

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200

Page: 1 of 9
 Date: May 24, 1996

**ADMINISTRATIVE PERMIT**

Application No.: E-96-12
Applicant: Chevron Pipe Line Company
Agent: Fugro West, Inc.

W-12a

Project Location: On beach areas west of Chevron Estero Marine Terminal and U.S. Highway 1, between the Cities of Cayucos and Morro Bay, San Luis Obispo County (Exhibits 1-3).

Project Description: [Note: This is a follow-up CDP application for work authorized under two Emergency CDPs (E-96-05-G/E-96-05-G) issued by the Executive Director.]

Investigate and remediate a small (approximately 70 cubic yards) area of hydrocarbon-contaminated sands by conducting the following activities:

1. Install soil borings and temporary well points to collect samples for lab analysis in order to delimit the extent of hydrocarbon-impacted soil and determine if groundwater has been impacted;
2. Excavate and remove contaminated sand and soil, backfill the excavated area with clean sand, and regrade the beach to restore the profile that existed immediately before project commencement.

Local Approvals: Waived by City of Morro Bay.

EXECUTIVE DIRECTOR'S DETERMINATION: The findings for this determination, and for any special conditions, appear on subsequent pages.

NOTE: Public Resources Code Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Commission at the following time and place:

Date: Wednesday, June 12, 1996
Time: Meeting begins at 10:00 A.M., Item 12b
Place: Marin County Board of Supervisors Chambers
 Marin County Civic Center, Administrative Building, Room 322
 San Rafael, California
 (415) 499-3220

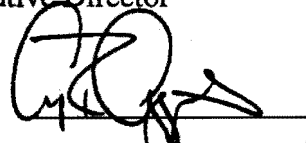
IMPORTANT - Before you may proceed with development, the following must occur:

Pursuant to 14 Cal. Admin. Code Sections 13150(b) and 13158, you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office. Following the Commission's meeting, and once we have received the signed acknowledgment and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

PETER DOUGLAS
Executive Director

By:



Title:

County Regional Administrator

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. 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 prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. 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.

SPECIAL CONDITIONS:

1. Avoidance of Western Snowy Plovers (Plovers)
 - (a) Chevron shall restrict the speed of all vehicles used to perform any project activity to three miles per hour (3 mph) or less.
 - (b) All project personnel will refrain from bringing pets to the project site.
 - (c) All project personnel will refrain from approaching plovers on or near the project site.
 - (d) All garbage generated by project activities or project personnel will be secured in appropriate containers at all times throughout the duration of the project, and shall be removed from the site and disposed of in a proper manner upon project completion.
 - (e) Chevron shall retain and abide by the directives of a biological monitor, approved by the Executive Director in consultation with the U.S. Fish & Wildlife Service (USFWS) and the U.S. Army Corps of Engineers, who will remain on-site during all project activities to

ensure that any plover nests that might be established during project activities are not adversely affected by any project activity. If an established nest is discovered in the project area, work shall be halted until the Executive Director and the USFWS determine the appropriate course of action. The monitor shall assume the following responsibilities: (1) report to the Commission staff on permit/condition compliance when the staff is not present, (2) observe the impact of project operations on the Western snowy plover, (3) record day-to-day project events and forward monitoring reports to the USFWS and Executive Director at the end of each workday or as otherwise requested, and (4) prepare a Final Monitoring Report for submittal to the Executive Director within 30 days after project completion.

- (f) If backfilling and site restoration are not completed by the end of the workday, Chevron shall cover all excavations left on the beach until the following workday.

2. Site/Resource Disturbance

- (a) Site disturbance shall be minimized to the maximum extent feasible by means of procedures which shall include but shall not necessarily be limited to use of a single set of tire tracks by vehicles when entering and leaving the beach.
- (b) Placement of all equipment and materials will be confined to the project area as defined in the respective project workplans.

3. Public Access--Temporary Barriers to Project Vicinity

Within 24 hours after installation pursuant to this permit of any fences or other temporary barriers to the construction area or project vicinity, Chevron shall forward to the Executive Director a map showing the final location of all barriers. Chevron shall remove all barriers within 48 hours after project completion, unless otherwise approved by the Executive Director.

4. Toro Creek and Ocean Monitoring

Should Chevron encounter separate-phase petroleum hydrocarbons while conducting any project activity, the environmental monitor shall increase the frequency of inspections of the Pacific Ocean and Toro Creek for evidence of a petroleum release (as described in the Phase 2 Remediation Plan, page 5-2) to at least once every half hour.

5. Cultural Resources

If archaeological or cultural resources are discovered while performing any project-related activity, Chevron shall immediately halt work and notify the Executive Director, the County of San Luis Obispo, and the City of Morro Bay, and resume work only after these agencies have determined the appropriate course of action.

