

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
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W5a

July 10, 2007

TO: Coastal Commissioners and Interested Parties

FROM: Alison J. Dettmer, Deputy Director, Energy and Ocean Resources Unit
Christina Cairns, Analyst, Energy and Ocean Resources Unit

SUBJECT: Supplement to Addendum to Findings for E-05-002 – Venoco, Inc.

This supplement provides a recommended addition to the above-referenced findings in addition to the changes proposed in the July 6, 2007 Addendum. On July 9, 2007, staff received confirmation from the California State Lands Commission that it would include language in new submerged lands leases necessary to indemnify the Coastal Commission from liability risks associated with the site. As a result, staff is recommending the Commission make the change described below. The suggested addition does not affect staff's recommendation that the Commission **conditionally approve** the proposed project.

REVISIONS TO FINDINGS: Staff recommends the Commission adopt the following addition to the findings:

- **Page 15 – insert new paragraph before the last paragraph of Section 4.4.4, “Hazards”:**

“In addition, pursuant to a letter to the Executive Director from the Executive Officer of the State Lands Commission (SLC) dated Mary 16, 1999 (copy attached hereto), the SLC has agreed to include in all new submerged lands leases and, “where feasible, in current leases when they are renewed, assigned, or amended,” provisions that closely follow the language of SC No. 1 and thus carry out its intent.”

ATTACHMENT:

- March 16, 1999 letter from State Lands Commission to the Executive Director.

**CALIFORNIA STATE
LANDS COMMISSION**

EXECUTIVE OFFICE

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

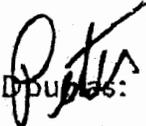
CRUZ M. BUSTAMANTE, *Lieutenant Governor*
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ROBERT C. HIGHT, *Executive Officer*
(916) 574-1800 Fax (916) 574-1810
California Relay Service from TDD Please 1-800-735-2922
from Voice Phone 1-800-735-2929

March 16, 1999

Mr. Peter Douglas
Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Subject: Assumption of Risk, Waiver of Liability and Indemnity
Agreement

Dear Mr.  Douglas:

This letter memorializes the understanding our staffs have worked out regarding assumption of risk, waiver of liability and indemnity issues on State sovereign lands where development will occur pursuant to a Coastal Development Permit (CDP). This letter also is intended to satisfy special condition 4 of CDP 4-98-301 and special condition 5 of CDP 5-90-1120A. These permits were issued respectively to the State Department of Parks and Recreation for modifications to the Malibu Pier and the City of San Clemente for the San Clemente Pier.

The California State Lands Commission (CSLC) agrees to include provisions in all future leases involving State sovereign land in the Coastal Zone, and where feasible, in current leases when they are renewed, assigned or amended. The provisions will require the lessees, their successors, assigns, sublessees, or any other holder of a possessory interest in a development authorized by a CDP and a CSLC leases to acknowledge and agree:

- 1) The site may be subject to hazards from natural geophysical phenomena including, but not limited to waves, storm waves, tsunamis, earthquakes, flooding and erosion;
- 2) To assume the risks to the lessee and to the property that is the subject of any CDP issued for development on the leased property, of injury and damage from such hazards in connection with the permitted development and use;

Mr. Peter Douglas

March 16, 1999

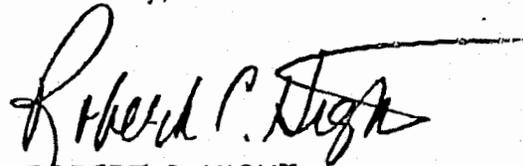
Page 2

- 3) To unconditionally waive any claim or damage or liability against the State of California, its agencies, officers, agents, and employees for injury or damage from such hazards;
- 4) To indemnify, hold harmless and, at the option of Lessor, defend the State of California, its agencies, officers, agents, and employees, against and for any and all liability, claims, demands, damages, injuries or costs of any kind and from any cause (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any alleged or actual injury, damage or claim due to site hazards or connected in any way with respect to the approval of the CDP or issuance of the lease by the CSLC.

The exact language of the CSLC lease provisions will be worked out by our staff and adopted by the CSLC. With this agreement, I understand that these provisions will satisfy any subsequent conditions regarding the CSLC, such as those involving the two permits discussed above, and no additional action by the CSLC will be necessary for the applicants to comply with such CDP conditions.

I am pleased that we have been able to work out this arrangement. I believe that it will expedite permit processing for applicants and our agencies alike. Thank you for your assistance in this matter.

Sincerely,



ROBERT C. HIGHT
Executive Officer

cc: Lynn Heacox, City of San Clemente
Rich Rozelle, Department of Parks and Recreation

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45 FREMONT, SUITE 2000
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W5a

July 6, 2007

TO: Coastal Commissioners and Interested Parties

FROM: Alison J. Dettmer, Deputy Director, Energy and Ocean Resources Unit
Christina Cairns, Analyst, Energy and Ocean Resources Unit

SUBJECT: Addendum to Findings for E-05-002 – Venoco, Inc.

This addendum includes recommended minor revisions to the Special Conditions and Findings of the staff report for coastal development permit E-05-002. On July 2, 2007, staff received a phone call from Steve Greig of Venoco requesting a change to Special Condition 2 to reflect that Venoco's interest in the property is through a lease rather than private ownership. In response to that request, staff is recommending the Commission make the changes described below. The suggested changes do not affect staff's recommendation that the Commission conditionally approve the proposed project.

REVISIONS TO FINDINGS: Staff recommends the Commission adopt the following revisions:

- **Page 4 - Change Special Condition 2:** Based on the applicant's request, staff recommends the Commission revise **Special Condition 2** to reflect the fact that the permit requirements stipulated under Special Condition 1 do not constitute a restriction on a deed but rather a restriction on a lease granted by the California State Lands Commission to the current lessee and any future successors, as shown below (in ~~strikeout~~/underline):

“2. Deed Lease Restriction

Within 45 days of the Commission's approval of this coastal development permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit a ~~deed~~ lease restriction, in a form and content acceptable to the Executive Director: 1) indicating that, pursuant to this coastal development permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and 2) imposing Special Condition 1 of this permit as a covenant, condition and restriction on the use and enjoyment of the property. The ~~deed~~ lease restriction shall include a legal description of the entire parcel governed by this coastal development permit. The ~~deed~~ lease restriction shall also indicate that, in the event of an extinguishment or termination of the ~~deed~~ lease restriction for any reason, the terms and conditions of this coastal development permit shall continue to restrict the use and enjoyment of the subject property so long as either this coastal development permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.”

- **Page 2 - Change the Synopsis:** The Synopsis should be amended to reflect the changes made to Special Condition 2, as follows:

“In **Special Condition 2**, Venoco would be required to provide record of a deed lease restriction, in a form and content acceptable to the Executive Director, incorporating all of the terms of **Special Condition 1** within 45 days of the Commission’s approval of the coastal development permit.”

- **Page 15 - Change the findings for Section 4.4.4, Hazards:** The findings under Coastal Act Issue Area “Hazards” should reflect the changes made to Special Condition 2, as follows:

“In **Special Condition 2**, the Commission is requiring the applicant to submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed lease restriction, in a form and content acceptable to the Executive Director, within 45 days of the Commission’s approval of the coastal development permit. The deed restriction shall 1) indicate that, pursuant to the coastal development permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and 2) impose Special Condition 1 of the coastal development permit as a covenant, condition and restriction on the use and enjoyment of the property. The deed lease restriction shall include a legal description of the entire parcel governed by this coastal development permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed lease restriction for any reason, the terms and conditions of the coastal development permit shall continue to restrict the use and enjoyment of the subject property so long as either the coastal development permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.”

