog surveys bi-weekly, or as determined by the USFWS and the Onsite Environmental Coordinator, in the vicinity (500 feet) of red-legged frog habitat to ensure that red-legged frogs are not entering the work area.
- Installation of the fence within the nesting habitat for western snowy plover (foredunes and active dunes) shall occur outside of the nesting season from March 1 to September 15, or as determined by the USFWS and the Onsite Environmental Coordinator.
- For the segment of fence located within western snowy plover habitat, the upper strand of the fence shall be smooth wire to minimize attractiveness to Loggerhead Shrikes, a known predator. Nixalite©, or equivalent bird barrier spikes, shall be placed on all posts to deter predatory birds from perching in western snowy plover habitat.
- Any captured, non-listed wildlife shall be relocated to suitable habitat outside of the construction zone. The size, age-class, location of capture, and relocation site shall be recorded for each individual relocated from the site.

As noted elsewhere in these Findings, Chevron has included in the project, or the County has required, a number of additional mitigation measures to avoid or reduce impacts to ESHA, cultural resources and public access. With implementation of these measures and Special Conditions, the Commission finds the project will be mitigated to the maximum extent feasible and that it satisfies the third test of Coastal Act Section 30233(a).

For the reasons described above, the Commission finds the project consistent with Coastal Act Section 30233(a).

[2] By e-mail dated November 14, 2008, Chevron clarified that all pre-disturbance surveys required by Minor Use Permit DRC2007-00103 will be performed within 30 days prior to project commencement.

5.2 Environmentally Sensitive Habitat Areas ("ESHA")

Coastal Act Section 30240(a) states:

> *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

The entire site is designated in the County's LCP as ESHA. It is comprised of native dune complex habitats that include open foredunes and backdunes (coastal dune scrub, open sand). The site also supports numerous sensitive plant and wildlife species, including federal and state listed species.

The foredunes complex includes the beach, dune strand, and foredune communities. Beach and dune strand habitat includes the coastal strand immediately adjacent to the ocean (unstable sand and low vegetation). It is subject to harsh wind conditions, low-nutrient soils and moving abrasive sand. Foredunes intergrade from the coastal strand and share many of the harsh conditions except the habitat is composed of well-established foredunes or dune hummocks that are perpendicular to the ocean and support low-growing vegetation. Foredune communities extend inland from the beach between 500 and 1,500 feet and gradually transition into coastal dune scrub. Because of the harsh environmental conditions at the site, the foredune communities have low species diversity and patchy, hummocky distribution. However, the foredunes are the principal habitat of several sensitive plant species (described below). The foredunes in the vicinity of the proposed fence alignment were recently disturbed as part of the site-wide remediation project and are currently being restored.

Four federally listed wildlife species and one federally listed plant are to occur within the vicinity of the proposed fence alignment: California red legged frog, western snowy plover, California least tern, California brown pelican, and La Graciosa thistle. In addition, two state listed plant species, beach spectacle-pod and surf thistle occur in the transition area between foredune and backdunes.

Of the total length of fence within the Coastal Commission's permit jurisdiction, 1954.3 feet would be sited in non-wetland ESHA. Approximately 0.09 acres of ESHA (primarily coastal dune scrub) would be disturbed temporarily by fence installation activities.

As described in Section 5.1 of this report, the County is requiring in Minor Use Permit DRC2007-00103 a number of mitigation measures to prevent or minimize impacts to wetland habitat and ESHA (see also Exhibit 3). **Special Condition** 1 of this permit incorporates all conditions of the County permit. Where vegetation is trampled or trimmed, passive recovery of the plant communities is expected to occur within 1-5 years. The independent Onsite Environmental Coordinator will monitor affected areas annually and results will be reported to the agencies in Chevron's Ecological Monitoring Reports. Where similar habitat disturbance has occurred on site due to remediation and restoration efforts, the habitat has recovered within as little as two years. Chevron also designed the fence so that wildlife can freely pass under the bottom strand of wire.

The construction footprint is small, and with implementation of the above-described measures, the Commission believes ESHA impacts will be minor and temporary and protect "against any

significant disruption of habitat values" as required by Coastal Act Section 30240(a). Since the purpose of the fence is to protect ESHA by eliminating cattle grazing, in this case the fence serves as a "use dependent on the resource." For these reasons, the Commission finds the project consistent with Coastal Act Section 30240(a).

