

**CALENDAR ITEM**

**65**

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06/01/09  
PRC 3904.1

S 19

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**CONSIDER CERTIFICATION OF AN ENVIRONMENTAL IMPACT REPORT  
AND THE RENEWAL OF A GENERAL LEASE - INDUSTRIAL USE**

**LESSEE/APPLICANT:**

Venoco, Inc.  
5464 Carpinteria Avenue  
Carpinteria, CA 93013-1423

**AREA, LAND TYPE, AND LOCATION:**

Sovereign lands in the Pacific Ocean, offshore the city of Goleta,  
Santa Barbara County

**AUTHORIZED USE:**

Operation, use, and maintenance of one existing 10-3/4" diameter submarine  
loading petroleum product pipeline 2,530 feet in length and a six-point industrial  
mooring system for a petroleum product offloading industrial marine oil terminal..

**LEASE TERM:**

Ten years, beginning March 1, 2003

**CONSIDERATION:**

Rent in the amount of \$188,172 from March 1, 2003 to February 28, 2007;  
beginning March 1, 2007 annual rent in the amount of \$70,650, referred to as the  
"Base Rent". The "Base Rent" will be adjusted annually by the consumer price  
index (CPI) for all urban consumers, Los Angeles-Riverside-Orange County, CA  
(1982-84 = 100), with the Commission reserving the right to fix a different "Base  
Rent" periodically during the lease term, as provided in the lease.

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**SPECIFIC LEASE PROVISIONS:**

Insurance: Liability insurance with coverage of no less than \$5,000,000

Performance Deposit: \$2,000,000

Other Recommended Lease Provisions:

1. If a pipeline is constructed from the Ellwood Onshore Facility to the All American Pipeline located at Las Flores Canyon for delivery of petroleum products to a location other than the Ellwood Marine Terminal, Venoco will discontinue using the improvements authorized by the lease and prepare and submit a decommissioning and removal plan to the Commission that will be subject to compliance with the California Environmental Quality Act.
2. Venoco will replace or convert the Barge Jovalan with a double-hulled barge by the end of 2010.
3. With respect to all parts and elements of Venoco's marine terminal facility, whether located on or off the lands subject to the Commission's lease, Venoco will comply with any and all applicable regulations and requirements governing marine oil terminal operations, engineering and maintenance.
4. Venoco will comply with the mitigation monitoring program as contained in Exhibit C.
5. Venoco will indemnify the Commission from liability and agrees to reimburse the Commission for all reasonable costs and attorney's fees that the Commission may incur in connection with the defense of any action brought against the Commission challenging the issuance of the lease, any provision of the Lease, the environmental review upon which the issuance of the lease is based, the interpretation or enforcement of the conditions of the lease, or any other matter related to the lease or its issuance, the total obligation will not exceed \$1,000,000.

**BACKGROUND INFORMATION:**

A lease was first issued by the Department of Finance, Division of State Lands, on May 26, 1930, to Bankline Oil Company and H. J. Barneson, involving a 50-foot wide right-of-way for the installation and maintenance of an existing submarine loading pipeline to ship oil produced from several State leases developed from the upland on the Ellwood Mesa.

The Commission terminated that right-of-way lease on February 29, 1968, and authorized a 15-year lease to Signal Oil Company for the construction, maintenance, and operation of an existing submarine loading pipeline, with

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renewal options consisting of two additional periods of ten years each. Subsequently, Signal Oil and Gas Co. was changed to Burmah Oil and Gas Co., which was then changed to Aminoil USA. The lease was then amended in 1979 to add tanker safety covenants.

On January 27, 1983, the Commission terminated Lease PRC 3904.1, effective February 28, 1983, and issued a new ten-year lease, with the option to renew the lease for two additional periods of ten years each upon such reasonable terms and conditions as the State might impose, to Aminoil, USA, Inc., for the existing improvements.