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Date Filed: 3/17/07
49th Day: Waived
180th Day: 9/13/07
Staff: C. Cairns-SF
Staff Report: 6/21/07
Hearing Date: 7/11/07
Commission Action:

STAFF REPORT REGULAR CALENDAR

Coastal Development**Permit No.:****E-05-002****Applicant:****Venoco, Inc.****Project Location:**

7925 Hollister Ave., Goleta, CA 93117
State Lease 421, adjacent to the Sandpiper Golf Course,
City of Goleta, Santa Barbara County.

Project Description:

Repair seaward-facing wall of Pier 421-1 following severe storm damage. Project components include: (a) install temporary sand ramp for beach access to project site; (b) remove fallen concrete debris and rebar from the caisson at the beach; (c) drive 35 new steel pier pilings; (d) install and grout 56 pre-cast concrete panels keyed into underlying bedrock; and (e) pour 200 yards of concrete slurry fill between old and new wall faces.

Synopsis

Venoco, Inc. (“Venoco”) owns two idle wells on State Lease 421 – a water injection well on pier 421-1 and an oil production well on pier 421-2. The piers, constructed in 1929, are located immediately east of the Sandpiper Golf Course in the City of Goleta, Santa Barbara County, and extend offshore several meters (see Exhibit A). Both wells have been idle since 1994.

On January 19, 2004, following a series of severe winter storms, a large section of the seaward-facing wall on Pier 421-1 sheared off and fell into the surf below (see Exhibit B). This situation prompted the California State Lands Commission (CSLC) to issue several directives, ultimately requiring Venoco to make long-term repairs in order to ensure the safety and integrity of the pier. In a letter dated August 6, 2004, the CSLC urged the Coastal Commission to approve an emergency permit to avert the potential release of oil into coastal waters. On August 24, 2004, the Executive Director of the Coastal Commission issued Venoco Emergency Permit E-04-013-G to begin repair work. The emergency permit included a number of conditions developed in consultation with the local, state, and federal agencies to mitigate construction-related impacts from the project, such as implementing a marine mammal safety zone around the pier during pile-driving activities, employing environmental monitors and safety personnel to minimize disturbance to wildlife and people from construction, fencing off environmentally sensitive areas, and preparing oil spill prevention and response equipment and procedures. Between September and December 2004, Venoco completed the repair work.

This coastal development permit application is Venoco’s follow-up to the emergency permit requesting that the emergency repair work be permanent. No new development is proposed in this application.¹ The Lease 421 repair work involved: (1) installing a temporary sand ramp for beach access of equipment to the project site; (2) removing fallen concrete debris and rebar from the caisson at the beach; (3) driving 35 new steel pilings into the pier to provide support for heavy equipment and to hold the new concrete panels in place; (4) installing and grouting 56 pre-cast concrete panels keyed into underlying bedrock; and (5) pouring 200 yards of concrete slurry fill between the old and new wall faces.

The Commission staff believes the conditions of Emergency Permit E-04-013-G were adequate to mitigate construction-related effects of the project.

In this follow-up application to the emergency permit, staff is recommending in **Special Condition 1** that Venoco assume all future risk of damage to the shore zone structure and project site from unforeseen natural hazards and indemnify and hold harmless the Commission and its organizational affiliates against any liability with respect to the Commission’s approval of the project. In **Special Condition 2**, Venoco would be required to provide a deed restriction, in a form and content acceptable to the Executive Director, incorporating all of the terms of Special Condition 1 within 45 days of the Commission’s approval of the coastal development permit.

¹ A separate application by Venoco to reinstate oil production at the State Lease 421 piers is currently under environmental review by the California State Lands Commission, Coastal Commission, and City of Goleta.

The Commission staff thus recommends approval of coastal development permit application E-05-002, as conditioned.

1.0 STAFF RECOMMENDATION

1.1 Approval with Conditions

The staff recommends conditional approval of Coastal Development Permit Application No. E-05-002.

Motion:

I move that the Commission approve Coastal Development Permit Application No. E-05-002 subject to the conditions specified below.

The staff recommends a YES vote. To pass the motion, a majority of the Commissioners present is required. Approval of the motion will result in the adoption of the following resolution and findings.

Resolution

*The Coastal Commission hereby **grants** permit No. E-05-002, subject to the conditions below, for the proposed development on the grounds that (1) as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976 and (2) there are no feasible alternatives or feasible mitigation measures, other than those specified in this permit, which would substantially lessen any significant adverse impact which the activity may have on the environment.*

2.0 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. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **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.

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

3.0 SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Assumption of Risk/Shoreline Protection

By acceptance of this permit, the applicant acknowledges and agrees to the following:

- (1) The applicant acknowledges and agrees that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire.
- (2) The applicant acknowledges and agrees to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.
- (3) The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
- (4) The applicant agrees 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.

2. Deed Restriction

Within 45 days of the Commission's approval of this coastal development permit, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: 1) indicating that, pursuant to this coastal development permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and 2) imposing Special Condition 1 of this permit as a covenant, condition and restriction on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel governed by this coastal development permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this coastal development permit shall continue to restrict the use and enjoyment of the subject property so long as either this coastal development permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

4.0 FINDINGS AND DECLARATIONS

4.1 Project Background

Venoco, Inc. owns two idle wells on State Lease 421 – a water injection well on pier 421-1 and an oil production well on pier 421-2. The piers, constructed in 1929, are located immediately east of the Sandpiper Golf Course and extend offshore several meters into the surf zone. An existing dirt road provides access to the piers along the toe of the adjacent coastal bluff (see Exhibit C).

Both wells have been idle since 1994 when a pipeline extending from the piers to the Ellwood Oil and Gas Facility (located immediately adjacent to the golf course) leaked 170 barrels of oil onto the golf course near the coastal bluff. Mobil Exploration and Producing, Inc. owned the facilities at the time and never resumed production of State Lease 421. In August 1997, Venoco purchased the 421 lease and Ellwood facilities and is currently seeking agency approvals to return the shore-zone wells to production.

On January 19, 2004, following a series of severe winter storms, a large section of the seaward-facing wall on Pier 421-1 sheared off and fell into the surf below. This situation prompted the California State Lands Commission to issue a series of directives, ultimately requiring Venoco to make long-term repairs in order to ensure the safety and integrity of the pier.

Although certain repair and maintenance activities are exempt from coastal permitting requirements under Section 30610(d) of the Coastal Act, Venoco's proposal to replace the seaward-facing wall of pier 421-1 constitutes an extraordinary method of repair and maintenance that requires a coastal development permit because it involves a risk of substantial adverse environmental impact (see Section 13252 of the Coastal Commission's Administrative Regulations). Section 13252(a)(1)(B) specifically requires a coastal development permit for the placement, whether temporary or permanent, of solid materials (i.e. a wall) on the beach and 13252(a)(1)(D) of construction equipment or materials within 20 feet of coastal waters.

Due to the urgency of the needed repair work, on August 24, 2004, the Executive Director of the Coastal Commission issued to Venoco an emergency permit (E-04-013-G) authorizing replacement of the damaged caisson wall and removal of fallen pier debris from the beach (see Attachment B). On December 22, 2004, Venoco completed construction of the new wall. Condition 4 of Emergency Permit E-04-013-G required Venoco to submit within 30 days of project completion a coastal development permit application to make emergency authorization of the wall replacement permanent. On January 21, 2005, Venoco submitted this coastal development permit application to meet the requirement of Condition 4. Commission staff deemed the application complete on March 17, 2007.

4.2 Project Description

The repair project involved replacing the seaward outer caisson wall and parts of the two side caisson walls at Pier 421-1. The caisson is a concrete and sheet pile wall structure filled with sand, approximately 68 feet wide, 42 feet deep and 16 feet above the beach. It houses a water injection well and related equipment. The face of the new wall is located approximately 18 to 36

inches seaward of the existing wall face. The new walls consist of 56 pre-case concrete panels grouted together and supported by 15 internal steel pilings with approximately 200 cubic yards of concrete slurry inserted between the old and the new walls.