5.3 Public Access

Coastal Act Section 30210 states:

> *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners and natural resource areas from overuse.*

Coastal Act Section 30211 states:

> *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

The segment of the fence within the Coastal Commission's jurisdiction would be located in an area bounded on the south by the Rancho Guadalupe County Park. The closest recreational access to the beach west of the former Guadalupe Oil Field is provided by two entrances to the Dunes Complex. One entrance is located at the Rancho Guadalupe County Park in Northern Santa Barbara County, immediately south of the Santa Maria River, and the other entrance is four miles north of the Guadalupe Field at the Oso Flaco Lake Natural Area in San Luis Obispo County. The public uses the beach west of the site, but presently there is no coastal public access allowed through the field. There is a horizontal access easement, however, landward of the mean high tide line. (See Exhibit 2.) The beginning of the fence (Segment 1) starts approximately 250 feet east (landward) of the men high tide line. Lateral public access occurs along the shoreline and is permitted along the western boundary of the overall site. The fence would not impede lateral public access in any manner.

Condition 30 of Chevron's Minor Use Permit DRC2007-00103 for the fence requires Chevron immediately upon completion of Segment 1 of the fence to "post signage at the westernmost terminus of the southern boundary segment of the fence to explain that trespassing onto the project site is not allowed, but the fence is not intended to impede public access along the easement below the mean high tide line." Chevron proposes to place two off-white colored signs on the fence, each 18" by 24". **Special Condition 2** of this permit requires Chevron, prior to construction of Segment 1 of the fence, to submit to the Coastal Commission's Executive Director for review and approval final sign design (including size, color, and wording) and sign location.

The Commission finds that the development, as conditioned, will not interfere with the public's access to and recreational use of the beach and therefore is consistent with Coastal Act Sections 30210 and 30211.

5.4 Scenic and Visual Qualities

Coastal Act Section 30251 states:

> *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Fence Segments 1 and 2 could be visible from the surrounding properties and beach. However, the fence (a four-foot high, four-strand barbed wire fence on t-posts) should easily blend in with the surrounding vegetation. Additionally, Chevron proposes to place the westernmost portion of the fence within a dune swale to minimize its visibility. Cattle fences are consistent with the general rural character of the area, as they readily appear in most parcels to control cattle or to denote property boundaries. Thus, the fence will not introduce any new visual feature to the landscape and change the visual character of the area. The Commission therefore finds the scenic and visual quality of this coastal area will be protected and that the project is consistent with Coastal Act Section 30251.

5.5 Cultural Resources

Coastal Act Section 30244 states:

> *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

The Native American group, Purismeno Chumash, resided at and near the former oil field site at the time of European contact. Previous archeological investigations have surveyed 100 percent of the site, including the proposed fencing area. Archaeologists identified and recorded ten prehistoric archeological sites within the overall 2800 acre site. Of these, site CA-SLO-852 (approximately 200 x 100 feet) is located within the overall proposed fencing project area, but outside of the Commission's permit jurisdiction. CA-SLO-852 contains low-density shellfish remains and local Monterey chertflakes, and may represent collection/processing locations or temporary campsites. A 100 meter buffer zone is established around the site to demarcate an area of cultural sensitivity. No other historic resources are known to be located in the project area.

Although no archaeological or historical resources are known to exist within the project area in the Commission's jurisdiction, Chevron will implement the following measures:

- Prior to conducting any field work, the fencing contractor shall receive the ecological training for archaeological resources.
- In the event potentially significant archaeological materials are identified during project activities, work shall be immediately redirected and a Phase 2 archaeological assessment of the find shall be funded by Chevron.
- If the County determines that the materials are significant under CEQA Appendix K criteria, Chevron shall fund a Phase 3 data recovery mitigation program to collect a representative sample of the materials that would be lost.
- All investigations shall be performed by a County-qualified archeologist and local Native American representative.

With implementation of these measures, the Commission finds that "reasonable mitigation measures" will be provided if any archaeological resources are discovered during installation of the fence. The Commission therefore finds the project consistent with Coastal Act Section 30244.

6.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of the CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. Mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to the CEQA.

Appendix A – Substantive File Documents

Chevron's CDP Application E-08-012.

Mitigated Negative Declaration adopted by San Luis Obispo County, November 7, 2008.

Chevron Minor Use Permit DRC2007-00103, approved by San Luis Obispo County, November 7, 2008.

E-mail from Kim Tulledge, Chevron, to Alison Dettmer, Coastal Commission, October 28, 2008.