EXECUTIVE DIRECTOR'S DETERMINATION (continued):

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to P.R.C. Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3, and will not have any significant impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

FINDINGS FOR EXECUTIVE DIRECTOR'S DETERMINATION:**1. Project Description and Location.**

Application No. E-96-12 is an application for a regular coastal development permit (CDP) for a project to delineate and remediate approximately 70 cubic yards of oil-contaminated beach sands as authorized on an emergency basis by the Executive Director under two emergency permits (see Exhibits 4-5). The Executive Director granted Emergency CDP No. E-96-05-G to Chevron Pipe Line Co. (Chevron) on February 13, 1996 to conduct "Phase 1" of the project (spill delineation); the Executive Director granted Emergency CDP No. E-96-06-G to Chevron on February 27, 1996 for "Phase 2" activities (spill remediation). The emergency permit was subsequently reissued on March 18, 1996 to reflect changes in the project description. The project was also reviewed and/or approved by the following agencies:

- Department of Fish and Game, Office of Spill Prevention and Response (CDFG- OSPR)
- Regional Water Quality Control Board, Central Coast Region (RWQCB);
- San Luis Obispo County Health Department;
- San Luis Obispo Department of Planning and Building;
- City of Morro Bay; and
- U.S. Army Corps of Engineers (Permit No. 95-50387-TAW, amended February 13, 1996 and February 27, 1996).

After the emergency permits were granted by the Executive Director, and in accordance with the Coastal Commission's regulations, Chevron submitted the current application to allow the project to be reviewed by the Commission and the public through the normal review process, even though the work has already been completed. The current application is subject to all of the provisions of the California Coastal Act and may be conditioned accordingly.

The project site is located on Atascadero Beach, west of Chevron Estero Marine Terminal and U.S. Highway 1, between the Cities of Cayucos and Morro Bay, San Luis Obispo County (Exhibits 1-3). The contaminated area lies approximately 25 feet south of Toro Creek, a

biologically sensitive area as designated by the City of Morro Bay; this is also an area proposed as critical habitat for the federally threatened Western snowy plover (*Charadrius alexandrinus nivosus*). During the winter storm season, the beach profile in the area is dynamic; for example, moving sands have caused Toro Creek to shift its course along the beach by as much as 75 feet. Thus, removal of contaminated sands is necessary to address the high risk of hydrocarbons entering into the marine environment and/or otherwise impacting coastal resources.¹

The work proposed under this permit was prompted by Chevron's discovery of a small area of hydrocarbon-stained sand at approximately four feet below ground surface at Atascadero Beach on January 29, 1996. Chevron made the discovery during a maintenance project on one of the Estero Terminal's crude oil loading lines (see CDP E-95-03). Sand samples were collected for analysis after the discovery, and the results indicated that the material resembled a weathered crude oil (Chevron believes that the stained area was associated with an old loading line that was removed in 1983). Chevron proposes to conduct project activities in two phases:

1. Phase 1: define the horizontal and vertical extent of the stained sand, and investigate the remainder of the path of the old loading line, by conducting the following activities (as described in the *Workplan for Atascadero Beach Soil and Groundwater Investigation and Excavation, Chevron Estero Marine Terminal*, prepared by Entrix, February 6, 1996):
 - drill 30 soil borings to collect soil samples for laboratory analysis; and
 - install six temporary well points to test for the presence of hydrocarbons in groundwater.
2. Phase 2: excavate and remove stained sand and restore the site to pre-existing conditions by conducting the following activities (as described in the *Revised Remediation and Restoration Plan, Atascadero Beach Excavation, Chevron Estero Marine Terminal*, prepared by Entrix, March 7, 1996):
 - temporarily place steel trench plates (8' x 10' x 0.5") on the beach surface to cover three pipelines that cross under the beach;
 - temporarily install a drain pool (15' x 60' x 1') in the fenced-in staging area located southeast of the project area, just west of Highway 1;
 - temporarily place a 200-gallon surge tank and associated hose on the beach near the excavation site;
 - temporarily remove and stockpile 175 cubic yards of clean overburden;

¹ In issuing emergency permits for this project, the Executive Director took into account the need to expedite project activities in order to avoid the snowy plover nesting season. Specifically, all project activities had to be completed before the end of March. Furthermore, project activities had to be conducted at low tide, and were timed to occur within two windows dictated by the tidal regime at the site. Thus, it was not possible for the Commission staff to process a regular CDP in time for the required project commencement. Additional factors considered in issuing the conditional emergency permits included: (1) the relatively small spill volume (a total of 70 cubic yards of contaminated sand was removed during emergency operations), (2) the relatively small area of beach potentially disturbed by excavation (42 X 37 feet), and (3) the short duration of project activities (e.g., excavation and grading to be completed in no more than two days).

- excavate and remove up to 200 cubic yards of contaminated sand and soil;
- backfill the excavated area with the stockpiled sand, and imported sand if the excavation exceeds 100 cubic yards;
- temporarily place caution tape on the beach to delimit the exclusion zone; and
- regrade the beach to restore the profile that existed immediately before project commencement.