The majority of the repair work was completed from the top of the existing caisson and pier structure to mitigate impacts on the beach. A support floor was first constructed on top of the caisson to support the equipment necessary to conduct the pile driving and installation work from atop the pier. This required installation of 20 new steel pilings as well as steel beams and mats to complete the floor and shore up the existing structure.

Limited beach access was necessary to allow the equipment onto the beach in front of the pier to remove the fallen wall debris and prepare for the installation of the new wall face. To achieve beach access, Venoco re-established a temporary ramp near the west end of the pier access road. The upper portion of the ramp was intact from previous repair projects, however the lower portion needed to be reconstructed by repositioning existing armor rock and moving local beach sand. No new material was needed to re-establish the ramp.

The project was completed in about 3 months, beginning on September 27, 2004, and finishing on December 22, 2004. Repair work occurred during daylight hours from 7:00 am until 7:00 pm, Monday through Saturday, as a condition of Emergency Permit E-04-013-G. A workforce of approximately 12 contractors and Venoco personnel was onsite at any given time. There were approximately 100 to 150 truck trips over the 50-day work period by semi-trucks, concrete delivery trucks, dump trucks, and similar heavy equipment. A number of preventive measures to avoid or minimize environmental impacts were attached to the emergency permit as conditions of approval and were incorporated into the project; several of the relevant conditions are listed in the impacts discussion below.

The project is more fully described in the project Mitigated Negative Declaration dated September 29, 2006. The work included the following major work components:

- Staging: Venoco staged its construction and repair equipment at its nearby Ellwood Onshore Facility and moved equipment to the caisson using an existing service road that passes through the Sandpiper Golf Course and continues along the toe of the coastal bluff. Venoco coordinated with golf course management personnel to minimize any interference with golf course operations and fenced off any sensitive habitats, e.g. a wetland area at the east end of the access road, to avoid impacts from transportation. Equipment was removed from the beach and returned to the staging area at the end of each workday and during high tides. No refueling of equipment was allowed or occurred on the beach.
- Strengthening the caisson: To minimize the amount of work and equipment on the beach, Venoco conducted most of the repair work from the top of the caisson. This required strengthening the caisson to support a 45-ton crane and pile driver as well as various trucks and equipment. First, twenty steel pilings were driven into the interior of the caisson and then steel support flooring was installed on top of these pilings. The top surface of the pier was thus strengthened to allow it to support the heavy equipment used to install the remaining pilings and concrete panels needed for the new caisson wall.

- Debris removal: This work involved operating heavy equipment, such as an excavator, an articulating front-end loader, and a 4-wheeled all-terrain vehicle, on the beach to remove the failed concrete portion of the outer wall from the seaward side of the pier. Venoco gained access to the beach through a temporary sand ramp constructed from local beach sand and pre-existing roadbed armor rock. The ramp was partially intact from previous use in the past for beach access by similar equipment.
- Replacing the caisson walls: Venoco replaced the entire 68-foot wide seaward wall of the caisson and about 6 feet of each side wall adjacent to the seaward wall. Work included installing a drill rig on the top of the caisson, using an excavator to clear sand away from the base of the pier, drilling holes into the underlying bedrock for fifteen steel pilings, placing those pilings, and then placing pre-cast concrete panels as the new outer “face” of the caisson wall. The concrete panels were keyed into the underlying bedrock for stability. After the panels were set in place and grouted, concrete slurry was poured between the old and new walls, effectively sealing the inner caisson wall and fortifying the structure against further storm damage.

In this CDP application, Venoco seeks authorization to make permanent the above-described emergency activities. No additional work is requested as part of this application.

4.3 Other Agency Approvals

1. Emergency permits were granted by the City of Goleta (04-EMP-0001), the U.S. Army Corps of Engineers (200401576-JCM), and the California Coastal Commission (E-04-013-G).
2. City of Goleta- On October 9, 2006, the City of Goleta approved the Final Mitigated Negative Declaration (06-MND-01) for the project. The City issued to Venoco a Development Plan permit (05-132-DP) validating the repair work performed under the previous emergency permit (04-EMP-0001) and recently approved a follow-up Land Use Plan permit.
3. State Lands Commission- Following the failure of the caisson wall, on January 23, 2004, State Lands Commission staff directed Venoco to make repairs necessary to restore the integrity of the pier so that it could withstand a 100-year storm event. Those repairs were to include immediate placement of riprap in front of the pier to provide temporary protection until a longer-term repair could be designed and put into place. On March 23, 2004, State Lands Commission staff re-assessed the situation and required Venoco to complete a plan for longer-term caisson repairs. Venoco’s engineering analysis then focused on replacing the fallen wall rather than placing riprap to protect the already damaged wall.

On June 21, 2004, Venoco submitted plans and an analysis showing that a 100-year storm would likely cause further failure of the caisson. On July 15, 2004, the Executive Officer of the State Lands Commission directed Venoco to carry out the proposed caisson wall replacement, subject to a number of conditions. Venoco then submitted further plans and analyses in support of the project, and on July 28, 2004, the Executive Officer of the State

Lands Commission recommended that Venoco modify its application to the Coastal Commission to request an emergency permit so that work could be completed before the start of the winter storm season, which generally begins on or about November 1st. On August 3, 2004, Venoco requested an emergency permit from the Coastal Commission for the proposed work. On August 6, 2004, the Executive Officer of the State Lands Commission sent a letter to the Coastal Commission staff stating that the need for wall replacement was urgent and had to begin by September 1, 2004 before the start of the winter storm season. He urged the Commission to approve an emergency permit, which the Executive Director of the Coastal Commission issued on August 24, 2004.

4.4 Coastal Act Issues

4.4.1 Fill in Coastal Waters

Coastal Act section 30233(a) states:

- (a) *The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*
 - (1) *New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.*
 - (2) *Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.*
 - (3) *In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*
 - (4) *In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.*
 - (5) *Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
 - (6) *Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*

(7) *Restoration purposes.*

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

Coastal Act Section 30108.2 defines “fill” as “earth or any other substance or material ... placed in a submerged area.” Venoco installed twenty 12-inch diameter steel piles into the caisson structure and another fifteen into the shore-zone at the submerged end of the pier. These latter piles required drilling two-foot diameter holes approximately 25 feet deep into the Monterey Shale bed rock to secure the piles. A two-foot diameter casing was set for each hole to prevent sand from filling the hole. Following installation of each pile, Venoco filled the casing with concrete.

After securing the steel piles, Venoco excavated the sand and soil between the casings and set fifty-six pre-cast concrete panels between the steel soldier piles to form the new wall face. Venoco keyed the base row of the concrete panels into the underlying bedrock for stability. When the first set of panels was in place, a grout plug was placed behind the bottom panels and other panels were added on top until the full wall height was achieved. Once the new wall was set, Venoco injected approximately 200 cubic yards of concrete slurry between the new concrete panel wall and the existing inner 421-1 caisson wall to provide additional strength and solidify the structure. Repair activities did not affect a wetland area that is adjacent to the pier.²

This installation of steel piles and placement of concrete panels, grout, and slurry into the submerged shore zone constitutes “fill” of open coastal waters, as that term is defined in the Coastal Act.

The Commission may authorize a project that includes filling of open coastal waters if the project meets the three tests of Coastal Act section 30233. The first test requires that the proposed activity fit within one of eight categories of uses described in Coastal Act section 30233(a)(1)-(8). The second test requires that there be no feasible less environmentally damaging alternative. The third and final test mandates that feasible mitigation measures be provided to minimize any of the project’s adverse environmental effects.

