

**CALIFORNIA COASTAL COMMISSION**

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**RECORD PACKET COPY****W13a**

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Staff:	TRL-SF
Staff Report:	Sept. 27, 2001
Hearing Date:	Oct. 10, 2001
Commission Action:	

**STAFF REPORT:  
 MATERIAL AMENDMENT**

**APPLICATION FILE NO.:** E-01-006-A1

**APPLICANT:** Ventura Port District

**PROJECT LOCATION:** 1431 Spinnaker Drive, Ventura, Ventura County, within Ventura Harbor.

**AMENDMENT DESCRIPTION:** Add fuel dispenser, allow biodiesel sales, oil changes, and waste disposal at a fuel pier used by commercial fishing vessels.

**SUBSTANTIVE FILE DOCUMENTS:** See Appendix A

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**SYNOPSIS**

In June 2001, the Coastal Commission approved coastal development permit (CDP) E-01-006 to allow replacement of fueling equipment at a commercial fishing fuel pier in Ventura Harbor. The CDP allowed the Port to install equipment needed to bring the fueling system into compliance with health and safety codes. In this application, the applicant is requesting an amendment to the CDP that would allow the facility to install an additional fuel dispenser, store and dispense biodiesel along with regular diesel, and provide marine oil changes and waste disposal.

Staff is recommending approval of this amendment, with modifications to Special Conditions 1 and 2, and the addition of Special Condition 3. As so conditioned, the proposed amendment will comply with Coastal Act policies 30210 and 30212.5 (public access and recreation), 30234 (commercial fishing and recreational boating), and 30232 (oil spill prevention, containment, and cleanup).

## 1.0 STAFF RECOMMENDATIONS

### 1.1 Coastal Development Permit Material Amendment E-01-006-A1

The staff recommends conditional approval of Coastal Development Permit Amendment Application No. E-01-006-A1.

#### Motion

*I move that the Commission approve the proposed amendment to Coastal Development Permit E-01-006-01 subject to conditions set forth in the staff recommendation dated September 27, 2001.*

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

#### Resolution

*The Commission hereby approves the Coastal Development Permit amendment and adopts the findings set forth below on grounds that the development, as amended and conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the amended 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 SPECIAL CONDITIONS

The revised special conditions set forth below supercede and replace Special Conditions 1 and 2 approved by the Commission in CDP E-01-006. The revisions are illustrated by strikethroughs for deletions and underlining for additions. All other requirements of the Commission's approval of CDP E-01-006, including but not limited to the Standard Conditions set forth in section 2.0 of the Commission's findings, remain in full force and effect with respect to the amended project.

- 1) **Future Operational Limits Changes.** This permit, as amended, authorizes 1) the upgrade of equipment necessary to meet requirements of the California Fire Code ~~only;~~ 2) the installation of equipment for the purpose of dispensing boating fuel, including biodiesel, from up to two locations but to no more than one vessel at a time; and, 3) the provision of marine oil changes and waste disposal. ~~and~~ It allows the fuel pier to re-open to provide the level of service it provided before its closure in 1998. Any additional equipment or change in operations that will result in a change to the pre-existing intensity of use will require a new coastal development permit or an amendment to this permit.

2) **Other Approvals.**

- a. Prior to storing or dispensing fuel-diesel, biodiesel, or other hazardous substances at the facility, the applicant shall provide to the Executive Director a copy of applicable the following final authorizations necessary to operate the facility: 1) Facility Operations Manual pursuant to requirements of 33 CFR Part 154 (U.S. Coast Guard (USCG)); 2) Emergency Response Plan pursuant to requirements of 33 CFR Part 154, 40 CFR § 112.20, and 14 CCR § 817.02 (USCG and California Office of Spill Prevention and Response (OSPR)); 3) Stormwater Pollution Prevention Plan pursuant to requirements of Section 402 of the federal Clean Water Act (Regional Water Quality Control Board (RWQCB)); and 4) Certificate of Financial Responsibility pursuant to requirements of 14 CCR §§ 791-797 (OSPR). ~~from the U.S. Coast Guard, the California Office of Spill Prevention and Response, the Regional Water Quality Control Board, and the City Fire Department.~~
- b. The applicant shall implement the Best Management Practices required by the above-identified authorizations and shall ensure that the facility remains in compliance with these authorizations.

