

CALIFORNIA COASTAL COMMISSION

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Hearing Date: February 8, 2006
Commission Action:

**STAFF REPORT: MATERIAL AMENDMENT**

AMENDMENT NUMBER: 5-00-484-A1 & A5-VEN-01-008-A1

APPLICANT: City of Los Angeles Department of Recreation & Parks

AGENT: Davis Attaway, Department of Recreation and Parks

PROJECT LOCATION: 40 W. Horizon Avenue (on beach), Venice, City of Los Angeles.

ORIGINAL PROJECT DESCRIPTION, APPROVED MARCH 12, 2001:

Demolition of the Damson Oil facility and restoration of part of the site as a public skating venue, including a skateboard area, roller hockey rink, and realignment of beach bicycle path.

AMENDMENT DESCRIPTION:

Extend the time limit for the removal of monitoring wells and rock revetment from the public beach, and propose a new design for the public skating venue previously approved on the site of the former Damson Oil facility (includes a change to the height limit set forth by Special Condition 7.c of the underlying dual permits).

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending **APPROVAL** of the permit amendments because, as conditioned, the requested amendments and proposed development design would not adversely affect public views of the shoreline or any other coastal resources. The recommended special conditions would require the applicant to remove the rock revetment and monitoring wells from the beach concurrently with the construction of the proposed public skating venue, and prior to February 8, 2008. In addition, the four-foot height limit set forth by Special Condition 7.c of the underlying dual permits would be superceded by recommended Special Condition Two, which requires that the public skate venue be constructed as shown on Exhibit #6 of this staff report. This recommendation would allow portions of the public skating venue to extend up to 6.5 feet in height above the existing grade of the sandy beach. The special conditions of the underlying dual permits (except for Special Condition 7.c) are unchanged and remain in effect. The applicant agrees with the staff recommendation. **The motions to accomplish the staff recommendation are on the bottom of Page Two.**

STAFF NOTE: The proposed development is situated on the public beach between the mean high tide line of the Pacific Ocean and the first public road inland of the ocean. Therefore, it is within the coastal zone area of the City of Los Angeles which has been designated in the City's permit program as the "Dual Permit Jurisdiction" area. Pursuant to Section 30601 of the Coastal Act and Section 13307 of the California Code of Regulations, any development located in the Dual Permit Jurisdiction that receives a local coastal development permit from the City must also obtain a permit from the Coastal Commission. In 2001, the original City-approved local coastal development permit for the development was appealed to the Commission. The Commission accepted the appeal, and, as a result, has jurisdiction over both the local coastal development permit and the dual permit application. On March 12, 2001, the Commission approved with identical conditions and findings the de novo permit (Appeal A5-VEN-01-008) and the dual permit application (Coastal Development Permit 5-00-484) for the demolition of the Damson Oil facility and restoration of part of the site as a public skating venue. Both the underlying dual permits are being amended by this action. The standard of review is the Chapter 3 policies of the Coastal Act.

PROCEDURAL NOTE: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or
- 3) The proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change that affects conditions required for the purpose of protecting a coastal resource. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. [Title 14 California Code of Regulations 13166].

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolutions to **APPROVE** the permit amendment requests with special conditions:

MOTION I: *"I move that the Commission approve the proposed amendment to Coastal Development Permit 5-00-484 pursuant to the staff recommendation."*

MOTION II: *"I move that the Commission approve the proposed amendment to Coastal Development Permit A-5-VEN-01-008 pursuant to the staff recommendation."*

Staff recommends two **YES** votes. Passage of these motions will result in approval of the amendments and adoption of the following resolutions and findings. An affirmative vote by a majority of the Commissioners present is needed to pass each motion.

I. Resolution for Approval of Permit Amendment 5-00-484-A1

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and conditioned 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. Resolution for Approval of Permit Amendment A5-VEN-01-008-A1

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and conditioned 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 amendment 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 amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

III. Special Conditions of Permit Amendments 5-00-484-A1 and A5-VEN-01-008-A1

Note: The following conditions are in addition the previously imposed Special Conditions of Coastal Development Permits 5-00-484 and A5-VEN-01-008 (See Appendix). All Special Conditions of Coastal Development Permits 5-00-484 and A5-VEN-01-008, as approved by the Commission on March 12, 2001, still apply, except for the four-foot height limit that was set forth by Special Condition 7.c.

1. Deadline for Removal of Monitoring Wells and Rock Revetment from Beach

The monitoring wells and the shoreline protection device (rock revetment) shall be removed from the site concurrently with the construction of the approved public skating venue and prior to February 8, 2008.