4.4.1.1 *Allowable Use*

The overall purpose of the project was to repair and secure a damaged caisson structure to ensure its structural integrity and to prevent a release of residual petroleum hydrocarbons (oil or gas) into marine waters and onto the beach. Due to the enlargement of the existing project footprint (approximately two feet seaward) and the deposit of additional fill in the coastal zone, the repair project constitutes an “expanded energy” project, as required by Coastal Act section 30233(a)(1). Therefore, the Commission finds that the project meets the allowable use test for fill of open coastal waters under Coastal Act section 30233(a).

4.4.1.2 *Least Environmentally Damaging Feasible Alternatives*

² As a precaution, Venoco cordoned off the wetland area with orange mesh construction and sediment fencing. Biological monitors also monitored construction activities daily to make sure the wetland area was avoided.

The Commission must further find that there is no feasible less environmentally damaging alternative to placing fill in open coastal waters. Coastal Act § 30108 defines “feasible” as “...capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.” Beside the permitted repair project, Venoco also considered the following options to repair the wall: (a) place 800 cubic yards of riprap rather than install a new wall face, and (b) access and repair the pier from the beach.

CSLC originally directed Venoco to place 800 cubic yards of riprap against the pier where the wall had fallen to protect the structure from further storm damage. However, the City of Goleta and the County of Santa Barbara raised concerns about the environmental impacts of dumping riprap on the beach, as well as the need for a more permanent solution to protect the exposed caisson structure from severe storms.

Repairing the seaward wall and securing the caisson from the beach would have avoided any potential impacts to the wetland located adjacent to the east end of the access road. This alternative, however, would have required heavy equipment and workers on the beach and, on balance, was more environmentally damaging as compared to the proposed project. Moreover, daily tidal swings would only allow a limited amount of time during the day to repair the pier before the area became submerged, thus delaying completion of the project.

There are no feasible alternatives to the use of piles to secure the piers given the need for structural stability and safety. Venoco could have avoided installing the 20 piles within the pier for the purpose of creating a support surface for heavy equipment on top of the pier, but decided against doing so since working from atop the pier was less environmentally damaging overall than using equipment on the beach.

For the reasons described above, the Commission finds that the proposed project is the least environmentally damaging feasible alternative and therefore the second test of Coastal Act section 30233(a) is satisfied.

4.4.1.3 *Project Impacts Mitigated to the Maximum Extent Feasible*

The final requirement of Coastal Act section 30233(a) is that filling coastal waters may be permitted if feasible mitigation measures have been provided to minimize the adverse environmental impacts of the fill.

The placement of concrete panels and slurry and new steel piles in the shore zone constitute fill under the Coastal Act, as determined above. Emergency Permit Condition 11 prohibited additional fill beyond that described in the August 3, 2004 project plan (i.e., the footprint of the new caisson wall) unless additional fill was granted written approval by the Executive Director. During construction, Venoco requested such an approval for an expansion of the wall six inches beyond the original plan measurements to account for inconsistencies in the existing wall face, which the Executive Director granted. Condition 15 of the emergency permit also required that all feasible measures were to be taken to achieve 100% containment of the concrete, grout, and other similar materials used during the project to avoid potential impacts to the beach area.

Other than development in the immediate area of the access ramp, the bluff face and toe of the bluff slope were not expanded or altered in any way, as required by Condition 11. Condition 12 of the Emergency Permit E-04-013-G explicitly stated that no activities to widen, improve, or change the footprint of the Lease 421 access road, in particular, were to occur without additional written approval of the Executive Director.

The access road to the State Lease 421 piers runs along the toe of the coastal bluff adjacent to a wetland area. Agency permits conditioned the project to avoid potential impacts on species or habitat within this wetland from the transit of heavy equipment along the access road. As a result, Venoco installed orange construction fencing separating the road from the wetland, thus avoiding any direct impacts to wetland species from project activities.

Condition 13 of the Emergency Permit E-04-013-G required Venoco to implement Best Management Practices (BMPs) for construction activities as contained in the California Storm Water Best Management Practices Handbook (March 1993) or other applicable BMPs to minimize erosion and limit sedimentation of receiving waters. In response, Venoco installed silt fencing along the access road for the duration of the project. Environmental monitors who documented the state of the wetland and existing vegetation surrounding the area both immediately before and after the project, concluded that no impacts to wetland flora or fauna occurred as a result of the project.

With these measures in place, the Commission finds that the unavoidable impacts of the fill were mitigated to the maximum extent feasible and that the project thus meets the third and final test of Coastal Act section 30233(a).

Conclusion

As discussed above, the repair project satisfies the three tests of Coastal Act section 30233(a).

4.4.2 Marine Resources/Water Quality

Coastal Act section 30230 states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection 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 of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Coastal Act section 30231 states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial

interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The project consisted of repairing an existing oil and gas production-related structure to prevent future leakage of any hydrocarbon materials into the coastal marine environment. The main purpose was to protect biological resources from potential adverse effects. Project activities involved driving steel pilings into areas of the beach and surf zone and installing concrete panels, keyed into the bedrock below. The addition to the pier did not substantially enlarge the footprint of the existing structure into coastal waters nor does it prevent movement of any resident or migratory fish or wildlife species.

The noise created by pile driving during the project, however, had the potential to adversely affect marine mammals. To prevent damaging effects to marine mammals, Conditions 17-19 of Emergency Permit E-04-013-G required Venoco to establish a 500-foot radius stop-work zone³ that was monitored by a project biologist and to perform an initial ramp-up period during pile-driving activities; in addition, pile-driving activities had to be conducted during periods of low tide to the maximum extent feasible. Although the County-approved environmental monitor on site had authority to suspend pile driving if a mammal passed within the safety zone, no mammals were observed during the pile-driving phase of work. Monitors did record the presence of small numbers of bottlenose dolphins, harbor seals and sea lions outside the 500 foot protection zone during the project, but they did not observe changes in the movement or behavior that would indicate any reaction to pile driving noise. Therefore, although noise and vibrations resulted from the project which could have hindered the normal activities of wildlife in the area, the project was conditioned to minimize these effects, and monitors observed no apparent effect on marine life from the activities.

During construction activities, a small discharge of an oily substance leaked from small cracks in the exposed inner wall face and collected between the old and new seaward walls. An environmental monitor estimated the leakage at approximately one cup of oily liquid per day on average, although the amount decreased and increased repeatedly over time, and seemed dependent on the weather, surf conditions, tides and wind. Sorbent pads and booms were placed below the leak in an effort to absorb some of the oil and a topical sealant was applied to the cracks, though these measures proved minimally effective during strong tides. However, the environmental monitor deemed any impacts to water quality insignificant because the fluid was of a small amount (one cup/day) and negligible in comparison to the large amounts of natural hydrocarbon seepage occurring in the area. Venoco had samples of the substance analyzed and determined that total petroleum hydrocarbons and other oil-related substances were present in low concentrations, however the origin of the substance remains unsubstantiated (whether from the well or another source). By filling in the area between the old and new wall with concrete, the leaking cracks were essentially sealed; no further leakage from the new caisson wall has been observed.

³ This zone size was chosen based on a National Marine Fisheries Service criterion of 160 dB (received level, as transmitted through water) as the level at which disturbance or harassment of marine mammals has been shown to occur from impulsive sounds like hammer pile driving. Although a hammer-type pile driver was not ultimately used for this project (a quieter hydraulic one was), the 500 foot safety zone for marine mammals was maintained throughout the project.

There are no ongoing adverse impacts to marine resource or water quality due to the pier repairs or construction of the new wall.

For the reasons discussed above, the Commission finds that the project as mitigated maintains the biological productivity and quality of coastal waters and minimizes adverse effects on habitat and species as required by Coastal Act sections 30230 and 30231. The project is therefore consistent with Coastal Act sections 30230 and 30231.