3) **Requirements Applicable to Use of Alternative Fuels.**

- a. With respect to the use by the facility of biodiesel and biodiesel blends, the applicant shall implement all spill prevention, containment, and cleanup measures contained or specified in the authorizations listed in the preceding condition.
- b. In addition, for any transfer of biodiesel or biodiesel blend from the facility to a vessel, the applicant shall require from the vessel's Person In Charge a statement that the vessel is equipped for biodiesel use in the manner specified in 46 CFR § 56.50 and § 56.60. This statement may be included on a modified version of the Declaration of Inspection required of the facility by the Coast Guard for each fuel transfer to a vessel (see Attachment A). These statements shall be retained in the manner specified in 33 CFR § 156.150 for Declarations of Inspection.

### 3.0 FINDINGS AND DECLARATIONS

#### 3.1 Project Setting and Background

In June 2001, the Coastal Commission granted to the Ventura Port District CDP E-01-006 authorizing the upgrade of equipment at a marine fueling facility to meet requirements of California Underground Storage Tank regulations (23 CCR 2641). The equipment upgrade allowed the facility to re-open at its previous level of service. The project is located in Ventura Harbor within the Ventura Port District and the City of San Buenaventura (the City).

The project was located within the jurisdiction of both the City and the Commission, and required a CDP from each. The City's jurisdiction was over the landward part of the facility and its CDP authorized the installation and upgrade of fuel tanks, fuel lines, new sumps, and a leak detection panel. The CDP approved by the Commission authorized replacement of a fuel line and a fuel dispenser, which were the project elements located on the pier and over tidal waters and therefore subject to the Commission's retained jurisdiction.

The City issued a CDP on March 6, 2001, which was appealed to the Commission. At its June 2001 hearing, the Commission found no substantial issues with the appeal and approved the CDP for the portion of the project within its retained jurisdiction. The CDP included special conditions to clarify that the project was to allow equipment upgrades necessary for the facility to re-open at the same intensity of use that existed before the closure, that proposals to add new equipment or change the intensity of use of the facility would require a new CDP or amendment, and that the applicant must submit to the Executive Director copies of other necessary final authorizations from the U.S. Coast Guard, the California Office of Spill Prevention and Response (OSPR) and Regional Water Quality Control Board (RWQCB), and the City, before the facility could store or dispense fuel.

The fueling facility was originally approved as part of a comprehensive development plan for Ventura Harbor and authorized through several CDPs issued by the City and the Commission in the early and mid-1980s. It is located in an area designated in the LCP for uses related primarily to commercial fishing. In 1998, the Ventura Fire Department ordered the facility to close until it upgraded its fueling equipment to meet health and safety requirements. During this closure, the Port District sought a new lessee for the facility, and in January 2001, the Port signed a lease with Ventura Harbor Marine Fuel, Inc. to operate the pier when it installs the equipment authorized by these CDPs and re-opens.

### 3.2 Description of Proposed Amendment

The applicant has requested CDP E-01-006 be amended to allow the following changes at the facility:

- 1) Add a fuel dispenser to an attached floating dock at the facility. Before it closed in 1998, the facility had a single fuel dispenser located on a fixed pier. This location made it difficult to fuel some boats during lower tides. The applicant has asked that an additional dispenser be permitted on an attached floating pier to allow safer fuel transfers during all parts of the tidal cycle.
- 2) Allow the sale of biodiesel fuel in addition to regular diesel fuel. Based on requests by local vessel owners and operators, the applicant has asked that the facility be allowed to sell biodiesel fuel along with its usual diesel fuel.
- 3) Allow the facility to provide marine oil changes and waste disposal. The applicant has asked that the CDP be amended to specifically allow these activities at the facility.

### 3.3 Other Agency Approvals

The City has informed Commission staff that the proposed activities are authorized under the existing CDP issued by the City and require no further approvals or amendments.

### 3.4 Coastal Act Issues

#### 3.4.1 Public Access and Public Recreation

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 30212.5 states:

*Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

In addition, the Ventura Harbor Section of the City's certified LCP includes the following policies:

*Harbor Commercial Land Use Designation (p. III-84): "The Harbor Commercial (HC) designation in the Ventura Harbor area is intended to cause any new development in that area to be compatible with existing and proposed uses in the Harbor complex (as described below). Development in this area, which is also designated as a Scenic Approach to the City, should be designated to complement the existing visual and structural character of the Harbor complex, and the development should be oriented toward recreation, visitor-serving, marina, and commercial fishing uses.*

*To facilitate the recreation, tourist and commercial fishing opportunities within the Harbor complex, the Harbor Commercial (HC) designation shall give priority to visitor-serving commercial recreational uses over general commercial development, but not over commercial fishing, and shall protect coastal recreational land suitable for such uses."*

The proposed amendment to **Special Condition 1** allowing installation of an additional fuel dispenser at the facility supports the above public access policies of the Coastal Act and the LCP by allowing more efficient access to the fuel pier. The facility's single existing fuel dispenser is located on a fixed pier at a height that makes it difficult for some vessels to fuel during lower tides. The applicant proposes to install an additional dispenser on an attached floating dock, which will allow vessels to fuel more easily during the entire tidal cycle.