2. Marine Resources/Spills.

Coastal Act Section 30230 states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protections shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species or marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Coastal Act Section 30231 states in part:

The biological productivity and the quality of coastal waters...appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored....

Coastal Act Section 30232 states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

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.

Issues examined in this permit application are the potential impacts of project operations on the marine environment. The proposed project seeks to implement the policies in Coastal Act Sections 30230, 30231, 30323, and 30240(a); specifically, the proposed project follows their directives by remediating an accidental spill that has occurred and, by doing so, (1) maintaining marine resources, (2) maintaining the biological productivity and quality of coastal waters, and (3) protecting human health and areas and species of special biological significance.

Removal of contaminated sands is necessary to reduce the imminent threat that hydrocarbons may enter into the marine environment. Given the relatively small area of beach potentially disturbed by excavation (42 X 37 feet), the short duration of project activities (e.g., excavation and regrading will be completed within two days), and the applicant's restoration of beach contours, no adverse impact to the Western snowy plover or its habitat should result from project implementation. The Executive Director therefore finds that the proposed project as conditioned is consistent with Coastal Act Sections 30230, 30231, 30232, and 30240(a).

3. Public Access, Recreation, and Safety

Section 30211 of the Coastal Act 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.

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

Public access to the shoreline and along the coast is available near the site. Atascadero State Beach is accessible approximately 0.25 miles south of the site near the intersection of Yerba Buena Street and U.S. Highway 1; Morro Strand State Beach lies to the north and also provides access from Highway 1. Recreational use of the sand area in the immediate project vicinity currently exists. The dry sand portion of the property connects two state park beach units and provides a logical connection for low intensity uses such as beachcombing and fishing.

Phase I project activities will require installation of temporary well points that measure less than two inches in diameter and that will extend up to approximately six inches above grade. In addition, Chevron will place stakes and caution flagging around the well caps to prevent the exposed well caps from being a safety hazard to persons walking on the beach. The caps will be visible on Atascadero State Beach. The duration of Phase I activities will be less than one week. Phase II activities--which will require the use of heavy equipment (including a track-mounted excavator and front-end loaders) and the temporary presence of steel trench plates, a 200-gallon surge tank, other equipment, and a sand stockpile area--will be completed within two days.

Considering the duration of the project (less than two weeks total for Phase I and II activities) and use of safety devices (e.g., stakes and caution flagging), the Executive Director finds that the project as proposed will not significantly impact access or public recreation and is, therefore, consistent with Coastal Act Sections 30211 and 30220.

4. Archaeological and Cultural Resources

Section 30244 of the Coastal Act 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 project area is located in an archaeologically sensitive area and is highly significant to Chumash people. While no known archaeological site exists in the immediate vicinity of the well sites, a known archaeologically sensitive site is located to the south of the well sites.