4.4.3 Oil 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.

One of the main purposes of the caisson wall repair project was to prevent an imminent threat of an oil spill from occurring at the shore zone wells. While no major oil spills occurred prior to, during, or as a result of the project, a very small amount of hydrocarbon fluid, (approximately one cup/day)⁴ was released from the exposed inner caisson wall onto the beach area between the old and new walls during construction activities, as explained above in section 4.4.2. However, because of the small size of the leakage (one cup/day) and the limited area in which the fluid spilled between the old and new wall, coastal and marine resources were not adversely impacted. The response measures used, i.e. applying a topical sealant to the inner caisson wall and deploying sorbent booms and pads to absorb the spilled oil, were also intended to provide effective containment and clean-up measures and mitigate resource impacts. The permanent sealing of the old wall by the concrete slurry and the new caisson wall effectively stopped the leakage and is anticipated to protect the area from further oil spills. Thus, while a small hydrocarbon spill did occur during the course of the repair work, the pier repair project achieved the ultimate purpose of protecting the coastal environment from the threat of a major oil spill.

Oil Spill Prevention

The first test of Coastal Act section 30232 requires Venoco to provide “protection against the spillage of crude oil, gas, petroleum products, or hazardous substances...” Emergency Permit Conditions 24 and 25 required Venoco to refuel equipment at the lay-down area and to install protective barriers under all heavy equipment during construction activities to insure that fuel or fluid leaks did not contaminate soil, coastal waters, or groundwater at the site. Condition 26 required Venoco to inspect all equipment daily for fuel or fluid leaks and, if any leaks were found, to repair them immediately. No equipment leaks were reported during the project. Venoco is also required by CSLC to inspect the structures daily for fluid leaks and if leaks occur, to install protective barriers and notify emergency cleanup personnel. With these measures in place, the Commission finds the project consistent with the first test of Coastal Act section 30232.

⁴ As measured by the Santa Barbara County Environmental Quality Assurance Program Monitor, John Storrer.

Oil Spill Response

The second test of Coastal Act section 30232 requires Venoco to provide “effective containment and cleanup” equipment for accidental spills that do occur. In past practices, the Commission has defined “effective” to mean the “ability to keep oil from adversely impacting shoreline resources.” Condition 21 required Venoco and its contractors to notify staff in the event of a spill and to adhere to measures in the project-specific Oil Spill Contingency Plan (OSCP) that was reviewed by the Commission staff prior to project commencement. The OSCP and Emergency Permit Conditions 22 and 23 required Venoco to maintain spill response equipment at or near the project site, including a vacuum truck, available for immediate response. Venoco maintains a trailer at the adjacent Ellwood Onshore Facility containing the necessary spill response equipment for a minor oil spill at State Lease 421, which was available during the pier repair operations. For secondary response, Venoco has a contract with the California approved oil spill response corporation, Clean Seas, LLC, who has demonstrated capability to be on-site within one hour of notification.

As discussed above, during the construction activities a minor amount of oily fluid was released from the exposed inner caisson wall at a rate of approximately one cup/day. Venoco used sorbent pads and booms to absorb the spillage and applied a topical sealant until the leaks could be sealed by the new wall face. Due to the small size of leakage, the containment and cleanup measures proved effective in protecting the shoreline and marine resources from adverse impacts. For these reasons, the Commission has determined that the response methods and equipment that were in place for this project are consistent with the second test of Section 30232.

For the reasons discussed above, the Commission finds the project consistent with the oil spill prevention and response requirements of Coastal Act section 30232.

4.4.4 Hazards

Coastal Act section 30253 states:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Neither the pile-driving activity nor the construction of the wall face in the shore zone contributed to erosion or geologic instability of the beach area. The sand that was excavated in front of the existing wall was used to reconstruct a beach access ramp at the west end of the site; this excavation did not impair the structural integrity of the pier or contribute to erosion or geologic instability. Any remaining changes in topography of the beach area were quickly restored through natural wave and tidal action.

The access road also required minor repair following the project, however neither the nearby coastal bluff face or toe of the bluff were altered and the geologic stability of the bluff area was maintained.

Venoco, in coordination with agency staffs, designed the pier repair project to ensure long-lasting structural integrity of the pier (e.g., driving new steel pilings and keying the concrete panels into the bedrock); specifically, the repairs were designed to allow the seaward wall to sustain natural impacts over the next 40 years, including a 100-year storm event. However, future damage to the structure as a whole may still result from intense flood and oceanographic conditions. Winter storm conditions can generate waves in the project area that have the potential to cause further structural damage to the aging piers. Therefore, the caisson walls could still be at risk from strong tidal action and large waves during winter storms.

The Commission is therefore requiring in **Special Condition 1** that by accepting this permit the applicant (a) acknowledges and agrees that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire; (b) acknowledges and agrees to assume the risks to the applicant and the property of injury and damage from such hazards in connection with this permitted development; (c) unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (d) agrees 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.

In **Special Condition 2**, the Commission is requiring the applicant to submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director, within 45 days of the Commission's approval of the coastal development permit. The deed restriction shall 1) indicate that, pursuant to the coastal development permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and 2) impose Special Condition 1 of the coastal development permit as a covenant, condition and restriction on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel governed by this coastal development permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of the coastal development permit shall continue to restrict the use and enjoyment of the subject property so long as either the coastal development permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

As designed and conditioned, the Commission finds that the project does not "contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area" and is therefore consistent with Coastal Act section 30253.

4.4.5 Public Access and 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 30211 states:

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

Coastal Act section 30220 states:

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

Coastal Act section 30240(b) states:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

People commonly jog and walk along the section of Ellwood Beach adjacent to State Lease 421. Users who frequent the beach come from nearby communities as well the Bacara Resort, which lies directly west of the lease. There is existing access to the project site along the beach seaward of the pier and underneath the pier; the access road is fenced off from public access.

Any impacts to beach access as a result of the pier repair were temporary. During the repair, beach users would have been prevented from walking directly in front of the pier while construction was underway and after hours due to flagging around the construction area. Because the seaward wall is usually submerged, except during periods of very low tide, the repair activity would not have greatly affected public access along the front of the pier. For most of the project, passersby were allowed to pass underneath the pier as they would normally. This passage was only restricted occasionally by safety personnel when construction activities posed a safety risk, such as when equipment passed overhead.

A warning sign placed on the beach adjacent to the site warned visitors of the unsafe construction activities occurring at the pier in the beach zone. Venoco also placed two guards at the site during project activities to monitor and safely direct beach pedestrian traffic. Construction activities likely deterred people from using this area of the beach during weekdays due to the presence of equipment and increased noise. To remove the potential risk to public safety, equipment was returned to the lay-down area at the nearby Ellwood Onshore Facility at

the end of each workday and project-related debris was promptly removed from the site and disposed.

The slight seaward expansion of the existing pier due to the wall repair does not affect public access to or use of the beach area. Recreational users engaging in water-oriented activities such as swimming and surfing are infrequent in this area and were not restricted during repair activities, nor are they now restricted as a result of the presence of the new wall.

The Coastal Commission finds that although the project interfered with the quality of the recreational experience along this section of Ellwood Beach during the three months of construction, its impacts were temporary and minimized by implementation of the above-described measures. The Commission thus finds the project consistent with Coastal Act sections 30210, 30211, 30220, and 30240(b).

4.4.6 Air Quality

Coastal Act section 30253(3) states in part:

New development shall:

...(3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.