The proposed amendment also ensures that the facility will operate at the level of service it provided before it was closed. Amended language for **Special Condition 1** allows the facility to add a fuel dispenser but to fuel only one vessel at a time. This maintains the same level of service, but is also likely to result in less congestion and conflict with nearby uses since one vessel can prepare to take on fuel while another is being fueled.

Construction associated with the amended project is not expected to result in impacts beyond the minor, short-term disruption to public access described as part of the original project, since the additional fuel dispenser will be installed at the same time as the other equipment previously authorized. As the fuel pier is currently closed and will be closed until construction is completed, this will not result in any significant loss of public access.

**Amended Special Condition 1** will allow more effective use of the facility without substantially increasing the level of vessel traffic, and should not result in increased congestion or increased conflicts with nearby uses.

For the reasons above, the Commission finds the project consistent with Sections 30210 and 30212.5 of the Coastal Act.

### **3.4.2 Oil and Fuel Spills**

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.*

Amended **Special Condition 1** allows the applicant to install an additional fuel dispenser on an attached floating dock at the facility. The other dispenser is located on the facility's fixed pier. This location on the fixed pier has made it difficult to fuel some vessels at lower tides due to its height above the water. Installing an additional dispenser on the floating dock may decrease the potential for spills because vessels can be fueled from a location better suited to their height above water based on vessel dimensions and the tidal cycle.

Amended **Special Condition 1** also allows the applicant to offer oil changes and waste disposal to vessels using the fuel facility. If not implemented properly, these services could increase the risk of spills into marine waters. The facility offered these services before it was closed in 1998 and the Port provided a statement that no spills were reported from this facility during its previous 21 years of operations. These services will not require additional fixed equipment and will be covered under other authorizations required of the facility, including the Facility Operations Manual and Emergency Response Plan required by the Coast Guard pursuant to 33 CFR 154 ("Facilities Transferring Oil or Hazardous Materials in Bulk") and 33 CFR 154.1030 ("General Response Plan Contents"). Equipment and BMPs required pursuant to these plans will minimize the risk of spills and would allow containment and cleanup, if necessary. Amended

**Special Conditions 2 and 3** ensure that hazardous substances resulting from these services are appropriately regulated. By authorizing these services at a facility with spill prevention and response capabilities, these amended conditions are likely to reduce the likelihood of spills of petroleum or hazardous substances elsewhere in the marine environment and reduce the impacts to coastal resources if such spills occur.

The fuel facility as approved in CDP E-01-006 and the associated CDP issued by the City will store up to 60,000 gallons of diesel fuel in three 20,000-gallon underground tanks. **Amended Special Conditions 1, 2, and 3** would allow the applicant to store biodiesel in all or some of those tanks as needed to meet market demand, to dispense biodiesel into vessels appropriate to use this type of fuel, and make biodiesel subject to the same spill prevention, containment, and cleanup regulations as other fuels and hazardous substances at the facility.

*Biodiesel technical and environmental issues:*

The proposed amended conditions would allow the storage and sale of biodiesel as a marine fuel. Biodiesel is a diesel fuel substitute made from non-petroleum products such as vegetable oils or animal fats. The different source products result in several forms of biodiesel that exhibit somewhat different characteristics and chemical properties.

Generally, however, biodiesel has some distinctively different environmental impacts compared to regular diesel fuel. Biodiesel emissions generally produce much lower levels of unburned hydrocarbons, carbon monoxide, and particulates than regular diesel. Emissions of nitrous oxides from biodiesel may be slightly higher or lower than those of diesel, depending on characteristics of the engine being used. Biodiesel also exhibits a distinctive "french fry" smell rather than the odors typically associated with diesel exhaust. Biodiesel has a significantly higher flashpoint (the temperature at which a fuel will ignite when exposed to a spark or flame) than diesel, making it safer to store and handle in most conditions.