As the result of several mergers, Aminoil USA was absorbed into Phillips Petroleum Company. Through a series of assignments approved by the Commission, the lease is now held by Venoco, Inc.

**CURRENT STATUS:**

In February, 2003, Venoco, Inc., submitted an application to exercise the last ten-year renewal option as outlined in the lease for the continued use, maintenance, and monitoring of the existing offloading petroleum products pipeline and offshore mooring system.

The Lease has been in a holdover status since March 1, 1993, due in part to Commission staff's notification to its Lessee at the time, ARCO, that an Environmental Impact Report (EIR) would be required for the lease extension and due to an anticipated oil and gas development proposal involving abandonment of the marine terminal. ARCO did not pursue the oil and gas development proposal, and Venoco was assigned the Lease in 1997. Venoco submitted a separate application to pursue further oil and gas development offshore and abandonment of the marine terminal (see paragraph 2, below).

During staff's review of Venoco's lease renewal application, staff learned that the present mooring configuration did not match the previously authorized lease description. The lease description has been revised to include the mooring system, as currently defined by Venoco. In addition, the proposed new lease contains updated provisions concerning use, operation, and maintenance of the offshore marine terminal and submarine loading pipeline in accordance with the practices of the Commission for uses of this type.

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**OTHER PERTINENT INFORMATION:**

1. The Ellwood Marine Terminal (EMT) presently provides the transportation, via the barge Jovalan, of crude oil produced from wells on Platform Holly involving offshore oil and gas leases (PRC 3120 and PRC 3242). Venoco, Inc., has submitted an application to recommission PRC 421, an offshore oil and gas lease that would be produced from a shoreline pier that has been shut in since 1994. Crude oil produced from recommissioning PRC 421 would be piped to the EMT in combination with Platform Holly production. Commission staff has prepared an EIR (SCH No. 2005061013/CSLC EIR No. 732) for the PRC 421 Recommissioning Project, and the Final EIR is currently being prepared for this project.
2. Venoco, Inc., has also submitted an application to the Commission to extend the offshore oil and gas lease boundaries extensions of PRC 3120 and PRC 3242 which would extend the production reach of Platform Holly (Full Field Development Project). A component of the proposed Full Field Development Project is the construction of a pipeline to Las Flores Canyon as the mode for transporting oil produced from the Ellwood offshore leases. Decommissioning the Ellwood Marine Terminal is a component of the project if a pipeline is constructed and in service. A Draft EIR was circulated for public review in July-August 2008 and a Final EIR is currently being prepared for the project.
3. The proposed Ellwood Marine Terminal lease includes a provision for early termination of the subject Ellwood Marine Terminal Lease PRC 3904.1 should a pipeline be constructed on the upland from the Ellwood Onshore Facility to the All American Pipeline located at Las Flores Canyon. As currently envisioned, the pipeline approval would be under the jurisdiction of Santa Barbara County. Additionally, upon notice from the Commission, Venoco must stop using the improvements authorized by Lease No. PRC 3904.1 and will prepare and submit a decommissioning and removal plan that will be subject to compliance with the California Environmental Quality Act.
4. Venoco has permission to use the uplands adjoining the lease premises from the University of California, Santa Barbara until January 1, 2016.
5. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, Section 15025), staff has prepared an EIR for the Ellwood Marine Terminal Lease Renewal identified as CSLC EIR No. 743, State Clearinghouse No. 2004071075. Such EIR was prepared and circulated for public review pursuant to the provisions of the CEQA.