Venoco's State Lease 421 piers are located within the South Central Coast Air Basin in the South Coast portion of Santa Barbara County and within the County of Santa Barbara's Air Pollution Control District ("APCD"). The repair project caused short-term emissions from the use of construction equipment. The project generated approximately 3.11 tons of carbon monoxide ("CO"), 0.12 tons of reactive organic compounds ("ROCs"), 0.30 tons of nitrous oxides ("NO_x"), 0.01 tons of sulfur dioxide (SO₂) and 0.09 tons of particulate matter ("PM₁₀"). Although the City, County and APCD have not established thresholds for short-term construction emissions, if the construction emissions associated with a permitted stationary source exceed twenty-five tons per year of any criteria pollutant, the source would have to provide offsets per APCD Rule 202. This project was considered a construction project, therefore no significance thresholds applied; however, the construction equipment, including the drilling rig, still produced less than the APCD threshold of 25 tons of emissions per year for any listed pollutant and as such no offsets were required.

The APCD determined that the repair work did not result in a violation of any ambient air quality standard or contribute to an existing or projected air quality violation. Any adverse air quality effects were temporary.

The County's emergency permit also required Venoco to minimize the amount of dust generated by grading, clearing, excavation, and transportation of cut and fill materials by spraying water as necessary; typically the dirt access road was hosed down with water from a water truck at least once a day during project-related transportation activity.

The Commission thus finds the project was carried out consistent with the rules and requirements of the APCD and is therefore consistent with Coastal Act section 30253(3).

5.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act ("CEQA"). Section 21080.5(d)(2)(A) of the CEQA prohibits approval of a proposed development if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant impacts that the activity may have on the environment. As described herein, the Commission finds that the project, in combination with conditions of approval, includes measures necessary to avoid any significant environmental effects under the Coastal Act. It also finds that there were no less environmentally damaging feasible alternatives to the proposed project. Therefore, the Commission finds that the proposed project is consistent with the CEQA.

APPENDIX A

Substantive File Documents

Venoco's Coastal Development Permit Application E-05-002.

Emergency Permit E-04-013-G, issued by the Executive Director of the California Coastal Commission on August 24, 2004.

City of Goleta Development Plan Permit 05-132-DP.

City of Goleta Staff Report for Planning Agency hearing. October 9, 2006.

Final Mitigated Negative Declaration for Venoco State Lease 421-1 Repair Project, 06-MND-01, prepared by the County of Santa Barbara Planning and Development Department's Energy Division. 2006.

Venoco South Ellwood Emergency Action Plan. Revised February 2007.

Venoco State Lease 421 Oil Spill Contingency and Emergency Response Plan Appendix. March 2001.

APPENDIX B

EMERGENCY PERMIT

August 24, 2004

Applicant: Venoco, Inc.

Emergency Permit No.: E-04-013-G

Project Description: Emergency replacement of a damaged caisson wall to prevent failure of a capped oil and gas process water injection well.

Location of Emergency Work: Shoreline of the Santa Barbara Channel, in the City of Goleta, Santa Barbara County, at Pier 421-1 (State Lands Lease No. 421).

Background: Venoco holds State Lands Commission Oil and Gas Lease 421 in Santa Barbara County. Structures at the lease site include two piers that extend out from the coastal bluff into nearshore waters. Each pier includes a concrete caisson approximately 68 feet wide, 42 feet long, and 16 feet high that protects its outer perimeter. Pier 421-1 surrounds and protects a capped water injection well and Pier 421-2 surrounds and protects a capped oil well. Part of the outer wall of the Pier 421-1 caisson needs to be replaced due to damage from storms last winter.

Note: This emergency permit is for work at Pier 421-1 only. The proposed activities are intended to prevent the release of oil from the capped well protected by the Pier 421-1 caisson. Venoco is separately proposing to return these wells to production; this caisson wall, however, needs to be replaced immediately, regardless of the outcome of this other proposed action.

History: The wells were originally put into production in 1949. Both wells have been out of service since 1994 after oil leaked from one of the delivery pipelines. In November 2000, an inspection revealed a gas leak from the injection well. In responding to this leak, Venoco found other parts of the two wells, piers, and associated infrastructure that were corroded or in need of repair. Several agencies, including the Coastal Commission, issued permits or required Venoco to take immediate action to close the wells and repair the related infrastructure. Over the next few months, after several project and permit modifications, Venoco completed the repairs.

During ongoing inspections after those repairs, Venoco noted damage to the outer caisson wall of Pier 421-1. On September 16, 2003, State Lands Commission staff directed Venoco to replace that wall, and on October 15, 2003, Venoco submitted Application #E-03-013 to the Coastal Commission for a coastal development permit for the wall replacement. Venoco was preparing a response to the Coastal Commission staff's request for additional information when, on January 19, 2004, after several severe storms, an approximately 15' x 20' section of the outer caisson wall collapsed onto the beach. The well and pier continue to be partially protected by the remaining inner wall.

On January 23, 2004, State Lands Commission staff directed Venoco to make repairs necessary to restore the integrity of the pier so that it could withstand a design 100-year storm. Those repairs were to include immediate placement of riprap to provide temporary protection until a longer-term repair could be designed and put into place. The riprap was to be removed and the new long-term repair was to be in place by September 15, 2004. On February 18, 2004, the Commission approved a de minimus permit waiver (#E-04-003-W) allowing for the temporary placement of riprap.

Venoco did not place this temporary riprap, however, due to additional engineering analyses that recommended other measures be taken to replace the caisson wall and due in part to concerns expressed by the City of Goleta and the County of Santa Barbara. On March 23, 2004, State Lands Commission staff re-assessed the situation and required Venoco to complete a plan for longer-term caisson repairs. Venoco's engineering analysis then focused on replacing the fallen wall rather than placing riprap to protect the already damaged wall.

On June 21, 2004, Venoco submitted plans and an analysis showing that a 100-year storm would likely cause further failure of the caisson. On July 15, 2004, the Executive Officer of the State Lands Commission directed Venoco to carry out the proposed caisson wall replacement, subject to a number of conditions. Venoco then submitted further plans and analyses in support of the project, and on July 28, 2004, the Executive Officer of the State Lands Commission recommended that Venoco modify its application to the Coastal Commission to request an emergency permit so that work could be completed before the start of the winter storm season, which generally begins on or about November 1st each year. On August 3, 2004, Venoco requested an emergency permit from the Coastal Commission for the proposed work. On August 6, 2004, the Executive Officer of the State Lands Commission sent a letter to the Coastal Commission staff stating that review of recently updated engineering reports led to the conclusion that the need for wall replacement is urgent and must begin by September 1, 2004 so it is completed before the November 1st start of the winter storm season. He urged the Commission to approve an emergency permit to avert the potential release of oil into coastal waters.

Work Proposed: The work consists of replacing the seaward caisson wall and parts of the two side caisson walls at Pier 421-1. The face of the new walls will be located about two feet seaward of the existing wall face. The walls will consist of concrete panels supported by internal steel pilings with concrete grout between the old and the new walls.

Most of the work will be done from the top of the pier; however, some work will require using heavy equipment on the beach to remove the fallen portions of the wall and to prepare the substrate for installing the new pilings and concrete panels.

The project is expected to take about 50 days, beginning on or near September 1, 2004. It will be carried out from 7 a.m. to 7 p.m. Mondays through Saturdays, although some staging or delivery to the work site may occur before or after those times. There will be at most about 12 workers at the work site at any time. There will be approximately 100 to 150 truck trips over the 50-day work period by semi-trucks, concrete delivery trucks, dump trucks, and similar heavy equipment.