Biodiesel degrades in water more quickly than diesel, and exhibits significantly reduced chemical toxicity. For example, bioassays on fish and shrimp larvae done to compare biodiesel and petroleum-based LC50s (the concentration at which 50% of organisms exposed to the substance will die) found that biodiesel was from 18 to 42 times less toxic than petroleum-based fuels. At the same time, biodiesel is much more insoluble in both fresh and salt water than diesel. Several studies describe the toxic effects of biodiesel on larvae as being mainly due to suffocation or coating of exposed gill surfaces rather than a particular response to a chemical constituent. Adult birds or mammals may also experience hypothermia due to this coating effect. However, because biodiesel biodegrades about twice as fast in the marine environment as does regular diesel, it exposes marine organisms to fewer chronic effects.

Biodiesel exhibits stronger characteristics as a solvent than regular diesel. Over time, it will soften and degrade rubber compounds more quickly than diesel and may also exhibit these solvent characteristics on painted surfaces. As a result, the Coast Guard recommends that vessels using biodiesel use any of several available synthetic materials in fuel lines, gaskets, and other engine parts exposed to the fuel.

Biodiesel can be mixed with petroleum-based diesel or used in its pure form (100% biodiesel or "neat" biodiesel). When it is mixed with diesel, the characteristics noted above vary with the proportions of diesel to biodiesel. For example, 100% diesel has a flashpoint of 171° F, a 50/50 blend has a flashpoint of 194° F, and 100% biodiesel has a flashpoint of 267° F. Similarly, an 80/20 blend of diesel biodiesel produces 8 to 22% fewer carbon monoxide emissions than 100% diesel, and 100% biodiesel shows a 28 to 37% decrease.

*Biodiesel regulatory issues:*

When biodiesel is blended with petroleum-based fuels, it is subject to the same regulations as petroleum-based products (e.g., storage and transport requirements, spill response plans, etc.). When it is transported, stored, or dispensed in its pure form (100% biodiesel, or "neat" biodiesel), it is not necessarily regulated under these same restrictions. For instance, some spill prevention requirements apply only to petroleum-based products, even though those requirements may be equally effective in preventing spills of biodiesel. There are several proposals at the state and federal level to either change petroleum-specific regulations to include biodiesel or to create new regulations that specifically address biodiesel storage, transport, spill prevention, and cleanup requirements.

Even with a degree of uncertainty about whether particular regulations apply to biodiesel, there are at least two mechanisms at the state level to ensure biodiesel is handled properly and that spills of biodiesel are responded to appropriately. Coastal Act Section 30232 regulates crude oil, gas, petroleum products, or "hazardous substances", and requires that measures be in place for spill prevention, containment, and cleanup. While biodiesel may result in fewer overall environmental impacts compared with regular diesel, spills or improper use are still likely to adversely affect coastal resources, including water quality and biological resources. Therefore, biodiesel qualifies as a hazardous substance for purposes of Section 30232. In addition, Section 5650 of the state Fish and Game code authorizes the state Office of Spill Prevention and Response to respond to spills of "any substance or material deleterious to fish, plant life, or bird life."

The facility will continue to be subject to requirements related to spill prevention and response implemented by the U.S. Coast Guard, OSPR, and the RWQCB. The facility must submit several documents to these agencies for review and approval, and to the Executive Director, including a Facility Operations Manual and Emergency Response Plan as provided to the U.S. Coast Guard, and a Stormwater Pollution Prevention Plan as provided to the RWQCB. The Facility Operations Manual is meant to satisfy federal requirements related to spill prevention and response requirements at 33 CFR Part 154 ("Facilities Transferring Oil or Hazardous Material in Bulk"). The Emergency Response Plan is meant to satisfy the requirements of applicable federal water quality and spill prevention and response requirements at 33 CFR § 154.1030 ("General Response Plan Contents") and 40 CFR § 112.20, and state water quality requirements at Title 14 CCR Division 1, Subdivision 4. The Stormwater Pollution Prevention Plan is meant to satisfy state and federal water quality requirements under Section 402 of the federal Clean Water Act. In addition, the facility is subject to financial responsibility requirements implemented by OSPR.



With respect to the storage, handling, dispensing, and preventing or responding to spills of biodiesel, blends of diesel and biodiesel, or other hazardous substances, Amended **Special Conditions 2 and 3** would require the operator to comply with all requirements contained or specified in the above-referenced approvals.