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6. Subsequent to the release of the Final EIR that was prepared in 2007, changes in the proposed mitigation for operation of the EMT occurred. Mitigation Measure HM-9a provided that the single-hulled barge Jovalan be replaced in the near term with a double-hulled vessel to mitigate the impact risk of spills due to hull penetration. Venoco provided information indicating that this proposed mitigation measure would be prohibitively expensive as recovery of the replacement barge costs would not be realized due to the remaining short term life of the lease (less than five years). In accordance with its proposed business plan, Venoco intends to transport crude via pipeline prior to the U.S. Coast Guard required double-hulled conversion date of 2015. In addition, construction and permitting a new barge could require more than two years, which would further lessen the mitigation effectiveness period. Public Service Marine, Inc. (PSMI), the owner of the barge Jovalan and the patent-holder of the Vapor Recovery Unit equipped on the barge (the only unit at the time that meets Santa Barbara County Air Pollution Control District emissions control limits), substantiated the prohibitive costs associated with construction of a new double-hulled barge as well as the two-year lag time. Based on this information received at that time, Commission staff determined that Mitigation Measure HM-9a was not feasible and revised the mitigation measure.

As a result of determining the infeasibility of Mitigation Measure HM-9a, the impact of spills due to barge-hull penetration could no longer be considered a significant adverse impact that could be reduced to a level that is less than significant with mitigation (Class II). Instead, this impact had to be considered a Class I impact (A Significant Impact that cannot be mitigated to a level of insignificance). Because of this situation, Commission staff determined that the change constituted significant new information and warranted recirculation of Section 4.2, Hazards and Hazardous Materials, of the Draft EIR.

After the public review process for the Re-circulated Draft EIR (2009), Harley Marine Services, the parent company of PSMI, contacted Commission staff and stated that a double-hulled barge was feasible and that it is Harley Marine Services' plan to replace the barge Jovalan with a double-hulled barge. This subsequent information was confirmed at a meeting on March 11, 2009, among Venoco, Harley Marine Services, and Commission staff, as well as by a letter from Harley Marine Services dated March 24, 2009. After receiving this new information, Commission staff now finds that Mitigation Measure HM-9a is in fact feasible and the current Final EIR reflects this clarification.

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7. Since preparation and circulation of the original Draft EIR occurred, during the summer of 2006, just prior to the enactment of Assembly Bill 32, (the California Global Warming Solutions Act of 2006), and portions of the Draft EIR were being re-circulated as described in Item 9, above, the re-circulated Draft EIR was also updated with a greenhouse gas (GHG) analysis. The California Global Warming Solutions Act of 2006 requires that the State's global warming emissions reach 1990 levels by 2020 and be reduced to 80 percent of 1990 emissions by 2050.

The GHG analysis found that if additional transportation of crude oil to the permitted levels were to occur, the greenhouse gas associated with barge transportation, electrical generation to pump the crude oil from the Ellwood Marine Terminal (EMT) to the barge, and fugitive emissions associated with barge equipment and the tanks at the EMT would increase. The primary gas emitted from the operations would continue to be CO<sub>2</sub>.

Total emissions of methane would be about 8.4 tons per year from fugitive emissions at the EMT and an additional 3.7 tons per year of methane from diesel fuel combustion associated with transport of the crude oil to refining terminals. The total methane emissions would be 12.1 tons, which would be an increase in methane emissions over current operations of 9.2 tons per year. The overall total increase of CO<sub>2</sub> equivalent (CO<sub>2</sub>e) for the operations would be 18,717 tons of CO<sub>2</sub>e or 16,846 metric tonnes of CO<sub>2</sub>e. This would be an increase of 12,484 CO<sub>2</sub>e metric tonnes over baseline. Mitigation Measure AQ-4a (GHG Emissions Offsets) was added to the EIR, which will offset these additional GHG emissions over baseline from the terminal operations.

8. A Mitigation Monitoring Program has been prepared in conformance with the provisions of the CEQA (Public Resources Code Section 21081.6) and is contained in Exhibit "C", attached hereto. In the Mitigation Monitoring Program, Mitigation Measure HM-5a to reduce any potential spills during vessel loading has been modified to reflect California State Lands Commission Marine Oil Terminal Regulations, Title 2, California Code of Regulations Section 2395 (e) (Spill Containment for Transfer Operations) as the appropriate and operationally effective measure.
9. Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, Section 15091) are contained in Exhibit "D", attached hereto.