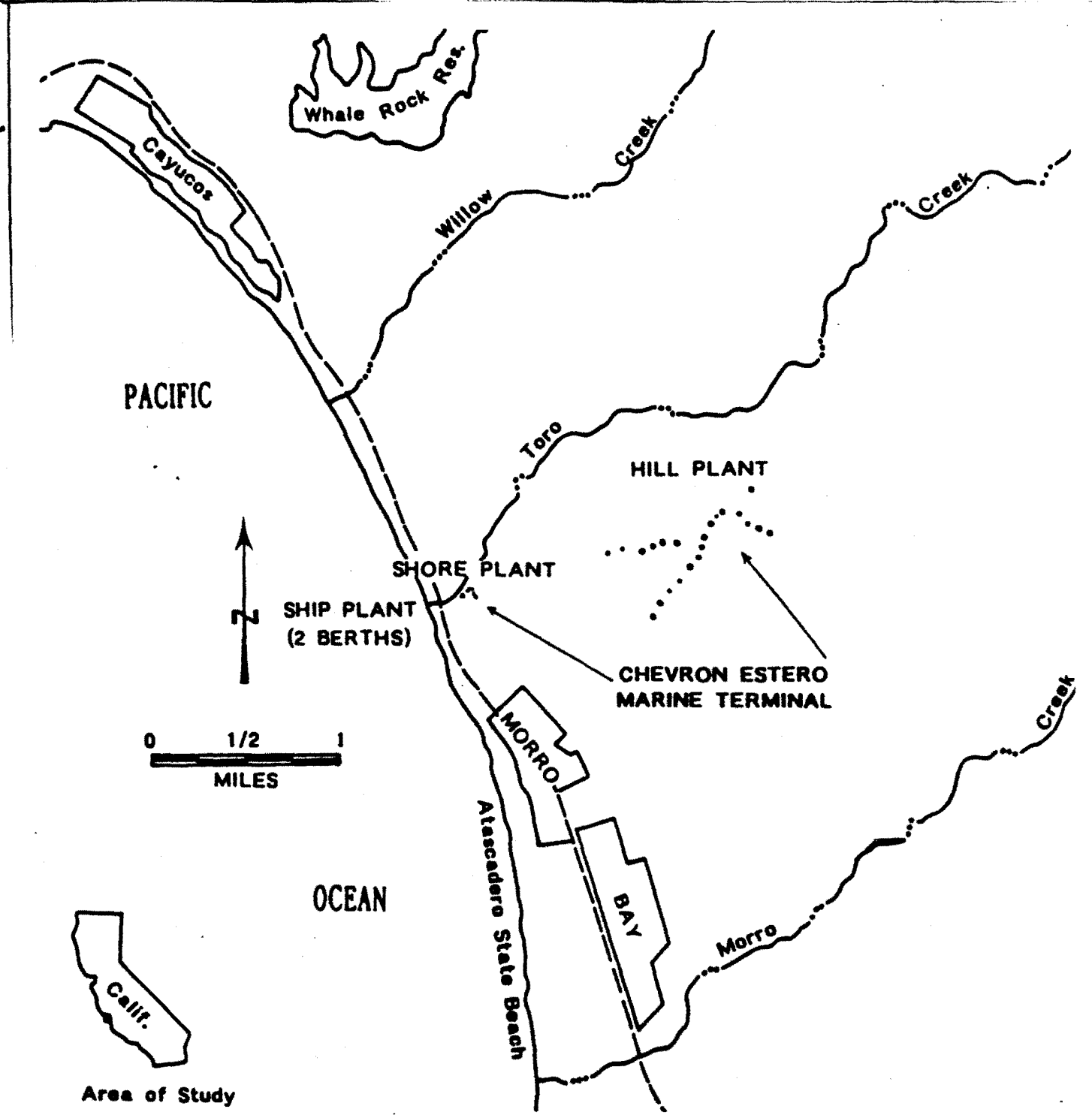
The project site has been the site of previous construction activities conducted pursuant to a Commission-approved Cultural Resources Management Plan to ensure that the integrity of cultural and archaeological resources is preserved (see CDP Nos. E-94-18 & E-95-03). During these projects, a Chumash monitor and an archaeological monitor were on site to observe all ground-disturbing activities; no cultural and archaeological resources were discovered during these projects. For this project, Special Condition 5 specifies that if archaeological or cultural resources are discovered while performing any project-related activity, Chevron shall immediately halt work and notify the Executive Director, the County of San Luis Obispo, and the City of Morro Bay, and will resume work only after these agencies have determined the appropriate course of action. The Executive Director, therefore, finds that the proposed project is consistent with Coastal Act section 30244.

ACKNOWLEDGMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONDITIONS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing



ENTRIX		
Figure 1		
Site Location Map Chevron Estero Marine Terminal Chevron Pipe Line Company		
PROJ. NO: 632609	CK: SMS	DATE: 3/29/96

EXHIBIT NO. 1
APPLICATION NO.
E-96-12
California Coastal Commission

EXHIBIT NO. 2
APPLICATION NO.
E-96-12
 California Coastal Commission

Figure 2
 Chevron Estero Marine Terminal
 Soil Boring and Well Points
 TPH Results (mg/kg)