2. Design of the Public Skating Venue

The public skating venue shall be constructed as shown on Exhibit #6 of the staff report dated January 19, 2006. The tallest elements of the public skating venue are permitted to extend up to 6.5 feet in height above the existing grade of the sandy beach. Any proposed change or deviation from the approved plans shall be submitted to the Executive Director to determine whether another permit amendment is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission-approved permit amendment unless the Executive Director determines that no amendment is required.

IV. Findings for Permit Amendments 5-00-484-A1 and A5-VEN-01-008-A1

The Commission hereby finds and declares:

A. Project Description

On March 12, 2001, the Commission approved Coastal Development Permits 5-00-484 and A5-VEN-01-008 permitting the City of Los Angeles Department of Recreation and Parks to demolish the abandoned Damson Oil Corporation facility on Venice Beach, and to restore the site as a public skating venue, including a skateboarding area, roller hockey rink, and a realigned portion of the beach bicycle path (See Exhibits). The special conditions of Coastal Development Permits 5-00-484 and A5-VEN-01-008 are attached as an appendix to this report.

The City's amendment requests would accomplish the following: 1) extend the time limit for the removal of monitoring wells and rock revetment from the public beach, and 2) obtain Commission approval for the new design of the public skating venue that was previously approved on part of the project site. The previously imposed three-year time limit for the removal of monitoring wells and rock revetment from the public beach is set forth in Special Condition 6.c of the underlying dual permits, as follows:

- 6c. Provisions to remove the monitoring wells and the shoreline protection device from the project site when their useful life (in terms of site remediation) has expired. **In the event that the monitoring wells and the shoreline protection device have not been removed from the site within three years of installation of the monitoring wells, the City shall apply to the Commission in the form of a permit amendment to request an extension of the three-year term for the monitoring wells and the shoreline protection device.**

The City asserts that it expects the Regional Water Quality Board (RWQCB) to authorize the removal of the monitoring wells in 2006 based on the well's recent readings that show success of the soils remediation phase of the restoration project (Exhibit #3, p.2). A two-year extension of the deadline (from Commission action) is being requested (Exhibit #3, p.1). The City proposes to remove the rock revetment at the same time it constructs the proposed public skating venue 150 feet inland of the rocks.

In regards to the proposed public skating venue, the City has submitted a revised plan that complies with all of the Commission's previously imposed design parameters except for the four-foot height limit that was set forth by Special Condition 7.c of the underlying dual permits, as follows:

- 7c. **No structures on the site shall exceed a height of four feet measured from the existing grade of the site, with the exception of light standards for lighting the public recreation facility.** The proposed bleachers, ticket booth and roller hockey rink, including the proposed Plexiglas dasher boards, and any other proposed structures shall be redesigned to conform to the four-foot height limit or be deleted from the plan.

The previously proposed roller hockey rink, dasher boards, bleachers, light standards and ticket booth have all been deleted from the proposed plan (Exhibit #6). The proposed revised development would occupy the same site and area as the previously approved skating venue, and is set back 150 feet inland of the rock revetment (Exhibit #5). The tallest design elements of the revised skating venue reach 6.5 feet in elevation above the existing grade of the sandy beach. The City has submitted a visual impact analysis for the revised design which shows that it will not have a significant effect on public views across the beach to the sea. A concrete skate dance area and landscaped turf area with several palms occupy the beach are situated between the boardwalk and the proposed skating venue (Exhibit #7).

B. Project History

For 35 years, the former Damson oil production facility occupied a 1.4-acre portion of the sandy beach seaward of Ocean Front Walk and the terminus of Horizon Avenue (Exhibit #2). In 1965, the City of Los Angeles, which owns the beach, had leased the site to private developers for oil production purposes. Eleven oil wells were developed on the site to extract crude oil from 1967 until 1991 when the wells were originally abandoned. An underground oil pipeline was used to transport crude oil from the wells to a refinery located approximately three miles south of the site.¹ From 1991 until 2000, the City used the walled site as an equipment storage area. The City demolished the facility in 2001 and implemented a soil remediation project in order to restore the area for public recreation.