The project is more fully described in Venoco's submittal of August 3, 2004. Following is a summary of the major work components:

- **Staging:** Venoco will stage construction and repair equipment at its nearby Ellwood Onshore Facility. Access from the staging area to the caisson is via an existing service road that passes through the Sandpiper Golf Course. Venoco has received permission from the golf course owner to allow the necessary access.
- **Strengthening the caisson:** To minimize the amount of work and equipment on the beach, Venoco has proposed doing most of the repair work from the top of the caisson. This will require strengthening the caisson so it can support a 45-ton crane and pile driver. This work will include driving twenty pilings in the interior of the caisson and installing steel support flooring on top of these pilings.
- **Debris removal:** This work involves removing the failed concrete portion of the outer wall from the beach. It will require operating heavy equipment on the beach. Venoco will use an excavator, an articulating front-end loader, and a 4-wheeled all-terrain vehicle, and will gain access to the beach through a temporary sand ramp to be constructed from local beach sand. The ramp will reach from the beach to the top of an existing riprap wall. There are some intact portions of an existing ramp at this location, which had been used in the past for beach access for similar equipment.
- **Replacing the caisson walls:** The walls to be replaced include the entire 68-foot wide seaward wall and about 6 feet of each side wall adjacent to the seaward wall. Work includes installing a drill rig on the top of the caisson, using an excavator to clear sand away from the work area, drilling holes into the underlying bedrock for fifteen pilings, placing those pilings, and then placing pre-cast concrete panels as the new outer "face" of the caisson wall. The concrete panels will be keyed into the underlying bedrock. After the panels are in place, grout and concrete will be poured between the old and new walls.

Mitigation For Potential Adverse Effects to Coastal Resources: Most of the project activities will occur in already disturbed areas, including an existing access road and pier, or in beach sand below the mean high tide line. Venoco has included in its project description a number of mitigation measures meant to avoid or minimize potential adverse effects to coastal resources, including the following:

- **Western snowy plover:** A biologist approved by the Executive Director will conduct two surveys immediately before work is scheduled to begin (i.e., the evening before and the morning of) for western snowy plovers. Work will not begin if plovers are present.
- **Marine mammals:** During pile-driving work, Venoco will station a National Marine Fisheries Service-approved marine mammal monitor at the project site. Pile driving will be suspended if any marine mammals are observed within 500 feet of the project site and will not resume until the marine mammals are outside of that area. Additionally, each session of pile driving will begin with a "ramp-up", or gradual increase to full power, to prevent harm to any nearby marine mammals that may not be detected.

- **Grunion:** Work is scheduled to start after the main predicted grunion runs between March and August 2004; however, additional grunion runs may occur into September. The qualified biologist to be approved by the Executive Director will be at the project site during the predicted grunion runs as well as the night before and after. No project activities that would affect grunion incubation areas will occur until at least two weeks after any sightings of adult grunion at the project site.
- **Wetland protection:** There is a wetland adjacent to the road and the 421-2 Pier. No project activities will occur within the wetland and Venoco will mark the wetland boundary with temporary construction fencing.
- **Public Access:** There is existing access along the beach seaward of the pier and underneath the pier. Public access will be maintained during most of the project, except when the project activities may make access hazardous. Venoco will have safety personnel to direct any beach users away from the project area when conditions are unsafe.
- **Spill Prevention and Response:** The project is subject to Venoco's Spill Prevention and Response Plan for the Ellwood Onshore Facility. In addition, Venoco has prepared a project-specific plan that includes the following measures:
 - Work on the caisson is located and designed to prevent damage to the sealed well.
 - Equipment will be removed from the beach and returned to the staging area at the end of each workday and during high tides.
 - No refueling of equipment will be allowed on the beach.
 - Equipment on the beach will be limited to the area between the access ramp and the caisson repair area.

Other Approvals: The work will also be subject to conditions imposed by the State Lands Commission. Venoco has applied to both the Regional Water Quality Control Board and the National Marine Fisheries Service for their approvals. The City of Goleta may also issue an emergency permit for portions of the work in its jurisdiction.

Executive Director's Determination: This permit constitutes approval of the emergency work you or your representatives have requested to undertake at the location listed above. I understand from your information that an unexpected occurrence in the form of the potential release of hydrocarbon substances from a capped oil and gas water injection well to marine waters caused by the partial collapse of a caisson wall protecting said well on State Lease 421 requires immediate action to prevent or mitigate loss or damage to life, health, property or essential public services, and is therefore necessary to avert an "emergency" within the meaning of that term as defined in the Commission's administrative regulations. (14 Cal. Code of Regulations (CCR) § 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 by November 1, 2004, unless extended pursuant to the terms of the permit;
- (b) Public comment on the proposed emergency action has been reviewed as time allows; and
- (c) As conditioned, the proposed work would be consistent with the requirements of the California Coastal Act of 1976.

Therefore, pursuant to authority conferred by Public Resources Code § 30624 and 14 CCR §§ 13136 – 13143, I hereby grant a coastal development permit for the proposed work, subject to the attached conditions.

Very Truly Yours,

PETER M. DOUGLAS
Executive Director

STANDARD CONDITIONS

1. This permit is not valid until a copy of the permit is signed by the permittee or authorized agent, acknowledging receipt of the permit and the acceptance of the terms and conditions, is returned to the Commission office.
2. The authorization conferred by this emergency permit to conduct the activities described in the application shall expire on November 1, 2004 unless, at least 72 hours before that date, Venoco applies for and the Executive Director grants for good cause, an extension of that expiration date.
3. Venoco shall not deviate from the operations, timing, or sequence of operations specified in the application unless and until authorized by the Executive Director.
4. Within 30 days of completing the onsite work, and no later than November 30, 2004, Venoco shall submit to the Coastal Commission a regular coastal development permit application to authorize the activities approved herein.

SPECIAL CONDITIONS

These conditions are in addition to those elements of the project included in Venoco's August 3, 2004 submittal.

5. Conditions of the July 15, 2004 State Lands Commission approval are incorporated by reference as conditions of this emergency permit.
6. At least five days before starting work at the project site, Venoco shall provide for Executive Director review and approval of the construction schedule (as described in State Lands Commission Condition #6), and the names of the proposed biologist(s) and marine mammal monitor(s) to be used on the project. Venoco shall also provide a checklist that summarizes the requirements to comply with conditions of this permit, the timing of those requirements, and the personnel responsible for implementing those requirements. Work shall not begin without the Executive Director's written approval of each of the above project components.
7. The biologist(s) approved by the Executive Director shall be present during all project operations when activities could result in harm to sensitive species or habitat. The approved marine mammal monitor(s) shall be present at all times during work on the pier or in the beach area. The monitor(s) shall ensure that Venoco and its contractors fully comply with the conditions of this permit related to biological protection.
8. No more than 48 hours before starting work at the project site and within one week of completing project work, the approved biologist(s) shall photograph the project area, including the area of the beach ramp and the area above and below the 421-1 pier and shall describe in writing the condition of existing vegetation and landforms.
9. Venoco shall maintain a daily log of project activities that includes the observations of the approved biologist(s) and marine mammal monitor(s). They shall record in that log both written and photographic descriptions of any observed or potential effects of the project on species of concern. For damage to or destruction of vegetation caused by project activities, the biologist(s) shall note the affected species, date, time, location, size and area of impact, and the activity contributing to the damage or destruction. The log shall also include descriptions of any spills, releases, or debris that affects coastal waters and the beach area along with a description of the measures taken to address these events. Within thirty days of project completion, and no later than November 30, 2004, Venoco shall submit to the Executive Director a written report incorporating the above information and the pre- and post-disturbance photographs.
10. If there is a spill or hazardous material release (including oil, fuel, other petroleum products, or any hazardous chemicals), or any disturbance or "take" of marine mammals, Venoco shall immediately contact Coastal Commission staff (Tom Luster, at 415-904-5248) and the other contacts required in the project's spill plan or marine mammal monitoring plan, and shall provide via facsimile (415-904-5400) the daily log that fully describes the incident.