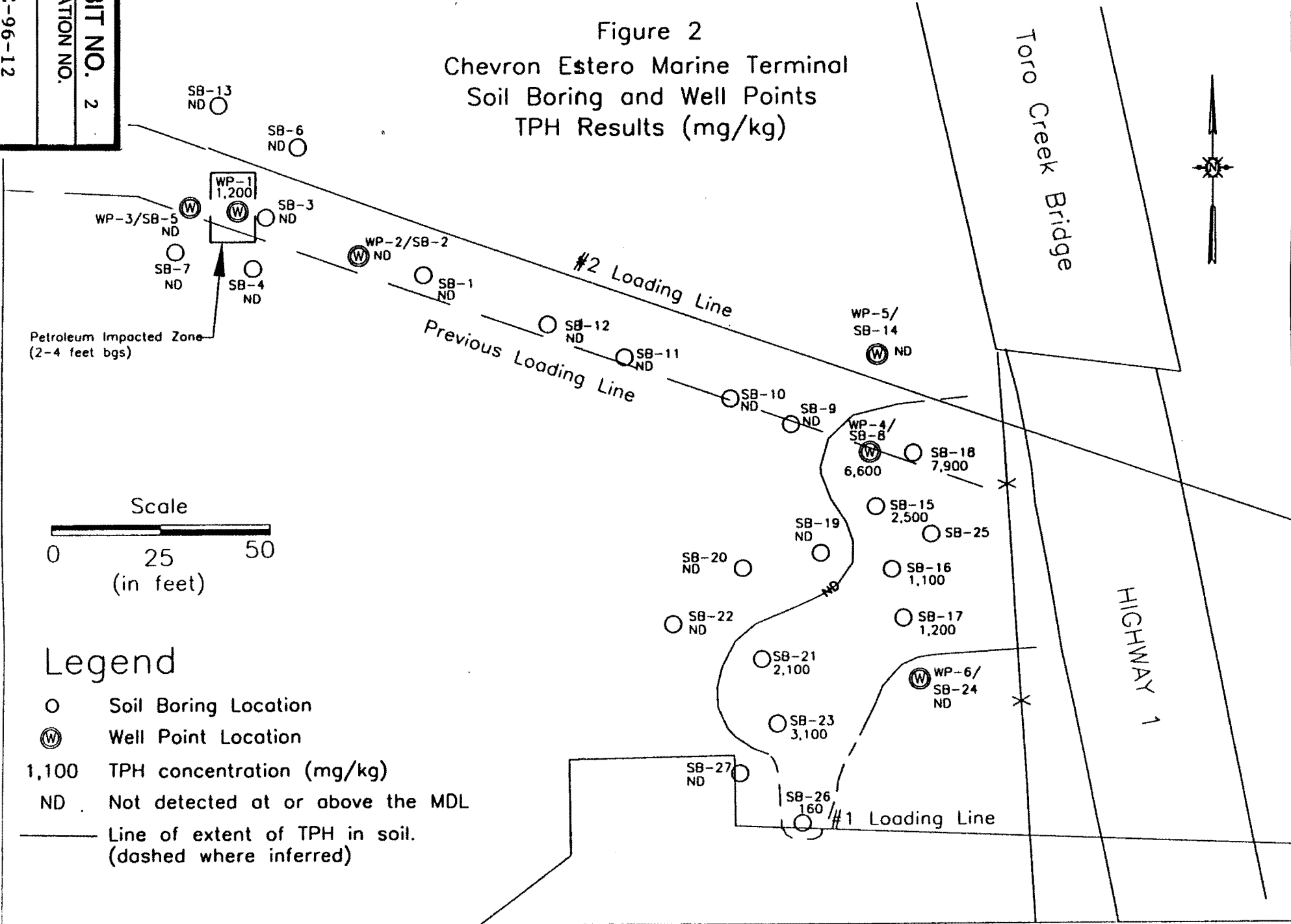
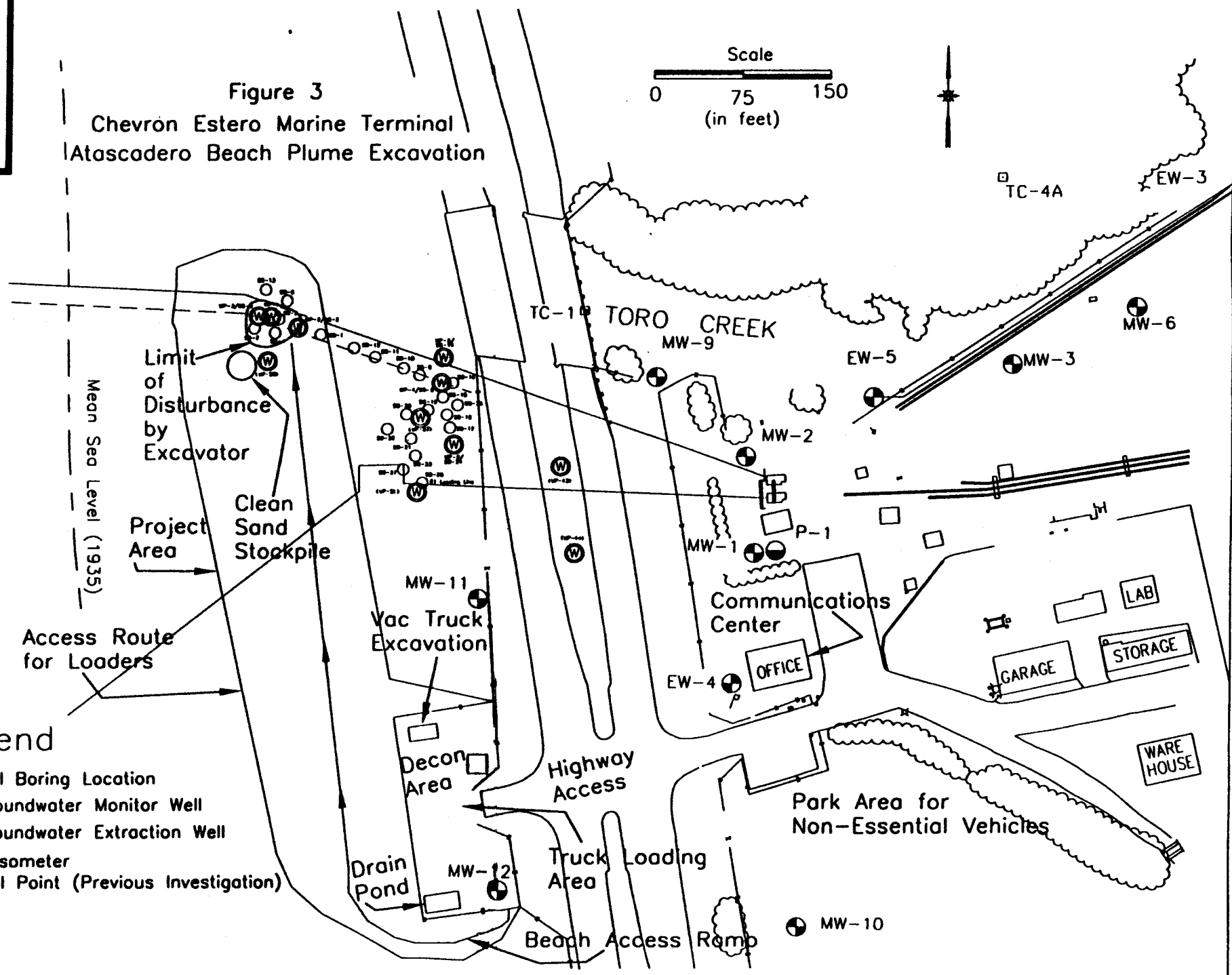
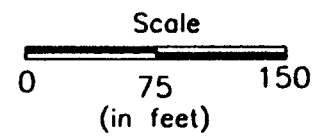