E-mail from John Peirson, consultant to San Luis Obispo County, to Alison Dettmer, Coastal Commission, November 10, 2008.

E-mail from Kim Tulledge, Chevron, to Alison Dettmer, Coastal Commission, November 14, 2008.

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EXHIBIT NO. 1
APPLICATION NO.
E-08-012

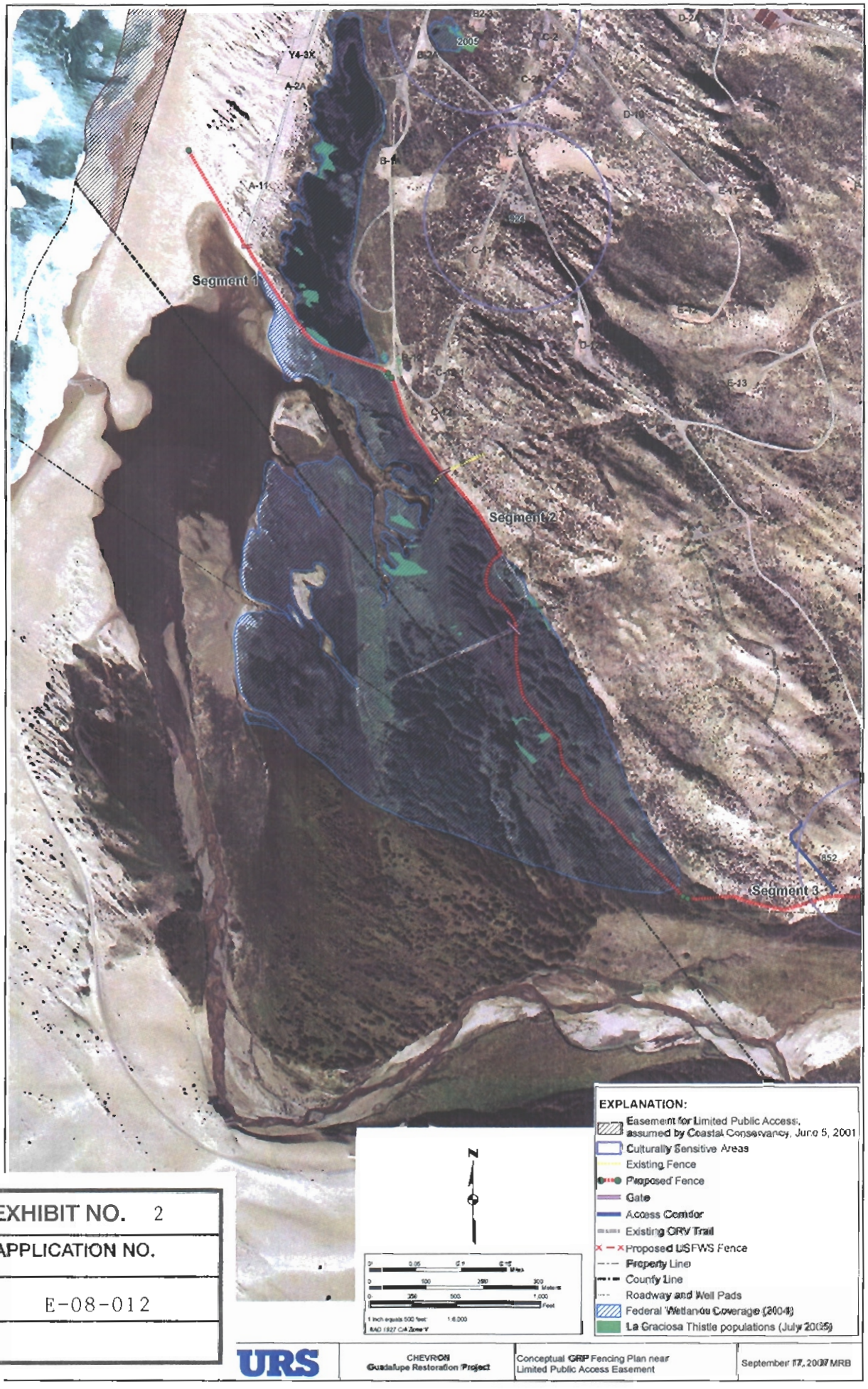

EXHIBIT NO. 2

APPLICATION NO.