Construction Methods and Activities:

11. No fill beyond that described in the August 3, 2004 project plan (i.e., the footprint of the new caisson wall and the sand ramp to be built for beach access) shall be placed without additional written approval of the Executive Director. Other than in the immediate area of the ramp, the bluff face and toe of the bluff slope shall not be altered in any way.
12. No activities to widen, improve, or change the footprint of the Lease 421 access road shall occur without additional written approval of the Executive Director.
13. Best Management Practices (BMPs) for construction activities contained in the California Storm Water Best Management Practices Handbook (March 1993) or other BMPs shall be implemented to minimize erosion and limit sedimentation of receiving waters. At a minimum, silt fencing shall be installed and maintained along the access road for the duration of the project.
14. All construction work shall occur only between the hours of 7 a.m. and 7 p.m. Monday through Saturday.
15. All feasible measures shall be taken to achieve 100% containment of the concrete, grout, and other similar materials used during the project as well as any water exposed to those materials. All excess materials not needed for the wall replacement and all water exposed to the concrete and grout shall be removed from the project area and properly disposed of offsite in an upland area. A vacuum truck shall be on site at all times during operations involving these materials.

Marine Mammal Protection:

16. This emergency permit does not authorize harassment, disturbance, or other forms of “take” of marine mammals.
17. Pile driving work on both piers shall be suspended if any marine mammals are observed within a 500 foot radius of the pile driving activity. Pile driving may resume once the mammals are outside of this safety zone. The marine mammal monitor(s) will be responsible for monitoring this zone during pile driving activities. In the event that the monitor(s) determine a mammal has entered this zone, the monitor(s) shall have the authority to suspend pile-driving activities until the mammal has passed outside of this zone.
18. An initial ramp-up period shall occur when starting pile-driving activities to avoid potential impacts to marine mammals that may be undetected within the safety zone.
19. Venoco shall schedule pile-driving activities during periods of low tides to the maximum extent feasible to minimize potential noise impacts to marine mammals.
20. Any night lighting shall be directed in such a way to reduce potential impacts to marine mammals and other wildlife while maintaining safe work conditions. Lighting shall not be directed southward over the water. In addition, to minimize effects on neighboring properties, lighting shall not be directed westward.

Spill Prevention and Response:

21. Venoco and its contractors shall adhere to the measures in the project-specific Oil Spill Contingency Plan submitted on August 3, 2004. In the event of an oil spill, Venoco shall notify Ellen Faurot-Daniels at the Coastal Commission at 415/904-5285 or 415/201-5792 (pager).
22. During the project, Venoco shall have at the project site spill response equipment that may be needed to immediately respond to the maximum credible spill.
23. A vacuum truck shall either be on the project site or immediately deliverable for oil spill response during project operations.
24. Equipment shall not be refueled on the beach or in areas where adequate spill prevention and response measures are not in place.
25. Venoco shall install protective barriers under all heavy equipment to insure that fuel or fluid leaks do not contaminate soil, coastal waters, or groundwater.
26. Equipment shall be inspected daily for fuel or fluid leaks. Leaking equipment shall be repaired or replaced immediately.

Acknowledgment:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code § 818.4 which states in pertinent part that “A public entity is not liable for injury caused by issuance ... of any permit ...” applies to this permit.

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 CCR § 13158(a).

By: _____

Signature of Permittee

Date: _____

EXHIBIT A



Aerial view of State Lease 421, located in the City of Goleta, Santa Barbara County. The project site is surrounded by the Sandpiper Golf Course to the north, east and west sides and the Pacific Ocean to the south.

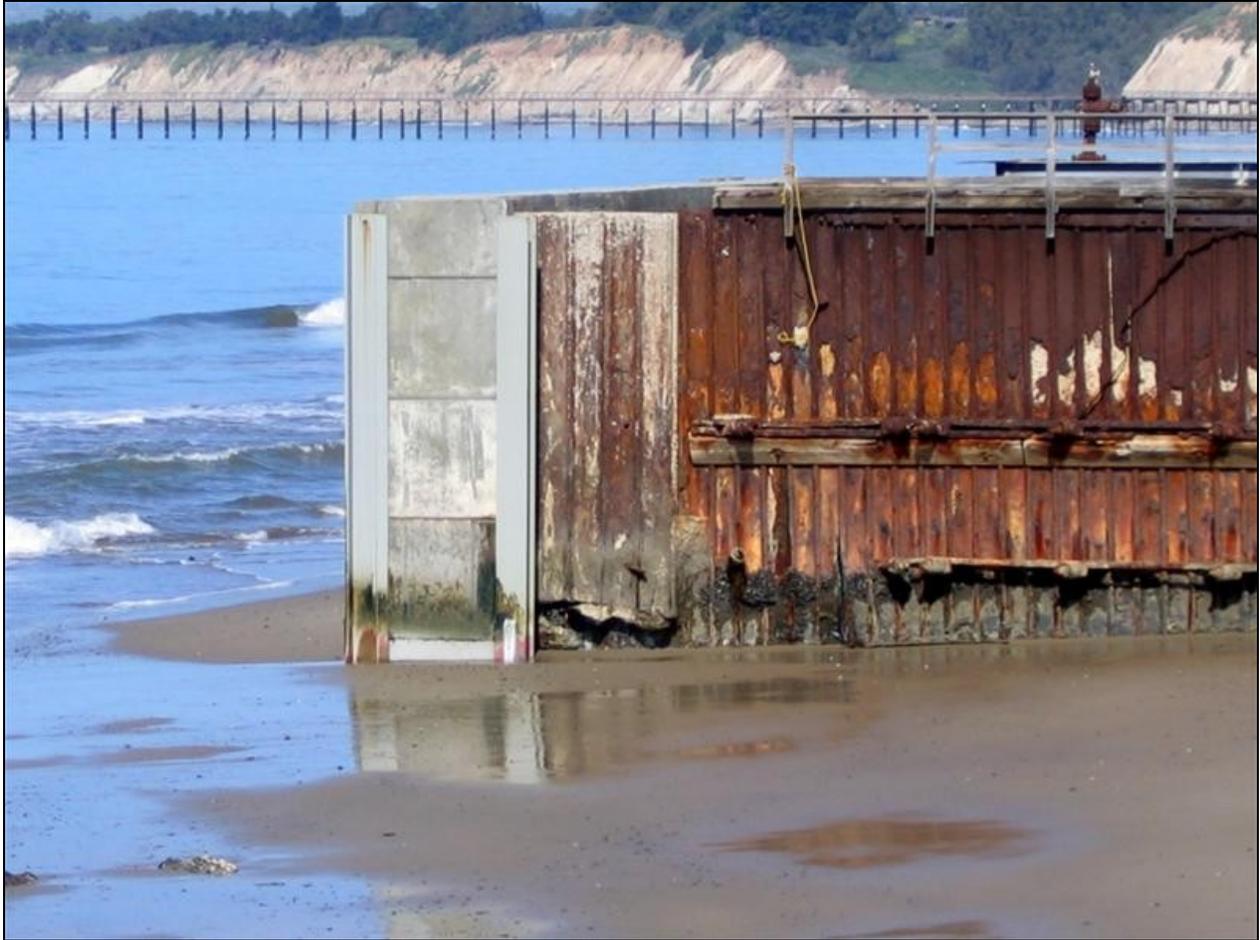


View looking north at Pier 421-1 with a new wall face and the access road along the toe of the coastal bluff. The Sandpiper Golf Course lies in the background. Copyright Kenneth and Gabrielle Adelman, www.californiacoastline.org.

EXHIBIT B



Pier 421-1 following seaward wall collapse, prior to caisson repair; concrete and rebar are visible at the base of the pier during low tide. Pier 421-2 is visible in the background to the east.



Pier 421-1 with a new concrete panel wall face and small returns on adjacent sides, looking west.

EXHIBIT C



State Lease 421 dirt access road along the toe of the coastal bluff with Pier 421-1 shown in background.