Figure 3
Chevron Estero Marine Terminal
Atascadero Beach Plume Excavation



Legend

- Soil Boring Location
- ⊕ Groundwater Monitor Well
- ⊕ Groundwater Extraction Well
- Piesometer
- ⊕ Well Point (Previous Investigation)

CALIFORNIA COASTAL COMMISSION

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EMERGENCY PERMIT

Applicant: Chevron Pipe Line Company

February 13, 1996

Permit No. E-96-05-G

Location of Emergency Work: On beach areas west of Chevron Estero Marine Terminal and U.S. Highway 1, between the Cities of Cayucos and Morro Bay, San Luis Obispo County.

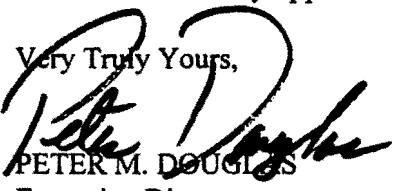
Work Proposed: Install soil borings and temporary well points to collect samples for lab analysis in order to delimit the extent of petroleum hydrocarbon-impacted soil and determine if groundwater has been impacted. Project activities will be carried out as described as "Phase I" in the *Workplan for Atascadero Beach Soil and Groundwater Investigation and Excavation, Chevron Estero Marine Terminal*, prepared by Entrix, February 6, 1996, unless otherwise modified by the Executive Director of the Coastal Commission.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information that an unexpected occurrence in the form of hydrocarbon contamination caused by subsurface pipeline leakage requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. *14 Cal. Admin. Code Section 13009*. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless extended pursuant to the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed as time allowed; and
- (c) As conditioned, the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the attached conditions.

Very Truly Yours,


 PETER M. DOUGLAS
 Executive Director

By:

Title:

EXHIBIT NO. 4
APPLICATION NO.
E-96-12

CONDITIONS OF APPROVAL

General Conditions

1. This permit shall not become effective unless and until the enclosed Emergency Permit Acceptance Form is signed by CHEVRON and returned to the Executive Director of the California Coastal Commission (hereinafter, "Executive Director").
2. The emergency permit authorizes only those project operations and locations specifically described as Phase I in the *Workplan for Atascadero Beach Soil and Groundwater Investigation and Excavation, Chevron Estero Marine Terminal (the Workplan)*, prepared by Entrix, February 6, 1996. CHEVRON shall not deviate from the operations, timing or sequence of operations or locations specified in the referenced documentation unless and until authorized in writing by the executive director.
3. Within 30 days of issuance of this permit, CHEVRON shall submit an application for a regular coastal development permit (CDP) to the California Coastal Commission for all work authorized by this emergency permit.
4. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies. Within one week of the date of issuance of this emergency permit, or as obtained subsequent to issuance, CHEVRON shall submit to the executive director copies of all orders, permits or other approvals required by other agencies and property owners, for the activities authorized by the emergency permit, including but not limited to:
 - City of Morro Bay;
 - County of San Luis Obispo;
 - Regional Water Quality Control Board, Central Coast;
 - Office of Oil Spill Prevention and Response;
 - California Department of Fish & Game;
 - State Lands Commission;
 - U.S. Army Corps of Engineers.
5. In addition to any immunities provided for by law, in exercising this permit, CHEVRON agrees to hold harmless and indemnify the California Coastal Commission, its officers, employees, agents, successors and assigns from any claims, demands, costs, expenses and liabilities for any damage to public or private property or personnel injury that may result directly or indirectly from the project.
6. CHEVRON shall reimburse the California Coastal Commission in full for all costs and attorneys fees--including (1) those charged by the Office of the Attorney General and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay--that the Coastal Commission incurs in connection with the defense of any action brought against the Coastal Commission, its officers, employees, agents, successors and assigns, challenging the approval or issuance of this permit, the interpretation and/or

enforcement of the permit conditions, or any other matter related to this permit or its approval or issuance.