The Commission found in its approval of CDP E-01-006 that the facility as proposed met the two-part test contained in Coastal Act Section 30232 – first, that the development provide protection against project-related spills; and second, that it provide effective containment and cleanup should spills occur. Amended **Special Conditions 1, 2, and 3** provide the same level of protection, and may, in fact, provide a reduced likelihood of damage to coastal resources from spills that may occur. Biodiesel degrades in water more quickly than diesel fuel, and it exhibits less toxicity; therefore, reducing the amount of diesel stored and dispensed at the facility (and replacing it with biodiesel) is likely to reduce the impacts of spills if they occur. Therefore, the proposed amended conditions will conform to Coastal Act policies related to spill prevention, control, and cleanup.

Amended **Special Condition 3** would also require operators of vessels purchasing biodiesel to sign a Declaration of Inspection (DOI) stating that their vessel is properly equipped to use biodiesel. Pursuant to Coast Guard regulations at 33 CFR 156.150, the facility is already required to obtain a DOI from each vessel taking on fuel. These DOIs provide a signed statement from the Person in Charge of both the fuel facility and the vessel that the required fuel transfer method was completed as required. The applicant has proposed modifying the DOI (Attachment A) to specify any vessel taking on biodiesel is equipped with fuel lines, gaskets, and other similar equipment made from any of several types of synthetic materials approved by the Coast Guard (at 46 CFR 56.50 and 56.60) for use with biodiesel. Therefore, the amended condition is likely to protect against spills of hazardous substances into marine waters.

For the reasons described above, the Commission finds the project consistent with Section 30232 of the Coastal Act.

### **3.4.3 Commercial Fishing and Recreational Boating**

Coastal Act Section 30234 states:

*Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*

In addition, the City's LCP includes the following policies:

*City's LCP, Ventura Harbor Section, General Location Policies #2 (p. III-97): Existing facilities serving recreational boaters and commercial fishermen shall be retained, unless*

*documentation, consistent with that described under the Intent and Rationale Statement demonstrates that there is no longer a demand for facilities is provided or equivalent facilities are constructed elsewhere in the Harbor in conjunction with the redevelopment of existing facilities.*

*City's LCP, Ventura Harbor Section, Intent and Rationale for Land Use Designations (p. III-101): Recreational boating and commercial fishing shall be located and designated so as to not interfere with one another. Potential impacts from commercial fishing or general boat repair and construction operations shall be mitigated. Mitigation measures shall include locating such facilities away from existing residential areas...*

*City's LCP, Ventura Harbor Section, Area Locational and Intensity Policies #4 – Northeast Harbor Area (p. III-106): Uses allowed in this area include the following: (1) commercial visitor-serving uses; (2) recreational boating; (3) non-priority uses limited to public facilities and general retail and offices; (4) non-water oriented commercial; (5) public park and recreation; (6) residential uses limited to a maximum of 300 units and limited to the upper story (stories) of any development; and (7) mobile homes for the Mobile Home Park area (MHP). Commercial fishing facilities are not intended uses in the Northeast Harbor Area.*

The facility is located in an area of the Harbor designated in the City's LCP for uses related to commercial fishing. Amended **Special Condition 1** allowing an additional fuel dispenser on the attached floating dock and the sale of biodiesel would allow more efficient use of the facility by commercial fishing vessels, and would allow those vessels an additional choice of fuel. This improved efficiency and added fuel choice is likely to improve the economic viability of the facility, which may allow the Port District to better maintain and upgrade commercial fishing facilities, and meet the LCP requirement to maintain separate facilities for commercial and recreational vessels.

For the reasons described above, the Commission finds the project complies with Section 30234 of the Coastal Act.

#### **4.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096 of the Commission's administrative regulations requires Commission approval of CDP 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.

The project as conditioned herein incorporates measures necessary to avoid any significant environmental effects under the Coastal Act, and there are no less environmentally damaging feasible alternatives. Therefore, the Commission finds that the proposed project is consistent with the resource protection policies of the Coastal Act and with the CEQA.

## **APPENDIX A: Substantive File Documents**

- June 13, 2001 letter from applicant requesting amendments to CDP E-01-006.
- July 6, 2001 letter from applicant in response to Commission staff request for additional information.
- September 7, 2001 modified Declaration of Inspection provided from applicant.
- Draft Facility Operations Manual for Ventura Harbor Marine Fuel, Inc., January 2001.
- Draft Emergency Response Manual for Ventura Harbor Marine Fuel, Inc., January 2001.
- Draft Stormwater Pollution Prevention Plan for Ventura Harbor Marine Fuel, Inc., January 2001.
- "Technical Handbook for Marine Biodiesel", Randall von Wedel, PhD, CytoCulture International, Inc., April 22, 1999. Marine Biodiesel and Education Project for San Francisco Bay and Northern California. Prepared for National Renewable Energy Laboratory U.S. Department of Energy.