In 2001, the Commission permitted the restoration project to be completed in two phases. The first phase, which was also reviewed and approved by the California Regional Water Quality Control Board (RWQCB), involved the demolition and re-abandonment of the remaining oil production facilities on the site and the remediation of polluted soils on the site. The shallow soil at the site was remediated by excavating the top layer of soil and transporting it off-site for disposal or recycling. The holes from the excavation were back-filled with soil from clean parts of the site. Sand from the adjacent beach was also permitted to be used to restore the grade of the site to its current level of +12 feet above mean sea level (MSL). The previously approved project also included the installation of twelve new groundwater and soil vapor wells to monitor the natural attenuation of deeper soils that have been impacted by releases of crude oil. The monitoring wells monitor the natural attenuation of the deeper soils and verify whether the quality of the ground water beneath the site is deteriorating. The analysis of soil gas beneath the site indicate strong oxygen depletion and carbon dioxide production suggesting that the crude oil has naturally attenuated through biodegradation.

The second phase of the approved project involves the construction of a public skating venue on part of the site located inland of the rock revetment, which the Commission has required the City to remove as a condition of the permit.

C. Public Access and Recreation

The proposed revised plan for the previously approved public skating venue will provide the public with a lower cost recreational facility in an popular area that is visited by thousands of people. No development is being proposed that would interfere with access along the water's

¹ The oil pipeline was purged, filled with cement, and partially removed in 2000 pursuant to Coastal Development Permit Waiver E-00-010-W (City of L.A.). The removed section of pipeline was the 1,100 feet nearest the Damson site.

edge. Therefore, as conditioned, the permit amendments and proposed development will not have any new adverse impact on public access to the coast or to nearby recreational facilities. Thus, as conditioned, the permit amendment and proposed development conform with Sections 30210 through 30214, Sections 30220 through 30224, and 30252 of the Coastal Act.

D. Visual Resources

Section 30251 of the Coastal Act 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 surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...

Section 30251 of the Coastal Act requires that the scenic and visual resources of coastal areas be considered and protected as a resource of public importance. In addition, public views to and along the ocean and scenic coastal areas shall be protected.

The currently proposed revised plan for the public skating venue will blend better into the surrounding recreation area and be less visible than the previously proposed and previously approved plan because the roller hockey rink, dasher boards, bleachers, light standards and ticket booth have all been deleted from the proposed plan (Exhibit #6). The proposed revised development with its bowls and seating areas would occupy the same site and area as the previously approved skating venue, and is set back 150 feet inland of the rock revetment (Exhibit #5). The tallest design elements of the revised skating venue reach 6.5 feet in elevation above the existing grade of the sandy beach, but these elements occupy only a small portion of the project site. The majority of the currently proposed skating venue will be under the previously imposed four-foot height limit. In any case, the City has submitted a visual impact analysis for the revised design which shows that it will not have a significant effect on public views across the beach to the sea, or along the beach. A concrete skate dance area and landscaped turf area with several palms occupy the beach are situated between the boardwalk and the proposed skating venue (Exhibit #7).

The proposed project has been sited and designed to protect views to and along the ocean, minimizes the alteration of the natural land form, and is visually compatible with the character of the surrounding area. Therefore, the proposed project is consistent with Section 30251 of the Coastal Act. Any proposed change or deviation from the approved plans shall be submitted to the Executive Director to determine whether another permit amendment is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. No changes to the approved plan shall occur without a Commission-approved permit amendment unless the Executive Director determines that no amendment is required.

E. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the project will not prejudice the ability of the local government

having jurisdiction to prepare a Local Coastal Program which conforms with Chapter 3 policies of the Coastal Act:

- (a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development 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 (commencing with Section 30200). A denial of a Coastal Development Permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

The City of Los Angeles does not have a certified Local Coastal Program for the Venice area. The Commission on June 14, 2001 officially certified the Venice LUP. As conditioned, the permit amendments and proposed development conform with the policies of the certified Venice LUP. As conditioned, the permit amendment and proposed development are also consistent with the Chapter 3 policies of the Coastal Act. Therefore, the Commission finds that approval of the permit amendment, as conditioned, will not prejudice the City's ability to prepare a Local Coastal Program consistent with the policies of Chapter 3 of the Coastal Act, as required by Section 30604(a).

F. California Environmental Quality Act (CEQA)

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned 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 CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As conditioned, the permit amendments and proposed development are consistent with the Chapter 3 policies of the Coastal Act. All adverse impacts have been minimized by the recommended conditions of approval and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project as conditioned can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX

The Special Conditions of Coastal Development Permits 5-00-484 and A5-VEN-01-008, as approved by the Commission on March 12, 2001.