E-08-012

EXHIBIT NO. 3
APPLICATION NO.
E-08-012

EXHIBIT B - CONDITIONS OF APPROVAL

Approved Development

1. This approval authorizes

   a. A Minor Use Permit/Coastal Development Permit to allow the construction of a perimeter fence to prevent cattle from entering the 2,700-acre Guadalupe Restoration Site from the southern and eastern boundaries. The proposed project involves utilizing existing roads and Off-Road Vehicle (ORV) trails to the maximum extent feasible to install 4.72 miles of 4-foot high, four-strand barbed wire fence on t-posts.

Conditions to be completed prior to occupancy establishment of the use

Air Quality

2. **Prior to issuance of grading and construction permits,** the existing Guadalupe Restoration Project Dust Control Plan prepared pursuant to existing Condition of Approval F. 83 and approved by the APCD shall be implemented for the fencing project.

3. **Prior to issuance of grading and construction permits,** the existing Guadalupe Restoration Project Emission Reduction Plan prepared pursuant to existing Condition of Approval F. 84 and approved by the APCD shall be implemented for the fencing plan.

Biological Resources

4. **Prior to issuance of grading and construction permits (including survey activities),** the fencing contractor shall receive ecological training regarding sensitive species (description of species potentially at the work site, habitat details, protective measures), role of the OEC and biological monitors. A pre-construction meeting shall be held with the fencing contractor, project management, monitors and the Onsite Environmental Coordinator (OEC) to review the project scope, schedule, construction practices, communications, and other related issues.

5. **Prior to issuance of grading and construction permits and during construction,** a biological monitor shall conduct a pre-disturbance survey, to avoid loss of individuals or incidental disturbance to federally and state listed special status plant species. The monitor shall be present during all construction and installation activities. All individuals of La Graciosa thistle shall be flagged and disturbance to individuals by personnel, vehicles, placement of fence posts and poles, and temporary placement of soil or equipment shall be avoided. If digging for pole placement is within 3 feet of a La Graciosa thistle, a bucket or other protective device shall be temporarily placed over the individual to ensure no damage occurs.

Cultural Resources

6. **Prior to construction,** all fence installation within archaeological site CA-SLO-852 and cultural sensitive buffer shall be coordinated with a County-qualified archaeologist and local Native American representative. Monitoring requirements shall be at the discretion of the archaeologist and Native American representative.

7. **Prior to construction,** the fencing contractor shall receive the required ecological training for archaeological resources. A pre-construction meeting will be held with the fencing contractor, project management, monitors and the Onsite Environmental

Coordinator (OEC) to review the project scope, schedule, construction practices, communications, and other related issues.

Conditions of approval to be completed during project construction

Biological Resources

8. **During construction,** appropriate agency approved monitors shall be present full-time during field work involving vegetation removal as required by the GRP Ecological Monitoring Program.

9. **During construction,** impacts to the biological resources by the installation of the fence and the creation of access corridors shall be minimized to the greatest extent feasible by using as many of the existing ORV trails as possible. In addition, after the ORV trails are used for fence construction, they will only be required for fence repairs and to drive ORVs to access the fence for inspections; inspections conducted along the fence shall be done on foot, as described in the GRP Fencing Plan.

10. **During construction,** all project-related spills of hazardous materials within or adjacent to the entire fence zone shall be cleaned-up immediately. Fueling shall be permitted at the construction staging area and in concurrence with the on-site OEC.

11. **During construction and prior to installation in each work area,** surveys shall be conducted for sensitive species and to make any needed adjustments to the fence alignment to avoid sensitive ecological resources as feasible.

12. **During construction occurring within the vicinity of known populations of any of the three listed plant species,** an agency approved botanist shall conduct a survey and mark any listed plants for avoidance in the field prior to start of work. If determined necessary by the botanical monitor in consultation with the OES, the botanical monitor shall also be present at the project site during work to ensure there are no unintentional impacts.

13. **During construction,** a USFWS approved red-legged frog biologist shall be present for fence installation that occurs within or in the vicinity (500 feet) of suitable red-legged frog habitat, or as determined by the OEC or USFWS. No other individuals except the biological monitor shall handle or approach any sensitive species. If federally or state listed species, such as California red-legged frog, are found in the work area, work would stop until they move on or are relocated in accordance with the U. S. Fish & Wildlife Service *Biological and Conference Opinion for the Site-Wide Guadalupe Oil Field Remediation and Restoration Project* (1-8-03-FC-57).

14. **During construction,** installation of the fence within the nesting habitat for western snowy plover (foredunes and active dunes adjacent to the ocean) shall occur outside of the nesting season from March 1 to September 15 or as determined by the OEC or USFWS.