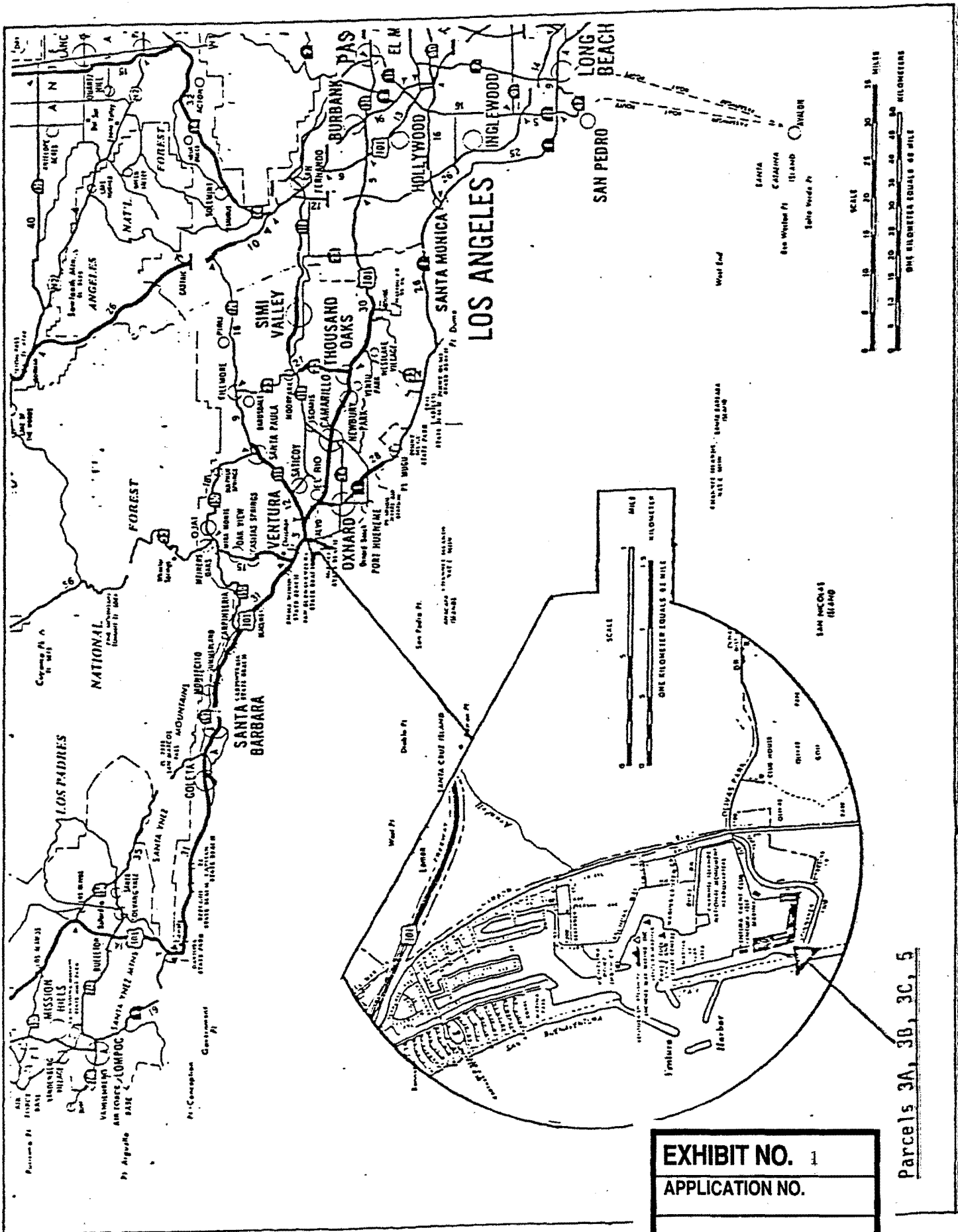
### **EXHIBIT 1 – LOCATION MAP**

### **EXHIBIT 2 – MAP OF VENTURA HARBOR**

### **ATTACHMENT 1 – Modified Declaration of Inspection (DOI)**



VENTURA HARBOR



Parcels 3A, 3B, 3C, 5

EXHIBIT NO. 1
APPLICATION NO.
E-01-006-A1

To further evaluate this concern, Commission staff requested comments from the Department of Boating and Waterways, as required in Section 30419, which states:

*Chapter 5, Section 30419 The Department of Boating and Waterways is the principal state agency for evaluating the economic feasibility of any boating facility to be developed within the coastal zone.*

*If the economic viability of a boating facility becomes an issue in a coastal development permit matter or in a local coastal program or any amendment thereto, the commission shall request the Department of Boating and Waterways to provide comment, including, but not limited to, the analysis of costs associated with conditions of approval. In cases where the Department of Boating and Waterways desires to make any comment, it shall be made within 30 days of the commission's request. The commission shall include the comment in its decision regarding a coastal development permit or local coastal program or any amendment thereto.*

The Department, however, informed staff on May 24, 2001, that it would not provide comments on the proposed project.