7. Acceptance of this emergency permit shall be deemed acceptance of all conditions of this permit. Authority to conduct work authorized by this permit is contingent on full and continuing compliance with every condition of this permit. Failure to comply fully with the requirements of any condition of this permit shall constitute grounds for the issuance by the Executive Director of a cease and desist order pursuant to California Coastal Act Sections 30809 and 30810, respectively.

Special Conditions

1. Avoidance of Western Snowy Plovers (Plovers)

- (a) CHEVRON shall conduct work during daylight hours at the site each day until the completion of all Phase I activities, in order to discourage plovers from establishing nests at the project site during Phase I activities.
- (b) CHEVRON shall retain and abide by the directives of a biological monitor, approved by the Executive Director in consultation with the U.S. Fish & Wildlife Service and the U.S. Army Corps of Engineers, who will remain on-site during all project activities to ensure that any plover nests that might be established during project activities are not adversely affected by any project activity. The monitor will submit a report to the Executive Director upon completion of Phase I activities.
- (c) If an established nest is discovered in the project area or on beach areas that need to be traversed in order to access the project area, CHEVRON shall immediately halt work and notify the Executive Director, the U.S. Fish & Wildlife Service, and the U.S. Army Corps of Engineers, and resume work only after these agencies have determined the appropriate course of action.

2. Site/Resource Disturbance

- (a) Site disturbance necessary to install the monitoring wells shall be minimized to the maximum extent feasible by means of procedures which shall include but not necessarily be limited to use of a single set of tire tracks by vehicles when entering and leaving the beach.
- (b) Placement of all equipment and materials will be confined to the project area as defined in CDP No. E-95-03.

3. Public Access--Temporary Barriers to Project Vicinity

Within 24 hours after installation pursuant to this permit of any fences or other temporary barriers to the construction area or project vicinity, CHEVRON shall forward to the Executive Director a map showing the final location of all barriers. CHEVRON shall remove

all barriers within 48 hours after project completion, unless otherwise approved by the Executive Director.

4. Cultural Resources

If archaeological or cultural resources are discovered while performing any project-related activity, CHEVRON shall immediately halt work and notify the Executive Director, the County of San Luis Obispo, and the City of Morro Bay, and resume work only after these agencies have determined the appropriate course of action.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200



EMERGENCY PERMIT
(Reissued March 18, 1996)

Page 1 of 4

Applicant: Chevron Pipe Line Company

February 27, 1996

Permit No. E-96-06-G

Location of Emergency Work: On beach areas west of Chevron Estero Marine Terminal and U.S. Highway 1, between the Cities of Cayucos and Morro Bay, San Luis Obispo County.

Work Proposed: Chevron will (1) temporarily place steel trench plates (8' x 10' x 0.5") on the beach surface to cover three pipelines that cross under the beach; (2) temporarily install a drain pool (15' x 60' x 1') in the fenced-in staging area located southeast of the project area, just west of Highway 1; (3) temporarily place a 200-gallon surge tank and associated hose on the beach near the excavation site; (4) temporarily remove and stockpile 175 cubic yards of clean overburden; (5) excavate and remove up to 200 cubic yards of contaminated sand and soil; (6) backfill the excavated area with the stockpiled sand, and imported sand if the excavation exceeds 100 cubic yards; (7) temporarily place caution tape on the beach to delimit the exclusion zone; and (8) regrade the beach to restore the profile that existed immediately before project commencement. Project activities will be carried out as described in the *Revised Remediation and Restoration Plan, Atascadero Beach Excavation, Chevron Estero Marine Terminal (The Remediation Plan)*, prepared by Entrix, March 7, 1996.

This letter constitutes approval of the emergency work you or your representative has requested to be done at the location listed above. I understand from your information that an unexpected occurrence in the form of hydrocarbon contamination caused by subsurface pipeline leakage requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services. 14 Cal. Admin. Code Section 13009. The Executive Director hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless extended pursuant to the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed as time allowed; and
- (c) As conditioned, the work proposed would be consistent with the requirements of the California Coastal Act of 1976.

The work is hereby approved, subject to the attached conditions.