1. Oil Spill Contingency Plan

Prior to the issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a project-specific final oil spill contingency plan, including but not limited to the following provisions:

- a. Emergency oil spill containment and cleanup equipment, including sorbent pads and other appropriate equipment shall be staged onsite during all site preparation, excavation and remediation, and abandonment activities.
- b. The applicant shall provide a comprehensive oil spill notification list in its plan, and will immediately notify the California Department of Fish and Game Office of Spill Prevention and Response (OSPR), Office of Emergency Services (OES), California Regional Water Quality Control Board (RWQCB), and the Coastal Commission and other relevant agencies if any spill occurs.
- c. Staging areas, equipment and materials storage areas, and soil stockpiles shall be located at least 100 feet from the mean high tide line identified on the project plans dated 7/18/00 (Exhibit #4 of staff report dated 2/27/01). Staging areas shall be designed so oil or hydrocarbon releases or spills can be contained and recovered.

The permittee shall implement the oil spill contingency plan during all demolition and excavation activities in a manner consistent with the oil spill contingency plan approved by the Executive Director.

2. Beach and Recreation Area Closures and Project Staging Areas

Prior to issuance of the coastal development permit, the applicant shall submit to the Executive Director for review and written approval, a final demolition schedule and detailed plans which identify the specific location of: demolition staging and equipment storage areas, areas where any demolished structures and excavated soils are proposed to be temporarily stockpiled, and the access corridors to the project site. Said plans shall include the follow criteria and limitations specified via written notes on the plan:

- a. In order to reduce adverse impacts to public access and recreation, no demolition or construction associated with the proposed project shall occur during the summer peak beach use period (start of Memorial Day weekend to Labor Day) of any year.
- b. Beach and recreation area closures shall be minimized and limited to areas immediately adjacent to the project area (within 100 feet of the Damson Oil facility). All beach areas and recreation facilities outside of the 100-foot radius shall remain open and available for public use during the normal operating hours (unless they are closed pursuant to a Commission approved coastal development permit or permit amendment).
- c. Public access to and along the existing beach bicycle path shall be maintained at all times, except for temporary interruptions (5 minutes or less) for truck crossing. In the event that the bicycle path must be closed for periods longer than five minutes, the City shall submit, for the review and approval of the Executive Director, a pedestrian detour and beach

bicycle path detour to bypass the project site during demolition and construction. No sand areas may be paved for any detour. The detour plan approved by the Executive Director shall be implemented prior to closing the existing beach bicycle path.

- d. Staging areas, equipment and materials storage areas, and soil stockpiles shall be located at least 100 feet from the mean high tide line identified on the project plans dated 7/18/00 (Exhibit #4 of staff report dated 2/27/01). These areas shall be fenced-off to prevent any encroachment of equipment or debris within 100 feet of the mean high tide line.
- e. Truck and heavy equipment access corridors to the project site shall be located in a manner that has the least impact on public access and existing public parking areas. Use of public parking areas for staging/storage areas is not permitted.

The permittee shall undertake development in accordance with the plans and construction schedule approved by the Executive Director pursuant to this condition. Any proposed changes to the approved plans or construction schedule shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

3. Protection of Water Quality

The applicant shall, by acceptance of this coastal development permit, agree that: a) any spills of construction equipment fluids or other hazardous materials shall be immediately contained on-site and disposed of in an environmentally safe manner as soon as possible; b) no machinery will be allowed in the intertidal zone at any time; c) all grading and excavation areas shall be properly covered and sand bags and/or ditches shall be used to prevent runoff from leaving the site; and, d) measures to control erosion must be implemented at the end of each day's work.

4. Disposal of Debris

All demolition/construction debris shall be removed from the beach and disposed of outside of the coastal zone in accordance with all local, state and federal regulations.

5. Sand Source

All excavation and movement of beach sand used to backfill the project site after demolition and excavation of polluted soils shall be limited to the Venice Beach area located north of the project site and at least 100 feet inland of the mean high tide line identified on the project plans dated 7/18/00 (Exhibit #4 of staff report dated 2/27/01). No trucks or other equipment are permitted on any portion of the beach located within 100 feet of the mean high tide line.

6. Monitoring Wells and Shoreline Protection Device

Prior to the installation of the proposed monitoring wells at the site, the applicant shall submit for the review and approval of the Executive Director, a final plan for the proposed monitoring wells which includes the following:

- a. The specific location of each proposed monitoring well.
- b. The design of each proposed monitoring well, including a visual treatment of the wellheads' exterior casings which make them visible for public safety purposes, while also making the wellheads visually subordinate and in character with the seaside landscape. This can be accomplished by designing the exterior casings of the wellheads using a pier-like motif so the wells resemble wooden pilings sticking out of the surrounding beach.