### **Conclusions**

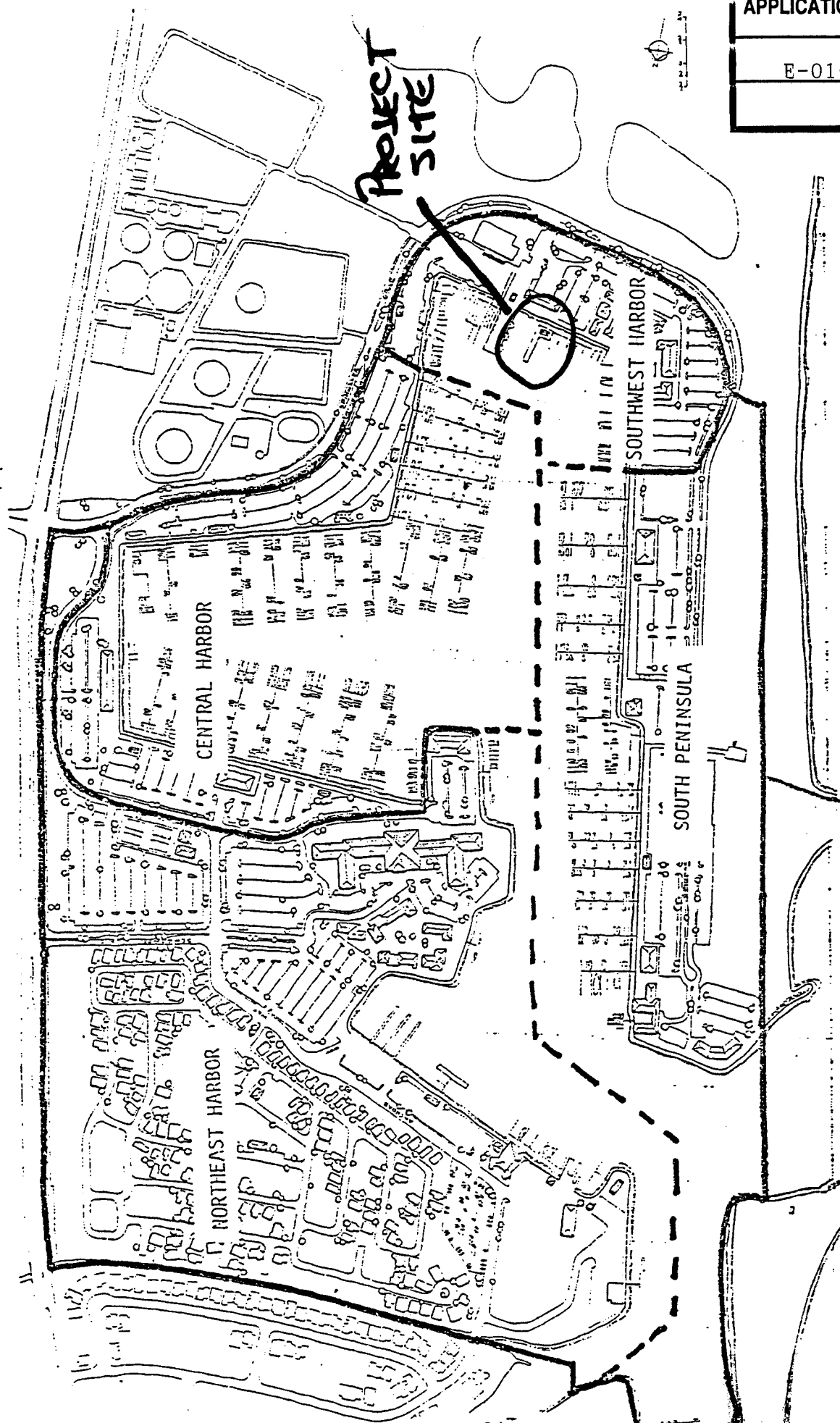
For the reasons described above, and because there is no evidence that suggests re-opening the commercial fishing fuel pier will result in the closure of the recreational fuel pier, the Commission finds the project complies with Section 30234 of the Coastal Act.