Very Truly Yours,

PETER M. DOUGLAS
 Executive Director

By:

Title:

Deputy Director for Energy, Ocean Resources and Technical Services
 DMISW

EXHIBIT NO. 5
APPLICATION NO.
E-96-12
California Coastal Commission

CONDITIONS OF APPROVAL

General Conditions

1. This permit shall not become effective unless and until the enclosed Emergency Permit Acceptance Form is signed by CHEVRON and returned to the Executive Director of the California Coastal Commission (hereinafter, "Executive Director").
2. The emergency permit authorizes only those project operations and locations specifically described in the *Revised Remediation and Restoration Plan, Atascadero Beach Excavation, Chevron Estero Marine Terminal (The Remediation Plan)*, prepared by Entrix, March 7, 1996. CHEVRON shall not deviate from the operations, timing or sequence of operations or locations specified in the referenced documentation unless and until authorized in writing by the Executive Director.
3. Within 30 days of original issuance of this permit, CHEVRON shall submit an application for a regular coastal development permit (CDP) to the California Coastal Commission for all work authorized by (1) this emergency permit (No. E-96-06-G) and (2) Emergency Permit No. E-96-05-G, which was issued February 13, 1996.
4. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies. Within one week of the date of original issuance of this emergency permit, or as obtained subsequent to issuance, CHEVRON shall submit to the Executive Director copies of all orders, permits or other approvals required by other agencies and property owners, for the activities authorized by the emergency permit, including but not limited to:
 - City of Morro Bay;
 - County of San Luis Obispo;
 - Regional Water Quality Control Board, Central Coast;
 - Office of Oil Spill Prevention and Response;
 - California Department of Fish & Game;
 - State Lands Commission;
 - U.S. Army Corps of Engineers.
5. In addition to any immunities provided for by law, in exercising this permit, CHEVRON agrees to hold harmless and indemnify the California Coastal Commission, its officers, employees, agents, successors and assigns from any claims, demands, costs, expenses and liabilities for any damage to public or private property or personnel injury that may result directly or indirectly from the project.
6. CHEVRON shall reimburse the California Coastal Commission in full for all costs and attorneys fees--including (1) those charged by the Office of the Attorney General and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay--that the Coastal Commission incurs in connection with the defense of any action

brought against the Coastal Commission, its officers, employees, agents, successors and assigns, challenging the approval or issuance of this permit, the interpretation and/or enforcement of the permit conditions, or any other matter related to this permit or its approval or issuance.

7. Acceptance of this emergency permit shall be deemed acceptance of all conditions of this permit. Authority to conduct work authorized by this permit is contingent on full and continuing compliance with every condition of this permit. Failure to comply fully with the requirements of any condition of this permit shall constitute grounds for the issuance by the Executive Director of a cease and desist order pursuant to California Coastal Act Sections 30809 and 30810, respectively.

Special Conditions

1. Avoidance of Western Snowy Plovers (Plovers)

- (a) CHEVRON shall restrict the speed of all vehicles used to perform any project activity to three miles per hour (3 mph) or less.
- (b) All project personnel will refrain from bringing pets to the project site.
- (c) All project personnel will refrain from approaching plovers on or near the project site.
- (d) All garbage generated by project activities or project personnel will be secured in appropriate containers at all times throughout the duration of the project, and shall be removed from the site and disposed of in a proper manner upon the completion of project operations.
- (e) CHEVRON shall retain and abide by the directives of [a] biological monitor[s], approved by the Executive Director in consultation with the U.S. Fish & Wildlife Service (USFWS) and the U.S. Army Corps of Engineers, who will remain on-site during all project activities to ensure that any plover nests that might be established during project activities are not adversely affected by any project activity. If an established nest is discovered in the project area, work shall be halted until the Executive Director and the USFWS determine the appropriate course of action. The monitor[s] shall assume the following responsibilities: (1) report to the Commission staff on permit/condition compliance when the staff is not present, (2) observe the impact of project operations on the Western snowy plover, (3) record day-to-day project events and forward monitoring reports as requested, and (4) prepare a Final Monitoring Report for submittal to the Executive Director within 30 days after project completion.
- (f) If backfilling and site restoration are not completed by the end of the workday, CHEVRON shall cover all excavations left on the beach until the following workday.
- (g) If all project activities are not completed by the end of the workday, CHEVRON shall submit the day's plover monitoring report to the USFWS at the end of the workday.

(h) CHEVRON shall complete final restoration of the project site by March 1, 1996.

2. Public Access--Temporary Barriers to Project Vicinity

Within 24 hours after installation pursuant to this permit of any fences or other temporary barriers to the construction area or project vicinity, CHEVRON shall forward to the Executive Director a map showing the final location of all barriers. CHEVRON shall remove all barriers within 48 hours after project completion, unless otherwise approved by the Executive Director.

3. Toro Creek and Ocean Monitoring

Should CHEVRON encounter separate-phase petroleum hydrocarbons while conducting any project activity, the environmental monitor shall increase the frequency of inspections of the Pacific Ocean and Toro creek for evidence of a petroleum release (as described in The Remediation Plan, page 5-2) to at least once every half hour.