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10. A Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, Section 15093) is contained in Exhibit "E", attached hereto.
  
11. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**APPROVALS OBTAINED:**

County of Santa Barbara, California Central Coast Regional Water Quality Control Board, Santa Barbara County Air Pollution Control District, University of California - Santa Barbara, California Coastal Commission, California Department of Fish and Game Office of Spill Prevention and Response, and the California State Fire Marshall

**EXHIBITS:**

- A. Site and Location Map
- B. Land Description
- C. Mitigation Monitoring Program
- D. CEQA Findings
- E. Statement of Overriding Considerations

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

CERTIFY THAT AN EIR, CSLC EIR NO. 743/STATE CLEARINGHOUSE NO. 2004071075, WAS PREPARED FOR THIS PROJECT PURSUANT TO THE PROVISIONS OF THE CEQA, THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN AND THAT THE EIR REFLECTS THE COMMISSION'S INDEPENDENT JUDGMENT AND ANALYSIS.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED IN EXHIBIT "C", ATTACHED HERETO.

ADOPT THE FINDINGS, MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15091, AS CONTAINED IN EXHIBIT "D", ATTACHED HERETO.

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ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15093, AS CONTAINED IN EXHIBIT "E", ATTACHED HERETO.

**SIGNIFICANT LANDS INVENTORY FINDING:**

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES COCE SECTIONS 6370, ET SEQ.

**AUTHORIZATION:**

AUTHORIZE RENEWAL OF LEASE NO. PRC 3904.1, SUBSTANTIALLY IN THE FORM OF THE PROPOSED NEW LEASE ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION, FOR THE PERIOD FROM MARCH 1, 2003 TO FEBRUARY 28, 2013, FOR THE LANDS AS SHOWN ON EXHIBIT A (FOR REFERENCE PURPOSES ONLY) AND DESCRIBED IN EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION BEING PAYMENT OF RENT IN THE AMOUNT OF \$188,172 FROM MARCH 1, 2003 TO FEBRUARY 28, 2007; ANNUAL "BASE RENT" IN THE AMOUNT OF \$70,650 BEGINNING MARCH 1, 2007, THE "BASE RENT" TO BE ADJUSTED ANNUALLY BY THE CONSUMER PRICE INDEX (CPI) FOR ALL URBAN CONSUMERS, LOS ANGELES - RIVERSIDE-ORANGE COUNTY, CA, (1982-84 = 100), WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT "BASE RENT" PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE COVERAGE OF NO LESS THAN \$5,000,000; A PERFORMANCE DEPOSIT IN AN AMOUNT NO LESS THAN \$2,000,000; LESSEE AGREES TO COMPLY WITH ALL PROVISIONS OF THE MITIGATION MONITORING PROGRAM AS CONTAINED IN EXHIBIT "C" ATTACHED HERETO, SUCH MITIGATION MONITORING PROGRAM ALSO BEING INCORPORATED INTO AND MADE A PART OF THE LEASE; LESSEE AGREES TO INDEMNIFY THE COMMISSION FROM LIABILITY; AND LESSEE AGREES TO REIMBURSE THE COMMISSION FOR ALL REASONABLE COSTS AND ATTORNEYS FEES THAT THE COMMISSION MAY INCUR IN CONNECTION WITH THE DEFENSE OF ANY ACTION BROUGHT AGAINST THE COMMISSION CHALLENGING THE ISSUANCE OF THIS LEASE, ANY PROVISION OF THIS LEASE, THE ENVIRONMENTAL REVIEW UPON WHICH THE ISSUANCE OF THIS LEASE IS BASED, THE INTERPRETATION OR ENFORCEMENT OF THE CONDITIONS OF THIS LEASE, OR ANY OTHER MATTER RELATED TO THIS LEASE OR



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ITS ISSUANCE, THE TOTAL OBLIGATION OF WHICH SHALL NOT EXCEED \$1,000,000.