## **8.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096 of the Commission's administrative regulations requires Commission approval of CDP 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.

The project as conditioned herein incorporates measures necessary to avoid any significant environmental effects under the Coastal Act, and there are no less environmentally damaging feasible alternatives. Therefore, the Commission finds that the proposed project is consistent with the resource protection policies of the Coastal Act and with the CEQA.

EXHIBIT NO.	2
APPLICATION NO.	
	E-01-006-A1



ILLUSTRATIVE SITE PLAN · VENTURA HARBOR · VENTURA PORT DISTRICT,  
 VENTURA, CALIFORNIA MAP 4

## APPENDIX A: Substantive File Documents

### Local CDP Documents from City of San Buenaventura

- Application for CDP from Ventura Port District, January 29, 2001
- Administrative Report, March 28, 2001
- Public Hearing Notice for Administrative CDP Application, received February 26, 2001
- Administrative Public Hearing Agenda, March 6, 2001
- Local Coastal Program/Municipal Code, November 1999

### City Appeal Documents

- Appeal to City by Mr. Lou Merzario, March 16, 2001
- Appellant's Testimony to City Council, April 16, 2001
- City's Administrative Report on Appeal and Resolution #2001-42, April 16, 2001

### Public Comment Letters

- From Lou Merzario, February 22, 2001 (attached)
- From Dorothy Hitch, Dave's Marine Fuel Service, Inc., April 26, 2001 (attached)
- From Edward Schoemer, Manager, Ventura Isle Marina, May 13, 2001 (attached)

### Commission Review Documents

- Application for Coastal Development Permit from Ventura Port District, received January 31, 2001
- Notice of Incomplete Letter from Commission staff to Applicant, February 22, 2001
- Letter from Lessee providing additional application information, February 22, 2001
- Letter from Applicant providing additional information in response to Notice of Incomplete Letter, February 26, 2001
- Letter from Applicant providing additional information in response to Notice of Incomplete Letter, April 25, 2001
- Letter from Applicant stating no fuel spills from the commercial fishing fuel dock in the past twenty-one years, February 28, 2001 (attached)
- Appeal of City's Decision by Lou Merzario, May 8, 2001 (attached)
- Commission Notification of Appeal to City, May 8, 2001 (Appeal #A-4-SBV-01-093)
- Draft Facility Operations Manual for Ventura Harbor Marine Fuel, Inc., January 2001
- Draft Emergency Response Manual for Ventura Harbor Marine Fuel, Inc., January 2001
- Draft Stormwater Pollution Prevention Plan for Ventura Harbor Marine Fuel, Inc., January 2001
- Fueling Facility Lease between Ventura Port District and Ventura Harbor Marine Fuel, Inc., January 2001
- Fueling Facility Lease between Ventura Port District and Hi-Seas Fuel Dock, September 1, 1993
- Letter from Commission staff to Department of Boating and Waterways requesting comments, May 15, 2001
- Personal communication from Don Waltz, Department of Boating and Waterways to Tom Luster, May 24, 2001



ATTACHMENT A

**Declaration of Inspection**

Ventura Harbor Fuel Service Inc.  
 1449 Spinnaker Drive  
 Ventura Harbor, Ventura CA 93001

United States Coast Guard  
 Enforcement Agency

Marine Fuel Transfer

Date: \_\_\_\_\_

Facility Person in Charge	Name	Title	Signature		Time
Receiving Vessel	Name				
Vessel Person in Charge	Name	Title	Signature		
Communication Method		Voice	Radio	Hand	
BioFuel Transfer			Yes	No	
Vessel engine & fuel system properly equipped to use biodiesel (U.S.C.G. approved synthetic materials per 46 CFR § 56.50 & 56.60, Type A-1, SAE J-1527 or equivalent)			Yes	No	
No Smoking Rule in Effect			Yes	No	
Containment material in place			Yes	No	
Both parties ready to start transfer			Yes	No	
Transfer operation start time					
Transfer operation completed time					
Certification procedures and tests completed			Yes	No	

The vessel and facility person in charge shall each have a signed copy of the declaration of inspection available for inspection by the COTP during the transfer operation.

The operators of each vessel and facility engaged in the transfer operation shall retain a signed copy of the declaration of inspection on board the vessel or at the facility for at least one month from the date of signature.