Two or three actual wooden pier posts of staggering heights can be installed next to each actual wellhead to add to the visual effect while also providing additional visibility and protection from lifeguard and beach maintenance vehicles. The Executive Director will consider alternative visual treatments that accomplish the same public safety and view protection goals. The height of the monitoring wellheads and their design features shall not exceed a height of four feet above ground surface.

- c. Provisions to remove the monitoring wells and the shoreline protection device from the project site when their useful life (in terms of site remediation) has expired. In the event that the monitoring wells and the shoreline protection device have not been removed from the site within three years of installation of the monitoring wells, the City shall apply to the Commission in the form of a permit amendment to request an extension of the three-year term for the monitoring wells and the shoreline protection device.

The permittee shall undertake development in accordance with the monitoring well plan approved by the Executive Director pursuant to this condition. Any proposed changes to the approved monitoring well plan, or any proposed use of the monitoring wells for uses other than monitoring (i.e., soil remediation efforts) shall be reported to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

7. Revised Plans for Public Skating Venue

Prior to the commencement of construction of the proposed recreational facilities (i.e., beach bicycle path realignment, landscaping, construction of public skating venue) on the project site, the applicant shall submit revised project plans, for the review and approval of the Executive Director, which incorporate the following revisions to the project:

- a. All public recreation facilities (i.e., beach bicycle path and skating facilities) and landscaping shall be set back a minimum distance of 150 feet from the current location of the most seaward perimeter wall of Damson Oil facility (as shown on Exhibit #3, p.2 of the staff report dated 2/27/01). The setback area shall be restored to sandy beach with the exception of the permitted monitoring wells.
- b. The proposed skateboard park, roller hockey rink, bleachers and other new facilities associated with the proposed public skating venue shall not encroach within 150 feet of Ocean Front Walk. The required 150-foot minimum buffer between the proposed public skating venue and Ocean Front Walk shall be maintained in its current form as a landscaped public recreation area.
- c. No structures on the site shall exceed a height of four feet measured from the existing grade of the site, with the exception of light standards for lighting the public recreation facility. The proposed bleachers, ticket booth and roller hockey rink, including the proposed Plexiglas dasher boards, and any other proposed structures shall be redesigned to conform to the four-foot height limit or be deleted from the plan.
- d. A landscaping plan shall be prepared to beautify the site and provide screening for approved structures, but shall not include plants which will obstruct public views of the shoreline from Ocean Front Walk.
- e. The revised plans shall also include a construction schedule and detailed plans which identify the specific location of equipment storage areas and the access corridors to the project site consistent with Special Condition Two of this coastal development permit.

The permittee shall construct and maintain the recreational facilities in a manner consistent with the revised project plans approved by the Executive Director. During the time period between the completion of the first phase of the proposed project (demolition and excavation) and the approval of the revised plans required by this condition, the project site shall be maintained as a sandy beach open and available for use by the general public.

8. Protection of Public Access to Lower Cost Recreational Opportunities

Through the acceptance of this coastal development permit, the City shall agree to operate the project site as a public park available for use on a non-exclusive and Citywide basis to persons and groups of all ethnic backgrounds, regardless of economic status. As such, the City park-operation policy shall allow the project site to be used by groups for organized events and programs in a manner consistent with other regional parks. Fees may be charged for league play as described in the February 2, 2001 City letter (Exhibit #6 of the staff report dated 2/27/01).

9. Conformance with the Requirements of the Resource Agencies

The permittee shall comply with all permit requirements and mitigation measures of the California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of water quality and marine environment. Any change in the approved project which are required by the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

10. Assumption of Risk

A) By acceptance of this coastal development permit, the applicant acknowledges and agrees: (i) that the site may be subject to hazards from seismic events, liquefaction, storms, waves, floods and erosion; (ii) the oil facility abandonment activities and the use of the proposed recreation facilities involve the risk of injury, (iii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards and/or injuries in connection with this permitted development; (iv) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards and/or injuries; (v) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards or activities; and (vi) to agree to include a provision in any subsequent sublease or assignment of the development authorized by this permit requiring the sublessee or assignee to submit a written agreement to the Commission, for the review and approval of the Executive Director, incorporating all of the foregoing restrictions identified in (i) through (v).

B) Prior to issuance of the coastal development permit, the applicant shall submit a copy of a written agreement by the applicant, in a form and content acceptable to the Executive Director, accepting all of the above terms of subsection A of this condition.