15. **During construction,** no fence installation activities shall occur within 200 feet of suitable California red-legged frog breeding habitat from January 1 to September 15 or as determined by the OEC or USFWS.

16. **During construction,** California red-legged frog nighttime surveys shall be conducted periodically (bi-weekly or as determined by the OEC or USFWS) throughout the duration of installation activities in the vicinity (500 feet) of red-legged frog habitat to ensure that red-legged frogs are not entering the work area.

17. **During construction,** if an occurrence of a non-compliance of any of these listed species protection measures that could result in the take of any listed sensitive species, or the unplanned disturbance to listed sensitive species habitat, the biological monitor shall contact the USFWS.

18. **During construction and operation of the segment of the perimeter fence located within western snowy plover habitat,** the upper strand of the fence shall be smooth wire to minimize the attractiveness to Loggerhead Shrikes, a known predator. Nixalite©, or equivalent bird barrier spikes shall be placed on all posts to deter predatory birds from perching in snowy plover habitat.

19. **During construction and operation of the perimeter fence,** the fence alignment shall avoid and/or minimize impacts to heavily vegetated areas, federal and state wetlands, and other sensitive plant species, to the greatest extent feasible. Alterations shall follow recommendations of the OEC or botanical and wildlife monitors.

20. **During construction,** every reasonable effort shall be made to avoid and minimize impacts to wetlands. Support posts shall avoid wetlands to the greatest extent feasible. Disturbance shall be minimized in wetlands along the fence line that exceed 100 feet in length and where support posts are necessary to ensure the integrity of the fence.

21. **During construction,** captured non-listed wildlife shall be relocated to predetermined suitable habitat outside of the construction zone. The size, age-class, location of capture, and the relocation site shall be recorded for each individual relocated from the site.

22. **During construction and operation of the fence,** willow trimming shall occur outside of nesting season (March 1 through September 15) for resident and migrating birds to the extent feasible. No seasonal restrictions are required for fence installation within coastal dune scrub habitat. If vegetation removal and alteration is required during the nesting season, a wildlife monitor shall be present to survey for and avoid nests and nesting behavior in the immediate area of removal and alteration. The wildlife monitor shall have the authority to stop work in the event that nesting behavior could be significantly impacted and work with the contractors to reduce the impact.

Cultural Resources

23. **During construction and operation of the fence,** access corridors shall not be constructed within archaeological site CA-SLO-852. The location of any new access corridors within the 500-foot buffer zone of archaeological site CA-SLO-852 shall be coordinated with a County-qualified archaeologist and local Native American representative. Monitoring requirements shall be at the discretion of the archaeologist and Native American representative.

24. **During construction and operation of the fence,** in the event potentially significant archaeological materials are identified during project activities, work shall be temporarily redirected and a Phase 2 archaeological assessment of the find shall be funded by the project applicant.

25. **During construction and operation of the fence,** if found materials are determined to be significant under CEQA Appendix K criteria, the fence alignment will be re-routed, if feasible, to avoid impacting cultural resources. The project applicant shall fund a Phase 3 data recovery mitigation program to collect a representative sample of the materials that would be lost if complete avoidance cannot be accomplished.

26. **During construction and operation of the fence,** all investigations shall be performed by a County-qualified archaeologist and local Native American representative retained by the project applicant.

Geology and Soils

27. **During construction and operation of the fence,** new access trails would be subject to the existing GRP ORV trail program, which includes monitoring for disturbance and erosion and includes an adaptive management strategy.

Hazards

During construction and operation of the fence, ORVs and other equipment shall be inspected daily to ensure equipment is free of leaks or other malfunctions. In addition, the Applicant shall comply with the agency-approved Oil and Fuel Spill Contingency Plan per the requirements of existing Condition of Approval F. 38.

Noise

29. **During construction and operation of the fence,** mufflers on all internal combustion and vehicle engines shall be maintained to reduce noise to the maximum extent feasible

Land Use

30. **During construction and operation of the fence (and immediately upon completion of Segment 1 construction),** the project applicant shall post signage at the westernmost terminus of the southern boundary segment of the fence to explain that trespassing onto the project site is not allowed, but the fence is not intended to impede public access along the easement below the mean high tide line.

On-going conditions of approval (valid for the life of the project)

31. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 23.02.050 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 23.02.042 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.

32. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 23.10.160 of the Land Use Ordinance.